



# 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](mailto:exec@bop.state.oh.us)

FAX: 614/752-4836

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

[www.pharmacy.ohio.gov](http://www.pharmacy.ohio.gov)

---

## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-980209-038)

In The Matter Of:

**SANFORD P. HORVAT, R.Ph.**  
1288 Giesse Drive  
Mayfield Heights, Ohio 44124  
(R.Ph. No. 03-2-07604)

### INTRODUCTION

THE MATTER OF SANFORD P. HORVAT CAME TO HEARING ON MAY 4, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

SANFORD P. HORVAT WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Lynn Mudra, Ohio State Board of Pharmacy
- (2) Timothy J. Benedict, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Sanford P. Horvat, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of nine-page Notice of Opportunity for Hearing letter dated February 9, 1998.
- (2) Exhibit 1A--Notice of Appearance in the Matter of Sanford P. Horvat and Certificate of Service dated February 24, 1998; and Request for Hearing and Certificate of Service dated February 24, 1998.

- (3) Exhibit 1B--Copy of Hearing Schedule letter dated February 24, 1998.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated February 26, 1998.
- (5) Exhibit 1D--Copy of Pharmacist File Front Sheet of Sanford Phillip Horvat showing original date of registration as February 16, 1962; and two-page copy of Renewal Application for Pharmacist License, No. 03-2-07604, for a license to practice pharmacy in Ohio from September 15, 1997, to September 15, 1998, of Sanford P. Horvat dated July 22, 1997.
- (6) Exhibit 2--Copy of RA Discount Pharmacy Customer History Report of Rose Alexander dated from January 1, 1996, to October 21, 1997.
- (7) Exhibit 2A--Prescription number 22268.
- (8) Exhibit 3--Copy of RA Discount Pharmacy Customer History Report of Janell Bannister dated from January 1, 1996, to October 21, 1997.
- (9) Exhibit 3A--Prescription number 34641.
- (10) Exhibit 4--Copy of RA Discount Pharmacy Customer History Report of Charlene Blair dated from January 1, 1996, to October 21, 1997.
- (11) Exhibit 4A--Prescription number 0301437425.
- (12) Exhibit 4B--Prescription number 030149000246.
- (13) Exhibit 4C--Prescription number 0301440167.
- (14) Exhibit 5--Copy of RA Discount Pharmacy Customer History Report of Gwendolyn Brown dated from January 1, 1996, to October 21, 1997.
- (15) Exhibit 5A--Prescription number 23349.
- (16) Exhibit 6--Copy of RA Discount Pharmacy Customer History Report of Margret Burkett dated from January 1, 1996, to October 21, 1997.
- (17) Exhibit 6A--Prescription number 19425.
- (18) Exhibit 7--Copy of RA Discount Pharmacy Customer History Report of Ann Marie Cigoi dated from January 1, 1996, to October 21, 1997.
- (19) Exhibit 7A--Prescription number 0301437865.
- (20) Exhibit 7B--Prescription number 0301438825.
- (21) Exhibit 7C--Prescription number 0301440338.
- (22) Exhibit 7D--Prescription number 0301441352.
- (23) Exhibit 8--Copy of RA Discount Pharmacy Customer History Report of Linda Dea dated from January 1, 1996, to October 21, 1997.
- (24) Exhibit 8A--Prescription number 22082.
- (25) Exhibit 9--Copy of RA Discount Pharmacy Customer History Report of Marilyn Harp dated from January 1, 1996, to October 21, 1997.
- (26) Exhibit 9A--Prescription number 0301440857.
- (27) Exhibit 10--Copy of RA Discount Pharmacy Customer History Report of Val Jackson dated from January 1, 1996, to October 21, 1997.
- (28) Exhibit 10A--Prescription number 32157.
- (29) Exhibit 10B--Prescription number 34957.
- (30) Exhibit 11--Copy of RA Discount Pharmacy Customer History Report of Diana A. Gornick dated from January 1, 1996, to October 21, 1997.
- (31) Exhibit 11A--Prescription number 23766.
- (32) Exhibit 11B--Prescription number 26853.
- (33) Exhibit 12--Copy of RA Discount Pharmacy Customer History Report of Antoinette McCall dated from January 1, 1996, to October 21, 1997.
- (34) Exhibit 12A--Prescription number 0301437726.
- (35) Exhibit 13--Copy of RA Discount Pharmacy Customer History Report of Pamela McDaniel dated from January 1, 1996, to October 21, 1997.
- (36) Exhibit 13A--Prescription number 27769.
- (37) Exhibit 13B--Prescription number 29839.
- (38) Exhibit 13C--Prescription number 31539.
- (39) Exhibit 13D--Prescription number 32506.

- (40) Exhibit 14--Copy of RA Discount Pharmacy Customer History Report of Beverly Novak dated from January 1, 1996, to October 21, 1997.
- (41) Exhibit 14A--Prescription number 23089.
- (42) Exhibit 14B--Prescription number 23975.
- (43) Exhibit 14C--Prescription number 26158.
- (44) Exhibit 14D--Prescription number 27638.
- (45) Exhibit 14E--Prescription number 28292.
- (46) Exhibit 15--Copy of RA Discount Pharmacy Customer History Report of Valerie O'Brien dated from January 1, 1996, to October 21, 1997.
- (47) Exhibit 15A--Prescription number 0301437418.
- (48) Exhibit 16--Copy of RA Discount Pharmacy Customer History Report of Mary Jane Shiever dated from January 1, 1996, to October 21, 1997.
- (49) Exhibit 16A--Prescription number 19711.
- (50) Exhibit 16B--Prescription number 20547.
- (51) Exhibit 16C--Prescription number 21167.
- (52) Exhibit 16D--Prescription number 29214.
- (53) Exhibit 16E--Prescription number 29928.
- (54) Exhibit 16F--Prescription number 32397.
- (55) Exhibit 16G--Prescription number 33122.
- (56) Exhibit 16H--Prescription number 33812.
- (57) Exhibit 16I--Prescription number 34658.
- (58) Exhibit 16J--Prescription number 0301435314.
- (59) Exhibit 16K--Prescription number 0301436008.
- (60) Exhibit 17--Copy of RA Discount Pharmacy Customer History Report of Ken Simon dated from January 1, 1996, to October 21, 1997.
- (61) Exhibit 17A--Prescription number 28970.
- (62) Exhibit 18--Copy of RA Discount Pharmacy Customer History Report of Denise Slomovitz dated from January 1, 1996, to October 21, 1997.
- (63) Exhibit 18A--Prescription number 32598.
- (64) Exhibit 18B--Prescription number 33693.
- (65) Exhibit 18C--Prescription number 34827.
- (66) Exhibit 18D--Prescription number 0301436398.
- (67) Exhibit 18E--Prescription number 0301437472.
- (68) Exhibit 19--Copy of RA Discount Pharmacy Customer History Report of Candy Stelmarski dated from January 1, 1996, to October 21, 1997.
- (69) Exhibit 19A--Prescription number 0301436785.
- (70) Exhibit 19B--Prescription number 0301439997.
- (71) Exhibit 20--Copy of RA Discount Pharmacy Customer History Report of Paula Spruill dated from January 1, 1996, to October 21, 1997.
- (72) Exhibit 20A--Prescription number 27372.
- (73) Exhibit 21--Copy of RA Discount Pharmacy Customer History Report of Elizabeth Stewart dated from January 1, 1996, to October 21, 1997.
- (74) Exhibit 21A--Prescription number 33179.
- (75) Exhibit 22--RA Discount Pharmacy Customer History Report of Faye Stewart dated from January 1, 1996, to October 21, 1997.
- (76) Exhibit 22A--Prescription number 28003.
- (77) Exhibit 23--Copy of package insert for Adipex-P (phentermine HCl 37.5mg) manufactured by Gate Pharmaceuticals, Rev. C 3/94.
- (78) Exhibit 24--Copies of fourteen pages of pertinent articles of the Ohio State Board of Pharmacy News dated February, 1987; February, 1992; November 1995; and August, 1996, regarding controlled substances used for weight reduction; and copy of Ohio State Board of Pharmacy Compliance Bulletin 96-003 dated June 17, 1996.
- (79) Exhibit 25--Copy of page 990 of the Physicians' Desk Reference.

- (80) Exhibit 26--Copy of page 1048 of the Physicians' Desk Reference.
- (81) Exhibit 27--Copy of pages 2607 and 2608 of the Physicians' Desk Reference.

Respondent's Exhibits:

- (1) Exhibit D--Letter from Leonard G. Katz dated April 28, 1998.
- (2) Exhibit E--Letter from Sanford J. Sherman dated April 29, 1998.
- (3) Exhibit F--Letter from Helen A. Lentz, not dated.
- (4) Exhibit G--Letter from Richard L. Fitch dated April 27, 1998.
- (5) Exhibit H--Letter from Jean Anne Chaney dated May 1, 1998.
- (6) Exhibit I--Letter from Paul J. Timco dated April 15, 1998.
- (7) Exhibit J--Letter from Reverend John D. Terzano dated April 30, 1998.

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 Sanford P. Horvat was originally licensed in the state of Ohio on February 16, 1962, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Records further reflect that Sanford P. Horvat is the Responsible Pharmacist at Rite Aid Discount Pharmacy #3014 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Sanford P. Horvat did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Sanford P. Horvat sold 28 unit doses of Adipex-P 37.5mg for diet to patient #6 pursuant to the following prescriptions which were not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx No.</u>	<u>Written</u>	<u>Filled</u>	<u>Drug</u>
37865	01/02/97	01/02/97	Adipex-P 37.5mg
38825	01/16/97	01/21/97	Adipex-P 37.5mg
40338	02/18/97	02/18/97	Adipex-P 37.5mg
41352	03/04/97	03/08/97	Adipex-P 37.5mg

Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.

- (3) Sanford P. Horvat did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Sanford P. Horvat sold 28 unit doses of Adipex-P 37.5mg for diet to patient #13 pursuant to the following prescriptions which were not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx No.</u>	<u>Written</u>	<u>Filled</u>	<u>Drug</u>
23089	03/12/96	03/12/96	Adipex-P 37.5mg
23975	03/26/96	03/28/96	Adipex-P 37.5mg
26158	05/11/96	05/11/96	Adipex-P 37.5mg
27638	06/08/96	06/08/96	Adipex-P 37.5mg
28292	06/22/96	06/22/96	Adipex-P 37.5mg

Such conduct is in violation of Section 2925.03(A) 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 unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) 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 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.

#### 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 Sanford P. Horvat:

- (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 places the pharmacist identification card, No. 03-2-07604, of Sanford P. Horvat on probation for two years, effective as of the date of the mailing of this Order. The terms of probation are as follows:
  - (1) Sanford P. Horvat must not violate the drug laws of the state of Ohio, any other state, or the federal government.
  - (2) Sanford P. Horvat must abide by the rules of the Ohio State Board of Pharmacy.
  - (3) Sanford P. Horvat must comply with the terms of this Order.

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.

- (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 imposes a monetary penalty of five hundred dollars (\$500.00) due and owing within thirty days of the issuance of this Order. The monetary penalty 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, 17th Floor, Columbus, Ohio 43266-0320.

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

MOTION CARRIED.

SO ORDERED.