

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

Elizabeth P. Zuber
(License Number 12719)

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CONSENT ORDER

Pursuant to G. S. § 150B-41(c), the North Carolina Board of Pharmacy (Board) and Elizabeth P. Zuber (Respondent) have agreed to resolve this matter in accordance with the terms and conditions of this Consent Order. The Board and Respondent hereby agree as follows:

1. At all relevant times, Respondent was licensed to practice pharmacy by the Board and was the holder of license number 12719.

2. On May 5, 2005, the Board issued an Order restricting Respondent's license. The Order was based on the Board's decision rendered on March 16, 2004. The Findings of Fact in the May 5, 2005 Order were as follows:

- a. Respondent was licensed by the Board to practice pharmacy on September 26, 1994, and is the holder of license number 12719;
- b. On December 17, 2002, Respondent voluntarily ceased practicing pharmacy in North Carolina;
- c. On December 19, 2002, Respondent met with the Executive Director of the North Carolina Pharmacist Recovery Network (NCPRN) and entered into a five-year NCPRN contract;
- d. On January 2, 2003, the Board's Investigator began her investigation of Respondent at various pharmacies where Respondent had been employed. The investigator provided audit reports which were testified to and introduced into evidence;

e. On April 10, 2003, the Investigator met with Respondent; her attorney, Warren Sparrow; and SBI Agent Dan Stone. Respondent made statements indicating when her abuse of controlled substances began and her current drug addiction.

f. Respondent completed the Pinegrove Next Step Program in Mississippi, beginning December 19, 2002 and ending March 26, 2003. Respondent also attended an intensive 3-4 week outpatient program at Forsyth Hospital from late March of 2003 to mid-April of 2003. Respondent maintained her pharmacist license through December 31, 2004 and currently attends three NA/AA meetings per week.

g. Respondent was charged criminally with three counts of embezzling controlled substances and entered into a Deferred Prosecution Program for the period of September 25, 2003 to September 28, 2004. Upon successful completion of the Deferred Prosecution Program, the Board was informed that the case would be dismissed by the District Attorney;

3. In the Order dated May 5, 2005, the Board concluded that Respondent had demonstrated that she was in a period of successful recovery and compliance with her NCPRN contract. The Board concluded that Respondent could resume the practice of pharmacy subject to the following conditions:

- a. Respondent shall in no way be involved in dispensing prescription drugs;
- b. Prior to using her restricted license, Respondent shall obtain approval by the Board's Executive Director of her practice site;
- c. Respondent shall have no access to prescription drugs or the dispensing of

prescription drugs at her place of employment;

d. The Board recommends that Respondent make no requests of the Board to lift any restrictions until all court issues are resolved and Respondent is further along with her NCPRN contract; and

e. The Board recommends that when Respondent seeks reconsideration by the Board, she should bring advocates to testify on her behalf and representatives from NCPRN.

4. On June 21, 2005, Respondent appeared before the Board and requested that the Board lift the restriction prohibiting her from practicing in a pharmacy where she would have access to pharmaceuticals. In support of her request, she submitted to the Board:

a. A letter from her psychiatrist, Dr. Bruce W. Rau; and

b. An Order to Expunge filed in Forsyth County District Court on January 21, 2005, expunging her previous arrest for three counts of embezzlement of a controlled substance by an employee.

5. On June 21, 2005, the Board voted to lift the condition prohibiting Respondent from practicing in a pharmacy with access to pharmaceuticals, subject to a five-year extension of Respondent's NCPRN contract. The date of the NCPRN contract extension was to begin on June 21, 2005. All other conditions of the May 5, 2005 Order remained unchanged.

6. Respondent admits that on October 1, 2005, she failed to call in to determine if she was selected for a random urine drug screen test. However, Respondent alleges that she had obtained prior permission from NCPRN to be excused from the call-in due because she was scheduled to take the Psychiatric Pharmacy Specialty Certification Examination that morning. NCPRN denies having given Respondent permission to be excused from the call-in.

7. Respondent admits that on November 7, 2005, she failed to call in to determine if she was selected for a random urine drug screen test. Respondent also admits that on November 7, 2005, she failed to report for a random urine drug screen test.

8. Respondent admits that on September 9, 2005, she reported for a random urine drug screen test, the result of which was a dilute.

9. Respondent admits that on December 10, 2005, she reported for a random urine drug screen. Testing by a laboratory under contract with NCPRN determined that the screen was positive for alcohol. Respondent asserts that she had sample subsequently tested by another lab of her choosing and that this lab reported that the screen was negative for alcohol.

10. Respondent admits that prior to February 8, 2006, she failed to extend her NCPRN contract as required by the Board in its Order of June 21, 2005.

CONCLUSIONS OF LAW

1. Respondent Pharmacist admits that her conduct in this matter constitutes sufficient grounds for disciplinary action on her license under G.S. 90-85.38.

2. Respondent Pharmacist violated the following statutes and rules when she failed to comply with the Board's prior Order:

- a. G.S. 90-85.38(a)(1) and (7);
- b. G.S. 90-85.41

Based on the foregoing and with the consent of the parties, IT IS THEREFORE ORDERED as follows:

1. Respondent's license number 12719 is suspended for ninety (90) consecutive days. 2. The period of suspension described above is stayed for five (5) years, subject to the following conditions:

- a. Respondent shall not dispense or deliver prescription drugs;
- b. Respondent shall obtain prior approval from the Board's Executive Director of all pharmacy-related employment;
- c. Respondent shall maintain strict compliance with the terms of her NCPRN contract for five (5) years, commencing on February 8, 2006.
- d. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation of his practice and compliance with the terms of this Consent Order;
- e. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs; and
- f. Respondent shall violate no rules and regulations of the Board.

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 21st day of March, 2006.

North Carolina Board of Pharmacy

By: _____
David R. Work
Executive Director