



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

URL: <http://www.pharmacy.ohio.gov>

ORDER OF THE STATE BOARD OF PHARMACY

(Docket Nos. D-061213-021 and D-070122-027)

In The Matter Of:

ALLISON JOY RE, R.Ph.

6560 Michael Drive
Cincinnati, Ohio 45243

(R.Ph. No. 03-3-24114)

INTRODUCTION

THE MATTER OF ALLISON JOY RE CAME FOR HEARING ON AUGUST 8, 2007, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: GREGORY BRAYLOCK, R.Ph. (presiding); ELIZABETH I. GREGG, R.Ph.; RICHARD F. KOLEZYNSKI, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; HEATHER L. PASQUALE, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; JAMES E. TURNER, R.Ph.; AND JEROME J. WIESENHAHN, R.Ph.

ALLISON JOY RE WAS REPRESENTED BY KIMBERLY A. RUTOWSKI. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness

1. Richard Haun, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Allison Joy Re, R.Ph., Respondent
2. James Liebetrau, R.Ph.

State's Exhibits

1. Notice of Opportunity for Hearing letter [12-13-06]
 - 1A-1B. Procedurals
 - 1C. Summary Suspension Order/Notice of Opportunity For Hearing letter [01-22-07]
 - 1D-1G. Procedurals
2. Notarized Statement of Allison J. Re [11-29-06]
3. Prescription for Actiq written for Allison Re by Lindy Wyatt, M.D. [08-11-06]
4. CVS Schedule II Inventory Log [03-26-06 to 11-25-06]
5. Letter from Paul Higginbotham [01-08-07]
6. Hand-written Drug Price list [not dated]
7. Notarized Statement of Athena Walsh [01-08-07]
8. Notarized Statement of Michael Seaman [01-08-07]
9. Notarized Statement of Allison Re [01-12-07]
10. Indictment, State of Ohio vs. Allison J. Neel, Case No. B0700684, Hamilton County Common Pleas Court [01-30-07]; Entry Withdrawing Plea of Not Guilty and Entering Plea

of Guilty [05-31-07]; Entry Appointing Court Clinic Forensic Services For Examination [05-31-07]; Entry of Dismissal [07-16-07]; Sentencing Worksheet [07-16-07]

Respondent's Exhibits

- A. Letter from Vincent Re [not dated]; Four Treatment Reports [07-17-07 to 07-19-07]; Five Letters of Character [07-20-07 to 07-24-07]; Four Letters of Reference [07-13-07 to 07-24-07]
- B. Calendar pages for January 2007 to July 2007; Support Group Attendance Records [01-19-07 to 07-31-07]
- C. PRO Pharmacist's Recovery Contract for Allison Re [03-14-07]
- D. FirstLab Test History Report [04-30-07 to 06-28-07]; Calendar pages for April 2007 to July 2007; Six payment receipts from Bethesda Healthcare Inc. [04-30-07 to 07-18-07]; Drug Screen Reports [05-22-07 to 07-18-07]
- E. Letter from Allison Re [not dated]; Pro Client Quarterly Report [07-11-07]; Client Self Report [06-29-07]; Client Monitoring Sheet [04-01-07 to 06-30-07]
- F. Letter from David E. Hardin to Mrs. Allison Re [07-18-07]; Medical Record [07-11-07]
- G. CVS posPickup File [07-20-07]
- H. Letter from CVS Pharmacy to Allison Re [07-22-07]; CVS Pharmacy #2764 Patient Prescription Record [08-01-05 to 05-18-07]; Letter from Rena L. Kay, M.D. to Steve Lazarus and Kim Rutowski [07-24-07]
- I. Twenty-four Continuing Pharmaceutical Education Credits and Certificates [04-22-07 to 07-23-07]

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 Allison Joy Re was originally licensed by the State of Ohio as a pharmacist on July 27, 2000, pursuant to examination, and that her license to practice pharmacy in Ohio was summarily suspended effective January 22, 2007.

(2) Allison Joy Re did, on or about September 15, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, beyond the express or implied consent of the owner, to wit: Allison Joy Re admittedly stole 21 Actiq 400 mg lozenges, a schedule II controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(3) Allison Joy Re did, on or about September 22, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, beyond the express or implied consent of the owner, to wit: Allison Joy Re admittedly stole 120 Actiq 600 mg lozenges, a schedule II controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(4) Allison Joy Re did, on or about between December 6, 2006 and January 11, 2007, knowingly offer to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a valid prescription, Allison Joy Re admittedly offered to sell 10 tablets of OxyContin 40 mg, 12 tablets of OxyContin 20 mg, 50 tablets of methadone 10 mg and 8 tablets of methadone 40 mg, Schedule II controlled substances, 100 tablets of Ativan 1 mg, 100

tablets of Klonopin .5 mg, and 12 tablets of Klonopin 2 mg, Schedule IV controlled substances, to a friend named Michelle. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

(5) Allison Joy Re did, on or about between December 6, 2006 and January 11, 2007, 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: without a valid prescription, Allison Joy Re admittedly sold 8 tablets of methadone 40 mg, 6 tablets of OxyContin 40 mg and 6 tablets of OxyContin 20 mg, Schedule II controlled substances, to a friend named Michelle. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

(6) Allison Joy Re did, on or about January 12, 2007, knowingly possess a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Allison Joy Re possessed 4 tablets of OxyContin 40 mg and 6 tablets of OxyContin 20 mg, Schedule II controlled substances, in her home without having a valid prescription for the drugs. Such conduct violates Section 2925.11 of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) through (6) 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 (6) 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 (4) 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 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

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Allison Joy Re on January 22, 2007.

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 Allison Joy Re as follows:

(A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-24114, held by Allison Joy Re 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, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-24114, held by Allison Joy Re 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, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-24114, held by Allison Joy Re effective as of the date of the mailing of this Order.

Allison Joy Re, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her license to practice (pocket ID card) and registration (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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-3).

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 the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with 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: September 14, 2007

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

WTW/lf

CERTIFIED MAIL/Return Receipt
7004 2510 0006 9804 1546

c: Sally Ann Steuk, Assistant Attorney General
Kimberly A. Rutowski, Attorney for Respondent; Hardin, Lefton, Lazarus & Marks, LLC; 915 Cincinnati Club Building; 30 Garfield Place; Cincinnati, Ohio 45202-4322



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

URL: <http://www.pharmacy.ohio.gov>

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

January 22, 2007

Allison Joy Re, R.Ph.
6560 Michael Drive
Cincinnati, Ohio 45243

Re: Ohio Registered Pharmacist
Number 03-3-24114

Dear Ms. Re:

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 July 27, 2000, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You did, on or about between December 6, 2006 and January 11, 2007, knowingly offer to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a valid prescription, you admittedly offered to sell 10 tablets of OxyContin 40 mg, 12 tablets of OxyContin 20 mg, 50 tablets of methadone 10 mg and 8 tablets of methadone 40 mg, Schedule II controlled substances, 100 tablets of Ativan 1 mg, 100 tablets of Klonopin .5 mg, and 12 tablets of Klonopin 2 mg, Schedule IV controlled substances, to a friend named Michelle. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code and if proven constitutes being guilty of a felony or gross immorality and/or 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 between December 6, 2006 and January 11, 2007, 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: without a valid prescription, you admittedly sold 8 tablets of methadone 40 mg, 6 tablets of OxyContin 40 mg and 6 tablets of OxyContin 20 mg, Schedule II controlled substances, to a friend named Michelle. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code and if proven constitutes being guilty of a felony

or gross immorality and/or 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 January 12, 2007, knowingly possess a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you possessed 4 tablets of OxyContin 40 mg and 6 tablets of OxyContin 20 mg, Schedule II controlled substances, in your home without having a valid prescription for the drugs. Such conduct violates Section 2925.11 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating provisions of Chapter 2925. or the Ohio Revised Code 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, limit, 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;
- (10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code.

IF YOU DESIRE A HEARING, such request shall be mailed to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. YOUR REQUEST MUST BE IN WRITING, AND MUST BE RECEIVED IN THE OFFICE OF THE OHIO STATE BOARD OF PHARMACY ON OR PRIOR TO THE THIRTIETH (30TH) DAY FOLLOWING THE MAILING DATE OF THIS NOTICE. 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 FURTHER ADVISED that if there is no request for such a hearing received by the Board on or prior to the thirtieth (30th) day following the mailing of this notice, the Ohio 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 (10) days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

BY ORDER OF THE STATE BOARD OF PHARMACY

William T. Winsley, M.S., R.Ph.
Executive Director