

STATE OF NORTH CAROLINA  
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF )  
 )  
EDWARD L. LOWERY ) **FINAL ORDER**  
Technician Registration Number 22411 )

THIS MATTER came on to be heard before the North Carolina Board of Pharmacy (the "Board") on February 21, 2012, pursuant to a Notice of Hearing, dated December 27, 2012, and was heard by Board President Betty H. Dennis and Board Members Rebecca W. Chater, J. Parker Chesson, Jr., E. Lazelle Marks, Robert McLaughlin, Jr., and Gene Minton at the offices of the North Carolina Board of Pharmacy. D.J. O'Brien III and Clinton R. Pinyan represented the Board staff. Although Mr. Lowery was provided notice of the hearing, he did not attend. The Board received evidence offered without objection by the Board staff, which included the testimony of Amy Ketchie, a Regional Loss Prevention Manager for CVS Pharmacy. The Board further received and considered a written submission that was provided by Mr. Lowery and offered without objection. Considering the testimony and evidence, the Board hereby makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. This matter came on for hearing pursuant to the Notice of Hearing dated December 27, 2011. Edward Lowery received all required notice of this hearing, as evidenced by a U.S. mail return receipt card.
2. Between March 11, 2008, and August 20, 2008, Lowery was the holder of registration number 22411, issued by the Board.

3. At all relevant times hereto, Lowery was employed as a pharmacy technician at CVS Pharmacy, located on 540 Martin Luther King Drive, Winston-Salem, North Carolina (the "Pharmacy").

4. During 2007 and 2008, Lowery diverted Viagra, Cialis, Humulin, Advair, Cozaar, Avodart and Diazepam from the Pharmacy for the purpose of selling these medications to Pharmacy customers and keeping the proceeds.

5. At a minimum, Lowery diverted 25 dosage units of Diazepam 5 mg (a schedule IV controlled substance), 270 dosage units of Viagra 100 mg, 180 dosage units of Cialis 10 mg, 30 dosage units of Cozaar 50 mg, 30 dosage units of Advodart 0.5 mg, 20 vials of Humulin 70/30, and one Advair 250/5 inhaler.

6. Lowery sold these medications to customers who did not present valid prescriptions to the pharmacy for the amount of medications that they received.

7. Because Lowery stole the drugs that he dispensed, he prevented the pharmacy from labeling the drugs appropriately and from keeping appropriate records of the medications dispensed.

8. Those diversions came to the attention of the Pharmacy when a Pharmacy customer complained to the Pharmacy that Lowery had sold her the wrong medication.

9. The Pharmacy staff questioned Lowery, and Lowery admitted to diverting the alleged medications, selling the medications to customers, and keeping the proceeds.

10. As a result of Lowery's diversion, the Pharmacy terminated his employment.

11. Lowery voluntarily surrendered his license to the Board on August 20, 2008. In that voluntary surrender, Lowery admitted that he had committed acts that gave the Board sufficient reason to revoke his technician registration.

12. On July 16, 2009, Lowery was found guilty of four counts of Misdemeanor Larceny by an Employee in connection with the diversion of drugs from the Pharmacy.

**CONCLUSIONS OF LAW**

1 The evidence demonstrates that Mr. Lowery violated one or more of the following statutes and rules:

- a. North Carolina General Statutes § 90-85.15A(d)(5);
- b. North Carolina General Statutes § 90-85.29;
- c. North Carolina General Statutes § 90-85.30;
- d. North Carolina General Statutes § 90-85.40(b) and (f);
- e. North Carolina General Statutes § 90-106(c), (f);
- f. North Carolina General Statutes § 90-108(a)(14);
- g. North Carolina General Statutes § 106-122;
- h. North Carolina General Statutes § 106-134;
- i. North Carolina General Statutes § 106-134.1;
- j. 21 N.C.A.C. 46 .1802(a);
- k. 21 N.C.A.C. 46 .1805;
- l. 21 N.C.A.C. 46 .1818;
- m. 21 N.C.A.C. 46 .2501;
- n. 21 U.S.C. § 331;
- o. 21 U.S.C. § 829; and
- p. 21 U.S.C. § 842.

2. Considering all of the facts and circumstances of this matter, the Board finds and concludes that the discipline set forth in this Final Order is appropriate pursuant to N.C. Gen. Stat. § 90-85.15A(d)(5).

WHEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that Mr. Lowery's request that his technician registration be reinstated is hereby DENIED, and


It is further hereby ORDERED, ADJUDGED AND DECREED that Board staff's request for discipline is hereby GRANTED, and Mr. Lowery's technician registration is hereby permanently REVOKED.

As a result of this discipline, Mr. Lowery may not be present in a pharmacy except as a customer with a valid prescription.

This the 21<sup>st</sup> day of February 2012.


NORTH CAROLINA BOARD OF PHARMACY

By: \_\_\_\_\_

  
Jack W. Campbell, IV  
Executive Director

**CERTIFICATE OF SERVICE**

I certify that on February 24, 2012, I caused a copy of this Final Order to be served on Edward L. Lowery by certified mail, return receipt requested:



\_\_\_\_\_  
Jack W. Campbell IV  
Executive Director