

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

DAVID BRIAN MOZINGO
(License No. 21356)

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CONSENT ORDER

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 July 18, 2011 and, after appropriate notice, was heard on that day by Board member Gene Minton at the offices of the Board. Respondent David Brian Mozingo (License No. 21356) ("Respondent") was present. Executive Director Jay Campbell 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. 21356.

3. On May 18, 2010, the Board issued to Respondent an Order Regarding Licensure. That Order allowed Respondent to complete the pharmacy licensure process upon satisfying certain conditions. That Order also placed certain conditions on his license to practice pharmacy, including that he “successfully complete his [North Carolina Pharmacist Recovery Network] contract.” The Order specified that if Respondent “fail[ed] to comply with any terms or conditions of this Order, [he] may be subject to additional disciplinary action by the Board.”

4. On April 7, 2011, NCPRN notified the Board that Respondent was not compliant with his NCPRN treatment and monitoring obligations. In the space of a year, Respondent was referred to NCPRN’s Compliance Committee three times for material, repeated non-compliance. Progressive action by the Compliance Committee did not end Respondent’s non-compliance behaviors, which include, dilute drug tests, failure to submit required documentation in a timely manner, failure to participate fully in continuing care, and missed call-ins for screening. NCPRN further reported to the Board that it had noted relapse behaviors and clinical concerns that Respondent was unwilling or unable accept responsibility for his actions.

5. Between NCPRN’s report to the Board on April 7, 2011 and this Conference, Respondent continued to engage in non-compliance behaviors, including a missed call-in for screening and failure to turn in required reports in a timely manner. NCPRN reported that Respondent continued to have difficulty accepting responsibility for this behavior.

6. Respondent has been non-compliant with his NCPRN treatment and monitoring obligations. He has, therefore, violated the May 18, 2010 Order Regarding Licensure.

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).
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, No. 21356, is hereby SUSPENDED INDEFINITELY.

Five (5) 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 5 full, consecutive 24-hour days. During the term of his suspension, Respondent may not be present in any pharmacy, except as a customer.

The remainder of the suspension shall be stayed indefinitely from the date that this Order is accepted by the Board, upon the following conditions:

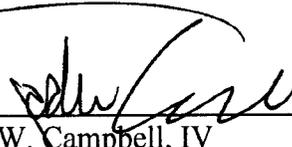
1. Respondent shall not serve as pharmacist-manager of any pharmacy; and
2. Respondent shall not engage in further non-compliance with his NCPRN treatment and obligation requirements deemed reportable to the Board by NCPRN.

If Respondent fails to comply with any terms or conditions of this Order, the indefinite suspension of Respondent's license shall become active, and that suspension will not be lifted unless or until the Board, upon petition by Respondent, issues a further order regarding licensure.

This the 20th day of September, 2011.

NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell, IV
Executive Director

David Brian Mozingo, the holder of license number 21356, 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:

David B. Mozingo Date 07/28/11
David Brian Mozingo
(License No. 21356)

NORTH CAROLINA

Robeson 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: David Brian Mozingo

Date: 28 July 2011

Adam E. Rugg
Notary Public
Adam E. Rugg

My commission expires: 5 March 2014

OBJECTED TO BY:

Date _____

David Brian Mozingo
(License No. 21356)