



# 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

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

---

## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010109-034)

In The Matter Of:

**RICHARD E. HART, R.Ph.**  
1271 Old Oxford Road  
Hamilton, Ohio 45013  
(R.Ph. No. 03-2-08617)

### INTRODUCTION

THE MATTER OF RICHARD E. HART CAME FOR HEARING ON AUGUST 7, 2001, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

RICHARD E. HART WAS NOT PRESENT NOR REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Michael Cluxton, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Summary Suspension Order/Notice of Opportunity for Hearing letter dated January 9, 2001.
- (2) Exhibit 1A--Hearing Request letter dated January 30, 2001.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated February 5, 2001.
- (4) Exhibit 1C--Copy of letter to Clayton G. Napier, Esq. from David L. Rowland dated July 17, 2001.

- (5) Exhibit 1D--Copy of Ohio Pharmacist computer record of Richard Edward Hart.
- (6) Exhibit 2--Copy of five-page Order of the State Board of Pharmacy, Docket No. D-920213-124 in the matter of Richard Edward Hart, R.Ph. dated August 11, 1992.
- (7) Exhibit 3--Copy of three-page Order of the State Board of Pharmacy, Docket No. D-930601-090 in the matter of Richard Edward Hart, R.Ph. February 14, 1994.
- (8) Exhibit 4--Copy of three-page Preble Co. Sheriff's Office Incident Report #00-022910 made by Detective Frank R. Ford dated January 24, 2001.
- (9) Exhibit 5--Copy of three-page transcript of a phone conversation of Richard Hart dated December 3, 2000.
- (10) Exhibit 6--Copy of five-page transcript of a Statement given to Detective Frank Ford dated December 3, 2000.
- (11) Exhibit 7--Copy of Miami Valley Regional Crime Laboratory Report by Gary R. Shaffer for Laboratory Case No. 00-017545 dated December 27, 2000, and copy of Affidavit of Gary R. Shaffer, Forensic Chemist, Miami Valley Regional Crime Laboratory notarized on December 28, 2000.
- (12) Exhibit 8--Copy of six-page transcript of C.I. to Richard Hart dated December 14, 2000.
- (13) Exhibit 9--Copy of three-page transcript of Taped Statement given to Detective Frank Ford dated December 15, 2000.
- (14) Exhibit 10--Copy of nine pages of Preble County Common Pleas Court records for State of Ohio vs. Richard Hart, Case No. 00CR008442, as follows: two-page Indictment filed January 8, 2001; two-page Waiver filed May 30, 2001; Entry filed May 30, 2001; Judgment filed May 30, 2001; and three-page Entry filed June 4, 2001.
- (15) Exhibit 11--Two-page letter from Rebecca J. Ferguson, Preble County Prosecuting Attorney, dated June 5, 2001.
- (16) Exhibit 12--Letter from Clayton G. Napier and Richard E. Hart dated June 6, 2001.

Respondent's Exhibits:

- (1) None

#### FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, 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 Richard E. Hart was originally licensed in the state of Ohio on August 16, 1966, pursuant to examination, and that his license to practice pharmacy in the state of Ohio was summarily suspended effective January 9, 2001. Records further reflect that Richard E. Hart has had previous disciplinary action by the Board for having committed the following acts: knowingly obtained, possessed, or used a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731 of the Ohio Revised Code, to wit: Richard E. Hart was charged and arrested for operating a motor vehicle while under the influence of drugs; Richard E. Hart's urine specimen tested positive for Cocaine and Meperidine.
- (2) Richard E. Hart did, on or about December 3, 2000, knowingly sell a controlled substance in an amount less than the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Richard E. Hart gave forty-nine tablets of Xanax, a Schedule IV controlled substance, to his client from his law practice without a prescription and not for a legitimate

medical purpose. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (3) Richard E. Hart did, on or about December 15, 2000, knowingly sell a controlled substance in an amount less than the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Richard E. Hart gave one hundred tablets of Xanax, a Schedule IV controlled substance, to his client from his law practice without a prescription and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

- (1) 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.
- (2) 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) 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., 3719., or 4729. 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Richard E. Hart on January 9, 2001.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Richard E. Hart:

- (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 revokes the pharmacist identification card, No. 03-2-08617, held by Richard E. Hart 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 set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-08617, held by Richard E. Hart 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 set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-08617, held by Richard E. Hart effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Richard E. Hart must return the identification card and license (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.

MOTION CARRIED.

SO ORDERED.