



OHIO STATE BOARD OF PHARMACY

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THE STATE BOARD OF PHARMACY
(Docket No. D-880921-008)

In The Matter Of:

JOSEPH J. REZABEK, R.Ph.
882 Wimbledon Drive
Medina, Ohio 44256

INTRODUCTION

THE MATTER OF JOSEPH J. REZABEK CAME TO HEARING ON MARCH 1, 1989 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JEROME WIESENHAHN, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

JOSEPH J. REZABEK WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Christopher K. Reed - Board of Pharmacy
- (2) Ralph G. Homer Jr.
- (3) John Ludwick - Security Department for Revco
- (4) Detective Dave Stokes - Cleveland Police Department - Narcotics Unit

Respondent's Witnesses:

- (1) Joseph J. Rezabek - Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated September 21, 1988.
- (2) Exhibit B - Amended Notice of Opportunity letter dated November 4, 1988.

- (3) Exhibit C - Hearing Schedule letter dated December 21, 1988.
- (4) Exhibit D - Hearing Schedule letter dated January 26, 1989.
- (5) Exhibit 1 - Applications for renewal as a terminal distributor of dangerous drugs showing Joseph Rezabek as responsible pharmacist.
- (6) Exhibit 3 - Prescription #366269 dated 02/05/87 for Biphedamine 20mg - 15 capsules; Prescription #369657 dated 03/30/87 for Biphedamine 20mg - 20 capsules; Prescription #374152 dated 06/16/87 for Biphedamine 20mg - 30 capsules; and Prescription #377700 dated 08/15/87 for Biphedamine 20mg - 30 capsules.
- (7) Exhibit 4 - Prescription #382648 dated 11/03/87 for Biphedamine 20mg - 60 capsules; Prescription #385238 dated 12/14/87 for Desoxyn 15mg - 60 tablets; and Prescription #386427 dated 01/05/88 for Desoxyn 15mg - 60 tablets.
- (8) Exhibit 5 - Accountability statement showing 162 tablet shortage of Ritalin 10mg.
- (9) Exhibit 6 - Accountability statement showing 157 tablet shortage of Ritalin 5mg.
- (10) Exhibit 7 - Accountability statement showing 43 tablet shortage of Codeine Sulphate 30mg.
- (11) Exhibit 8 - Accountability statement showing 7 tablet shortage of Dilaudid 2mg.
- (12) Exhibit 9 - Accountability statement showing 161 tablet shortage of Demerol 50mg.
- (13) Exhibit 10 - Accountability statement showing 115 tablet shortage of Biphedamine 20mg.
- (14) Exhibit 11 - Accountability statement showing 64 tablet shortage of Seconal 100mg.
- (15) Exhibit 12 - Accountability statement showing 552 tablet shortage of Ritalin SR 20mg.
- (16) Exhibit 13 - Accountability statement showing 380 tablet shortage of Desoxyn 15mg.
- (17) Exhibit 14 - Accountability statement showing 368 tablet shortage of Percocet.
- (18) Exhibit 15 - Accountability statement showing 347 tablet shortage of Percodan.
- (19) Exhibit 16 - Accountability statement showing 337 tablet shortage of Tylox.
- (20) Exhibit 17 - Accountability statement showing 100 tablet shortage of Nembutal 100mg.
- (21) Exhibit 18 - Certified copy of Journal Entry of Sentencing and Plea for Joseph J. Rezabek from the Cuyahoga County Court of Common Pleas.
- (22) Exhibit 19 - Written statement from Ralph G. Homer Jr. dated 04/20/88.
- (23) Exhibit 20 - Letter from Dr. Robert L. Schroeder dated July 11, 1988.

Respondent's Exhibits:

- (1) Exhibit 1 - Letter from William J. Shire, Jr., Clinical Director of the Catholic Social Service Bureau, dated February 21, 1989.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that Joseph J. Rezabek has been the responsible pharmacist at Revco, 4253 Fulton Road, Cleveland, Ohio 44144 pursuant to Section 4729.27 of the Ohio Revised Code and Rule 4729-5-23 of the Ohio Administrative Code since November 1, 1986.
- (2) From the evidence presented, the State Board of Pharmacy finds that Joseph J. Rezabek did, on or about March 17, 1988, at Revco, 4253 Fulton Road, Cleveland, Ohio 44144, obtain a dangerous drug by attempting or committing a theft offense, to wit: with purpose to deprive and without permission of the owner or person authorized to give permission, Mr. Rezabek exerted control over one bottle of 100 capsules of Fiorinal, a Schedule III controlled substance, and one bottle of 30 tablets of Cafergot, a dangerous drug, beyond the express or implied consent of Revco. Such conduct is in violation of Section 2925.21(A) of the Ohio Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Joseph J. Rezabek did, between February 5, 1987 and January 5, 1988, knowingly sell or offer to sell a controlled substance in an amount greater than three times the bulk amount when his conduct was not in accordance with Chapters 4729. and/or 4715. of the Revised Code, to wit: Joseph J. Rezabek sold the following Schedule II controlled substances in the following amounts pursuant to prescriptions written by a dentist not in the scope of the practice of dentistry:

<u>Prescription No.</u>	<u>Date Dispensed</u>	<u>Drug</u>	<u>Qty</u>
366269	02-05-87	Biphetamine 20mg	15 capsules
369657	03-30-87	Biphetamine 20mg	20 capsules
374152	06-16-87	Biphetamine 20mg	30 capsules
377700	08-15-87	Biphetamine 20mg	<u>30 capsules</u>
		TOTAL	95 capsules

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Joseph J. Rezabek did, between February 5, 1987 and January 5, 1988, knowingly sell or offer to sell a controlled substance in an amount less than the minimum bulk amount when his conduct was not in accordance with Chapters 4729. and/or 4715. of the Revised Code, to wit: Joseph J. Rezabek sold the following

Schedule II controlled substances in the following amounts pursuant to prescriptions written by a dentist not in the scope of the practice of dentistry:

<u>Prescription No.</u>	<u>Date Dispensed</u>	<u>Drug</u>	<u>Qty</u>
382648	11-03-87	Biphetamine 20mg	60 capsules
385238	12-14-87	Desoxyn 15mg	60 tablets
386427	01-05-88	Desoxyn 15mg	60 tablets

Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

- (5) From the evidence presented, the State Board of Pharmacy finds that Joseph J. Rezabek did, between May 1, 1987 and April 20, 1988, knowingly sell or offer to sell a controlled substance in an amount less than the minimum bulk amount when his conduct was not in accordance with Chapter 4729. of the Revised Code, to wit: Joseph J. Rezabek sold the following Schedule II controlled substances in the following amounts:

<u>Drug</u>	<u>Amount</u>	<u>Percentage Of Stock</u>
Ritalin 10mg.	162 tablets	14.6 %
Ritalin 5mg.	157 tablets	13 %
Codeine Sulphate 30mg.	43 tablets	17.3 %
Dilaudid 2mg.	7 tablets	6.8 %

Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (5) of the Findings Of Fact constitutes being guilty of a felony and gross immorality.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (5) of the Findings Of Fact constitutes dishonesty and unprofessional conduct in the practice of pharmacy.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (5) of the Findings Of Fact constitutes willfully violating, conspiring to violate, attempting to violate, and aiding and abetting the violation of the provisions of Chapter 2925. of the Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-1-10228, held by Joseph J. Rezabek:

(A) On the basis of paragraphs (1) through (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Joseph J. Rezabek for 22 months, effective March 1, 1989.

(B) Further, the Board will suspend 18 months of the suspension imposed in paragraph (A) above on condition that Joseph J. Rezabek:

- (1) obtains the required 4.5 CEUs of continuing pharmacy education prior to July 1, 1989;
- (2) successfully completes the Jurisprudence examination offered by the Board during the June 1989 meeting;
- (3) does not violate the drug laws of the state of Ohio, any other state, or the federal government; and
- (4) abides by the rules of the State Board of Pharmacy.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is ..., suspended, ..., 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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

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Order of the Board

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Revised Code.

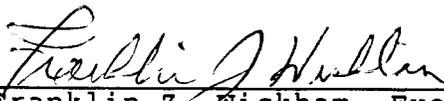
BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt
#P-417-664-701

ORDER MAILED: APRIL 7, 1989

FZW/pw

By


Franklin Z. Wickham, Executive Director

cc: Christopher Costantini, Assistant Attorney General