



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-990305-035)

In The Matter Of:

**ANDREW JAMES RIPLEY, R.Ph.**

33 West Lane, P. O. Box 131  
Triadelphia, West Virginia 26059  
(R.Ph. No. 03-3-18724)

### INTRODUCTION

THE MATTER OF ANDREW JAMES RIPLEY, R.Ph. CAME FOR CONSIDERATION ON AUGUST 3, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ANDREW JAMES RIPLEY WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of eight-page Notice of Opportunity for Hearing letter dated March 5, 1999 with attached domestic return receipt signed and dated March 9, 1999.

- (2) Exhibit 1A--Copy of Pharmacist File Front Sheet of Andrew J. Ripley showing original date of registration as February 15, 1991 and date of lapse of license as September 15, 1997.
- (3) Exhibit 2--Copy of two-page Information, United States of America vs. Andrew James Ripley, United States District Court for the Northern District of West Virginia, Violation: 21 U.S.C. §843(a)(3), dated September 5, 1997.
- (4) Exhibit 3--Copy of seven-page Plea Agreement, United States of America vs. Andrew James Ripley, United States District Court for the Northern District of West Virginia, Criminal No. 5:97-CR-52, dated September 24, 1997.
- (5) Exhibit 4--Copy of six-page Judgment in a Federal Criminal Case, United States of America vs. Andrew James Ripley, United States District Court for the Northern District of West Virginia, Case No. 5:97CR00052-001, dated January 2, 1998.
- (6) Exhibit 5--Copy of six pages numbered 2 through 6 and 8, not dated.
- (7) Exhibit 6--Copy of two-page letter from Andrew J. Ripley dated October 1, 1998.

Respondent's Exhibits:

- (1) None

#### FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) On March 5, 1999, Andrew James Ripley was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of March 9, 1999, Andrew James Ripley received the letter of March 5, 1999, informing him of the allegations against him, and his rights.
- (3) Andrew James Ripley has not responded in any manner to the letter of March 5, 1999, and has not requested a hearing in this matter.
- (4) Records of the Ohio State Board of Pharmacy indicate that Andrew James Ripley was originally licensed in the State of Ohio on February 15, 1991, pursuant to examination, and his license to practice pharmacy in the State of Ohio lapsed on September 15, 1997. On October 6, 1998, the Board received a communication from Andrew James Ripley to "re-activate" his license.
- (5) Andrew James Ripley did, on or about August 22, 1997, plead guilty to one count of conspiring to obtain Possession of Controlled Substances by Fraud and Forgery, in violation of 21 U.S.C. 843(a)(3) and 21 U.S.C. 846, a felony. United States v. Andrew James Ripley, Case No. 97CR00052-001, U.S. District Court, Northern District of West Virginia (Wheeling). From January

1995, to December 1996, Andrew James Ripley conspired with others to obtain possession of Oxycodone HCL, a Schedule II controlled substance; and Hydrocodone with APAP, a Schedule III controlled substance; Phentermine HCL, Pentazocine HCL, Lorazepam, Clonazepam and, Alprazolam, all Schedule IV controlled substances. For almost two years, while at the Medicine Shoppe in Wheeling, West Virginia, Andrew James Ripley forged or created false prescriptions for thousands of doses of controlled substances using the names of several patients. Such conviction constitutes having been convicted of a felony; having been convicted of violating any state or federal pharmacy or drug law; and/or not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

- (6) Andrew James Ripley did, from on or about June 1995, to July 1996, intentionally make and/or knowingly possess a false or forged prescription, to wit: Andrew James Ripley admitted that he altered legitimate prescriptions and/or created false doctor telephoned prescriptions for approximately 2,000ml of Pentazocine HCL, a Schedule IV controlled substance, in the name of Sally Mazur in order to conceal his trafficking of the drugs. If committed in Ohio, such conduct is in violation of Section 2925.23 of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (7) Andrew James Ripley did, from on or about June 1995, to July 1996, knowingly sell or offer to sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrew James Ripley admitted that he sold approximately 2,000ml of Pentazocine HCL, a Schedule IV controlled substance, to Bob and/or Sally Mazur without a prescription and not for a legitimate medical purpose. If committed in Ohio, such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (8) Andrew James Ripley did, on or about December 1996, knowing that he had no privilege to do so and with purpose to defraud, falsify, destroy, remove, and/or alter data or a record, to wit: Andrew James Ripley admitted that he deleted some of the computer prescription records and changed others pertaining to Sally Mazur. If committed in Ohio, such conduct is in violation of Section 2913.42 of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (9) Andrew James Ripley did, on or about December 1996, knowing that an official proceeding or investigation was in progress or was likely to be instituted, alter, destroy, conceal, and/or remove

records with purpose to impair their value or availability as evidence in such proceeding or investigation, to wit: Andrew James Ripley admitted that he altered some of Mrs. Mazur's prescriptions in his files in order to conceal the fact that he was selling drugs with no legitimate prescription. If committed in Ohio, such conduct is in violation of Section 2921.12 of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

(10) Andrew James Ripley did, from on or about January 1994, to July 1996, knowingly sell or offer to sell a controlled substance in an amount equal to or exceeding one hundred times the bulk amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: James McCormick admitted that he purchased approximately 5,000 unit doses of Oxycodone HCL, a Schedule II controlled substance, from Andrew James Ripley without a prescription, not for a legitimate medical purpose. If committed in Ohio, such conduct is in violation of Section 2925.03(A)(10) of the Ohio Revised Code. In exchange for the sale of the Oxycodone HCL, James McCormick paid Andrew James Ripley retail price for the drugs and other times, to guarantee the continued supply of drugs, Andrew James Ripley accepted golf clubs, golf accessories, tickets to Pittsburgh Steelers football games and tickets to Pittsburgh Pirates baseball games. Such conduct constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

(11) Andrew James Ripley did, from on or about January 1994, to July 1996, knowingly sell or offer to sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount, when such conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrew James Ripley admitted that he sold approximately 500 doses of Clonazepam, a Schedule IV controlled substance to James McCormick without a prescription and not for a legitimate medical purpose. If committed in Ohio, such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code. In exchange for the sale of the Clonazepam, on occasion, James McCormick paid Andrew James Ripley retail price for the drugs, and other times to guarantee

the continued supply of drugs, Andrew James Ripley accepted golf clubs, golf accessories, tickets to Pittsburgh Steelers football games and tickets to Pittsburgh Pirates baseball games. Such conduct constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

(12) Andrew James Ripley did, on or about December 1996, knowing that he had no privilege to do so and with purpose to defraud, falsify, destroy, remove, and/or alter data or a record, to wit:

Andrew James Ripley admitted that he deleted some of the computer prescription records and changed others pertaining to James McCormick. If committed in Ohio, such conduct is in violation of Section 2913.42 of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

- (13) Andrew James Ripley did, on or about December 1996, knowing that an official proceeding or investigation was in progress or was likely to be instituted, alter, destroy, conceal, and/or remove records with purpose to impair their value or availability as evidence in such proceeding or investigation, to wit: Andrew James Ripley admitted that he deleted several of Mr. McCormick's prescription records from the computer and threw away some of the hard copies of the prescriptions in order to conceal the fact that he was selling drugs with no legitimate prescription. If committed in Ohio, such conduct is in violation of Section 2921.12 of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (14) Andrew James Ripley did, from on or about June 1995, to July 1996, on numerous occasions knowingly sell or offer to sell a controlled substance in an amount less than the bulk amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrew James Ripley admitted to selling controlled substances to six individuals with no legitimate prescriptions. If committed in Ohio, such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (15) Andrew James Ripley did, from on or about June 1995, to July 1996, knowingly sell or offer to sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrew James Ripley admitted that he sold 1,000 unit doses or more of Hydrocodone with APAP, a Schedule III controlled substance, to Mike Estep without a prescription and not for a legitimate medical purpose. If committed in Ohio, such conduct is in violation of Section 2925.03(A)(6) of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (16) Andrew James Ripley did, from on or about June 1995, to June 1996, knowingly sell or offer to sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrew James Ripley

admitted that he sold approximately 1,000 unit doses or more of Hydrocodone with APAP, a Schedule III controlled substance, to Robert Smith without a prescription and not for a legitimate medical purpose. If committed in Ohio, such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

- (17) Andrew James Ripley did, from on or about June 1995, to June 1996, knowingly sell or offer to sell a controlled substance in an amount less than the bulk amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrew James Ripley admitted that once or twice he sold Diazepam, a Schedule IV controlled substance, to Robert Smith without a prescription and not for a legitimate medical purpose. If committed in Ohio, such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (18) Andrew James Ripley did, from on or about June 1995, to July 1996, intentionally make and/or knowingly possess a false or forged prescription, to wit: Andrew James Ripley admitted that he altered legitimate prescriptions and/or created false prescriptions for Hydrocodone with APAP, a Schedule III controlled substance, for Robert Smith in order to conceal his trafficking of the drugs. If committed in Ohio, such conduct is in violation of Section 2925.23 of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (19) Andrew James Ripley did, from on or about June 1995, to July 1996, intentionally make and/or knowingly possess a false or forged prescription, to wit: Andrew James Ripley admitted that he altered legitimate prescriptions and/or created false prescriptions for Diazepam, a Schedule IV controlled substance, for Robert Smith in order to conceal his trafficking of the drugs. If committed in Ohio, such conduct is in violation of Section 2925.23 of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (20) Andrew James Ripley did, from on or about June 1995, to July 1996, knowingly obtain, possess, or use a controlled substance without a prescription, to wit: Andrew James Ripley admitted that he removed and consumed for personal use 20 Phentermine HCL or a generic equivalent, a Schedule IV controlled substance, without a prescription. If committed in Ohio, such conduct is in violation of Section 2925.11(A) of the Ohio Revised Code, and constitutes not being of good moral character and/or addicted to or abusing liquor or drugs within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

- (21) Andrew James Ripley did, from on or about June 1995, to June 1996, knowingly sell or offer to sell a controlled substance in an amount less than the bulk amount, when such conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrew James Ripley admitted that he gave his wife, Cheryl Ripley, Phentermine HCL or a generic equivalent, a Schedule IV controlled substance, without a prescription and not for a legitimate medical purpose. If committed in Ohio, such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (22) Andrew James Ripley did, in the spring of 1996, knowingly sell or offer to sell a controlled substance in an amount less than the bulk amount, when such conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrew James Ripley admitted that he sold Judy Luzader Phentermine HCL or a generic equivalent, a Schedule IV controlled substance, without a prescription and not for a legitimate medical purpose. If committed in Ohio, such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (23) Andrew James Ripley did, from on or about June 1995, to June 1996, sell at retail, dangerous drugs, to wit: Andrew James Ripley admitted that on 10 occasions, he refilled Diane Evans' prescriptions for Butalbital with APAP, a dangerous drug, prior to the date authorized for the prescription refill. If committed in Ohio, such conduct is in violation of Section 4729.51(C)(1) of the Ohio Revised Code, and constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (23) 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) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (23) 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) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (7), (9) through (11), and (14) through (23) 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.

#### ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Andrew James Ripley:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-18724, held by Andrew James Ripley 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 set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-18724, held by Andrew James Ripley 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 set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-18724, held by Andrew James Ripley effective as of the date of the mailing of this Order.

Division (B) of Section 4729.16 of the Ohio Revised Code provides: "Any individual whose identification card is revoked, suspended, or refused, shall return the identification card and license to the office of the state board of pharmacy within ten days after receipt of notice of such action." The wall license and pocket identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.