

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-031029-027)

In The Matter Of:

PAULINE M. REED, R.Ph.
5461 Whitehouse-Spencer Road
Whitehouse, Ohio 43571
(R.Ph. No. 03-1-09590)

INTRODUCTION

THE MATTER OF PAULINE M. REED CAME FOR CONSIDERATION ON JANUARY 5, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

PAULINE M. REED WAS NOT PRESENT NOR WAS SHE REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Dale Fritz, Ohio State Board of Pharmacy

Respondent's Witnesses

None

State's Exhibits

1. Copy of Summary Suspension Order/Notice of Opportunity For Hearing letter [10-29-03]
 - 1A. Procedural
2. Ohio State Board of Pharmacy List of Violations [06-27-01 to 05-02-03]
3. List of Violations on Patient #1's Prescriptions [06-27-01 to 05-02-03]
4. Copy of Rx #6212485 [00-00-00] and Rx #849404 [06-25-02]
5. Copy of Signature Log [04-22-03 to 05-02-03]
6. Three-page copy of Farmer Jack Pharmacy #225 Medical Expenses Report for Donna Jarvela [06-27-01 to 07-03-02]; seven-page copy of Food Town 6028 Patient Profile Report for Donna Jarvela [06-26-02 to 05-02-03]; Food Town 6028 Prescription Drug Insurance Claim Form for Donna Jarvela [07-02-02 to 07-24-02]; copy of four Request for Refill Authorization forms for Rx #856490 [10-22-02], Rx #850976 [07-22-02], Rx #860794 [12-31-02], Rx #849404 [06-25-02]
7. Copy of Toledo Police Department Crime Report No. 027537-03 [05-06-03]
8. Copy of Statement of Jenny Miesle [05-05-03]
9. Copy of Food Town/Pharm Division Loss Prevention Incident Report No. 106-03 [05-06-03]; Spartan Stores, Inc. Incident Report Case No. 106-03 [03-15-03, 04-22-03 and 05-02-03]; two Follow-Up Incident Reports [05-05-03 and 05-06-03]; Statement of Dionne Fortress, CPhT [05-07-03]; Statement of Pauline Reed [05-05-03]

10. Copy of two Complaints, State of Ohio/City of Toledo vs. Pauline M. Reed, Case No. CRA-03-07171-0102 and CRA-03-07171-0202, Toledo Municipal Court [05-06-03]
11. Copy of Indictment [07-28-03]; Order [10-23-03]; Plea of Guilty to Lesser Included Offense [10-23-03]; Judgment Entry [11-25-03]; Acknowledgment Pursuant to R.C. 2947.23 [11-25-03] State of Ohio vs. Pauline M. Reed, Case No. CR03-02668, Lucas County Common Pleas Court
12. Copy of letter from Pauline Reed [07-19-03]

Respondent's Exhibits

None

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) On October 29, 2003, Pauline M. Reed was notified by letter of her right to a hearing, her rights in such hearing, and her right to submit her contentions in writing.
- (2) As demonstrated by return receipt dated October 31, 2003, Pauline M. Reed received the letter of October 29, 2003, informing her of the allegations against her, and her rights.
- (3) Pauline M. Reed has not responded in any manner to the letter of October 29, 2003, and has not requested a hearing in this matter.
- (4) Records of the State Board of Pharmacy indicate that Pauline M. Reed was originally licensed by the State of Ohio as a pharmacist on July 27, 1970, pursuant to examination, and that her license to practice pharmacy in Ohio was summarily suspended effective October 29, 2003.
- (5) On October 23, 2003, Pauline M. Reed pled guilty to one count of Illegal Processing Drug Documents, a felony of the fifth degree under Section 2925.23(A) and (F)(2) of the Ohio Revised Code, and one count of Complicity in the Commission of Theft, a misdemeanor of the first degree under Sections 2923.03(A)(2) and 2913.02(A)(3) and (B)(2) of the Ohio Revised Code. State of Ohio v. Pauline Reed, Case No. G-4801-CR-0200302668, Lucas County Common Pleas Court.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

(3) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code.

(4) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Pauline M. Reed on October 29, 2003.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Pauline M. Reed as follows:

(A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-09590, held by Pauline M. Reed effective as of the date of the mailing of this Order.

(B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-09590, held by Pauline M. Reed effective as of the date of the mailing of this Order.

(C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-09590, held by Pauline M. Reed effective as of the date of the mailing of this Order.

(D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-09590, held by Pauline M. Reed effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Pauline M. Reed must return her identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten (10) days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent using a Return Receipt service.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE APRIL 8, 2004

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

October 29, 2003

Pauline M. Reed, R.Ph.
5461 Whitehouse-Spencer
Whitehouse, Ohio 43571

Re: Ohio Registered Pharmacist
Number 03-1-09590

Dear Ms. Reed:

Records of the Board indicate that you are a pharmacist registered by this Board to practice pharmacy in the State of Ohio.

In accordance with Section 2929.24 of the Ohio Revised Code, the office of the Prosecuting Attorney of Lucas County, Ohio, has submitted to this Board information which indicates that on October 23, 2003, you pled guilty in the Common Pleas Court of Lucas County, Ohio, to a felony drug abuse offense under Section 2925.23 of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121 of the Ohio Revised Code states, in pertinent part:

(C) On receiving notification pursuant to Section 2929.24 or 3719.12 of the Revised Code, the Board under which a person has been issued a license, . . . immediately shall suspend the license, . . . of that person on a plea of guilty to, a finding by a jury or court of the person's guilt of, or conviction of a felony drug abuse offense . . .

WHEREFORE, PURSUANT TO SECTION 3719.121(C) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO ARE HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing is held by the Board under Chapter 119. of the Revised Code, during which time you may not engage in the practice of pharmacy.

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, limit, place on probation, or refuse to grant or renew an identification card under this chapter, or may

impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 or Chapter 2925. or 3719. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;
- (9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;
- (10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code.

IF YOU REQUEST A HEARING within 30 days of the time of the mailing of this notice, such will be afforded. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

(D-031029-027)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE OCTOBER 29, 2003

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.
(Order Effective February 5, 2004)*