



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-900330-070)

In The Matter Of:

ALICE M. ALLEN
3123 Kimball Avenue
Toledo, Ohio 43610

INTRODUCTION

THE MATTER OF ALICE M. ALLEN CAME TO HEARING ON JUNE 27, 1990 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: TIMOTHY D. MOORE, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; METTA LOU HENDERSON, R.Ph.; NORMAN LEIBOW, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

ALICE M. ALLEN WAS REPRESENTED BY C. ALLEN McCONNELL, AND THE STATE OF OHIO WAS REPRESENTED BY JEANNY EATON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Alice M. Allen - Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated March 30, 1990.
- (2) Exhibit B - Request For Hearing letter dated April 3, 1990.
- (3) Exhibit C - Hearing Schedule letter dated April 6, 1990.
- (4) Exhibit D - Request For Hearing Reschedule letter dated April 10, 1990.
- (5) Exhibit E - Hearing Reschedule letter dated April 16, 1990.
- (6) Exhibit 1 - Pharmacist File Front Sheet for Alice M. Allen showing original license date of issue as July 27, 1970.
- (7) Exhibit 2 - Copy of Board's four-page Order in the matter of Alice M. Allen, R.Ph. dated 12/02/83.

Respondent's Exhibits:

- (1) Exhibit 1 - Letter from Benjamin W. Butler, M.D. dated June 25, 1990.
- (2) Exhibit 2 - Letter from Sandy Isenberg, Member of Lucas County Board of County Commissioners.
- (3) Exhibit 3 - Letter from Robert A. Culp, Senior Minister, First Church of God, dated June 26, 1990.
- (4) Exhibit 4 - Letter from Barry L. Richardson, Ph.D., Office of Minority Affairs, Medical College of Ohio at Toledo, dated June 25, 1990.
- (5) Exhibit 5 - Letter from Langston C. Bannister, Pastor, Third Baptist Church, dated February 27, 1989.
- (6) Exhibit 6 - Letter from Warren D. Palmer, O.D. dated January 19, 1989.
- (7) Exhibit 7 - Letter from Herman C. King, CLU, CPCU, ChFC.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that the records of the Board of Pharmacy indicate that Alice M. Allen was originally licensed to practice pharmacy in this state pursuant to examination on July 27, 1970.
- (2) From the evidence presented, the State Board of Pharmacy finds that, on December 2, 1983, the Board made Findings Of Fact in which it was determined that:
 - (a) Alice M. Allen did, on one or more occasions between May 27, 1980 and May 25, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a written prescription given by a practitioner, a quantity of approximately 11,125 tablets of Dilaudid 4mg, approximately 7,582 tablets of Percodan, approximately 232 tablets of Dilaudid 3mg, approximately 6,240 tablets of Preludin 75mg, approximately 1,053 tablets of Quaalude 300mg, and approximately 1,496 capsules of Biphedamine 20mg, all of which are Schedule II controlled substances and drugs which may be dispensed only upon the prescription of a practitioner, and that in dispensing such drugs her conduct was not in accordance with Chapters 3715. and 3719. of the Revised Code. Such conduct is prohibited by Sections 2925.03(A)(7) and 3715.52(L) of the Revised Code.
 - (b) Alice M. Allen did, on one or more occasions between May 27, 1980 and May 25, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a written prescription given by a practitioner, approximately 100 tablets of Dilaudid 2mg, a Schedule II controlled substance and drug which may be dispensed only upon the prescription of a practitioner, and that in dispensing such drug her conduct was not in accordance with Chapters 3715. and 3719. of the Revised Code. Such conduct is prohibited by Sections 2925.03(A)(5) and 3715.52(L) of the Revised Code.
 - (c) Alice M. Allen did, on one or more occasions between May 1, 1981 and May 25, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a written or oral prescription given by a practitioner, approximately 46,940 tablets of Talwin 50mg, a Schedule IV controlled substance and drug which may be dispensed only upon the prescription of a practitioner and that in dispensing such drug her conduct was not in accordance with Chapters 3715. and 3719. of the Revised Code. Such conduct is prohibited by Sections 2925.03(A)(7) and 3715.52(L) of the Revised Code.

- (d) Alice M. Allen did, on one or more occasions between May 1, 1981 and May 25, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a written or oral prescription given by a practitioner, approximately 135,826 tablets of Pyribenzamine 50mg, a drug which may be dispensed only upon the prescription of a practitioner and that in dispensing such drug her conduct was not in accordance with Chapters 3715. and 3719. of the Revised Code. Such conduct is prohibited by Section 3715.52(L) of the Revised Code.
- (e) Alice M. Allen did, on one or more occasions between March 30, 1981 and August 21, 1981 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, distribute by dispensing Biphetamine 20mg, Preludin 75mg, and Quaalude 300mg, all of which are Schedule II controlled substances, when she knew, or had reasonable cause to believe, that such drugs were intended for sale or resale by another person and were not prescribed for legitimate medical purposes by a practitioner in the course of his professional practice. Such conduct is prohibited by Section 2925.03(A)(2) of the Revised Code.
- (f) Alice M. Allen did, on one or more occasions between July 15, 1980 and January 4, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a valid prescription issued by a practitioner, approximately 3,900 tablets of Dilaudid 4mg, and that such conduct was not in accordance with Chapter 3719. of the Revised Code. Such conduct is prohibited by Section 2925.03 of the Revised Code.
- (g) Alice M. Allen did, on one or more occasions between July 15, 1980 and January 4, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense Demerol, a Schedule II controlled substance, without valid prescriptions and that such conduct is in violation of Section 3719.05 of the Revised Code. Such conduct is prohibited by Section 2925.03 of the Revised Code.
- (h) Alice M. Allen did, on more than one occasion between June 1, 1980 and January 21, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, permit a person other than a pharmacist or pharmacy intern to practice pharmacy and dispense dangerous drugs; in violation of Chapter 4729. of the Revised Code.
- (i) Alice M. Allen did, on one or more occasions between August 3, 1981 and May 18, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, distribute by dispensing 300 tablets of Talwin 50mg, a Schedule IV controlled substance, when she knew, or had reasonable cause to believe, that such drugs were intended for sale or resale by another person and were not prescribed for legitimate medical purposes by a practitioner in the course of his professional practice.
- (j) Alice M. Allen did cause the misbranding of four ounces of Tussar-2 and Lasix 40mg; in violation of Section 3715.64 of the Revised Code. Such conduct is prohibited by Section 3715.52 of the Revised Code.

(k) Alice M. Allen did, on one or more occasions between December 31, 1980 and April 13, 1983 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, make sales of approximately 3,900 tablets of Talwin 50mg, a Schedule IV controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. Such sales were made without a valid prescription and were therefore not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code. Such conduct is prohibited by Section 2925.03(A)(7) of the Revised Code.

(3) From the evidence presented, the State Board of Pharmacy finds that the Findings Of Fact listed in paragraphs (2)(a) through (2)(k) above led the Board to revoke Alice M. Allen's license to practice pharmacy in the state of Ohio, effective December 2, 1983, pursuant to Section 4729.16 of the Revised Code based on the Conclusions Of Law that her conduct constituted gross immorality, permitting a person other than a pharmacist or pharmacy intern to practice pharmacy, and willfully violating Chapters 2925., 3715., 3719., and 4729. of the Revised Code.

CONCLUSIONS OF LAW

(1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2)(a) through (2)(k) of the Findings Of Fact constitute gross immorality, willfully violating the provisions of Chapters 2925., 3715., 3719., and 4729. of the Revised Code, and permitting a person other than a pharmacist or pharmacy intern to practice pharmacy, 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 paragraphs (2) and (3) of the Findings Of Fact constitute not being of good moral character and habits, as required by Division (B) of Section 4729.08 of the Ohio Revised Code.

ORDER

Pursuant to Sections 4729.08 and 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby denies the Application for Examination As Pharmacist submitted by Alice M. Allen. Further, Alice M. Allen may not re-apply to sit for the examination until after December 31, 1991.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE AUGUST 21, 1990



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THE STATE BOARD OF PHARMACY

VS

ALICE M. ALLEN, R.Ph.

THE MATTER PERTAINING TO THE REGISTERED PHARMACIST IDENTIFICATION CARD OF ALICE M. ALLEN, R.Ph. NO. 03-30-9622, DOCKET NO. 6-63-1, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON OCTOBER 14 AND 15, 1983. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTION WAS MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on one or more occasions between May 27, 1980 and May 25, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a written prescription given by a practitioner, a quantity of approximately 11,125 tablets of Dilaudid 4mg, approximately 7,582 tablets of Percodan, approximately 232 tablets of Dilaudid 3mg, approximately 6,240 tablets of Preludin 75mg, approximately 1,053 tablets of Quaalude 300mg, and approximately 1,496 capsules of Biphedamine 20mg, all of which are Schedule II controlled substances and drugs which may be dispensed only upon the prescription of a practitioner, and that in dispensing such drugs her conduct was not in accordance with Chapters 3715. and 3719. of the Revised Code. Such conduct is prohibited by Sections 2925.03(A)(7) and 3715.52(L) of the Revised Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on one or more occasions between May 27, 1980 and May 25, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a written prescription given by a practitioner, approximately 100 tablets of Dilaudid 2mg, a Schedule II controlled substance and drug which may be dispensed only upon the prescription of a practitioner, and that in dispensing such drug her conduct was not in accordance with Chapters 3715. and 3719. of the Revised Code. Such conduct is prohibited by Sections 2925.03(A)(5) and 3715.52(L) of the Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on one or more occasions between May 1, 1981 and May 25, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a written or oral prescription given by a practitioner, approximately 46,940 tablets of Talwin 50mg, a Schedule IV controlled substance and drug which may be dispensed only upon the prescription of a practitioner and that in dispensing such drug her conduct was not in

accordance with Chapters 3715. and 3719. of the Revised Code. Such conduct is prohibited by Sections 2925.03(A)(7) and 3715.52(L) of the Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on one or more occasions between May 1, 1981 and May 25, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a written or oral prescription given by a practitioner, approximately 135,826 tablets of Pyribenzamine 50mg, a drug which may be dispensed only upon the prescription of a practitioner and that in dispensing such drug her conduct was not in accordance with Chapters 3715. and 3719. of the Revised Code. Such conduct is prohibited by Section 3715.52(L) of the Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on one or more occasions between March 30, 1981 and August 21, 1981 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, distribute by dispensing Biphedamine 20mg, Preludin 75mg, and Quaalude 300mg, all of which are Schedule II controlled substances, when she knew, or had reasonable cause to believe, that such drugs were intended for sale or resale by another person and were not prescribed for legitimate medical purposes by a practitioner in the course of his professional practice. Such conduct is prohibited by Section 2925.03(A)(2) of the Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on one or more occasions between July 15, 1980 and January 4, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense without a valid prescription issued by a practitioner, approximately 3,900 tablets of Dilaudid 4mg, and that such conduct was not in accordance with Chapter 3719. of the Revised Code. Such conduct is prohibited by Section 2925.03 of the Revised Code.
- (7) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on one or more occasions between July 15, 1980 and January 4, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, dispense Demerol, a Schedule II controlled substance, without valid prescriptions and that such conduct is in violation of Section 3719.05 of the Revised Code. Such conduct is prohibited by Section 2925.03 of the Revised Code.
- (8) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on more than one occasion between June 1, 1980 and January 21, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, permit a person other than a pharmacist or pharmacy intern to practice pharmacy and dispense dangerous drugs; in violation of chapter 4729. of the Revised Code.
- (9) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on one or more occasions between August 3, 1981 and May 18, 1982 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, distribute by dispensing 300 tablets of Talwin 50mg, a Schedule IV controlled substance, when she knew, or had reasonable cause to believe, that such drugs were intended for sale or resale by another person and were not prescribed for legitimate medical purposes by a practitioner in the course of his professional practice.
- (10) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did cause the misbranding of four ounces of Tussar-2 and Lasix 40mg; in violation of Sec-

tion 3715.64 of the Revised Code. Such conduct is prohibited by Section 3715.52 of the Revised Code.

- (11) From the evidence presented, the State Board of Pharmacy finds that Alice M. Allen did, on one or more occasions between December 31, 1980 and April 13, 1983 at Umbles Drew-Hale Pharmacy, Inc., 2700 Monroe Street, Toledo, Ohio 43606, make sales of approximately 3,900 tablets of Talwin 50mg, a Schedule IV controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. Such sales were made without a valid prescription and were therefore not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code. Such conduct is prohibited by Section 2925.03(A)(7) of the Revised Code.

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) through (11) of the Findings Of Fact constitutes gross immorality within the meaning of Section 4729.16(A) of the 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) through (11) of the Findings Of Fact constitutes willful violations of more than one time any of the provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that Alice M. Allen is guilty of permitting a person other than a pharmacist or pharmacy intern to practice pharmacy.

Pursuant to Section 4729.16 of the Ohio Revised Code, and the foregoing Findings Of Fact and Conclusions Of Law, the State Board of Pharmacy takes the following actions concerning the registered pharmacist license of Alice M. Allen, R.Ph. No. 03-30-9622:

- (A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the registered pharmacist identification card of Alice M. Allen.
- (B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the registered pharmacist identification card of Alice M. Allen.
- (C) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the registered pharmacist identification card of Alice M. Allen.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE DECEMBER 2, 1983