



# OHIO STATE BOARD OF PHARMACY

77 South High Street, 17th Floor; Columbus, Ohio 43266-0320

-Equal Opportunity Employer and Service Provider-

PHONE: 614/466-4143

FAX: 614/752-4836

E-MAIL: [bop\\_butler@ohio.gov](mailto:bop_butler@ohio.gov)

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

URL: <http://www.state.oh.us/ohio/pharmacy/>

---

## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-960214-039)

In The Matter Of:

**DOMINIC J. BARTONE, R.Ph.**

1130 Birchton Place  
Vandalia, Ohio 45377  
(R.Ph. No. 03-1-12108)

### INTRODUCTION

THE MATTER OF DOMINIC J. BARTONE CAME TO HEARING ON JUNE 27, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DOMINIC J. BARTONE WAS REPRESENTED BY BRADLEY HUMMEL AND MARK D. SENFF, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Dominic J. Bartone, Respondent
- (2) Sergeant Carl E. Plummer, Butler Township Police Department
- (3) Officer Robert Winkle, City of Vandalia Police Department
- (4) Frederick Williams, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Robert William Birch, Ph.D.
- (2) James M. Crowley, New Creations Counseling Center
- (3) Debra A. Bartone, Wife of Respondent
- (4) Daniel E. Callahan, D.P.M.
- (5) Dominic J. Bartone, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated February 14, 1996.
- (2) Exhibit 1A--Hearing Request letter dated February 21, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated February 23, 1996.
- (4) Exhibit 1C--Pharmacist File Front Sheet of Dominic J. Bartone showing original date of registration as August 10, 1977.
- (5) Exhibit 1D--Renewal Application for Pharmacist License, No. 03-1-12108, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Dominic J. Bartone dated July 3, 1995.
- (6) Exhibit 1E--Amendment Notice dated June 20, 1996.
- (7) Exhibit 2--Two-page certified copy of Butler Township Police Department Offense Report Form, Master No. 95326053, regarding Dominic J. Bartone dated November 22, 1995.
- (8) Exhibit 2A--Certified copy of Vandalia Municipal Court Complaint of Dominic J. Bartone dated November 22, 1995.
- (9) Exhibit 2B--Certified copy of Butler Township Police Department Pre-Interview Form of Dominic Bartone dated November 22, 1995.
- (10) Exhibit 2C--Certified copy of Butler Township Police Department Statement, Master No. 95-326-053, of Dom Bartone dated September (sic November) 22, 1995.
- (11) Exhibit 2D--Certified copy of Anna Local Schools Fax Transmission Sheet typewritten to Sgt. Plumber (sic Plummer) from Charlie Rhayn dated November 21, 1995.
- (12) Exhibit 2E--Certified copy of Anna Local Schools Fax Transmission Sheet handwritten to Sgt. Plumber (sic Plummer) from Charlie Rhayn dated November 21, 1995.
- (13) Exhibit 2F--Certified copy of page 2 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Bonnie Knasel regarding incident of November 21, 1995.
- (14) Exhibit 2G--Certified copy of page 3 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Austin Drewes regarding incident of November 21, 1995.
- (15) Exhibit 2H--Certified copy of page 4 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Renee Larger regarding incident of November 21, 1995.
- (16) Exhibit 2I--Certified copy of page 5 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Kelly Buehler regarding incident of November 21, 1995.
- (17) Exhibit 2J--Certified copy of page 6 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Cara Homan regarding incident of November 21, 1995.
- (18) Exhibit 2K--Certified copy of page 7 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Heather Buehler regarding incident of November 21, 1995.
- (19) Exhibit 2L--Certified copy of page 2 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Chelsea Rhyan regarding incident of November 21, 1995.
- (20) Exhibit 2M--Certified copy of Entry in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic J. Bartone dated June 16, 1986.

- (21) Exhibit 2N--Certified copy of Entry in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic J. Bartone dated from May 28, 1986, through June 16, 1986.
- (22) Exhibit 2O--Certified copy of Entry of Termination of Probation in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic Bartone dated February 13, 1987.
- (23) Exhibit 2P--Certified copy of Notice of Representation, Plea of Not Guilty, and Request for Pre-Trial in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic J. Bartone dated May 28, 1986.
- (24) Exhibit 2Q--Certified copy of Complaint in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic J. Bartone dated May 27, 1986.
- (25) Exhibit 2R--Three-page certified copy of City of Vandalia Incident Report, Master File No. 86-0839, regarding Dominic J. Bartone dated May 25, 1986.
- (26) Exhibit 2S--Two-page certified copy of LEADS/NCIC Dissemination report regarding Dominic J. Bartone dated November 21, 1995.
- (27) Exhibit 2T--Certified copy of letter from Charlie Rhyan dated November 27, 1995.
- (28) Exhibit 3--Certified copy of Vandalia Municipal Court Traffic/Criminal Docket, Case No. 95CRB03894, of Dominic J. Bartone.
- (29) Exhibit 4--Forty-six page transcript of interview of Dominic J. Bartone by Fred Williams and Bob Cole of the Ohio State Board of Pharmacy on January 23, 1996.
- (30) Exhibit 4A--Microcassette tape of Interview of Dominic J. Bartone by Fred Williams and Bob Cole of the Ohio State Board of Pharmacy on January 23, 1996.
- (31) Exhibit 5--Certified copy of Vandalia Municipal Court Traffic/Criminal Docket, Case No. 86CRB07199, of Dominic J. Bartone.

Respondent's Exhibits:

- (1) Exhibit A1--Letter from Christie E. Barron dated June 15, 1996.
- (2) Exhibit A2--Letter from Herbert A. Betts, not dated.
- (3) Exhibit A3--Letter from Ernest E. Boyd dated June 18, 1996.
- (4) Exhibit A4--Letter from Michael G. Comer dated June 17, 1996.
- (5) Exhibit A5--Letter from Mark A. Couch dated June 19, 1996.
- (6) Exhibit A6--Letter from James F. Courtright dated June 12, 1996.
- (7) Exhibit A7--Letter from Joseph A. and Jennie L. Dranschak dated June 17, 1996.
- (8) Exhibit A8--Letter from Susan K. Dunlop dated June 12, 1996.
- (9) Exhibit A9--Letter from Michael T. Gale dated June 11, 1996.
- (10) Exhibit A10--Letter from Marv and Peggy Goldschmidt dated June 8, 1996.
- (11) Exhibit A11--Letter from Robert H. Gridley dated June 17, 1996.
- (12) Exhibit A12--Letter from Ilse R. and Vincent E. Higgins, Jr. dated June 13, 1996.
- (13) Exhibit A13--Letter from Patricia A. Kaplan dated June 7, 1996.
- (14) Exhibit A14--Letter from George B. Kenworthy dated June 7, 1996.
- (15) Exhibit A15--Letter from Douglas L. Knight dated June 5, 1996.
- (16) Exhibit A16--Letter from Ann and Arthur Lobo, not dated.
- (17) Exhibit A17--Letter from Mrs. Sharon Lytle dated June 18, 1996.
- (18) Exhibit A18--Letter from Linda D. Manos dated June 8, 1996.
- (19) Exhibit A19--Letter from Robert D. Neef dated June 18, 1996.
- (20) Exhibit A20--Letter from Judy Parks dated June 4, 1996.
- (21) Exhibit A21--Letter from Don Riddle dated June 20, 1996.
- (22) Exhibit A22--Letter from Richard E. Schott dated June 12, 1996.
- (23) Exhibit A23--Letter from Eugene T. Shanahan dated June 5, 1996.
- (24) Exhibit A24--Letter from Carolyn Slaughter dated June 19, 1996.

- (25) Exhibit A25--Letter from Glen A. Snyder dated June 24, 1996.
- (26) Exhibit A26--Letter from Kenneth L. Smith dated June 5, 1996.
- (27) Exhibit A27--Two-page letter from Margo A. Steinbaugh dated June 15, 1996.
- (28) Exhibit A28--Letter from Pamela S. Sunderland dated June 20, 1996.
- (29) Exhibit A29--Letter from Leonard M. Tinney, not dated.
- (30) Exhibit A30--Letter from Glenn J. Unse dated June 6, 1996.
- (31) Exhibit A31--Letter from Thomas C. Volck dated June 17, 1996.
- (32) Exhibit A32--Letter from Andrew Wargo and Family, not dated.
- (33) Exhibit A33--Letter from Wayne K. Wright dated June 6, 1996.
- (34) Exhibit B1--Three-page Professional Resume of Robert W. Birch, Ph.D.
- (35) Exhibit B2--Copy of letter from Robert W. Birch dated April 8, 1996.
- (36) Exhibit B3--Copy of letter from Robert W. Birch dated December 21, 1995.
- (37) Exhibit C--Copy of letter from Stephen R. Guy, not dated.

#### FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Dominic J. Bartone was originally licensed in the state of Ohio on August 10, 1977, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Dominic J. Bartone was, on or about December 29, 1995, convicted in the Vandalia Municipal Court, Vandalia, Ohio, of one count of Public Indecency in violation of Section 2907.09 of the Ohio Revised Code, a misdemeanor of the third degree; to wit: Dominic J. Bartone was convicted after a plea of "no contest" to the following criminal charge:

. . . recklessly and under circumstances in which his conduct was likely to be viewed by and affront others not members of his household, expose his private parts or engage in masturbation, to wit: did follow a school bus with children on board, and proceeded to expose his private parts while driving, in full view of the children in the bus . . .

Dominic J. Bartone committed the above-described act while driving an automobile having the license plates reading "DOM RPH". Dominic J. Bartone was sentenced to pay a fine of \$250 plus court costs and 30 days incarceration (20 days of which were suspended upon conditions).

- (3) Dominic J. Bartone was, on or about June 16, 1986, convicted in the Vandalia Municipal Court, Vandalia, Ohio, of one count of Disorderly Conduct in violation of Section 509.03(A) of the Codified Ordinance of Vandalia, a misdemeanor of the fourth degree as amended from Public Indecency. Dominic J. Bartone was sentenced to pay a fine of \$100 plus court costs.

#### CONCLUSION OF LAW

- (1) 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 being guilty of gross immorality as provided in Division (A)(1) 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 Dominic J. Bartone:

- (A) On the basis of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby places the pharmacist identification card, No. 03-1-12108, held by Dominic J. Bartone on probation for five years effective as of the date of the mailing of this Order. The terms of probation are as follows:
  - (1) Dominic J. Bartone must continue rehabilitative counseling through August, 1997, and thereafter, abide by the treatment plan as recommended by the professional(s).
  - (2) Dominic J. Bartone must submit quarterly progress reports to the Board; due August 10; November 10; February 10; and May 10; of each year of probation, that include:
    - (a) Written reports and documentation provided by the counseling professional(s) including history of compliance and/or lack of compliance with the program, and the professional's opinion regarding Mr. Bartone's rehabilitation and recommended treatment plan; and
    - (b) Dominic J. Bartone must provide a written description of his progress towards recovery and what he has been doing during the previous three months.
  - (3) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Dominic J. Bartone's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
  - (4) Dominic J. Bartone must not violate the drug laws of the state of Ohio, any other state, or the federal government.
  - (5) Dominic J. Bartone must abide by the rules of the Ohio State Board of Pharmacy.
  - (6) Dominic J. Bartone must comply with the terms of this Order.

DOMINIC J. BARTONE, R.Ph.

Page 6

Order of the Board

(B) Dominic J. Bartone 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-7/Nay-0).

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.

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 Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED  
AND EFFECTIVE: AUGUST 9, 1996

CERTIFIED MAIL  
Return Receipt  
#Z 725 455 687

By:   
Franklin Z. Wickham, R.Ph., M.S.  
Executive Director

FZW/so

xc: Mary L. Hollern, Assistant Attorney General  
Bradley Hummel and Mark D. Senff, Attorneys for Respondent; Baker & Hostetler;  
Capitol Square, Suite 2100; 65 East State Street; Columbus, Ohio 43215-4260