



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-080109-027)

In The Matter Of:

RICHARD P. COLOSIMO, R.Ph.

510 West 41st Street
Shadyside, Ohio 43947
(R.Ph. No. 03-2-12528)

INTRODUCTION

THE MATTER OF RICHARD P. COLOSIMO CAME FOR CONSIDERATION ON MARCH 3, 2008, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: GREGORY BRAYLOCK, R.Ph. (presiding); RICHARD F. KOLEZYNSKI, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; HEATHER L. PASQUALE, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; JAMES E. TURNER, R.Ph.; AND JEROME J. WIESENHAHN, R.Ph.

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

SUMMARY OF EVIDENCE

State's Witness

1. William L. Padgett, Ohio State Board of Pharmacy

Respondent's Witnesses

None

State's Exhibits

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [01-09-08]
 - 1A. Procedural
2. Written Statement of Rick Colosimo [12-21-07]
3. Notarized Statement of Richard Colosimo [01-02-08]
4. Statement of Rachel Dattoli [10-08-07]; Retail Expert Inc. Case #21733 Internal Theft Report for Store #3017 [12-21-07]; Promissory Note [12-21-07]
5. Copy of e-mail from Fred Wagoner to Bill Padgett [02-26-08]; West Virginia Internet License Verification for Richard P. Colosimo [02-27-08]

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 January 9, 2008, Richard P. Colosimo was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit any contentions in writing.

(2) As demonstrated by return receipt dated January 12, 2008, Richard P. Colosimo received the Summary Suspension Order/Notice of Opportunity for Hearing, informing him of the allegations against him, and his rights.

(3) Richard P. Colosimo has not responded in any manner to the letter of January 9, 2008, and has not requested a hearing, therefore the matter was referred to the Board for consideration.

(4) Records of the Board of Pharmacy indicate that Richard P. Colosimo was originally licensed by the State of Ohio as a pharmacist on August 9, 1978, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective January 9, 2008.

(5) Richard P. Colosimo is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Richard P. Colosimo has admitted to Board agents that he is addicted to hydrocodone; that Richard P. Colosimo has stolen drugs from his employer to supply his addiction; that Richard P. Colosimo began stealing phentermine daily because hydrocodone was making him tired; that Richard P. Colosimo has stolen temazepam to help him sleep; and, that Richard P. Colosimo has stolen hydrocodone syrup because it lacks Tylenol. Such conduct indicates that Richard P. Colosimo is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

(6) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 9,600 tablets of various hydrocodone products, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(7) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 550 tablets and/or capsules of phentermine 37.5 mg, a Schedule IV controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(8) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 300 capsules of temazepam, a

Schedule IV controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(9) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 2,880 tablets of carisoprodol 350 mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(10) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 416 ounces of hydrocodone syrup, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (6) through (10) of the Findings of Fact constitute being guilty of 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 (6) through (10) 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 (5) 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 adjudicates the matter of Richard P. Colosimo 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. 03-2-12528, held by Richard P. Colosimo 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. 03-2-12528, held by Richard P. Colosimo 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. 03-2-12528, held by Richard P. Colosimo effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Richard P. Colosimo must return his identification card and license (wall certificate) to the office of the State 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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-6/Nay-1).

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 Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of 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 the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: APRIL 10, 2008

By: _____
William T. Winsley, M.S., R.Ph., Executive Director

WTW/lf

CERTIFIED MAIL/Return Receipt
7004 2510 0006 9805 8056

c: Sally Ann Steuk, Assistant Attorney General



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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

January 9, 2008

Richard P. Colosimo, R.Ph.

510 West 41st Street
Shadyside, Ohio 43947

Re: Ohio Registered Pharmacist
Number 03-2-12528

Dear Mr. Colosimo:

In accordance with Section 3719.121(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. Further, in accordance with Section 3719.121(B) of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the continuation of your professional practice presents a danger of immediate and serious harm to others. The reasons for the Board's action are that you have committed any and/or all of the following acts:

- (1) Records of the Board of Pharmacy indicate that you were originally licensed in the State of Ohio on August 9, 1978, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You are addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy, to wit: you have admitted to Board agents that you are addicted to hydrocodone; that you have stolen drugs from your employer to supply your addiction; that you began stealing phentermine daily because hydrocodone was making you tired; that you have stolen temazepam to help you sleep; and, that you have stolen hydrocodone syrup because it lacks Tylenol. Such conduct indicates that you are within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) You did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: you admitted to stealing from various CVS stores 9,600 tablets of various hydrocodone products, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (4) You did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: you admitted to stealing from various CVS stores 550 tablets and/or capsules of phentermine 37.5 mg, a Schedule IV controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) You did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: you admitted to stealing from various CVS stores 300 capsules of temazepam, a Schedule IV controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) You did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: you admitted to stealing from various CVS stores 2,880 tablets of carisoprodol 350 mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) You did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: you admitted to stealing from various CVS stores 416 ounces of hydrocodone syrup, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: "any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person's license, certificate, or registration..."

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

(B) If the board under which a person has been issued a license, . . . , . . . determines that there is clear and convincing evidence that continuation of the person's professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others, the board may suspend the person's license, . . . , . . . , without a prior hearing.

WHEREFORE, PURSUANT TO SECTIONS 3719.121(A) and (B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS 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 has been held pursuant to Chapter 119. of the Revised Code, and a final Order has been issued, 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 the pharmacist or pharmacy intern 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 DESIRE A HEARING, such request shall be mailed to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. YOUR REQUEST MUST BE IN WRITING, AND MUST BE RECEIVED IN THE OFFICE OF THE OHIO STATE BOARD OF PHARMACY ON OR PRIOR TO THE THIRTIETH (30TH) DAY FOLLOWING THE MAILING DATE OF THIS NOTICE. 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 there is no request for such a hearing received by the Board on or prior to the thirtieth (30th) day following the mailing of this notice, the Ohio 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.

BY ORDER OF THE STATE BOARD OF PHARMACY

William T. Winsley, M.S., R.Ph.
Executive Director

WTW: (D-080109-027)

CERTIFIED MAIL / Return Receipt
7004 2510 0006 9804 3892

cc: Sally Ann Steuk, Assistant Attorney General