

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF)
)
CVS/PHARMACY) **CONSENT ORDER**
Permit No. 6641)
_____)

THIS MATTER came on for consideration at a prehearing conference (hereinafter, "conference") pursuant to 21 N.C.A.C. 46.2008. This conference was scheduled for January 14, 2008 and, after appropriate notice, was heard on that day at the office of the North Carolina Board of Pharmacy (hereinafter, "Board") by Board member L. Stan Haywood. Representatives of Respondent CVS/Pharmacy were present at the conference and represented by its counsel, George Hearn. Board Counsel Nicole Crawford and members of the Board's investigative and legal staff were present at this conference, as was a related respondent.

FINDINGS OF FACT

1. Respondent CVS/Pharmacy, 2206 Union Road, Gastonia, North Carolina 28054, is the holder of permit number 6641.
2. As set forth more specifically herein, at various times between April 2006 and May 2007, Respondent CVS/Pharmacy employed -- and Eunice Eshun, its pharmacist-manager, supervised -- four technicians who were required to be registered with the Board, but who were not registered.
3. Mary Hughes was hired by Respondent CVS/Pharmacy and supervised by its pharmacist-manager beginning in April 2006. Ms. Hughes performed the duties of a technician until her employment terminated in November 2006. Ms. Hughes was never registered as a technician with the Board.

4. Linda Brown's registration with the Board became inactive in March 2006, while she was employed by Respondent CVS/Pharmacy and supervised by its pharmacist-manager. Until October 2006, Respondent CVS/Pharmacy continued to employ Ms. Brown, who continued to perform the duties of a technician, and Respondent's pharmacist-manager continued to supervise Ms. Brown, although Ms. Brown never renewed her registration with the Board.

5. Ashley Weekley was hired by Respondent CVS/Pharmacy in 2006, and she performed the duties of a technician supervised by Respondent's pharmacist-manager during 2006 and 2007. Ms. Weekley had been registered as a technician in West Virginia. In November 2006, Respondent's pharmacist-manager informed Ms. Weekley that she was in violation of North Carolina law by not being registered in North Carolina. Ms. Weekley did not register with the Board until May 2, 2007, yet Respondent CVS/Pharmacy continued to employ her and its pharmacist-manager continued to supervise her.

6. Katie Phillips was employed by Respondent CVS/Pharmacy and supervised by its pharmacist-manager and performed the duties of a technician during 2006, while she was not registered with the Board.

7. Respondent's representatives have acknowledged the facts described above and have acknowledged that Respondent knew at various times during 2006 and 2007 that it was employing unregistered technicians supervised by Respondent's pharmacist-manager. Respondent's representatives acknowledged that Respondent's pharmacist-manager had reported to her supervisor that the technicians were not registered. However, Respondent allowed the technicians to continue to perform the duties of technicians without registration.

CONCLUSIONS OF LAW

Based on the above findings, the Board concludes as a matter of law:

1. Respondent CVS/Pharmacy violated N.C. Gen. Stat. §§ 90-85.38(b) and 90-85.40(a) and (f).
2. Respondent CVS/Pharmacy admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on its permit under N.C. Gen. Stat. § 90-85.38.

Based upon the foregoing, and with the consent of the parties, IT IS THEREFORE ORDERED that:

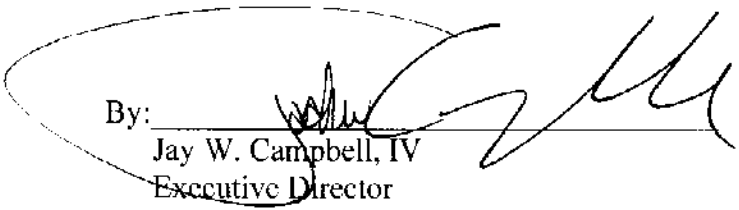
1. The permit of Respondent CVS/Pharmacy, Permit No. 6641, is hereby suspended for seven (7) days, to be served as follows:
 - a. One day of the suspension must be served as an active suspension on any day of Respondent CVS/Pharmacy's choice, but must be served within sixty (60) days of the date that this Order is accepted by the Board. Respondent CVS/Pharmacy is required to give the Board two (2) weeks' written notice before serving the suspension.
 - b. The remaining six (6) days of the suspension are stayed for three (3) years upon the following conditions:
 - i. Respondent CVS/Pharmacy shall violate no laws governing the practice of pharmacy or the distribution of drugs, including specifically the laws requiring the registration of technicians working for the permit holder;

- ii. Respondent CVS/Pharmacy shall comply with unannounced inspections and review of inventory and recordkeeping by Board staff;
- iii. Respondent CVS/Pharmacy shall violate no rules and regulations of the Board;
- iv. Respondent CVS/Pharmacy shall cooperate with the Board, its attorneys, investigators and other representatives in any investigation and compliance with the provisions of this Consent Order.

If Respondent fails to comply with any terms or conditions of this Order, the period of stay described above shall be lifted and Respondent may be subject to additional disciplinary action by the Board.

This the 19th day of February, 2008.

NORTH CAROLINA BOARD OF PHARMACY

By: 
Jay W. Campbell, IV
Executive Director

CVS/Pharmacy, the holder of permit number 6641, has full knowledge that it has the right to a formal hearing, at which it would have the right to be represented at its expense by counsel, in this matter. 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.

The undersigned certifies that its agent executing this Consent Order is duly authorized to accept the Consent Order on behalf of CVS/Pharmacy and to bind the permit holder.

ACCEPTED AND CONSENTED TO BY:

CVS/PHARMACY (Permit No. 6641)

Eshun Date 2/1/08

By: Eunice Eshun

Title: Pharmacist - manager

NORTH CAROLINA

Gaston 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: Eunice Eshun

Date: 2-1-08



Linda H. Wright
Notary Public
LINDA H. WRIGHT

My commission expires: 5-10-09
