

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In Re:

**Joseph David Murphy
(License No. 14054)**

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ORDER REINSTATING LICENSE

THIS MATTER was heard on September 26, 2006, by the North Carolina Board of Pharmacy (“Board”) located at 6015 Farrington Road, Suite 201, Chapel Hill, North Carolina, upon the request of Joseph David Murphy (“Petitioner”) for reinstatement of his license to practice pharmacy in the state of North Carolina. Board members Chater, Nelson, Dennis, Haywood, Chesson and McLaughlin conducted this hearing. After hearing the testimony of witnesses, adjudging the credibility of the witnesses, and receiving evidence, the Board makes the following:

FINDING OF FACT

1. At all relevant times, Petitioner was licensed to practice pharmacy by the Board and was the holder of license number 14054.
2. Paul Peterson, the Executive Director of the North Carolina Pharmacist Recovery Network (“NCPRN”) contacted the Board’s investigative office on December 22, 2005 to report that Petitioner was enrolled in a NCPRN program, but had left an inpatient treatment facility prior to completing treatment and without medical approval.
3. Board Investigator Melissa Cummings responded to the complaint, investigated this matter, and prepared a report of her findings. Petitioner stipulates that Investigator Cummings’ report is accurate.

4. Petitioner was employed by UNC Hospitals as a staff pharmacist.
5. On or about October 14, 2005, Technician Shante Griffin, #7920, submitted her resignation from UNC Hospital Pharmacy. During an exit interview, Technician Griffin alleged that Petitioner's behavior at times suggested that he was impaired, and that she had witnessed him leaving the rear compounding area with an empty syringe in his hand.
6. Following the interview, James McAllister, Director of Pharmacy at UNC Hospital, directed Bonnie Bass, Pharmacy Operations Manager, to conduct an investigation.
7. Ms. Bass' investigation uncovered controlled substance paper trail deficiencies that appeared linked to times when Petitioner was working at the hospital. Ms. Bass noted a number of hydromorphone 30mg patient-controlled analgesia ("PCA") cartridges that had been signed out under Petitioner's initials, but not reconciled in the controlled substance inventory. Ms. Bass determined that Petitioner would locate a patient receiving hydromorphone 30mg and withdraw a hydromorphone PCA cartridge from the C-II safe using that patient's name. There is no evidence establishing that Petitioner's diversion activities resulted in any patient not receiving his/her pain medication, and Petitioner denies that any patient was ever without their prescribed pain medication as a result of his diversion.
8. At the conclusion of Ms. Bass' investigation, on November 8, 2005, she and Mr. McAllister confronted Petitioner. Initially, Petitioner denied diverting any prescription drugs. After he was presented with the results of Ms. Bass'

investigation, however, Petitioner admitted to diverting hydromorphone, a Schedule II controlled substance.

9. Captain Owen Winn of the UNC Hospital Police then joined the meeting and obtained a written confession from Petitioner. On November 9, 2005, UNC Hospital obtained two arrest warrants for Petitioner; one count each of embezzlement and obtaining property under false pretenses.
10. Petitioner agreed to enter a treatment plan with NCPRN. As part of that treatment plan, Petitioner checked into an in-patient substance abuse treatment on November 10, 2005 for a 42-day evaluation and treatment program.
11. Petitioner left the in-patient facility on December 17, 2005, after 38 days of the program, and did so without medical consent.
12. On December 30, 2005, Inspector Cummings and Board Inspector Josh Kohler interviewed Petitioner. During that interview, Petitioner admitted that he had been diverting 30 mg per week of hydromorphone for his own use for approximately one and one-half years. He admitted to locating patients who were prescribed hydromorphone, dispensing a hydromorphone PCA cartridge under the patient's name, and ingesting the hydromorphone himself. Petitioner would transfer the hydromorphone to a 30cc vial with a screw cap and, throughout his shift, sip from the vial. Eventually, he began injecting the hydromorphone subcutaneously.
13. At the conclusion of the interview, Investigator Cummings asked Petitioner to surrender his license to practice pharmacy. Petitioner agreed.

14. In January 2006, Petitioner returned to the in-patient treatment facility and completed an additional 21-day period of evaluation and treatment.
15. Paul Peterson, Executive Director of NCPRN, testified that the Petitioner is in compliance with his PRN contract, attends counseling sessions, has not had a positive drug screen, and is ready to reenter the practice of pharmacy.
16. Petitioner's attorney, Jeff Weibe, testified by letter that the criminal charges against Petitioner have been dropped, and that there is no possibility of any further criminal charges against Petitioner stemming from his diversion activities.

CONCLUSION OF LAW

Petitioner has demonstrated that he has been in a period of successful recovery and compliance with his PRN contract. The Board, in its discretion, concludes that Petitioner can safely resume the practice of pharmacy, subject to the conditions set forth in Attachment A, which is incorporated by reference.

IT IS THEREFORE ORDERED that Petitioner's license to practice pharmacy shall be reinstated, subject to the conditions stated in Attachment A, incorporated by reference into this Order.

This is the 26th day of September, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By: 

Jack W. Campbell IV
Executive Director

CERTIFICATE OF SERVICE

I certify that on September 28, 2006, I caused a copy of this Order Reinstating License to be served on Petitioner by registered mail, return-receipt requested.



Jack W. Campbell IV
Executive Director