

STATE OF NORTH CAROLINA  
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Lawrence Guerke  
(License No. 14800)

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**CONSENT ORDER**

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THIS MATTER came on to be considered at a prehearing conference (hereinafter, "Conference") before a member of the North Carolina Board of Pharmacy (hereinafter, "Board") pursuant to 21 N.C.A.C. 46.2008. This Conference was scheduled for May 11, 2009 and, after appropriate notice, was heard on that day by Board member Dr. J. Parker Chesson at the offices of the Board. Respondent Lawrence Guerke (License No. 14800) (hereinafter, "Respondent" or "Guerke") was present and was represented by counsel. Counsel Joseph Ponzi represented the Board. Members of the Board's investigative staff were also present at the Conference.

Respondent has agreed to waive a formal hearing in the above-referenced matter. Both parties stipulate and agree to the findings of fact and conclusions of law recited herein and to the order of discipline imposed. By his consent, Respondent also stipulates that he waives his right to appeal this Consent Order or challenge in any way the sufficiency of the findings of this Order. Based upon the consent of the parties, the Board hereby enters the following:

**FINDINGS OF FACT**

1. The Board is a body duly organized under the laws of North Carolina and is the proper body for this proceeding under the authority granted it in Chapter 90 of the General Statutes of North Carolina, and the rules and regulations promulgated thereunder.

2. Respondent is, and was at all relevant times referred to herein, a pharmacist licensed to practice pharmacy in the State of North Carolina with License No. 14800. At all relevant times, Respondent was employed as a pharmacist at various locations of Wal-Mart Pharmacy. During a portion of the relevant period, Respondent was pharmacist-manager at Wal-Mart Pharmacy, Permit No. 7958, located at 548 CC Camp Road, Elkin, North Carolina, from August 2008 to October 2008. Respondent is and was, at all relevant times referenced to herein, subject to the rules and regulations of the Board and the laws of the State of North Carolina.

3. Between February 2007 and September 2008, Respondent created at least forty-one (41) unauthorized prescriptions for drugs for himself, his family members and his pet, and he dispensed those drugs without a valid prescription. The unauthorized prescriptions include those listed on the chart attached as Exhibit A. The unauthorized prescriptions include Schedule III and Schedule IV controlled substances.

### **CONCLUSIONS OF LAW**

Based on the above findings, the Board concludes as a matter of law:

1. Respondent violated N.C. Gen. Stat. 90-85.38(a)(6), (7) and (9), 90-85.40(b) and (f), 90-106, 90-108, 106-134 and 106-134.1; 21 N.C.A.C. 46.1801, 46.1804, 46.1805, 46.2301, and 46.2502(a); and 21 U.S.C. §§ 331, 353, 829, and 842.

2. Respondent admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under N.C. Gen. Stat. § 90-85.38.

Based upon the foregoing, and with the consent of the parties, IT IS THEREFORE ORDERED that the license of Respondent Guerke, License No. 14800, is hereby SUSPENDED for thirty (30) days. Of that suspension, fifteen (15) days shall be served as an active suspension

to be served consecutively, commencing within 30 days of the date that the Executive Director executes this Order after Board approval, with Respondent to notify the Executive Director in writing and return his wallet card and license in advance of service of the suspension. The active suspension shall commence on a Monday at 12:01 a.m. and run for 15 full, consecutive 24-hour days. During the term of his suspension, Respondent may not be present in any pharmacy, except as a customer.

The remaining fifteen (15) days of the suspension shall be stayed for two (2) years from the date that this Order is accepted by the Board, upon the following conditions:

1. Respondent shall advise the Board promptly in writing of any change of address or change in practice status;
2. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs; and
3. Respondent shall violate no rules or regulations of the Board.

In addition, for a period of two (2) years from the date that this Order is accepted by the Board:

1. Respondent shall not serve as pharmacist-manager of any pharmacy; and
2. Respondent shall not serve as a preceptor of pharmacy students.

If Respondent fails to comply with any terms or conditions of this Order, Respondent may be subject to additional disciplinary action by the Board.

This the 16<sup>th</sup> day of June, 2009.

NORTH CAROLINA BOARD OF PHARMACY

By:   
\_\_\_\_\_  
Jack W. Campbell, IV  
Executive Director

Lawrence Guerke, the holder of license number 14800, has full knowledge that he has the right to a formal hearing, at which he would have the right to be represented at his expense by counsel, in this matter. The undersigned freely, knowingly and voluntarily waives such right by entering into this Consent Order.

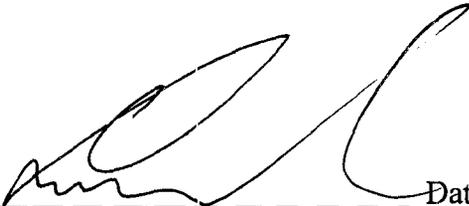
The undersigned understands and agrees that by entering into this Consent Order, he certifies that he has read the foregoing Consent Order and that he voluntarily consents to the terms and conditions set forth therein and relinquishes any right to judicial review of Board actions which may be taken concerning this matter.

The undersigned further understands that should he violate the terms and conditions of this Consent Order, the Board may take additional disciplinary action.

The undersigned understands and agrees that this Consent Order will not become effective unless and until approved by the Board.

The undersigned understands that he has the right to have counsel of his choice review and advise him with respect to his rights and this Consent Order, and represents that he enters this Consent Order after consultation with his counsel or after knowingly and voluntarily choosing not to consult with counsel.

CONSENTED TO BY:

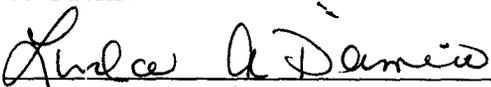
  
Date 6/12/09  
\_\_\_\_\_  
Lawrence Guerke  
(License No. 14800)

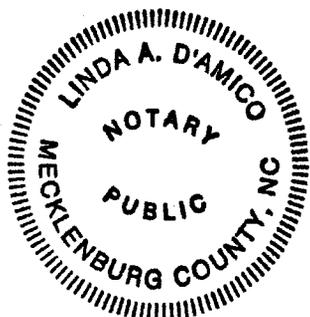
NORTH CAROLINA

Mecklenburg COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that the following person(s) personally appeared before me this day, and each acknowledged the due execution of the foregoing document: Lawrence Guerke

Date: 6-12-09

  
\_\_\_\_\_  
Notary Public



My commission expires: \_\_\_\_\_  
MY COMMISSION EXPIRES MAY 15, 2012  
MY COMMISSION EXPIRES MAY 15, 2012

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OBJECTED TO BY:

\_\_\_\_\_ Date \_\_\_\_\_  
Lawrence Guerke  
(License No. 14800)

Case # 200800268  
 Unauthorized Prescriptions

Date	Name	Drug Name	Strength	Quantity	Physician
2/12/2007		Prednisone	5mg	60	Labon Sloop, DVM
4/4/2007		Prednisone	5mg	60	Labon Sloop, DVM
4/9/2007		Piroxicam	20mg	30	Michael Thomas
10/20/2007		Bul/Apap/CF	50-325-40	60	Michael Thomas
4/18/2007		Ciprofloxacin	500mg	20	Kimberly Christman, DDS
4/18/2007		Neo/Poly/Hc Otic	1% Suspension	10	Kimberly Christman, DDS
4/18/2007		Tramadol	50mg	100	Kimberly Christman, DDS
6/27/2008		Neo/Poly/Dex	0.1% Op Suspension	5	Michael Thomas
6/27/2008		Neo/Poly/Dex	0.1% Op Suspension	10	Michael Thoams
6/27/2008		Promethazine	25mg	30	Michael Thomas
8/14/2008		Doxycycline	100mg	180	Michael Thomas
1/18/2007		SMZ-TMP	200-40 Suspension	120	Kimberly Christman, DDS
1/30/2007		Doxycycline	100mg	30	Kimberly Christman, DDS
2/12/2007		Amoxicillin	250mg	40	Kimberly Christman, DDS
4/19/2007		Clotrim/Beta	Diprop Cream	15	Michael Thomas
4/19/2007		Tramadol	50mg	100	Kimberly Christman, DDS
5/7/2007		Fluticasone	50mcg	16	Michael Thomas
5/7/2007		Neo/Poly/Hc	1% Otic Suspension	10	Michael Thomas
5/7/2007		Tobramycin	0.3% Op Solution	5	Michael Thomas
5/8/2007		Ciprofloxacin	250mg	60	Michael Thomas
6/9/2007		Ciprofloxacin	250mg	60	Kimberly Christman, DDS
7/7/2007		Prednisolon Acet	Op Suspension	15	Michael Thomas
7/11/2007		Hydrocod/GG	5-100/5 Syrup	120	Michael Thomas
7/20/2007		Ketoconazole	2% Shampoo	120	Michael Thomas
7/21/2007		Zolpidem	10 mg	30	Michael Thomas
9/2/2007		FML Liquifilm	0.1% Op Suspension	10	Michael Thomas
10/21/2007		Clotrim/Beta	Diprop Cream	15	Michael Thomas
12/28/2007		VI-Q-Tussionex	5-100/5 Syrup	120	Kimberly Christman, DDS
12/28/2007		Promethazine	25mg	30	Kimberly Christman, DDS

Case # 2008000268  
 Unauthorized Prescriptions

12/28/2007	Doxycycline	100mg	30	Kimberly Christman, DDS
2/12/2008	Tamflu	75mg	10	Michael Thomas
2/20/2008	Zolpidem	10mg	30	Michael Thomas
6/3/2008	Clonazepam	0.5mg	120	Michael Thomas
6/3/2008	Differin	0.1 % Cream	45	Michael Thomas
6/27/2008	Tamflu	75mg	10	Michael Thomas
7/17/2008	Meberdazole	100mg	8	Michael Thomas
8/18/2008	Clonazepam	0.5mg	120	Mark Hines
9/18/2008	Cephalexin	500mg	60	Michael Thomas
9/18/2008	Neo/Poly/Hc	1 % Otic Suspension	10	Michael Thomas
9/18/2008	Prednisolon	Acet Op Suspension	15	Michael Thomas
9/29/2008	Differin	0.1 % Cream	45	Michael Thomas