

STATE OF NORTH CAROLINA  
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF )  
 )  
SHERRY A. THOMAS )  
Technician Registration Number 23009 )

**FINAL ORDER**

THIS MATTER was heard on July 21, 2015, by the North Carolina Board of Pharmacy (“Board”) located at 6015 Farrington Road, Suite 201, Chapel Hill, North Carolina, pursuant to both (a) a request by Sherry A. Thomas (“Thomas”) for reinstatement of her technician registration, which Thomas voluntarily surrendered on February 15, 2011 and (b) a Notice of Hearing, dated June 2, 2015. Board members Mixon, Day, Graves, Haywood, McLaughlin, and Minton conducted this hearing. Board staff was represented by Bryan Starrett. Thomas was present at the hearing. The Board received documentary and testimonial evidence offered without objection by the Board staff. The Board also received testimonial evidence from Mrs. Thomas without objection. After hearing the testimony of witnesses, adjudging the credibility of the witnesses, and receiving evidence, the Board makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. All parties are properly before the Board, the Board has jurisdiction of the parties and of the subject matter, and Thomas received all required notice of the hearing and waived any additional notice.

1. Between June 3, 2008 and February 15, 2011, Thomas was the holder of registration number 23009, issued by the Board.

2. Beginning on or about April 12, 2010, Thomas was employed as a pharmacy technician at Durham Regional Hospital Pharmacy, located on 3643 North Roxboro Street, Durham, North Carolina (the “Pharmacy”).

3. During 2010, Thomas began diverting tramadol and cyclobenzaprine from the Pharmacy.

4. Those diversions came to the attention of the Pharmacy when the Pharmacy staff discovered that tramadol 50mg tablets were missing from the Pharmacy. Pharmacy reports revealed that Thomas was consistently involved in transactions causing tramadol 50mg discrepancies and that Thomas accessed the bin containing tramadol 50mg without cause.

5. Pharmacy records revealed that over 1000 dosage units of tramadol 50mg were missing from the Pharmacy between April 1, 2010 and December 29, 2010.

6. Pharmacy staff furthermore ran records that revealed losses of at least 170 dosage units of cycloobenzaprine 10mg between April 1, 2010 and December 29, 2010 attributable to transactions initiated by Thomas.

7. When questioned by Pharmacy staff, Thomas initially denied diverting any medications from the pharmacy. Thomas subsequently admitted to Board staff, however, that she diverted both tramadol and cyclobenzaprine from the Pharmacy. Mrs. Thomas was terminated by the Pharmacy on or about December 29, 2010.

8. Thomas voluntarily surrendered her registration to the Board on February 15, 2011.

9. During an investigation by Board staff, Mrs. Thomas stated that she gave the diverted tramadol and cyclobenzaprine to an ailing family member who ultimately passed away. Mrs. Thomas would not identify the identity of the family member to Board staff.

10. On or about April 27, 2015, Board staff received a request from Thomas seeking reinstatement of her previously surrendered registration.

11. In response to discovery requests served on her, Thomas admitted to diverting in excess of 1,000 dosage units of tramadol and 170 dosage units of cyclobenzaprine, though she did not recall the exact number of units of each medication that she diverted.

12. During the course of the July 21, 2015 Hearing on the matter, Mrs. Thomas continued to withhold the identity of the allegedly ailing family member. Mrs. Thomas also testified that she did not know if the ailing family member to whom she allegedly gave the diverted tramadol and cyclobenzaprine had a valid prescription for those medications. Additionally, Mrs. Thomas testified that she did not know if all the medications she diverted and gave to the ailing family member were ultimately consumed by the family member.

### CONCLUSIONS OF LAW

1. By virtue of the facts found above, Thomas has violated the following statutes and regulations:

- a. North Carolina General Statutes § 90-85.15A(d)(5);
- b. North Carolina General Statutes § 90-85.40(b), (c) and (f);
- c. North Carolina General Statutes § 106-122;
- d. North Carolina General Statutes § 106-134;
- e. North Carolina General Statutes § 106-134.1; and
- f. 21 N.C.A.C. 46 .1805.

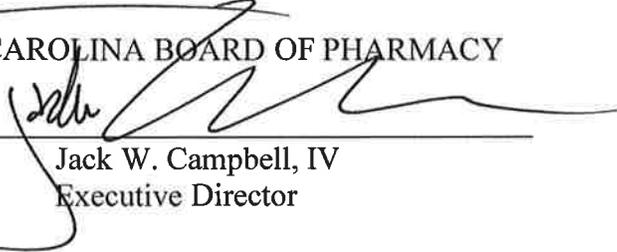
2. Considering all of the facts and circumstances of this matter, the Board finds and concludes that the discipline set forth in this Final Order is appropriate.

**WHEREFORE**, it is **ORDERED, ADJUDGED and DECREED** that Mrs. Thomas's request that her technician registration be reinstated is hereby **DENIED**. Any further requests by Ms. Thomas shall be governed by the Board's Reapplication and Reinstatement Policy, which is incorporated herein by reference, and Ms. Thomas may not reapply or apply for reinstatement for a period of at least five years from the date of this Order.

This the 21<sup>st</sup> day of July, 2015.

NORTH CAROLINA BOARD OF PHARMACY

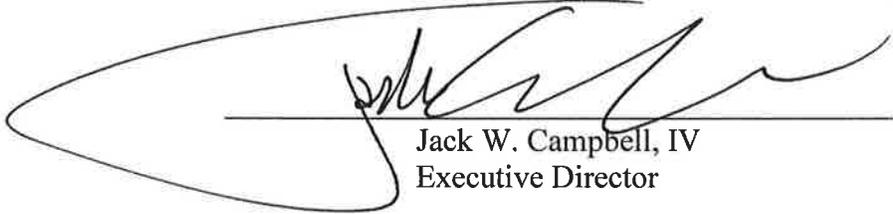
By: \_\_\_\_\_

  
Jack W. Campbell, IV  
Executive Director

**CERTIFICATE OF SERVICE**

I certify that on the 24<sup>th</sup> day of July, 2015, I served a copy of the Final Order on the following, by certified mail, return receipt requested:

Sherry Thomas  
[REDACTED]  
[REDACTED]

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

## REAPPLICATION AND REINSTATEMENT POLICY

The following terms are incorporated by reference in every order of the Board, unless otherwise expressly provided in that order:

1. No individual who holds a license, registration or other privilege from the Board who has that license, registration or other privilege either (a) revoked or (b) actively suspended indefinitely or for a period longer than five years may petition for reinstatement or to have the revocation or suspended lifted until the expiration of at least five years from the effective date of the revocation or suspension.
2. No individual who has had an application for a license, registration or other privilege from the Board denied may submit another application until the expiration of at least one year from the execution of the order denying the application.
3. No permit holder who has had that permit either (a) revoked or (b) actively suspended indefinitely or for a period longer than five years may petition for reinstatement or to have the revocation or suspended lifted until the expiration of at least five years from the effective date of the revocation or suspension.
4. No proposed permit holder who has had an application for a permit denied may submit another application for a permit until the expiration of at least one year from the execution of the order denying the permit application.
5. For the purposes of subsections 3 and 4 of this policy, a permit holder or proposed permit holder will be treated as the same as a prior permit holder or proposed permit holder if any one of the following three conditions is true: (a) the permit holder or proposed permit holder has the same pharmacy manager and there is more than 10 percent common ownership as the prior permit holder or proposed permit holder; or (b) the permit holder or proposed permit holder has 50 percent or more common ownership as the prior permit holder or proposed permit holder. To determine common ownership under this policy, business entities will be considered to be identical to other business entities if there is more than a 50 percent common ownership. Furthermore, to determine common ownership under this policy, the interests of individuals will be combined with the interests of any business entities in which the individuals have more than a 10 percent interest, as well as with the interests of individuals in the same family.
6. If a petition or application is submitted that does not satisfy the time limits set forth in this policy, the Executive Director is instructed to deny the petition or application and not to schedule any hearing on the petition or application before the Board until the time limits set forth in this policy are satisfied.
7. The ability to petition for reinstatement or to submit a new application under this policy does not indicate that the Board will grant any such petition or application. A license, registration, permit or other privilege will be granted or reinstated only upon

order of the Board and only after a finding that the grant or reinstatement is appropriate under the Pharmacy Practice Act and its rules and regulations. In making that decision, the Board will consider, among other things, the gravity of the misconduct that caused the denial, suspension or revocation, the applicant's history, the applicant's current ability to practice pharmacy with reasonable skill, competence and safety to the public, and the petitioner's conduct since the order of denial, suspension or revocation.