



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

THE STATE BOARD OF PHARMACY
(Docket No. D-901017-031)

In The Matter Of:

ALLAN B. LEVIN
239 Quail Roost
Mayfield Heights, Ohio 44124
(D.O.B. - August 29, 1928)

INTRODUCTION

THE MATTER OF ALLAN B. LEVIN CAME TO HEARING ON DECEMBER 11, 1990 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; METTA LOU HENDERSON, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

ALLAN B. LEVIN WAS REPRESENTED BY MICHAEL J. FELDMAN, AND THE STATE OF OHIO WAS REPRESENTED BY JEANNY EATON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Allan B. Levin, Respondent
- (2) Robert L. Cole, State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated October 17, 1990.
- (2) Exhibit B - Hearing Request letter dated October 29, 1990.
- (3) Exhibit C - Hearing Schedule letter dated November 1, 1990.
- (4) Exhibit 1 - Copy of pages 30 through 39 of the State Board of Pharmacy Journal, Entry No. J-860228-039, in the matter of Allan B. Levin, R.Ph.

- (5) Exhibit 2 - 38 DEA Form 222s for Cedar Center Pharmacy numbered N14501037, N14501042, N14501043, N14501040, N14501038, M26500728, M26500717, M26500719, M26500720, M26500726, M26500727, N14501039, M26500718, M26500721, M26500722, M26500724, M26500723, P12400948, P12400935, P12400947, P12400946, N14501032, N14501033, N14501030, N14501034, N14501035, N14501036, N14501031, N14501041, P12400952, P12400940, P12400932, P12400949, P12400943, P12400933, P12400950, P12400937, and P12400945.

Respondent's Exhibits:

- (1) Cover letter addressed to the Office of the Governor, Attention Dora Globe, dated June 19, 1990; and 2 page typewritten statement from Mr. Levin.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that, on February 28, 1986, the Ohio State Board of Pharmacy made the following findings:
- (a) Allan B. Levin did, on one or more occasions between March 31, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 2,466 capsules of Biphettamine-20mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.
 - (b) Allan B. Levin did, on one or more occasions between February 2, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 5,953 tablets of Demerol-50mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.
 - (c) Allan B. Levin did, on one or more occasions between April 19, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 2,700 tablets of Demerol-100mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding

three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.

- (d) Allan B. Levin did, on one or more occasions between August 12, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 450 tablets of Dilaudid-2mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (e) Allan B. Levin did, on one or more occasions between January 5, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 2,200 tablets of Dilaudid-4mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (f) Allan B. Levin did, on one or more occasions between February 16, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 9,643 tablets of Percodan, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (g) Allan B. Levin did, on one or more occasions between February 2, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 3,149 tablets of Preludin-75mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.

- (h) Allan B. Levin did, on one or more occasions between January 26, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 300 tablets of Quaalude-300mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (i) Allan B. Levin did, on one or more occasions between April 7, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 1,020 capsules of Seconal-100mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (j) Allan B. Levin did, on one or more occasions between November 9, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 346 capsules of Tuinal-200mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (k) Allan B. Levin did, on one or more occasions between April 23, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 200 tablets of Dexedrine-5mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(5) of the Revised Code.
- (l) Allan B. Levin did, on one or more occasions between June 24, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 210

tablets of Preludin-25mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(5) of the Revised Code.

(m) Allan B. Levin did, on one or more occasions between May 18, 1984 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 97 capsules of Tylox, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(5) of the Revised Code.

(n) Allan B. Levin did, on one or more occasions between January 25, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 7,455 tablets of Valium-5mg, a Schedule IV controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.

(o) Allan B. Levin did, on one or more occasions between February 24, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 2,646 tablets of Valium-10mg, a Schedule IV controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.

(p) Allan B. Levin did, on one or more occasions between June 5, 1984 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 30 tablets of Codeine-15mg, a Schedule II controlled substance and prescription drug, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715.,

3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (q) Allan B. Levin did, on one or more occasions between May 18, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 47 capsules of Dexedrine-10mg, a Schedule II controlled substance and prescription drug, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(1) of the Revised Code.
- (r) Allan B. Levin did, on one or more occasions between June 24, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 832 tablets of Valium-2mg, a Schedule IV controlled substance and prescription drug, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(1) of the Revised Code.
- (s) Allan B. Levin did, on one or more occasions between September 19, 1983 and October 26, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, without a written or oral prescription, dispense approximately 56 capsules of Tuinal-100mg, a Schedule II controlled substance and prescription drug, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(1) of the Revised Code.
- (t) Allan B. Levin did, on one or more occasions during 1981, 1982, 1983, and 1984, knowingly obtain and use Darvocet-N100, a Schedule IV controlled substance and prescription drug, without a written or oral prescription issued by a practitioner, to wit: on October 25, 1984, Mr. Levin admitted to Robert L. Cole, an employee of the Board, that he had obtained and used approximately 200 tablets of Darvocet-N100 without a prescription for approximately four years. Such conduct is prohibited by Section 2925.11 of the Revised Code.
- (u) Allan B. Levin did, on one or more occasions during 1981, 1982, 1983, and 1984, knowingly sell between 2,880 and 3,840 tablets of Darvocet-N100, a Schedule IV controlled substance and prescription drug, in an amount equal to or exceeding

three times the bulk amount as defined in Section 2925.01 of the Revised Code, without a written or oral prescription issued by a practitioner, to wit: on October 25, 1984, Mr. Levin admitted to Robert L. Cole, an employee of the Board, that he gave his son approximately 60 to 80 tablets of Darvocet-N100 every month for the last four years. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code and is prohibited by Section 2925.03(A)(7) of the Revised Code.

- (v) On one or more occasions between June 19, 1984 and October 27, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, sales of approximately 21,720 milliliters of Cheracol cough syrup, a Schedule V controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code, were made in violation of Revised Code Chapter 3719. Such conduct is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (w) On one or more occasions between October 21, 1984 and November 15, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, sales of approximately 1,200 milliliters of Cheracol cough syrup, a Schedule V controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code, were made in violation of Revised Code Chapter 3719. Such conduct is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (x) On one or more occasions between October 21, 1984 and November 15, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, sales of approximately 2,040 milliliters of Tricodene Syrup, a Schedule V controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code, were made in violation of Revised Code Chapter 3719. Such conduct is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (y) Allan B. Levin did, on one or more occasions between October 25, 1984 and January 20, 1985 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, offer to sell approximately 2,880 milliliters of Cheracol cough syrup, a Schedule V controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code, to a person in violation of Revised Code Chapter 3719. Such conduct is in violation of Section 2925.03(A)(7) of the Revised Code.
- (z) Allan B. Levin did, on one or more occasions between December 9, 1983 and October 23, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, sell

approximately 2,520 milliliters of Tricodene Syrup, a Schedule V controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code, in violation of Revised Code Chapter 3719. Such conduct is prohibited by Section 2925.03(A)(7) of the Revised Code.

- (aa) Allan B. Levin did, on one or more occasions between November 16, 1983 and October 8, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, sell approximately 4,800 milliliters of Cheracol cough syrup, a Schedule V controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code in violation of Revised Code Chapter 3719. Such conduct is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (bb) Allan B. Levin did, on or about April 16, 1984 and June 2, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, dispense Schedule II controlled substances pursuant to an oral prescription in violation of Division (D) of Section 3719.05 of the Revised Code, to wit: Prescriptions numbered 288738 and 299551 for 100 tablets of Percodan, a Schedule II controlled substance, in amounts equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code. Such conduct is also in violation of Section 2925.03(A)(5) of the Revised Code.
- (cc) Allan B. Levin did willfully violate, and/or aid and abet other pharmacists in violating, the provisions of Chapters 2925. and 3719. of the Revised Code, on one or more occasions between December 29, 1982 and October 18, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, to wit: approximately 660 tablets of Preludin-75mg, a Schedule II controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code, were dispensed without valid prescriptions; in violation of Division (A) of Revised Code Section 3719.05. Such conduct is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (dd) Allan B. Levin did willfully violate, and/or aid and abet other pharmacists in violating, the provisions of Chapters 2925. and 3719. of the Revised Code, on one or more occasions between December 29, 1982 and January 31, 1983 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, to wit: approximately 100 tablets of Percocet, a Schedule II controlled substance, in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code, were dispensed without valid prescriptions; in

violation of Division (A) of Revised Code Section 3719.05. Such conduct is prohibited by Section 2925.03(A)(5) of the Revised Code.

- (ee) Allan B. Levin did willfully violate, and/or aid and abet other pharmacists in violating, the provisions of Chapters 2925. and 3719. of the Revised Code, on one or more occasions between January 25, 1983 and October 5, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, to wit: approximately 802 tablets of Darvocet-N100 were dispensed without valid prescriptions; in violation of Division (A) of Revised Code Section 3719.05. Such conduct is prohibited by Section 2925.03(A)(7) of the Revised Code.
- (ff) Allan B. Levin did willfully violate, and/or aid and abet other pharmacists in violating, the provisions of Chapters 2925. and 3719. of the Revised Code, on one or more occasions between March 16, 1983 and October 17, 1984 at Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, to wit: approximately 1,200 tablets of Valium-5mg, a Schedule IV controlled substance, in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount as defined in Section 2925.01 of the Revised Code, were dispensed, without valid prescriptions; in violation of Division (A) of Revised Code Section 3719.05. Such conduct is prohibited by Section 2925.03(A)(5) of the Revised Code.
- (gg) Allan B. Levin, as the responsible pharmacist required by Section 4729.55 of the Revised Code for, and president of the corporation owning and doing business as, Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, Terminal Distributor of Dangerous Drugs No. 02-099500, did knowingly possess and/or dispense drug samples in violation of Sections 2925.03, 2925.36, 3719.81, and 4729.51 of the Revised Code.
- (hh) Allan B. Levin did hold for sale or delivery drugs that were adulterated and/or misbranded, to wit: various containers of drug samples and other outdated drugs, various packages of which were not labeled as required by Revised Code Section 3715.64. Such conduct is prohibited by Section 3715.52 of the Revised Code.
- (ii) Allan B. Levin, as the responsible pharmacist for the terminal distributor of dangerous drugs license and president of the corporation owning and doing business as Cedar Center Pharmacy, 13922 Cedar Road, University Heights, Ohio 44118, did not keep a record of all controlled substances received or dispensed; in violation of the provisions of Section 3719.07 of the Revised Code.

- (2) From the evidence presented, the State Board of Pharmacy finds that, on February 28, 1986, the Ohio State Board of Pharmacy revoked the pharmacist identification card held by Allan B. Levin.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1)(a) through (1)(ii) of the Findings Of Fact constitutes being guilty of a felony or gross immorality; being guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or Chapters 2925., 3719., or 4729. as provided in Division (A) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1)(a) through (1)(ii) and (2) of the Findings Of Fact constitutes failure to meet the qualifications of Division (B) of Section 4729.08 of the Ohio Revised Code which requires that every examination candidate "be of good moral character and habits".

ORDER

Pursuant to Sections 4729.08 and 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby refuses to grant an identification card to Allan B. Levin, and therefore denies the Application for Examination as a Pharmacist submitted by Allan B. Levin.

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

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 Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

ALLAN B. LEVIN
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Order of the Board

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 the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt
#P 497 578 875

ORDER MAILED: JANUARY 30, 1991

FZW/sl

By


Franklin Z. Wickham, Executive Director

cc: Jeanny Eaton, Assistant Attorney General
Michael J. Feldman, Attorney for Respondent, 55 Public Square, Suite
900, Cleveland, Ohio 44113