STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

In the Matter of: SHAILESHKUMAR PATEL (License No. 12235)	)))))	**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 September 16, 2013 and, after appropriate notice, was heard on that day by Board President Gene Minton at the offices of the Board. Respondent Shaileshkumar Patel (License No. 12235) (hereinafter, "Respondent" or "Patel") was present at the conference. Board Counsel Tanisha Palvia and members of the Board's investigative staff were also present at this 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. 12235. At all relevant times, Respondent was a pharmacist at Bi-Lo Pharmacy, Permit No. 8922, located at 8120 South Tryon Street, Charlotte, North Carolina (the "Pharmacy"). 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. In 2012, while employed at the Pharmacy, Respondent fraudulently created at least five (5) prescriptions for Bidil and Pediderm for his family members and fraudulently created prescription records for those drugs.

4. Respondent created the prescriptions to fraudulently seek manufacturer's rebates for the drugs, and pursuant to this scheme to defraud, between August and December 2012, Respondent received at least five (5) rebate checks totaling about $780.

5. Respondent engaged in this behavior while serving as the pharmacist-manager responsible for ensuring compliance with the law.

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. §§ 90-85.29, 90-85.30, 90-85.38(a)(4), (6), and (7), and 90-85.4(f); and 21 N.C.A.C. 46 .1804, 46 .2302, and 46 .2303.

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:

1. The license of Respondent Shaileshkumar Patel, License No. 12235, is hereby SUSPENDED for ninety (90) days, as follows:

a. Respondent's license is ACTIVELY SUSPENDED for a period of FOURTEEN (14) DAYS. These fourteen days shall be served consecutively, commencing on a Monday at 12:01 a.m. and running for fourteen consecutive days, with the fourteen-day active suspension to be served commencing within thirty (30) days of the date that this Order is approved by the Board. Respondent shall notify the Executive Director in writing and return his wallet card, license and current renewal in advance of service of the suspension. During the term of his suspension, Respondent may not be present in any pharmacy, except as a customer with a valid prescription.

b. The active portion of Respondent's suspension cannot terminate and his active suspension will not end unless and until Respondent both (a) completes the Medicare Parts C and D Fraud, Waste, and Abuse Training (This training can be found online at http://www.cms.gov by clicking on "Outreach and Education," then "MLN Products" under "Medicare Learning Network (MLN)," then "MLN Provider Compliance" in the left-

hand column; the training is under "Downloads" and is entitled "Medicare Parts C and D Fraud, Waste, and Abuse Training") and (b) submits proof of completion of the program. In the event that Respondent does not submit proof of completion of such program, the active portion of Respondent's suspension will not terminate and his license will remain actively suspended.

c. The remaining SEVENTY-SIX (76) DAY SUSPENSION of Respondent's license is hereby STAYED for TWO (2) YEARS from the date that this Order is accepted by the Board, upon the following conditions:

i. Respondent shall not serve as a pharmacy manager or pharmacist in charge of any pharmacy;

ii. Respondent shall not serve as a preceptor of pharmacy students;

iii. Respondent shall advise the Board promptly in writing of any change of address or change in practice status;

iv. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs; and

v. Respondent shall violate no rules or regulations of the Board.

At no time during the period of the two-year stay may Respondent petition to have any of these conditions lifted. If a petition is filed, the Executive Director is instructed to deny the petition and not to schedule any hearing on the petition before the Board.

2. Even after the term of the stayed suspension has concluded, Respondent's license to practice pharmacy is hereby indefinitely RESRICTED as follows:

a. Respondent shall not serve as a pharmacy manager or pharmacist in charge of any pharmacy; and

b. Respondent shall not serve as a preceptor of pharmacy students.

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

4. If Respondent fails to comply with any terms or conditions of this Order, the period of stay described above shall be lifted and, in addition, Respondent may be subject to additional disciplinary action by the Board.

This the 15th day of October, 2013.

NORTH CAROLINA BOARD OF PHARMACY

By: _____
Jack W. Campbell, IV
Executive Director

Shaileshkumar Patel, the holder of license number 12235, 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:

_____ Date 10/10/2013
Shaileshkumar Patel
(License No. 12235)

NORTH CAROLINA

MECKLENBURG 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: Shaileshkumar Patel

Date: OCTOBER 10, 2013

_____
Notary Public
NEEL JADEJA

OFFICIAL SEAL
Notary Public - North Carolina
MECKLENBURG COUNTY
NEEL JADEJA
My Commission Expires AUGUST 15, 2015

My commission expires: AUGUST 15, 2015

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OBJECTED TO BY: _____Date_____

Shaileshkumar Patel
(License No. 12235)