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OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-930104-048)

In The Matter Of:

**RICHARD L. SHANELY, R.Ph.**  
No. 6 Marymont Drive  
Piqua, Ohio 45356  
(R.Ph. No. 03-2-06082)

INTRODUCTION

THE MATTER OF RICHARD L. SHANELY CAME TO HEARING ON OCTOBER 26, 1993, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, 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.

RICHARD L. SHANELY WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY GREGG THORNTON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Greg Berquist, Attorney General's Office, Bureau of Criminal Investigations
- (2) Dr. Ronald Manis
- (3) Teresa Meyer
- (4) Julie Donnelly

Respondent's Witnesses:

- (1) Richard L. Shanely, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Notice of Opportunity letter dated January 4, 1993.
- (2) Exhibit 1A - Notice of Appearance and Certificate of Service dated January 12, 1993, Request for Hearing and Certificate of Service dated January 12, 1993, and a copy of Notice of Opportunity letter in the matter of Richard L. Shanely dated January 4, 1993.
- (3) Exhibit 1B - Hearing Schedule letter dated January 14, 1993.
- (4) Exhibit 1C - Hearing Schedule letter dated April 14, 1993.
- (5) Exhibit 1D - Motion to Continue Hearing and Certificate of Service dated October 15, 1993; copy of letter from David W. Grauer dated August 24, 1993; and copy of Praecipe for Transcript to Court of Appeals in the Common Pleas Court of Miami County, Ohio, General Division, Case No. 92-CR-59 in the matter of Richard L. Shanely dated December 23, 1992.

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- (6) Exhibit 1E - Supplemental Motion to Continue Hearing and Certificate of Service dated October 22, 1993; copy of Motion to Continue Hearing and Certificate of Service dated October 15, 1993; copy of letter from David W. Grauer dated August 24, 1993; and copy of Praecipe for Transcript to Court of Appeals in the Common Pleas Court of Miami County, Ohio, General Division, Case No. 92-CR-59 in the matter of Richard L. Shanely dated December 23, 1992.
- (7) Exhibit 2 - Pharmacist File Front sheet of Richard Lee Shanely showing original date of registration as August 8, 1955, and Renewal Application for Pharmacist License, No. 03-2-06082, of Richard L. Shanely dated July 1, 1992.
- (8) Exhibit 3 - Letter from Jeffrey M. Welbaum, Prosecuting Attorney, Miami County, Ohio dated December 2, 1992; the Ohio State Board of Pharmacy, form PHA-0004, in the matter of Richard L. Shanely dated December 1, 1992; two-page certified Entry in the Common Pleas Court of Miami County, Ohio, General Division, Case No. 92CR59, in the matter of Richard L. Shanely dated November 5, 1992; and four-page certified Entry in the Common Pleas Court of Miami County, Ohio, General Division, Case No. 92CR59, in the matter of Richard L. Shanely dated November 30, 1992.
- (9) Exhibit 4 - Copy of Regional Narcotics Unit, Incident Report, Case No. 91-004708, regarding Richard L. Shanely dated April 9, 1991, with copies of twenty-two pages of attachments.
- (10) Exhibit 5 - Two-page copy of Piqua Memorial Medical Center, Patient Profile of Carolyn Shanely dated April 22, 1991.
- (11) Exhibit 6 - Seven-page copy of computerized prescription receipts of Carolyn Shanely dated from June 1, 1989, through February 20, 1991.
- (12) Exhibit 7 - Twenty-four handwriting exemplars of Richard L. Shanely.
- (13) Exhibit 8 - Copy of two-page memo from Robert A. Massie dated July 31, 1991.
- (14) Exhibit 9 - Copy of sixteen pages of medical records from Dr. Ronald Manis regarding patient Carolyn Shanely.
- (15) Exhibit 10 - Copy of Piqua Memorial Medical Center, Patient Profile of Richard L. Shanely dated April 22, 1991.
- (16) Exhibit 23 - Fifty-page transcript of Hearing, Motion to Dismiss, held October 19, 1992, in the Common Pleas Court of Miami County, Ohio, General Division, Case No. 92CR59, in the matter of Richard L. Shanely.
- (17) Exhibit 24 - Forty-four-page transcript of Testimony Only on Second Day of Motion to Dismiss held October 22, 1992, in the Common Pleas Court of Miami County, Ohio, General Division, Case No. 92CR59, in the matter of Richard L. Shanely.

Respondent's Exhibits:

- (1) Exhibit A - Copy of letter from Tom Patton dated October 25, 1993.
- (2) Exhibit B - Two-page copy of letter from Robert C. Carter dated June 18, 1993.
- (3) Exhibit C - Letter from Paul P. Gutmann dated October 21, 1993.
- (4) Exhibit D - Pages 326 through 337 of an unknown transcript.
- (5) Exhibit E - Three-page Curriculum Vitae of Richard L. Shanely, 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:

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- (1) Records of the Board of Pharmacy indicate that Richard L. Shanely was originally licensed in the state of Ohio on August 8, 1955, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Richard L. Shanely was, on or about October 30, 1992, convicted in the Common Pleas Court of Miami County, Ohio, of forgery in violation of Section 2913.31(A) of the Ohio Revised Code, a felony of the fourth degree; of Insurance Fraud in violation of Section 2913.47(B) of the Ohio Revised Code, a felony of the fourth degree; and, of Theft in violation of Section 2913.02 of the Ohio Revised Code, a misdemeanor of the first degree.
- (3) Richard L. Shanely did, on or about the following dates, knowingly make and/or utter a false or forged prescription, to wit: Richard L. Shanely created the following false or forged prescriptions for dangerous drugs:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>	<u>Refills</u>
PQ-65	07/17/89	Ethchlorvynol 500mg	20	0
PQ-66	07/17/89	Cephalexin 500mg	30	0
PQ-1026	12/11/90	Placidyl 500mg	60	0
PQ-1071	01/10/91	Ansaid 100mg	45	3
PQ-1123	02/20/91	Zantac 150mg	60	6

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

CONCLUSIONS 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 a felony 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 (2) and (3) 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 paragraph (2) of the Findings of Fact constitutes being convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code.
- (4) 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 willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Chapters 2925., 3719., or 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

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ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby places the identification card, No. 03-2-06082, held by Richard L. Shanely on probation for five years effective as of the date of the mailing of this Order. The terms of probation are as follows:

- (1) Richard L. Shanely must not violate the drug laws of the state of Ohio, any other state, or the federal government;
- (2) Richard L. Shanely must abide by the rules of the State Board of Pharmacy; and
- (3) Richard L. Shanely must comply with the terms of this Order and 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.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Richard L. Shanely's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns for a period of five years.

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

MOTION CARRIED.

SO ORDERED.