

STATE OF NORTH CAROLINA  
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF )  
 )  
SCOTT LACKEY ) **CONSENT ORDER**  
License Number 10279 )  
 )

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46.2008. This conference was scheduled for October 20, 2008, and after appropriate notice, was heard on that day at the office of the North Carolina Board of Pharmacy by Board member Robert McLaughlin. Respondent Lackey was present. Board counsel Alexander Elkan and members of the Board's legal and investigation staff were also present at the conference. Based upon the record in this proceeding and the statements and materials presented at the conference, the Board makes the following findings of fact and conclusions of law:

1. At all relevant times, Respondent Scott Lackey ("Respondent") has been the holder of North Carolina Board of Pharmacy License Number 10279, and the pharmacist-manager of Burnsville Pharmacy (Permit No. 8394).

2. From March 1, 2007 to April 25, 2007 and again from March 1, 2008 to March 11, 2008, Respondent practiced pharmacy without a license at Burnsville Pharmacy when he failed to renew his license in a timely fashion.

3. Respondent, as pharmacist-manager, supervised three unregistered individuals who were working and fulfilling the duties of pharmacy technicians. As of the time of the investigation in April 2008, these technicians had worked illegally without being registered for approximately two and a half (2 ½) years (Technician Woodby), twenty (20) months (Technician Garland) and seventeen (17) months (Technician Murphy), respectively.

4. During April 2008 and at other times, Respondent permitted more than two technicians to work under the supervision of one pharmacist without Board authorization.

5. During April 2008, Respondent failed to maintain adequate readily retrievable records of medications dispensed, including but not limited to compounded products.

6)

### CONCLUSIONS OF LAW

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

1. Respondent violated North Carolina General Statutes §§ 90-85.15A(a), (b) and (c), 90-85.21B, 90-85.26, 90-85.38(a) (6), (7), (8) and (9) and 90-85.40(a), (c) and (f); and 21 N.C.A.C. 46.1803, 46.1810, and 46.2302.

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 Lackey, License No. 10279, is hereby SUSPENDED for thirty-seven (37) days to be served as follows:

1. Active Suspension. Seven (7) days of the suspension must be served as an active suspension, which suspension shall be served on seven (7) consecutive days - beginning on a Monday at 12:00am and ending the next consecutive Monday at 12:00am.

Such suspension shall be served by Respondent Lackey within thirty (30) days of the date this Consent Order is executed and accepted by the Board.

Service of such suspension shall take place only after Respondent notifies the Executive Director of the Board of Pharmacy, in writing, of Respondent's intention to serve the active

suspension. Such notice shall inform the Executive Director of the dates that the Respondent intends to serve such suspension.

Respondent shall surrender his license to the Executive Director of the Board of Pharmacy during the period of active suspension.

During the seven (7) day active suspension period, Respondent shall not work as a pharmacist or in any capacity in any pharmacy, and shall not enter into any pharmacy in any capacity, except as a customer or patient and for limited purposes associated therewith.

2. Stayed Suspension. The remainder of the suspension, thirty (30) days, shall be stayed for a period of three (3) years, upon the following conditions:

a. Respondent Lackey shall violate no laws governing the practice of pharmacy or the distribution of drugs, medical devices or medical equipment;

b. Respondent Lackey shall violate no rules and regulations of the Board; and

c. Respondent Lackey shall cooperate with the Board, its attorneys, investigators and other representatives in any investigation and compliance with the provisions of this Consent Order.

3. Respondent Lackey shall be subject to additional disciplinary action for any violations of this Consent Order.

This the 2<sup>nd</sup> day of January, 2009

NORTH CAROLINA BOARD OF PHARMACY

By: 

Jay W. Campbell, IV  
Executive Director

Scott Lackey, the holder of license number 10279, has full knowledge that he has the right to a 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, Scott Lackey, 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, Scott Lackey, further understands that should he violate the terms and conditions of this Consent Order, the Board may take additional disciplinary action.

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

The undersigned, Scott Lackey, 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:

Scott Lackey Date 11/14/08  
Scott Lackey  
(License No. 10279)

NORTH CAROLINA

Wayne 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: Scott Lackey

Date: 11-14-08

Debbie R. Huskins  
Notary Public  
Debbie R. Huskins

My commission expires: 11-28-09

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OBJECTED TO BY: \_\_\_\_\_ Date \_\_\_\_\_

Scott Lackey  
(License No. 10279)