

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Richard Mack
(License No. 7082)

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**CONSENT ORDER OF
DISCIPLINE**

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 March 26, 2007 and, after appropriate notice, was heard on that day by Board member Robert McLaughlin, Jr. at the offices the Board. The Respondent Richard Mack (License No. 7082) (hereinafter "Respondent" or "Mack") was present and was represented by counsel George G. Hearn, Esq. Counsel Alexander Elkan 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 North Carolina Board of Pharmacy 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 Richard Mack, License No. 7082 is, and was at all relevant times referred to herein, a pharmacist licensed to practice pharmacy in the State of North Carolina and the pharmacist manager of CVS Pharmacy, Permit No. 6703, located at 845-M Blowing Rock Blvd, Lenoir, North Carolina (the "Pharmacy"), and Mack and the Pharmacy were, at all relevant times, subject to the rules and regulations of the North Carolina Board of Pharmacy and the laws of the State of North Carolina.

3. On April 7, 2006, Mack erroneously dispensed from the Pharmacy to a client Methotrexate 2.5 mg, where the prescription called for Metolazone 2.5 mg.

4. On April 7, 2006, more than two Pharmacy Technicians were working at the Pharmacy under the supervision of one Pharmacist.

5. On April 7, 2006, neither the Pharmacy nor Mack had applied for, nor obtained, permission from the Board to have more than two Pharmacy Technicians working at the Pharmacy under the supervision of one Pharmacist.

6. Mack testified that the prescription in question was misread and misfilled and he was not aware of how the error occurred.

CONCLUSIONS OF LAW

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

2. Mack's conduct, as set out in the findings of fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38.

CONCLUSIONS REGARDING DISCIPLINE

Based upon the foregoing Findings of Fact and Conclusions of Law, and with the consent of Respondent Mack, the Board enters the following:

CONSENT ORDER OF DISCIPLINE

1. The License to Practice Pharmacy of Respondent Richard Mack (License No. 7082) is hereby suspended for a period of seven (7) days, which suspension shall be served as follows:

- a. Respondent Mack's license to practice pharmacy shall be actively suspended for a period of seven (7) consecutive days, which active suspension shall commence at a time to be selected by the Respondent, but in any event, shall be served and completed by Respondent within ninety (90) days of the date of acceptance of this Consent Order by the Board of Pharmacy. The Respondent shall notify the Executive Director of the Board, in writing, at least ten (10) days prior to serving such active suspension of his intention to do so, and shall notify the Executive Director of the Board, in writing, within ten (10) days after completion of service of such active suspension. Respondent shall not be present in any pharmacy except as a customer during the active suspension of his license; and
- b. The seven (7) day suspension of Respondent Mack's license shall be stayed. The stay shall continue in force only as long as Respondent Mack complies with the following conditions, within six (6) months from the date of acceptance of this Consent Order by the Board of Pharmacy:

- i. Mack shall enroll in, and successfully complete an appropriate continuing education Medical Errors course to be selected by Mack in consultation with, and subject to the prior approval of, the Executive Director of the Board.
- ii. Mack shall cooperate with the Board, its attorneys, investigators and other representatives in any investigation and comply with the provisions of this Consent Order;
- iii. Mack shall violate no laws governing the practice of pharmacy or the distribution of drugs; and
- iv. Mack shall violate no rules and regulations of the Board.

2. Respondent Mack is hereby formally reprimanded for his conduct as set forth herein.

3. If Respondent fails to comply with any terms or conditions of this Consent Order, Respondent may be subject to additional disciplinary action by the Board.

This the 15th day of May, 2007.

NORTH CAROLINA BOARD OF PHARMACY

By:


Jack W. Campbell, IV
Executive Director

Richard Mack, the holder of license number 7082 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.

ACCEPTED AND CONSENTED TO BY:

Richard Mack Date 5/4/07
Richard Mack
(License No. 7082)

NORTH CAROLINA

Iredell 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: Richard Mack

Date: May 4, 2007

Deborah B Taylor
Notary Public
Deborah B Taylor

My commission expires: Aug 16, 2010