

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-011212-027)

In The Matter Of:

ERIN R. ALLEN, R.Ph.
6888 Feder Road
Galloway, Ohio 43119
(R.Ph. No. 03-2-15444)

INTRODUCTION

THE MATTER OF ERIN R. ALLEN CAME FOR HEARING ON APRIL 10, 2002, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

ERIN R. ALLEN WAS REPRESENTED BY DANIEL G. WILES AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. John Hougland, R.Ph.
2. Erin R. Allen, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [12-12-01]
1A-1D. Procedurals
2. Patient Profile Printout [07-26-01]
3. Rx #665146 [07-31-00]
4. Rx #666900 [08-30-00]
5. Written Statement of Young Kang, M.D. [07-27-01]
6. Written Statement of Erin Allen, R.Ph. [07-26-01]
7. Indictment, State of Ohio vs. Erin R. Allen, Case No. 02-CR-01-0006, Franklin County Common Pleas Court [01-02-02]

Respondent's Exhibits:

- A. Affidavit of Dr. Young Kang [04-04-02]
- B. Letter from R. L. Blackerby, Investigator, Diversion Unit, Franklin County Prosecuting Attorney [04-05-02]

FINDINGS OF FACT

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

(1) Records of the State Board of Pharmacy indicate that Erin R. Allen was originally licensed by the State of Ohio on March 1, 1984, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.

(2) Erin R. Allen did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Erin R. Allen created the following documents to cover for illegal sales of the drugs:

<u>Rx#</u>	<u>Drug/Strength</u>	<u>Qty.</u>	<u>Date</u>
665146	Effexor XR 150 mg.	30	07/31/00
665146	Effexor XR 150 mg.	30	08/28/00
665146	Effexor XR 150 mg.	30	10/03/00
665146	Effexor XR 150 mg.	30	11/07/00
665146	Effexor XR 150 mg.	30	12/11/00
666900	Allegra 180 mg.	30	08/30/00
675255	Effexor XR 150 mg.	30	01/12/01
675255	Effexor XR 150 mg.	30	02/12/01
675255	Effexor XR 150 mg.	30	03/07/01

Such conduct violates Section 2925.23 of the Ohio Revised Code.

(3) Erin R. Allen did, on or about the following dates, sell a dangerous drug when not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: without having valid prescriptions authorized by a prescriber, Erin R. Allen transferred the following drugs to Erin R. Allen's then-estranged husband in order to control his moods:

<u>Rx#</u>	<u>Drug/Strength</u>	<u>Qty.</u>	<u>Date</u>
665146	Effexor XR 150 mg.	30	07/31/00
665146	Effexor XR 150 mg.	30	08/28/00
665146	Effexor XR 150 mg.	30	10/03/00
665146	Effexor XR 150 mg.	30	11/07/00
665146	Effexor XR 150 mg.	30	12/11/00
666900	Allegra 180 mg.	30	08/30/00
675255	Effexor XR 150 mg.	30	01/12/01
675255	Effexor XR 150 mg.	30	02/12/01
675255	Effexor XR 150 mg.	30	03/07/01

Such conduct violates Section 4729.51(C)(1) of the Ohio Revised Code.

(4) Erin R. Allen did, on or about July 26, 2001, knowingly make a false statement when made with purpose to mislead a public official in performing his official function, to wit: when requested to run a patient profile printout for her husband, Erin R. Allen selected another patient by the same name, yet having a different address, and she stated to a Board of Pharmacy agent that there were no prescriptions on file. However, when the Board agent confronted her, Erin R. Allen gave him the correct information as originally requested. Such conduct violates Section 2921.13 of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraphs (2) through (4) 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 paragraphs (2) and (3) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapters 2925. and 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

After consideration of the record as a whole, the State Board of Pharmacy takes the following actions pursuant to Section 4729.16 of the Ohio Revised Code in the matter of Erin R. Allen:

(A) On the basis of the Findings of Fact and paragraphs (1) and (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-15444, held by Erin R. Allen effective as of the date of the mailing of this Order. Further, the Board suspends the suspension and places her identification card on probation for 18 months.

(B) 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 imposes a monetary penalty of two hundred fifty dollars (\$250.00) on Erin R. Allen effective as of the date of the mailing of this Order. Further, the Board suspends the monetary penalty and places her identification card on probation for 18 months.

(C) The terms of probation are as follows:

(1) Erin R. Allen must obtain, within sixty days after the effective date of this Order, a full psychiatric or psychological evaluation by a licensed psychiatrist or psychologist and must abide by the treatment plan as designed by that psychiatrist or psychologist.

(a) The psychiatrist or psychologist must provide an initial status report, which includes the recommended treatment plan, to the Board within ten days after completing the assessment.

(b) The psychiatrist or psychologist must also provide a final report prior to the end of probation showing successful completion of treatment or the continued treatment plan, and must include Erin R. Allen's fitness to practice pharmacy.

(2) Erin R. Allen must comply with the licensed psychiatrist's or psychologist's recommended treatment plan.

(3) The State Board of Pharmacy hereby declares that Erin R. Allen's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(4) Erin R. Allen may not serve as a responsible pharmacist.

(5) Erin R. Allen may not destroy, assist in, or witness the destruction of controlled substances.

(6) Erin R. Allen may not fill prescriptions for family members.

(7) Erin R. Allen must not violate the drug laws of the state of Ohio, any other state, or the federal government.

(8) Erin R. Allen must abide by the rules of the State Board of Pharmacy.

(9) Erin R. Allen must comply with the terms of this Order.

Erin R. Allen is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE MAY 13, 2002