



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-030423-072)

In The Matter Of:

MORGANNA E. ALLEN, R.Ph.

2298 Brooklyn Road
Columbus, Ohio 43229
(R.Ph. No. 03-2-23624)

INTRODUCTION

THE MATTER OF MORGANNA E. ALLEN CAME FOR HEARING ON OCTOBER 4, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: LAWRENCE J. KOST, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

MORGANNA E. ALLEN WAS REPRESENTED BY J. C. RATLIFF 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. Morganna Elizabeth Allen, R.Ph., Respondent

State's Exhibits

1. Notice of Opportunity For Hearing letter [04-23-03]
1A-1N. Procedurals
2. Rite Aid Pharmacy #256 Customer History Report for Morganna E. Allen [01-01-00 to 12-18-02]
3. Notarized Statement of Dr. Jacob Dagoni [12-19-02]
4. Notarized Statement of Dr. Timothy Garner [02-05-03]
5. Rx #124649 [06-25-01]
6. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #124649 [06-25-01]
7. Rx #146409 [02-06-02]
8. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #146409 [03-04-02]
9. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #146409 [04-01-02]

10. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #146409 [06-20-02]
11. Rx #154436 [04-26-02]
12. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #154436 [04-26-02]
13. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #161928 [07-19-02]
14. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #161928 [08-16-02]
15. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #161928 [09-07-02]
16. Rx #164043 [08-09-02]
17. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #164043 [08-09-02]
18. Rx #164060 [08-09-02]
19. Rx #167189 and Rx #167190 [09-13-02]
20. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #167189 and Rx #167190 [09-13-02]
21. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #167189 [11-27-02]
22. Rx #170246 [10-16-02]
23. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #170246 [10-16-02]
24. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #170246 [11-11-02]
25. Rx #171254, Rx #171256 and Rx #171257 [10-28-02]
26. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #171254 [10-28-02]
27. Rite Aid Customer History Report for Store Technician #1 [03-01-01 to 01-03-03]
28. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #165346 [08-25-02]
29. Rite Aid Customer History Report for Store Technician #2 [01-01-00 to 12-19-02]
30. Rite Aid Pharmacy Patient Counseling/Eligibility Form for Rx #125057 [06-29-01]
31. Rite Aid Pharmacy Aging Will-Call Report [10-28-02 through 10-29-02]
32. Statement of Morganna E. Allen [12-03-02]
33. Notarized Statement of Sarah Whitehead [01-29-03]
34. State of Ohio vs. Morgana (sic) E. Allen, Case No. 04-CR-47, Marion County Common Pleas Court Indictment [02-13-04]; Entry of Guilty Plea [08-16-04]; and Judgment Entry of Sentencing [09-24-04]

Respondent's Exhibits

A-J. Ten letters of Support [08-21-04 to 09-24-04]

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 Morganna E. Allen was originally licensed by the State of Ohio as a pharmacist on July 27, 1999, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Morganna E. Allen did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: Morganna E. Allen created the following twenty-one false prescriptions for herself without authorization from a prescriber:

<u>Rx</u>	<u>Drug</u>	<u>Strength</u>	<u>Date</u>	<u>Qty</u>
124649	spironolactone hydrochlorothiazide	25 mg	06/25/01	30
146409	Necon	1/35-28	02/06/02	28
146409-refill	Necon	1/35-28	04/01/02	28
146409-refill	Necon	1/35-28	04/26/02	28

<u>Rx</u>	<u>Drug</u>	<u>Strength</u>	<u>Date</u>	<u>Qty</u>
146409-refill	Necon	1/35-28	05/27/02	28
146409-refill	Necon	1/35-28	06/20/02	28
154436	methyprednisolone	4 mg	04/26/02	21
159457	Diflucan	150 mg	06/20/02	2
161928	Necon	1/35-28	07/19/02	28
161928-refill	Necon	1/35-28	08/16/02	28
161928-refill	Necon	1/35-28	09/07/02	28
164043	presdnisone	20 mg	08/09/02	30
164060	erythromycin	333 mg	08/09/02	30
167189	albuterol Inhaler		09/13/02	1
167189-refill	albuterol Inhaler		11/27/02	1
167190	Cephalexin	500 mg	09/13/02	40
170246	Necon	1/35-28	10/16/02	28
170246-refill	Necon	1/35-28	11/11/02	28
171254	Accu-Chek Active Care Kit		10/28/02	1
171256	Accu-Chek Test Strips		10/28/02	25
171257	Softclix Lancets		10/28/02	25

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (3) Morganna E. Allen did, on or about August 25, 2002, intentionally create and/or knowingly possess a false or forged prescription, to wit: Morganna E. Allen created prescription #165346 for ibuprofen 600 mg for a store technician without authorization from a prescriber. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (4) Morganna E. Allen did, on or about August 25, 2002, sell a dangerous drug at retail when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: pursuant to false prescription #165346, Morganna E. Allen sold ibuprofen 600 mg to a store technician without authorization from a prescriber. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (5) Morganna E. Allen did, on or about June 29, 2001, intentionally create and/or knowingly possess a false or forged prescription, to wit: Morganna E. Allen created prescription #125057 for Veetids 500 mg for a store technician without authorization from a prescriber. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (6) Morganna E. Allen did, on or about June 29, 2001, sell a dangerous drug at retail when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: pursuant to false prescription #125057, Morganna E. Allen sold Veetids 500 mg to a store technician without authorization from a prescriber. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (7) Morganna E. Allen did, on or about June 29, 2001, and/or again on or about August 25, 2002, knowing that she was committing or facilitating a fraud, cause to be presented to an insurer claims for payment which were false and/or deceptive, to wit: Morganna E. Allen caused insurance companies to pay for prescription #125057 and prescription #165346 for employees that did not have

insurance coverage for these prescriptions. Such conduct is in violation of Section 2913.47 of the Ohio Revised Code.

- (8) Morganna E. Allen did, on or about January 1, 2001, through December 3, 2002, with purpose to deprive, knowingly obtain or exert control over store merchandise belonging to Rite Aid beyond the express or implied consent of the owner, to wit: Morganna E. Allen admittedly stole an Accu-chek Active Care Kit, 100 Accu-chek Test Strips, 100 Softclix Lancets, cosmetics, soft drinks, candy, and cigarettes from her employer. 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 (2) through (8) 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 (8) 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 (6) 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

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 Morganna E. Allen as follows:

- (A) On the basis of the Findings of Fact and the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends until December 1, 2004, the pharmacist identification card, No. 03-2-23624, held by Morganna E. Allen effective as of the date of the mailing of this Order. Morganna E. Allen, 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) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Morganna E. Allen a monetary penalty of one thousand dollars (\$1,000.00) due and owing on or before May 1, 2005. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (C) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places Morganna E. Allen on probation for two years beginning December 1, 2004 with the following conditions:

- (1) Morganna E. Allen must obtain two hours (0.2 CEUs) of Board approved continuing pharmacy education in jurisprudence, which may not also be used for license renewal. Documentation of successful completion must be submitted to the Board office before May 1, 2005.
- (2) Morganna E. Allen may not dispense prescriptions for herself.
- (3) The State Board of Pharmacy hereby declares that Morganna E. 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) Morganna E. Allen may not serve as a responsible pharmacist.
- (5) Morganna E. Allen must not violate the drug laws of Ohio, any other state, or the federal government.
- (6) Morganna E. Allen must abide by the rules of the State Board of Pharmacy.
- (7) Morganna E. Allen must comply with the terms of this Order.

Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Morganna E. 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-7/Nay-0).

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 a Notice of Appeal with both the State Board of Pharmacy and 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: NOVEMBER 10, 2004

CERTIFIED MAIL / Return Receipt
7003 0500 0002 4347 2672

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