

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In The Matter Of:

**Brian P. Schuller
(License No. 15528)**

)
)
)
)

ORDER REINSTATING LICENSE

THIS MATTER came on for hearing upon request of Brian P. Schuller (Petitioner) for reinstatement of his license to practice pharmacy in North Carolina. Petitioner's request was heard on January 17, 2006 by the North Carolina Board of Pharmacy located at 6015 Farrington Rd., Suite 201, Chapel Hill, North Carolina. Consideration of the Petitioner's request was heard based upon records in this proceeding, and the testimony and other materials of record presented at the hearing, the Board makes the following:

FINDINGS OF FACT

1. Petitioner was licensed on July 6, 2000 to practice pharmacy by the North Carolina Board of Pharmacy and was the holder of license number 15528.
2. On September 3, 2004 Daryl Blackburn, Durham Regional Medical Center Interim Pharmacy Manager, contacted the North Carolina Board of Pharmacy (Board) by phone and spoke to Investigator Amy Cook. Pharmacist Blackburn reported that Petitioner admitted to diverting Oxycodone, Percocet, Ambien and OxyContin SR from the Pyxis units at the Durham Regional Medical Center (DRMC) facility.

3. Investigator Cook interviewed Petitioner on September 7, 2004. Petitioner admitted diverting controlled substances without a prescription from DRMC and CVS Pharmacies where he was employed. Investigator Cook collected a urine sample from Petitioner for a drug screen and obtained a report that showed positive results for Hydrocodone, Hydromorphen (Dilaudid), Codeine, Lorazepam and Benadryl. Petitioner had a current prescription for Lorazepam on file at CVS but was unable to produce prescriptions for Hydrocodone, Hydromorphone or Codeine.
4. On September 7, 2004 Petitioner voluntarily surrendered his license and ceased practicing pharmacy based upon his obtaining and consuming controlled substances and dispensing legend prescription drugs to himself without authorization and in violation of State and Federal statutes and regulations.
5. On September 14, 2004 Investigator Cook traveled to DRMC to obtain records and conduct interviews with Pharmacy Director Lyn Whitt and Pharmacy Administrator Joe Morrissey. In the interview Investigator Cook was told that a Pharmacy Technician had found from the user Pyxis reports generated on Petitioner that medication had been removed. The Technician reported her findings to Lyn Whitt.
6. On September 2, 2004 LynWitt, Joe Morrissey and Lynn Downs met with Petitioner and informed him the hospital had evidence that he had been taking medications without a prescription. Petitioner admitted to the removal of Oxycodone HCL 5 mg tablets, Oxycontin SR tablets, Percocet and Ambien 5 mg tablets. Petitioner was put on administrative leave and escorted from the building.

7. On September 15, 2004 Petitioner was interviewed by Investigator Cook and stated that he took controlled substances from four CVS Pharmacies where he was an employee without valid prescriptions. The stores were located at 2010 Sedwick Rd., Durham, 1990 NW Cary Pkwy, Morrisville, 1123 Kildaire Farm Rd., Cary, and 3914 Capital Blvd., Raleigh. Petitioner also stated he took controlled substances from DRMC by using the override function on the Pyxis machines under patients names (specifically same day patients), and removed Ambien, Oxycodone, Oxycontin SR or Percocet for his personal use. Petitioner's wife attended the interview and submitted a full bottle of Hydrocodone Bitartrate with Acetaminophen 10/325mg that she had found in her husband's personal effects and gave the bottle to Investigator Cook. Petitioner admitted that he had stolen the bottle from CVS pharmacy located at 1990 NW Cary Parkway, Morrisville.
8. On September 16, 2004 Investigator Cook interviewed CVS District Manager Betsy Ramsey and John Trusch of CVS Loss Prevention department. District Manager Betsy Ramsey stated that CVS conducted their own investigation and found nine fraudulent prescriptions filled by Petitioner at the four stores where he admitted to diverting medications. District Manager Betsy Ramsey called Agent Mike Callum with the Drug Enforcement Administration and informed him of the situation.
9. Petitioner attended Pine Grove Next Step, Hattiesburg Mississippi for treatment of substance abuse from September 17, 2004 to December 10, 2004.
10. In addition, Petitioner attended Professionals at Risk, Elmhurst Memorial Healthcare, Elmhurst Illinois from September 6, 2005 to November 10, 2005.

11. Petitioner entered into a five-year contract with the North Carolina Pharmacist Recovery Network (PRN) on September 28, 2004.
12. Petitioner has had over 30 negative drug screens.

CONCLUSION OF LAW

Petitioner has demonstrated that he has been in a period of successful recovery and compliance with his N.C. Pharmacist Recovery Network contract. The North Carolina Board of Pharmacy, in its discretion, concludes that Petitioner can safely resume the practice of pharmacy, subject to the conditions set forth below.

IT IS, THEREFORE, ORDERED that Petitioner's license shall be reinstated subject to the following conditions:

1. Petitioner shall successfully complete his PRN contract, which shall be renewed to extend 5 years from the date of his reinstatement (January 17, 2006).
2. Petitioner shall notify the Board's Executive Director of any criminal charges relating to his North Carolina pharmacist license and the diversion of controlled substances from CVS Pharmacy and Durham Regional Medical Center.
3. Petitioner shall obtain prior approval of all employment from the Board's Executive Director.
4. Petitioner shall advise the Board promptly in writing of any change of addresses or change in practice status.
5. Petitioner may work in a non-dispensing role for one year. After that time Petitioner may contact the Board and request a Hearing for reconsideration of this condition.
6. Petitioner shall not be employed as a dispensing pharmacist.

7. Petitioner shall not serve as pharmacist-manager of any pharmacy.
8. Petitioner shall not serve as a preceptor of pharmacy interns or resident students.
9. Petitioner may not be employed in excess of 40 hours per week, on the average.
10. Petitioner shall be subject to unannounced drug screens to be performed at his expense by the Board or its agents, and shall supply urine, blood, hair, nail, or any other bodily fluid or tissue sample required for the screening. Results of the screening shall not disclose the presence of any controlled substances, prescription drug, or alcohol, which was not previously prescribed for Petitioner by a practitioner acting in the normal course of medical treatment of Petitioner and approved by PRN staff.
11. Petitioner shall obtain 20 hours of continuing education for the reinstatement of his license, at least 10 of which must be contact hours and pay the reinstatement fee of \$270.00.
12. Petitioner shall violate no laws governing the practice of pharmacy or the distribution of drugs.
13. Petitioner shall violate no rules of the Board.
14. If Petitioner fails to comply with any terms or conditions of the Order, Petitioner may be subject to additional disciplinary actions by the Board.

This the 17th day of January, 2006.

NORTH CAROLINA BOARD OF PHARMACY

By: David R. Work
David R. Work
Executive Director