

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In the Matter of:

CVS Pharmacy  
(Permit No. 07636)

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**CONSENT ORDER OF  
DISCIPLINE**

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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 July 16, 2007 and, after appropriate notice, was heard on that day by Board member L. Stan Haywood at the office the Board. The Respondent CVS Pharmacy (hereinafter "Respondent" or "CVS") was present and was represented by counsel George Hearn. Counsel Sarah Phillips represented the Board. Members of the Board's investigative staff and other Board counsel 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. Respondent also stipulates that it waives its right to appeal this Consent Order or challenge in any way the sufficiency of the findings of this Order by its consent. 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 CVS Pharmacy (Permit No. 07636) is, and was at all relevant times referred to herein, the holder of Pharmacy Permit No. 07636, which Pharmacy is located at 9931 Gilead Road, Huntersville, North Carolina (the "Pharmacy"). The Pharmacy and its employees were subject to the rules and regulations of the North Carolina Board of Pharmacy and the laws of the State of North Carolina.

3. On October 13, 2006, Diovan 160/12.5 was improperly dispensed by employees of the Pharmacy to a patient where the prescription called for Diovan 80/12.5. Despite having been notified of the dispensing error no later than October 16, 2006, CVS did not complete an Incident Report regarding the dispensing error until January 2007 and did not provide a copy of the Incident Report to the Board's investigative staff before the Conference.

4. Also on October 13, 2006, there were more than two technicians working under the supervision of one pharmacist without Board authorization, and an unregistered technician was working and fulfilling the duties of a pharmacy technician.

5. Respondent's employees testified that Pharmacy employees discovered the dispensing error within hours and immediately took steps to correct the problem, including, but not limited to, contacting the patient and the patient's physician to alert them of the error.

6. The unregistered technician registered with the Board on January 23, 2007.

#### **CONCLUSIONS OF LAW**

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

2. Respondent's conduct, as set out in the findings of fact above constitute grounds for discipline pursuant to N.C. Gen. Stat. § 90-85.38(b) because Respondent's acts were in violation of N.C. Gen. Stat. §§ 90-85.15A, 90-85.40(f) and 106-122(18), and 21 NCAC 46.1805 and 46.2501.

### **CONCLUSIONS REGARDING DISCIPLINE**

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

#### **ORDER OF DISCIPLINE**

1. Respondent CVS Pharmacy's (Permit No. 07636) permit to operate a pharmacy (Permit No. 07636) is hereby suspended for a period of three (3) business days. The suspension is stayed for a period of two (2) years. The stay is conditioned upon Respondent's compliance with the terms of this Consent Order;

2. Respondent shall violate no laws governing the practice of pharmacy or the distribution of drugs;

3. Respondent shall violate no rules or regulations of the Board;

4. Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in any investigation and comply with the provisions of this Consent Order;

5. 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 17<sup>th</sup> day of September, 2007.

NORTH CAROLINA BOARD OF PHARMACY

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

CVS Pharmacy, the holder of permit number 07636, has full knowledge that it has the right to a formal hearing in this matter, at which it would have the right to be represented at its expense by counsel. 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, it certifies that it has read the foregoing Consent Order and that it 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 it 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 it has the right to have counsel of its choice review and advise it with respect to its rights and this Consent Order, and represents that it enters this Consent Order after consultation with its counsel or after knowingly and voluntarily choosing not to consult with counsel.

[SIGNATURES ON FOLLOWING PAGE]

ACCEPTED AND CONSENTED TO BY:

CVS PHARMACY (Permit No. 07636)

 Date 8/30/2007

By: Shital Ramesh Patel

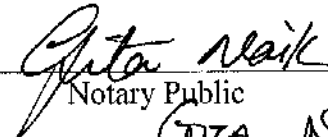
Title: Pharmacist in-Charge

NORTH CAROLINA

Mecklenburg 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: \_\_\_\_\_

Date: 8/30/2007

  
Notary Public  
GITA NAIK

My commission expires: My Commission Expires  
November 10 2010

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REJECTED BY:

\_\_\_\_\_ Date \_\_\_\_\_

CVS Pharmacy  
(Permit No. 07636)