



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

THE STATE BOARD OF PHARMACY
(Docket No. D-890118-087)

In The Matter Of:

JEANNE MILLER, R.Ph.
900 Center Court
Zanesville, Ohio 43701

INTRODUCTION

THE MATTER OF JEANNE MILLER CAME TO HEARING ON APRIL 5, 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.; JOSEPH SABINO, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

JEANNE MILLER WAS REPRESENTED BY THOMAS SANDS, AND THE STATE OF OHIO WAS REPRESENTED BY STEVE DLOTT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Darla Gaiser
- (2) William Padgett - Board of Pharmacy

Respondent's Witnesses:

- (1) Jeanne Miller - Respondent
- (2) Randy Miller

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated January 18, 1989.
- (2) Exhibit B - Request for Hearing letter dated January 25, 1989.
- (3) Exhibit C - Hearing Schedule letter dated January 31, 1989.
- (4) Exhibit D - Request for Continuance letter dated February 23, 1989.
- (5) Exhibit E - Hearing Schedule letter dated March 15, 1989.
- (6) Exhibit F - Amended Schedule letter dated March 20, 1989.
- (7) Exhibit 2A - Prescription #26102 written for Percocet.
- (8) Exhibit 2B - Prescription vial #26102.

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- (9) Exhibit 3 - Flow chart showing drugs missing.
- (10) Exhibit 4 - Bottle #1 containing 10 tablets Tylox and 19 tablets Percocet.
- (11) Exhibit 5 - Bottle #2 containing 80 tablets Percodan.
- (12) Exhibit 6 - Bottle #6 containing 1 tablet Imipramine 50mg; 13 tablets Adipex-P; 105 tablets Diazepam 10mg.
- (13) Exhibit 7 - Bottle #11 containing 37 tablets Lasix 40mg; 9 tablets Dexedrine 5mg.
- (14) Exhibit 8 - Bottle #18 containing 4 tablets Lasix 40mg; 1 tablet Inderal.
- (15) Exhibit 9 - Bottle #20 containing 100 tablets Lasix 40mg.
- (16) Exhibit 10- Bottle #13 containing 2 capsules Keflex 250mg; 1/2 tablet Motrin 800mg; 3 tablets Compazine; 1 unknown tablet.
- (17) Exhibit 11- Bottle #19 containing 43 tablets Motrin 800mg.
- (18) Exhibit 12- Bottle #21 containing 4 tablets Motrin 800mg.
- (19) Exhibit 13- Bottle #15 containing 15 1/2 tablets Deltasone 10mg.
- (20) Exhibit 14- Bottle #16 containing 13 capsules Entex.
- (21) Exhibit 15- 3 unit dose packages containing 3 samples Meclomen.
- (22) Exhibit 16- Bottle #28 containing 26 tablets Parafon Forte.
- (23) Exhibit 17- Bottle #24 containing 15 tablets Percodan.
- (24) Exhibit 18- Bottle #26 containing 3 tablets Percodan.
- (25) Exhibit 19- Bottle #4 containing 24 tablets Percodan; 24 tablets Diazepam 10mg.
- (26) Exhibit 20- Bottle #8 containing 9 tablets Percodan; 4 capsules Tylox; 1 tablet Bayer Aspirin.
- (27) Exhibit 21- Bottle #3 containing 49 tablets Percocet.
- (28) Exhibit 22- Bottle #9 containing 4 tablets Percocet.
- (29) Exhibit 23- Bottle #5 containing 20 capsules Tylox.
- (30) Exhibit 24- Bottle #17 containing 2 capsules Tylox.
- (31) Exhibit 25- Bottle #12 containing 89 tablets Tylenol #3.
- (32) Exhibit 26- Bottle #7 containing 8 tablets Valium 10mg; 10 capsules Dexedrine Spansules 5mg; 1 tablet Diazepam 10mg.
- (33) Exhibit 27- Bottle #10 containing 34 tablets Diazepam 10mg.
- (34) Exhibit 28- Bottle #23 containing 149 tablets Diazepam 5mg.
- (35) Exhibit 29- Bottle #22 containing 13 tablets Adipex-P; 10 capsules Dexedrine Spansules 5mg; 22 tablets Methylphenidate HCL 20mg; 31 tablets Dexedrine 5mg.
- (36) Exhibit 30- Bottle #14 containing 3 capsules Vicodin; 25 tablets Xanax .5mg.
- (37) Exhibit 31 - Certified Copy of Conviction.

Respondent's Exhibits:

- (1) Exhibit 1 - Several (23) canceled checks from Jeanne A. Miller to Roseville Pharmacy.
- (2) Exhibit 2 - Copy of Jeanne Miller's Medical Records.
- (3) Exhibit 3 - Transcript of Deposition given by Dr. James B. Shepherd, Jr., M.D.
- (4) Exhibit 4 - Transcript of Deposition given by Dr. Gary W. Falk, M.D.
- (5) Exhibit 5 - Transcript of Deposition given by Dr. Josiah Lilly, III, M.D.
- (6) Exhibit 6 - Transcript of Deposition given by Dr. Jack Butterfield.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that, on or about April 26, 1988, while practicing pharmacy at the Roseville Pharmacy, 157 S. Main St., Roseville, Ohio, Jeanne Miller was addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (2) From the evidence presented, the State Board of Pharmacy finds that, on or about April 25, 1988, Jeanne Miller did while practicing pharmacy at the Roseville Pharmacy obtain dangerous drugs by attempting or committing a theft offense as defined in Section 2913.01 of the Ohio Revised Code, to wit: Jeanne Miller did obtain two (2) tablets of Percocet by theft from Ethel Pettit. 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, on or about April 25, 1988, Jeanne Miller did obtain dangerous drugs by attempting or committing a theft offense as defined in Section 2913.01 of the Ohio Revised Code, to wit: Jeanne Miller did obtain the following drugs in the following amounts by theft from the Roseville Pharmacy:

<u>Drug</u>	<u>Approximate Amounts</u>
Tylox	10 tablets
Percocet	19 tablets
Percodan	80 tablets
Valium 10 mg	2 tablets

Such conduct is prohibited by Section 2925.21(A) of the Ohio Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that, on or about April 26, 1988, Jeanne Miller did possess for sale dangerous drugs while not being a licensed terminal distributor or practitioner, to wit: Jeanne Miller did possess the following drugs in the following amounts:

<u>Drug</u>	<u>Approximate Amounts</u>
Imipramine 50mg	1 tablet
Lasix 40mg	141 tablets
Keflex 250mg	2 tablets
Motrin 800mg	47.5 tablets
Compazine	3 tablets
Deltasone 10mg	15.5 tablets
Entex	13 capsules
Inderal	1 tablet
Meclomen	3 capsules
Parafon Forte	26 tablets

Such conduct is prohibited by Section 4729.51(C) of the Ohio Revised Code.

- (5) From the evidence presented, the State Board of Pharmacy finds that, on or about April 26, 1988, Jeanne Miller did knowingly possess a controlled substance in an amount equal to or exceeding three times the bulk amount, to wit: 129 tablets of Percodan, when such conduct was not in accordance with Chapter 4729. of the Ohio Revised Code. Such conduct is prohibited by Section 2925.03(A)(6) of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that, on or about April 26, 1988, Jeanne Miller did knowingly possess a controlled substance in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount when such conduct was not in accordance with Chapter 4729. of the Ohio Revised Code, to wit: Jeanne Miller did knowingly possess the following drugs in the following amounts:

<u>Drug</u>	<u>Approximate Amounts</u>
Percocet	74 tablets
Tylox	36 capsules
Tylenol #3	89 tablets

Such conduct is prohibited by Section 2925.03(A)(4) of the Ohio Revised Code.

- (7) From the evidence presented, the State Board of Pharmacy finds that, on or about April 26, 1988, Jeanne Miller did knowingly obtain and/or possess a controlled substance when such conduct was not in accordance with Section 4729. of the Ohio Revised Code, to wit: Jeanne Miller did knowingly obtain and/or possess the following drugs in the following amounts:

<u>Drug</u>	<u>Approximate Amounts</u>
Valium 10mg	8 tablets
Diazepam 10mg	164 tablets
Diazepam 5mg	149 tablets
Adipex- P	26 tablets
Dexedrine 5mg	40 tablets
Dexedrine Spansule 5mg	20 capsules
Vicodan	3 tablets
Xanax .5mg	25 tablets
Methylphenidate Hcl. 20mg	22 tablets

Such conduct is prohibited by Section 2925.11 of the Ohio Revised Code.

- (8) From the evidence presented, the State Board of Pharmacy finds that, on or about October 3, 1988, in the Common Pleas Court of Muskingum County, Ohio, Jeanne Miller was convicted of drug abuse, a felony of the fourth degree, in violation of Section 2925.11 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (6), and (8) of the Findings Of Fact constitute being guilty of a felony and gross immorality.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (7) of the Findings Of Fact constitute 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 paragraph (1) of the Findings Of Fact constitutes abusing drugs and being impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (7) of the Findings Of Fact constitute willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of the provisions of Chapters 2925., 3719., and 4729. of the Ohio 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. 03-1-16303, held by Jeanne Miller:

(A) On the basis of paragraphs (1) through (4) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Jeanne Miller indefinitely.

(B) Further, the Board stipulates that Jeanne Miller may petition the Board after 12 months to determine whether or not her license should be returned and Mrs. Miller permitted to practice pharmacy on condition that Jeanne Miller:

(1) present an evaluation (evaluating agency/organization approved by the Board or Pharmacists Rehabilitation Organization) to the Board concerning her drug dependency and psychological problems; and

(2) contract with Pharmacists Rehabilitation Organization for a period of five years.

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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.

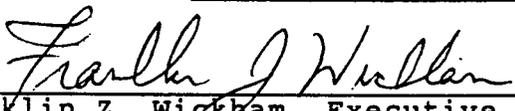
Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section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

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt
#P 596 092 897

ORDER MAILED: JUNE 30, 1989

FZW/pw

By 
Franklin Z. Wickham, Executive Director

cc: Steve Dlott, Assistant Attorney General
Thomas F. Sands, Attorney For Respondent