



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-020912-013)

In The Matter Of:

FUMIYO SHIDA WITT, R.Ph.

4239 Shalbey Trail

Brunswick, Ohio 44212

(R.Ph. No. 03-3-24194)

INTRODUCTION

THE MATTER OF FUMIYO SHIDA WITT CAME FOR HEARING ON DECEMBER 9, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: DIANE C. ADELMAN, R.Ph. (presiding officer); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

FUMIYO SHIDA WITT WAS REPRESENTED BY RALPH E. BREITFELLER AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Lynn Mudra, State Board of Pharmacy

Respondent's Witnesses

1. Fumiyo Shida Witt, R.Ph., Respondent

State's Exhibits

1. Copy of Notice of Opportunity For Hearing letter [09-12-02]
1A-1G. Procedurals
2. Rx #C205127 [07-20-01]
- 2A. Copy of Cleveland Ohio Police Divisional Information Report of Detective Greg Whitney [03-07-02 to 03-12-02]
3. Rx #C209006 [09-13-01]

Respondent's Exhibits

- A. Resume of Fumiyo Witt

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 Board of Pharmacy indicate that Fumiyo Shida Witt was originally licensed by the State of Ohio as a pharmacist on July 14, 2000, pursuant to examination, and is currently licensed to practice pharmacy in Ohio. Records further reflect, during the relevant time periods stated herein, Fumiyo Shida Witt was the Responsible Pharmacist at Marc's Pharmacy pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Fumiyo Shida Witt did, on or about July 18, 2001, knowingly sell a controlled substance when such conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: when presented with prescription #C205127 that had obviously been forged, Fumiyo Shida Witt dispensed 60 Vicodin tablets that were not prescribed. The drug written on the prescription was "Vikadon". Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (3) Fumiyo Shida Witt did, on or about July 18, 2001, knowingly possess a false or forged prescription, to wit: when presented with prescription #C205127 that had obviously been forged, Fumiyo Shida Witt dispensed 60 Vicodin tablets that were not prescribed, and Fumiyo Shida Witt filed the prescription in the pharmacy records. The patient had written "Vikadon" on the prescription. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (4) Fumiyo Shida Witt did, on or about September 13, 2001, knowingly sell a controlled substance when such conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: when presented with prescription #C209006 that had obviously been forged, Fumiyo Shida Witt dispensed 60 hydrocodone 5 mg with acetaminophen 500 mg tablets when 15 had been prescribed. The patient had altered the numeric quantity from 15 to 60, in a different-colored ink, yet the alphabetically written quantity was not altered on the prescription. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (5) Fumiyo Shida Witt did, on or about September 13, 2001, knowingly possess a false or forged prescription, to wit: when presented with prescription #C209006 that had obviously been forged, Fumiyo Shida Witt dispensed 60 hydrocodone 5 mg with Acetaminophen 500 mg tablets when 15 had been prescribed. The patient had altered the numeric quantity from 15 to 60, in a different-colored ink, yet the alphabetically written quantity was not altered on the prescription. Fumiyo Shida Witt filed the prescription in the pharmacy records. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of

pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

- (2) The State Board of Pharmacy concludes that paragraphs (2) through (5) 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 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 Fumiyo Shida Witt as follows:

- (A) 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 imposes a monetary penalty of one thousand dollars (\$1,000.00) on Fumiyo Shida Witt and payment of the monetary penalty is due and owing within thirty days of the mailing of this Order. The remittance 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.
- (B) 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 places Fumiyo Shida Witt on probation for one year from the effective date of this Order with the following conditions:
 - (1) Fumiyo Shida Witt must personally attend a live program, within one year after the effective date of this Order, of at least three hours (0.3 CEUs) of Board-approved continuing pharmacy education in Jurisprudence. Documentation must be submitted to the Board office within sixty days of successful completion.
 - (2) Fumiyo Shida Witt must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (3) Fumiyo Shida Witt must abide by the rules of the State Board of Pharmacy.
 - (4) Fumiyo Shida Witt must comply with the terms of this Order.

Fumiyo Shida Witt 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-6/Nay-1).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE JANUARY 7, 2004