



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-060518-078)

In The Matter Of:

ROBERT W. PRZYTULSKI, R.Ph.
2051 McClaren Lane
Broadview Heights, Ohio 44147
(R.Ph. No. 03-2-15677)

INTRODUCTION

THE MATTER OF ROBERT W. PRZYTULSKI CAME FOR HEARING ON JUNE 3, 2008, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: GREGORY BRAYLOCK, R.Ph. (presiding); ELIZABETH I. GREGG, 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.

ROBERT W. PRZYTULSKI WAS NOT REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness

1. Thomas Michael Miksch, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Robert W. Przytulski, R.Ph., Respondent
2. Catherine Cerny

State's Exhibits

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [05-18-06]
1A-1M. Procedurals
2. Ohio State Board of Pharmacy Order in re Robert W. Przytulski [07-03-79]
3. Ohio State Board of Pharmacy Record Of The Proceedings, Resolution 84-107 [not dated]
4. Ohio State Board of Pharmacy Transcript in re Robert W. Przytulski [06-27-79]
- 5.
6. Notarized Statement of James H. Hill [05-11-06]
- 6A.
- 7.
- 8.
- 9.
10. Two Drug Accountability Statements at Marc's Pharmacy for oxycodone/APAP 5/325; oxycodone HCl ER 40 mg [11-20-06]

11. Marc's Constructive Advice Notice for Robert Przytulski with Response [01-23-06]

Respondent's Exhibits

- D. Treatment Letter from Gregory B. Collins, M.D. [05-01-08]
- E. Letter from Reverend Justin Dyrwal [05-13-08]
- F. Progress Report from Ted W. Raddell, PhD [05-07-08]
- G. Letter from Charles Wu, MD [05-14-08]
- H-K. Four Letters of Support [05-21-07 to 05-07-08]
- L. Drug Screen Results [12-18-06 to 04-18-08]
- M. Letter of Support [05-22-08]
- N. Support Group Attendance Records [01-31-07 to 05-23-08]
- O. FirstLab Test History Report [10-18-05 to 11-27-07]

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 Board of Pharmacy indicate that Robert W. Przytulski was originally licensed by the State of Ohio as a pharmacist on July 30, 1974, pursuant to examination. Records further reflect that on July 3, 1979, Robert W. Przytulski's license to practice pharmacy was revoked. On August 8, 1984, Robert W. Przytulski was again licensed by examination and his license was summarily suspended on May 18, 2006.

(2) Robert W. Przytulski 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: Robert W. Przytulski has admitted to Board agents that he is addicted to controlled substances.

Robert W. Przytulski indicated that he worked too much overtime because he is a "sucker for the money" and "the money is inviting to me."

Such conduct indicates that Robert W. Przytulski is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

(3)

(4)

(5)

(6)

(7) Robert W. Przytulski did, on or about May 9, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Marc's Pharmacy, beyond the express or implied consent of the owner, to wit: Robert W. Przytulski admitted stealing 3 oxycodone/APAP 5/325 mg tablets and 4 oxycodone hydrochloride ER 40 mg tablets, both of which are Schedule II controlled substances. 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 (3) through (7) 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 (3) 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 (2) of the Findings of Fact constitute 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Robert W. Przytulski on May 18, 2006.

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 Robert W. Przytulski as follows:

(A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-15677, held by Robert W. Przytulski 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, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-15677, held by Robert W. Przytulski 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, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-15677, held by Robert W. Przytulski effective as of the date of the mailing of this Order.

Robert W. Przytulski, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (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-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

May 18, 2006

Robert W. Przytulski, R.Ph.
2051 McClaren Lane
Broadview Heights, Ohio 44147

Re: Ohio Registered Pharmacist
Number 03-2-15677

Dear Mr. Przytulski:

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 July 30, 1974, pursuant to examination. Records further reflect that on July 3, 1979, your license to practice pharmacy was revoked. On August 8, 1984, you were again licensed by 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 controlled substances. Further, you have been stealing controlled substances for your personal abuse; you have admitted to stealing amphetamines and Ritalin because you are "running on empty" and needed time off from practicing pharmacy. You indicated that you work too much overtime because you are a "sucker for the money" and "the money is inviting to me." You additionally indicated to Board agents that because of personal problems and health problems you steal drugs to stay awake and "keep going." As well, when you developed pain, you began to steal pain medications. 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, on or about April 13, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Marc's Pharmacy, beyond the express or implied consent of the owner, to wit: you admitted stealing 15 clonazepam 0.5 mg tablets and 5 clonazepam 1 mg tablets, both of which are Schedule IV controlled substances. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) You did, on or about April 13, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Marc's Pharmacy, beyond the express or implied consent of the owner, to wit: you were observed, and admitted,

stealing 8 methylphenidate 10 mg tablets, 6 Ritalin 20 mg tablets, and 6 Adderall XR 20 mg tablets, all of which are Schedule II controlled substances. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) You did, on or about May 9, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Marc's Pharmacy, beyond the express or implied consent of the owner, to wit: you admitted stealing 8 clonazepam 1 mg tablets, a Schedule IV controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) You did, on or about May 9, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Marc's Pharmacy, beyond the express or implied consent of the owner, to wit: you admitted stealing 9 Methylin 10 mg tablets, 3 amphetamine mixture 20 mg tablets, and ½ amphetamine mixture 30 mg tablet (generics for Adderall), and 4 Concerta 54 mg tablets, all of which are Schedule II controlled substances. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) You did, on or about May 9, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Marc's Pharmacy, beyond the express or implied consent of the owner, to wit: you admitted stealing 3 oxycodone/APAP 5/325 mg tablets and 4 oxycodone hydrochloride ER 40 mg tablets, both of which are Schedule II controlled substances. 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.

Robert W. Przytulski, R.Ph.

Effective 05-18-06

RES. 2006-203

State Board of Pharmacy ~ 77 S. High Street, Room 1702; Columbus, OH 43215-6126 ~ 614/466-4143 ~ legal@bop.state.oh.us

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.

PHARMACY

BY ORDER OF THE STATE BOARD OF

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

WTW:lf (D-060518-078)

CERTIFIED MAIL/Return Receipt
7004 2510 0006 9804 7166

cc: Sally Ann Steuk, Assistant Attorney General

THE STATE BOARD OF PHARMACY

VS

ROBERT W. PRZYTULSKI

THE MATTER OF THE STATE BOARD OF PHARMACY VERSUS ROBERT W. PRZYTULSKI, DOCKET 6-32- WAS HEARD PURSUANT TO CHAPTERS 4729. AND 119., REVISED CODE. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTION WAS MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

- 1) THE STATE BOARD OF PHARMACY FINDS ROBERT W. PRZYTULSKI DID VIOLATE SECTION 2925.21(A) OHIO REVISED CODE IN THAT HE COMMITTED A THEFT OFFENSE AS DEFINED IN SECTION 2913.01 OHIO REVISED CODE BY OBTAINING A DANGEROUS DRUG BY THEFT AS DEFINED IN SECTION 2913.02 REVISED CODE, TO WIT: UNDETERMINED QUANTITIES OF VALIUM, PERCODAN, DEMEROL AND DARVOCET FROM ST. VINCENTS CHARITY HOSPITAL, 2351 EAST 22nd STREET, CLEVELAND OHIO, ON OR ABOUT JUNE 6, 1977.
- 2) THE STATE BOARD OF PHARMACY FINDS ROBERT W. PRZYTULSKI DID VIOLATE SECTION 2925.21(A) OHIO REVISED CODE IN THAT HE COMMITTED A THEFT OFFENSE AS DEFINED IN SECTION 2913.01 OHIO REVISED CODE BY OBTAINING A DANGEROUS DRUG BY THEFT AS DEFINED IN SECTION 2913.02 REVISED CODE, TO WIT; PERCODAN, VALIUM, AND FIORINAL #3 FROM K-MART PHARMACY, 30010 DETROIT ROAD, WESTLAKE OHIO BETWEEN THE DATES OF AUGUST 21, 1978 AND SEPTEMBER 5, 1978.
- 3) THE STATE BOARD OF PHARMACY FINDS ROBERT W. PRZYTULSKI DID VIOLATE SECTION 2925.11(A) OHIO REVISED CODE IN THAT HE KNOWINGLY OBTAINED, POSSESSED AND/OR USED A CONTROLLED SUBSTANCE, TO WIT: UNDETERMINED QUANTITIES OF QUaalUDE, RITALIN, PERCOCET, VALIUM AND DEXEDRINE ON OR ABOUT JUNE 9, 1978 AT MARSHALLS DRUGS, 905 EUCLID AVENUE, CLEVELAND OHIO.
- 4) THE STATE BOARD OF PHARMACY FINDS ROBERT W. PRZYTULSKI DID VIOLATE SECTION 2925.23(B)(1) OHIO REVISED CODE IN THAT HE DID INTENTIONALLY MAKE AND POSSESS A FALSE PRESCRIPTION, TO WIT:
 - PRESCRIPTION # 1061 DATED 8/1/78 (Fastin)
 - PRESCRIPTION # 1222 DATED 9/2/78 (Phenobarbital)
 - PRESCRIPTION # 1081 DATED 8/3/78 (Fiorinal)
 - PRESCRIPTION # 1024 DATED 7/22/78 (Valium)
 - PRESCRIPTION # 1032 DATED 7/25/78 (Tranxene)
 - PRESCRIPTION # 1114 DATED 8/10/78 (Valium).
- 5) THE STATE BOARD OF PHARMACY FINDS THAT ROBERT W. PRZYTULSKI'S VIOLATIONS OF THE AFOREMENTIONED SECTIONS SET FORTH IN (1) THROUGH (4) CONSTITUTE GROSS IMMORALITY WITHIN THE MEANING OF SECTION 4729.16(A).
- 6) THE STATE BOARD OF PHARMACY FINDS THAT ROBERT W. PRZYTULSKI IS GUILTY OF SECTION 4729.16(C) OHIO REVISED CODE IN THAT HE DID VIOLATE MORE THAN ONE TIME SECTION 2925. AS INDICATED IN THE AFOREMENTIONED SECTIONS SET FORTH IN (1) THROUGH (4).
- 7) THE STATE BOARD OF PHARMACY HEREBY REVOKES THE IDENTIFICATION CARD OF ROBERT PRZYTULSKI, EFFECTIVE IMMEDIATELY.

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

MOTION CARRIED.

SO ORDERED.