

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In The Matter Of:

| | | |
|-----------------------------------|---|----------------------|
| Reciprocity Application of |) | |
| MICHAEL SHANE MILLER |) | ORDER DENYING |
| |) | RECIPROCITY |
| |) | |

THIS MATTER came before the North Carolina Board of Pharmacy (“Board”) concerning the application of Michael Shane Miller (“Petitioner”) to reciprocate a Virginia license to practice pharmacy. This matter was heard on September 20, 2011 by the Board located at 6015 Farrington Rd., Suite 201, Chapel Hill, North Carolina. Board members Dennis, Minton, Chater, Chesson, and Marks heard Petitioner’s request. Having heard the evidence presented and assessed the credibility of the testifying witnesses, the Board makes the following:

FINDINGS OF FACT

1. Petitioner presently holds a license to practice pharmacy in Virginia, which he obtained by examination.
2. On July 25, 2011, Petitioner submitted the National Association of Boards of Pharmacy Application for Transfer of Pharmacist License and the North Carolina Board of Pharmacy Reciprocity Data Questionnaire seeking to reciprocate his Virginia license to practice pharmacy.
3. On both documents, Petitioner disclosed that his Virginia license to practice pharmacy had been subject to discipline.
4. In October 1998, the Virginia Board of Pharmacy determined that Petitioner had not completed continuing education requirements necessary for licensure renewal in 1996 and 1997, but had falsely certified that he had completed those requirements. The Virginia Board fined Petitioner \$600 and ordered him to complete remedial continuing education.

5. In May 2002, the Virginia Board found that Petitioner had not completed continuing education requirements necessary for licensure renewal (in 1999 and 2000), but had falsely certified that he had completed those requirements, and that Petitioner had failed to provide continuing education certificates upon request. The Virginia Board suspended Petitioner's license pending his completion of remedial continuing education and payment of a \$2,000 fine.

6. In March 2008, the Virginia Board found that Petitioner had: (a) refilled an expired prescription for a Schedule III controlled substance; (b) failed on several occasions to maintain appropriate and complete records concerning orally transmitted prescriptions; and (c) failed on several occasions to maintain appropriate and complete records concerning transferred prescriptions. The Virginia Board reprimanded Petitioner's license and fined him \$500.

7. In October 2010, the Virginia Board found that petitioner had: (a) dispensed expired doses of prescription drugs; (b) mixed generic and brand drugs in single prescription containers, which were then misbranded; (c) left the pharmacy at which he was pharmacist-manager without securing the pharmacy area and left pharmacy technicians unsupervised; (d) physically examined an employee of the pharmacy and dispensed a prescription drug to the employee to treat a skin condition without that employee having a valid prescription; (e) failed on several occasions to maintain appropriate and complete records concerning orally transmitted prescriptions; (f) dispensed an unauthorized refill of a prescription medication; and (g) failed to maintain appropriate and complete records concerning a transferred prescription. The Virginia Board reprimanded Petitioner's license, ordered him to take and pass the Virginia Drug Law Examination, and pay a \$1,500 fine.

8. The orders of the Virginia Board imposing discipline are incorporated herein by reference.

9. During testimony, Petitioner sought to discount the nature of these repeated violations of law and his responsibility for them by, among other things, repeatedly dismissing the violations as “technical” or resulting from accusations leveled by co-employees with whom Petitioner apparently had contentious relationships.

10. Petitioner also sought to justify the violations (particularly as to the 2008 and 2010 disciplinary orders) as inherent in the rural nature of his pharmacy practice.

11. The Board does not find Petitioner’s explanations to be credible or mitigating.

12. The Board finds that number of violations committed by Petitioner, the repetitive nature of those violations, and Petitioner’s stated explanations for them are aggravating factors in this matter.

CONCLUSION OF LAW

1. All parties are properly before the Board, and the Board has jurisdiction over Petitioner and the subject matter of this proceeding.

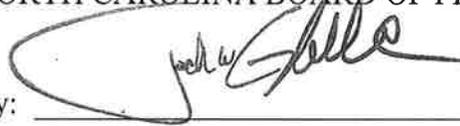
2. Petitioner’s conduct constitutes grounds for refusal to grant a license pursuant to N.C. Gen. Stat. § 90-85.38(a)(6), because Petitioner has failed to comply with the laws governing the practice of pharmacy and the distribution of drugs, and pursuant to N.C. Gen. Stat. § 90-85.38(a)(9), because Petitioner has been negligent in the practice of pharmacy, all as set forth in the findings of fact above.

3. Considering all of the facts and circumstances of this matter, the Board finds and concludes that the refusal to grant Petitioner a license to practice pharmacy in the State of North Carolina is appropriate.

IT IS, THEREFORE, ORDERED that Petitioner's application to reciprocate his Virginia license is **DENIED**. This Order incorporates by reference the terms of the Board's Reapplication and Reinstatement Policy.

This the 20th day of September, 2011.

NORTH CAROLINA BOARD OF PHARMACY



By: _____

Jack W. Campbell IV
Executive Director

CERTIFICATE OF SERVICE

I certify that on September 23, 2011, I caused a copy of this Order Denying Reciprocity to be served on Michael Shane Miller by certified mail, return receipt requested at the following address:

[REDACTED]
Gate City, VA 24251



Jack W. Campbell IV
Executive Director

cc: Miller reciprocity file

Caroline Juran, Executive Director, Virginia Board of Pharmacy
Perimeter Center
9960 Maryland Drive, Suite 300
Henrico, VA 23233-1463

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