

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-021105-027)

In The Matter Of:

RICHARD ALLEN CALENDINE, R.Ph.

4366 Madeira Court

Sarasota, Florida 34233-5029

(R.Ph. No. 03-2-10283)

INTRODUCTION

THE MATTER OF RICHARD ALLEN CALENDINE CAME FOR CONSIDERATION ON MARCH 5, 2003 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: DIANE C. ADELMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, 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.

RICHARD ALLEN CALENDINE WAS NOT PRESENT NOR WAS HE REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. David Gallagher, Ohio State Board of Pharmacy

Respondent's Witnesses

None

State's Exhibits

1. Copy of Notice of Opportunity for Hearing letter [11-06-02]
- 1A. Letter from Richard A. Calendine, not dated, with attachments [03-07-00 to 11-08-01]
- 1B. Procedural
2. Copy of Drug Statement of Richard A. Calendine [02-28-00]
3. Copy of Statement of Richard A. Calendine [02-28-00]
4. Copy of Probable Cause Affidavit, Sarasota County Sheriff's Office re Richard Allen Calendine, SSO Case No. 00-19482 [02-28-00]
5. Copy of Investigative Report, Sarasota County Sheriff's Office re Richard Allen Calendine, Case No. 00-19482 [04-27-00 to 04-28-00]
6. Acknowledgement and Waiver of Rights, Sentence and Special Provisions, and Judgment, State of Florida vs. Richard Calendine, Case No. 00-002919-CF, Sarasota County Circuit Court of the Twelfth Judicial Circuit [05-22-00]
7. Letter from Richard A. Calendine [not dated]
8. Copy of Letter from Raymond M. Pomm, M.D. [08-07-00]
9. Administrative Complaint, Department of Health vs. Richard Calendine, R.Ph., Case No. 00-07490, Florida Department of Health [06-22-01]
10. Final Order, Department of Health vs. Richard Calendine, R.Ph., Case No. 00-07490, Florida Department of Health [11-08-01]

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 November 6, 2002, Richard Allen Calendine was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt dated November 13, 2002, Richard Allen Calendine received the letter of November 6, 2002, informing him of the allegations against him, and his rights.
- (3) Richard Allen Calendine has submitted his contentions in writing to the letter of November 6, 2002, but has not requested a hearing in this matter.
- (4) Records of the Ohio Board of Pharmacy indicate that Richard Allen Calendine was originally licensed by the State of Ohio as a pharmacist on July 20, 1972, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (5) On May 22, 2000, Richard Allen Calendine pled Nolo Contendere to two counts of Obtaining a Controlled Substance by Fraud, being felonies of the third degree, in violation of Florida Statute 893.13(7)(A)(9), and one count of Grand Theft, being a felony of the third degree, in violation of Florida Statute 812.014(2)(C)(1). State of Florida vs. Richard Calendine, Case No. 2000-002919-CF, Sarasota County Circuit Court. On May 22, 2000, Richard Allen Calendine's conviction was withheld provided he enter a drug treatment program.
- (6) On or about November 8, 2001, Richard Allen Calendine's license to practice pharmacy in the state of Florida was placed on a period of probation due to his thefts of controlled substances.
- (7) Richard Allen Calendine is addicted to liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Richard Allen Calendine admitted to stealing drugs from his employer for his personal abuse, including:

100	propoxyphene 65 mg
3	hydrocodone/APAP
200	cimetidine HCL 400 mg
20	fexofenadine HCL
100	gabapentin 300 mg
100	rofecoxib 25 mg
100	sildenafil citrate 50 mg
20	naproxen 500 mg

Such conduct indicates that Richard Allen Calendine falls within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (5) through (7) of the Findings of Fact constitute 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 paragraphs (5) through (7) of the Findings of Fact constitute 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 (7) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-10283, held by Richard Allen Calendine and such suspension is effective as of the date of the mailing of this Order.

(A) Richard Allen Calendine, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the Ohio Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

(B) Richard Allen Calendine, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the Ohio Board of Pharmacy within ten 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 by certified mail, return receipt requested.

Further, the Board will consider reinstatement provided that Richard Allen Calendine appears before the Ohio Board of Pharmacy. If reinstatement is not accomplished within three years of the effective date of this Order, Richard Allen Calendine must show, at the time of his appearance before the Board, successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

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

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE APRIL 9, 2003