

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

JOHN GARY NEWTON
(License No. 4145)

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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 October 17, 2011 and, after appropriate notice, was heard on that day by Board member Gene W. Minton at the offices of the Board. Respondent John Gary Newton (License No. 4145) (hereinafter, "Respondent" or "Newton") was present and was represented by counsel. Counsel Joseph A. 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. 4145. At all relevant times, Respondent was pharmacist-manager at The Prescription Center, Permit No. 1702, located at 915 Hay Street, Fayetteville, North Carolina. 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 December 2005 and August 2008, Respondent filled at least ten prescriptions for drugs for his pet, and dispensed those drugs without a valid prescription, including seven prescriptions for diazepam and three prescriptions for clonazepam, both Schedule IV controlled substances.

4. Between July 2007 and April 2009, Respondent filled at least thirteen prescriptions that were purportedly written by Dr. Ipbi Kim, for family members of Dr. Kim, when in fact Dr. Kim's medical license became inactive in 2004. Respondent asserts he was not aware Dr. Kim's license had become inactive.

5. Between July 2007 and July 2009, Respondent dispensed at least 162 orders for prescription medications under an invalid DEA number.

6. In June and July 2007, Respondent filled three drugs that required a prescription to a patient who did not have a valid prescription, and kept inappropriate records of the prescriptions either without identifying a prescribing physician or by recording the physician as "NON RX," acts of misbranding the prescriptions.

7. As stated herein above, Respondent failed to keep valid DEA numbers and other required information and records.

8. Between approximately March 2009 and December 2009, Respondent permitted a person to fulfill the duties of pharmacy technician without being registered with the Board.

CONCLUSIONS OF LAW

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

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

2. Respondent's conduct, as set out in the findings of fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38 because Respondent's acts were in violation of N.C. Gen. Stat. §§ 90-85.15A(b) and (c), 90-85.38(a)(6), (7) and (9), 90-85.40(b) and (f), 90-106, 90-108, 106-122, 106-134 and 106-134.1; 21 N.C.A.C. 46 .1801, 46 .1804, 46 .1805, 46 .2301, 46 .2302, 46 .2502(a), 46 .2505 and 46 .3301; and 21 U.S.C. §§ 331, 353, 829 and 842.

3. 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 Newton, License No. 4145, is hereby SUSPENDED for thirty (30) days. Of that suspension, 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 with a valid prescription.

The remaining fifteen (25) 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:

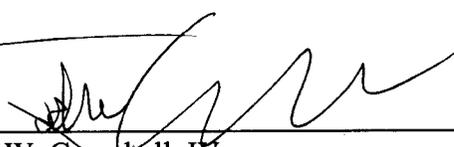
1. Respondent shall advise the Board promptly in writing of any change of address or change in practice status;
2. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs; and
3. Respondent shall violate no rules or regulations of the Board.

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 17th day of January, 2011.

NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell, IV
Executive Director

John Gary Newton, the holder of license number 4145, 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:

John Gary Newton Date 12/20/11
John Gary Newton
(License No. 4145)

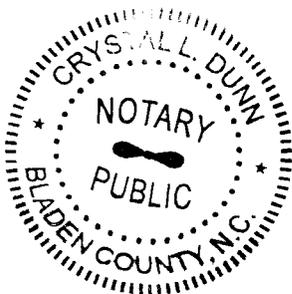
NORTH CAROLINA

Bladen 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: John G. Newton

Date: 12/20/2011

Crystal L. Dunn
Notary Public
03/02/2013 Crystal L. Dunn



My commission expires: 03/02/2013

OBJECTED TO BY:

Date _____

John Gary Newton
(License No. 4145)