



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010605-071)

In The Matter Of:

KATHERINE R. CARSON, R.Ph.

5723 Hopkins Road
Mentor, Ohio 44060
(R.Ph. No. 03-2-21062)

INTRODUCTION

THE MATTER OF KATHERINE R. CARSON CAME FOR HEARING ON APRIL 9, 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.

KATHERINE R. CARSON WAS REPRESENTED BY MICHAEL J. OCCHIONERO AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Frank Bodi, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Katherine R. Carson, R.Ph., Respondent

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [06-05-01] 1A-1F. Procedurals
2. Rx #205341, Norco 10mg in the name of Niitaka Carson (dog) [01-23-01]
- 2A. Rx #211973, Norco 10mg in the name of Niitaka Carson (dog) [03-29-01]
3. Rite Aid Customer History Report (01/01/95 to 04/30/01) for Niitaka Carson (dog) [04-30-01]
4. Statement of Keith Huston, DVM [05-21-01]
5. Nine valid scripts for Niitaka from Dr. Huston
6. Statement of Kathy Carson [05-08-01]
7. CII Perpetual Inventory Form for Oxycotin 80mg covering July 5, 2000 to May 19, 2001, and two Rite Aid Dispensing System Inquire Prescription printouts for Rx #0212257 and Rx #0202098 [05-30-01]

8. Rx #212257 vial for Ayrton Carson (Respondent's husband) from Dr. Demangone [04-01-01]
9. Rite Aid Customer History Report (03/01/95 to 04/30/01) for Ayrton Carson [04-30-01]
10. Statement of David Demangone, M.D. [05-29-01]
11. Accountability Statement for Oxycontin 80mg [10-31-01]
12. Accountability Statement for Oxycontin 40mg [10-31-01]
13. Bill of Information, State of Ohio vs. Katherine Carson, Case No. 01-CR-000299, Lake County Common Pleas Court [09-27-01]
14. Guilty Plea and Judgment Entry, State of Ohio vs. Katherine Carson, Case No. 01-CR-000299, Lake County Common Pleas Court [10-17-01]
15. Judgment Entry of Sentence, State of Ohio vs. Katherine Carson, Case No. 01-CR-000299, Lake County Common Pleas Court [12-13-01]

Respondent's Exhibits:

- A1. Memorandum from Michael J. Occhionero [04-04-02]
- A2. Judgement Entry, State of Ohio vs. Katherine Carson, Case No. 01-CR-000299, Lake County Common Pleas Court [12-13-01]
- A3. Letter from Donald Jay Weinstein, Ph.D. [11-03-01]
- A4. Letter from Linda Butcher, R.D.A. [01-26-02]
- A5. Letter from Linda Davis Carson, R.N. [04-08-02]
- A6. Letter from Ayrton Carson [not dated]

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 Katherine R. Carson was originally licensed by the State of Ohio on October 19, 1995, pursuant to examination, and that her license to practice pharmacy in the state of Ohio was summarily suspended effective June 5, 2001.
- (2) Katherine R. Carson did, on or about January 23, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #205341 for 60 units of Norco 10mg, written for her dog. Such conduct violates Section 2925.23 of the Ohio Revised Code.
- (3) Katherine R. Carson did, on or about February 17, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #207982 for 60 units of Norco 10mg, written for her dog. Such conduct violates Section 2925.23 of the Ohio Revised Code.
- (4) Katherine R. Carson did, on or about March 9, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #207982, and Katherine R. Carson indicated on the prescription that she was dispensing an authorized refill. Such conduct violates Section 2925.23 of the Ohio Revised Code.

- (5) Katherine R. Carson did, on or about March 29, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #211973 for 60 units of Norco 10mg, written for her dog. Such conduct violates Section 2925.23 of the Ohio Revised Code.
- (6) Katherine R. Carson did, on or about April 29, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #214763 for 60 units of Norco 10mg, written for her dog. Such conduct violates Section 2925.23 of the Ohio Revised Code.
- (7) Katherine R. Carson did, on or about April 1, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #212257 for 120 units of OxyContin 80mg, written for her husband. Such conduct violates Section 2925.23 of the Ohio Revised Code.
- (8) Katherine R. Carson did, on or about April 29, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #214773 for 120 units of OxyContin 80mg, written for her husband. Such conduct violates Section 2925.23 of the Ohio Revised Code.
- (9) Katherine R. Carson did, on or about April 1, 2001, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: after forging a prescription for 120 doses of OxyContin 80mg, a Schedule II controlled substance, Katherine R. Carson gave the drugs to her husband for his consumption, while knowing that he was probably addicted to the substance and that he had not been prescribed them. Such conduct violates Section 2925.03 of the Ohio Revised Code.
- (10) Katherine R. Carson did, on or about April 29, 2001, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: after forging a prescription for 120 doses of OxyContin 80mg, a Schedule II controlled substance, Katherine R. Carson gave the drugs to her husband for his consumption, while knowing that he was probably addicted to the substance and that he had not been prescribed them. Such conduct violates Section 2925.03 of the Ohio Revised Code.
- (11) Katherine R. Carson did, from April 10, 2001, through May 7, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the scope of the express or implied consent of the owner, to wit: when dispensing OxyContin which had been prescribed to her husband, Katherine R. Carson did not pay for the drugs. Such conduct violates Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (11) 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 (2) through (11) 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) through (10) 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 Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

The State Board of Pharmacy, pursuant to Section 3719.121 of the Ohio Revised Code, hereby removes the Summary Suspension Order issued to Katherine R. Carson on June 5, 2001.

After consideration of the record as a whole, the State Board of Pharmacy, pursuant to Section 4729.16 of the Ohio Revised Code, hereby suspends indefinitely the pharmacist identification card, No. 03-2-21062, held by Katherine R. Carson and such suspension is effective as of the date of the mailing of this Order.

- (A) Katherine R. Carson, 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 State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) Katherine R. Carson, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return the 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.

Further, after December 31, 2003, or when Katherine R. Carson is released from criminal probation, whichever is later, the Board will suspend the suspension provided that Katherine R. Carson meets the following requirements:

- (A) Katherine R. Carson 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. 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) Katherine R. Carson must provide, with her application for reinstatement, documentation of the following:
 - (1) A report from the Probation Department that she has been released;
 - (2) Compliance with the licensed psychiatrist's or psychologist's recommended treatment plan;
 - (3) A report by the licensed psychiatrist or psychologist regarding Katherine R. Carson's fitness for readmission into the practice of pharmacy;

- (4) Restitution to Rite Aid;
 - (5) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - (6) Compliance with the terms of this Order.
- (C) If reinstatement is not accomplished within three years of the effective date of this Order, Katherine R. Carson must show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.
- (D) Katherine R. Carson's license will be placed on probation for three years effective as of the date the identification card to practice pharmacy is issued. The terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Katherine R. Carson'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.
 - (2) Katherine R. Carson may not serve as a responsible pharmacist.
 - (3) Katherine R. Carson may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Katherine R. Carson may not fill prescriptions for herself, family members, or family pets.
 - (5) Katherine R. Carson must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (6) Katherine R. Carson must abide by the rules of the State Board of Pharmacy.
 - (7) Katherine R. Carson must comply with the terms of this Order.

Katherine R. Carson 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



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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

June 5, 2001

Katherine R. Carson, R.Ph.
5723 Hopkins Road
Mentor, Ohio 44060

Re: Ohio Registered Pharmacist
Number 03-2-21062

Dear Mrs. Carson:

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 October 19, 1995, pursuant to Examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You did, on or about January 23, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: you created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription number 205341 for 60 units of Norco 10mg, written for your dog. Such conduct violates Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) You did, on or about February 17, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: you created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription number 207982 for 60 units of Norco 10mg, written for your dog. Such conduct violates Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (4) You did, on or about March 9, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: you created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription number 207982, and you indicated on the prescription that you were dispensing an authorized refill. Such

conduct violates Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (5) You did, on or about March 29, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: you created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription number 211973 for 60 units of Norco 10mg, written for your dog. Such conduct violates Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (6) You did, on or about April 29, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: you created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription number 214763 for 60 units of Norco 10mg, written for your dog. Such conduct violates Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (7) You did, on or about April 1, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: you created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription number 212257 for 120 units of OxyContin 80mg, written for your husband. Such conduct violates Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (8) You did, on or about April 29, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: you created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription number 214773 for 120 units of OxyContin 80mg, written for your husband. Such conduct violates Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (9) You did, on or about April 1, 2001, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: after forging a prescription for 120 doses of OxyContin 80mg, a schedule II controlled substance, you gave the drugs to your husband for his consumption, while knowing that he was probably addicted to the substance and that he had not been prescribed them. Such conduct violates Section 2925.03 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (10) You did, on or about April 29, 2001, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: after forging a prescription for 120 doses of OxyContin 80mg, a schedule II controlled substance, you gave the drugs to your husband for his consumption, while knowing that he was probably addicted to the substance and that he had not been prescribed them. Such conduct violates Section 2925.03 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (11) You did, from April 10, 2001, through May 7, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the scope of the express or implied consent of the owner, to wit: when dispensing OxyContin which had been prescribed to your husband, you did not pay for the drugs. Such conduct violates Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or guilty of unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

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 SECTION 3719.121(B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO ARE 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 a final adjudication order becomes effective, 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, 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.

IF YOU REQUEST A HEARING within 30 days of the time of the mailing of this notice, such will be afforded. 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 HEREBY ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the 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.

(D-010605-071)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE JUNE 5, 2001

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.
(Order Effective May 13, 2002)*