

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-010208-039)

In The Matter Of:

**ROBERT J. GARRITY, R.Ph.**

1196 Summit Avenue  
Lakewood, Ohio 44107  
(R.Ph. No. 03-2-22864)

**INTRODUCTION**

THE MATTER OF ROBERT J. GARRITY CAME FOR HEARING ON APRIL 8, 2002, 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.

ROBERT J. GARRITY WAS REPRESENTED BY JOHN A. FATICA AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

**SUMMARY OF EVIDENCE**

State's Witnesses:

1. James Reye, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Todd Jaros, R.Ph.
2. Michael Quigley, R.Ph.
3. Robert Garrity, R.Ph., Respondent

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [02-08-01]  
1A-1E. Procedurals
2. Copy of Board of Pharmacy Order [07-17-97]  
2A. Copy of Board of Pharmacy Order [07-16-98]
3. Summa Health System Toxicology Laboratory Report [02-07-01]
4. Photograph of drugs/syringe on Robert J. Garrity at time of arrest
5. Photograph of syringe on Robert J. Garrity at time of arrest
6. Bill of Information, State of Ohio vs. Robert J. Garrity, Case No. 406023, Cuyahoga County Common Pleas Court - Five counts of Theft of Drugs, R.C. 2913.02 [04-18-01]
7. Change of Plea, State of Ohio vs. Robert J. Garrity, Case No. 406023, Cuyahoga County Common Pleas Court [07-05-01]
8. Sentencing Entry, State of Ohio vs. Robert J. Garrity, Case No. 406023, Cuyahoga County Common Pleas Court [09-07-01]
9. Shock Probation Entry, State of Ohio vs. Robert J. Garrity, Case No. 406023, Cuyahoga County Common Pleas Court [12-28-01]

10. Statement by Kebebew A. Aboye, R.Ph. [03-02-01]
11. Daily Count of Ritalin 20mg Tablets report [12-22-00 to 01-31-01]
12. Daily Count of Dilaudid 4mg Tablets report [12-22-00 to 01-31-01]
13. Daily Computer Reports for CVS #3340 [12-23-00]
14. Daily Count of Adderall 30mg Tablets report [12-22-00 to 01-31-01]
15. Daily Computer Reports for CVS #3340 [01-21-01]
16. Daily Computer Reports for CVS #3340 [01-23-01]
17. Daily Computer Reports for CVS #3340 [01-26-01]
18. Daily Computer Reports for CVS #3340 [01-29-01]
19. Statement of Carrie Rini [02-12-01]
20. Statement of Lorraine Thomay [02-01-01]
21. Identidex Imprint Identification Sheet for Ativan tablet 0.5mg [02-06-01]
22. Identidex Imprint Identification Sheet for Carisoprodol tablet 350mg [02-06-01]
23. Daily Computer Reports for CVS #3340 [01-31-01]
24. Offense Report, Freeport Police Department (Illinois) [02-24-87] and Summary of Analytical Findings from the Illinois State Police Forensic Science Laboratory [05-05-87]
25. Complaint, Sentencing Order, and Court Record, State of Illinois vs. Robert J. Garrity, Case No. 87-CF-87, Fifteenth Judicial Circuit Court, Stephenson County, Illinois for Unlawful Possession of Controlled Substances [05-21-87 to 10-12-89]
26. Offense Report, Freeport Police Department, Freeport, IL; Statement of Constitutional Rights and Waiver; Freeport Police Dept. Supplementary Report [07-04-95]; and Summary of Analytical Findings from the Illinois State Police Forensic Science Laboratory [09-08-95]
27. Complaint, Docket Sheets, and Sentencing Order, State of Illinois vs. Robert J. Garrity, Case No. 95-CF-255, Fifteenth Judicial Circuit Court, Stephenson County, Illinois for Unlawful Possession of Controlled Substances [07-05-95 to 04-07-98]
28. Consent Order, Illinois Department of Professional Regulation vs. Robert J. Garrity, Case No. 95-3410-LEG [03-21-96]
29. NABP Official Application for Transfer of Pharmaceuetic Licensure to the state of Ohio [01-03-97]
30. Letter from Respondent to the Ohio Board of Pharmacy [03-04-97]

**Respondent's Exhibits:**

- A. Cover letter and copy of restitution check to CVS/pharmacy [02/18/02]
- B. Letters from Terry Luria, MA, LSW, CCDC III-E [5/7/02] and Katherine H. Heim, CCDC III-E [02/08/01]
- C. PRO Pharmacist's Recovery Contract for Robert J. Garrity [01/23/02]; OLAP'S Lawyers Support System Recovery Contract. for Robert J. Garrity [04/30/01]
- D. Support Groups Attendance Records [02-02-01 to 04-07-02]
- E. Urine drug screen reports [03-20-02, 04-05-02]
- F. Letters of support for Robert J. Garrity from David Merk; Elizabeth M. Hartranft; Robert J. Dougherty; J. Gary Ressa, RN/RC; Charles Broussard, R.Ph., M.Ed.; and Scott Scheeff [03-24-02 to 04-04-02]
- G. "Food For Thought", Newsletter of the Cleveland Foodbank [July 2001] and Certificates of Appreciation [01-07-02 to 03-29-02]
- H. Continuing Pharmaceutical Education Certificates [04-19-01 to 04-04-02]

### 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 Ohio State Board of Pharmacy indicate that Robert J. Garrity was originally licensed by the State of Ohio on August 4, 1998, pursuant to reciprocity, and that his license to practice pharmacy in the state of Ohio was summarily suspended effective February 8, 2001. Robert J. Garrity's license to practice pharmacy in the state of Ohio was placed on probation for a period of five years effective August 4, 1998, pursuant to the provisions of Section 4729.16 of the Ohio Revised Code. The terms of probation included that Robert J. Garrity not abuse drugs.

(2) Robert J. Garrity is addicted to the use of controlled substances, to wit: Robert J. Garrity admitted to the Board that he is addicted to controlled substances; Robert J. Garrity was found by the Board to be addicted to controlled substances; and, Robert J. Garrity did recently steal and abuse controlled substances. Such conduct indicates that Robert J. Garrity is addicted to the use of controlled substances within the meaning of Sections 3719.121 and 4729.16 of the Ohio Revised Code.

(3) Robert J. Garrity did, from December 22, 2000, through December 26, 2000, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole 38 tablets of Dilaudid 4mg and 15 tablets of Ritalin 20mg, Schedule II controlled substances, for Robert J. Garrity's personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(4) Robert J. Garrity did, on or about January 21, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole one tablet of Adderall 30mg, a Schedule II controlled substance, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(5) Robert J. Garrity did, on or about January 23, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole one tablet of Adderall 30mg and four tablets of Dilaudid 4mg, Schedule II controlled substances, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(6) Robert J. Garrity did, on or about January 26, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole four tablets of Dilaudid 4mg, a Schedule II controlled substance, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(7) Robert J. Garrity did, on or about January 29, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole three tablets of Dilaudid 4mg, a Schedule II controlled substance, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(8) Robert J. Garrity did, on or about January 29, 2001, knowingly use a controlled substance without having a prescription for the drug and without a legitimate medical use, to wit: Robert J. Garrity injected Dilaudid 4mg, a Schedule II controlled substance, while Mr. Garrity was practicing pharmacy. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

(9) Robert J. Garrity did, on or about January 31, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole 37 tablets of Lorazepam 0.5mg, a Schedule IV controlled substance, one tablet of Dilaudid 4mg, a Schedule II controlled substance, and one tablet of Carisoprodol 350mg, a dangerous drug, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(10) Robert J. Garrity did, on or about January 31, 2001, knowingly use a controlled substance without having a prescription for the drug and without a legitimate medical use, to wit: Robert J. Garrity injected Dilaudid, a Schedule II controlled substance, while Mr. Garrity was practicing pharmacy. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

(11) Robert J. Garrity did, on or about January 31, 2001, possess for use, and/or use, drug paraphernalia, to wit: Robert J. Garrity possessed and retained a syringe for use for injecting himself with Dilaudid, a Schedule II controlled substance. Such conduct is in violation of Section 2925.14 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (3) through (11) of the Findings of Fact constitute being guilty of a felony and 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 (3) through (11) 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 paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

(4) The State Board of Pharmacy concludes that paragraphs (8), (10), and (11) 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Robert J. Garrity on February 8, 2001.

Upon consideration of the record as a whole, the State Board of Pharmacy takes the following actions pursuant to Section 4729.16 of the Ohio Revised Code in the matter of Robert J. Garrity:

(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. 03-2-22864, held by Robert J. Garrity 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. 03-2-22864, held by Robert J. Garrity 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. 03-2-22864, held by Robert J. Garrity effective as of the date of the mailing of this Order.

(D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-22864, held by Robert J. Garrity effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Robert J. Garrity 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 (Aye-6/Nay-2).  
MOTION CARRIED.  
SO ORDERED.

ORDER EFFECTIVE MAY 13, 2002

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

February 8, 2001

**Robert Garrity, R.Ph.**  
1196 Summit Avenue  
Lakewood, Ohio 44107

Re: Ohio Registered Pharmacist  
Number 03-2-22864

Dear Mr. Garrity:

In accordance with Section 3719.121(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. Further, in accordance with Section 3719.121(B) of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the continuation of your professional practice presents a danger of immediate and serious harm to others. The reasons for the Board's action are that you have committed any and/or all of the following acts:

- (1) Records of the Ohio State Board of Pharmacy indicate that you were originally licensed in the State of Ohio on August 4, 1998, pursuant to reciprocity, and are currently licensed to practice pharmacy in the State of Ohio. Your license to practice pharmacy in the State of Ohio was placed on probation for a period of five years on August 4, 1998, pursuant to the provisions of Section 4729.16 of the Ohio Revised Code. The terms of probation included that you not abuse drugs.
- (2) You are addicted to the use of controlled substances, to wit: you have admitted to the Board that you are addicted to controlled substances; you have been found by the Board to be addicted to controlled substances; and, you have recently been stealing and abusing controlled substances. Such conduct indicates that you are addicted to the use of controlled substances within the meaning of Sections 3719.121 and 4729.16 of the Ohio Revised Code.
- (3) You did, from December 7, 2000, through December 22, 2000, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: you stole thirty-eight (38) tablets of Dilaudid 4mg, a schedule II controlled substance, for your personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) You did, from December 22, 2000, through December 26, 2000, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: you stole twenty-six (26) tablets of Dilaudid 4mg and fifteen (15) tablets of Ritalin 20mg, schedule II controlled substances, for your personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) You did, on or about December 27, 2000, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: you stole twelve (12) tablets of Dilaudid 4mg, a schedule II controlled substance, for your personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) You did, on or about January 21, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: you stole one (1) tablet of Adderall 30mg, a schedule II controlled substance, for your personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) You did, on or about January 23, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: you stole one (1) tablet of Adderall 30mg and four (4) tablets of Dilaudid 4mg, schedule II controlled substances, for your personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (8) You did, on or about January 26, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: you stole four (4) tablets of Dilaudid 4mg, a schedule II controlled substance, for your personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (9) You did, on or about January 29, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: you stole three (3) tablets of Dilaudid 4mg, a schedule II controlled substance, for your personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (10) You did, on or about January 29, 2001, knowingly use a controlled substance without having a prescription for the drug and without a legitimate medical use, to wit: you injected Dilaudid, a schedule II controlled substance, while you were practicing pharmacy. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (11) You did, on or about January 31, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: you stole thirty-seven (37) tablets of Lorazepam 0.5mg, a schedule IV controlled substance, one (1) tablet of Dilaudid 4mg, a schedule II controlled substance, and one (1) tablet of Carisoprodol 350mg, a dangerous drug, for your personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (12) You did, on or about January 31, 2001, knowingly use a controlled substance without having a prescription for the drug and without a legitimate medical use, to wit: you injected Dilaudid, a schedule II controlled substance, while you were practicing pharmacy. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (13) You did, on or about January 31, 2001, possess for use, and/or use, drug paraphernalia, to wit: you possessed and retained a syringe for use for injecting yourself with Dilaudid, a schedule II controlled substance. Such conduct is in violation of Section 2925.14 of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: "any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person's license, certificate, or registration..."

YOU ARE HEREBY NOTIFIED that Section 3719.121(B) of the Ohio Revised Code states, in pertinent part:

(B) If the board under which a person has been issued a license, determines that there is clear and convincing evidence that continuation of the person's professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others, the board may suspend the person's license, without a prior hearing.

WHEREFORE, PURSUANT TO SECTIONS 3719.121(A) and (B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing has been held pursuant to Chapter 119. of the Revised Code, and a final Order has been issued, during which time you may not engage in the practice of pharmacy.

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states, in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;

(3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;

(4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;

(5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 or Chapter 2925. or 3719. of the Revised Code;

(6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;

(7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;

(8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;

(9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code.

IF YOU REQUEST A HEARING within 30 days of the time of the mailing of this notice, such will be afforded. Such request shall be mailed to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

(D-010208-039)

BY ORDER OF THE STATE BOARD OF PHARMACY

**SUMMARY SUSPENSION EFFECTIVE FEBRUARY 8, 2001**

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.  
(Order Effective May 13, 2002)*

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-980326-051)

In The Matter Of:

**ROBERT JAMES GARRITY**  
1196 Summit Avenue  
Lakewood, Ohio 44107  
(D.O.B. 11/22/1959)

INTRODUCTION

THE MATTER OF ROBERT JAMES GARRITY CAME TO HEARING ON JUNE 10, 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.; AND SUZANNE L. NEUBER, R.Ph.

ROBERT JAMES GARRITY WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Robert James Garrity, Respondent

Respondent's Witnesses:

- (1) Harold Schwartz, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (2) Wayne C. Miller, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (3) Charles Broussard, R.Ph., Pharmacists Rehabilitation Organization, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Proposal to Deny/Notice of Opportunity for Hearing letter dated March 26, 1998.
- (2) Exhibit 1A--Hearing Request letter dated March 31, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated April 3, 1998.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated May 1, 1998.
- (5) Exhibit 2--Four-page National Association of Boards of Pharmacy Official Application For Transfer Of Pharmaceutic Licensure to the state of Ohio of Robert James Garrity dated February 26, 1998.
- (6) Exhibit 3--Copy of five-page Order of the State Board of Pharmacy in the matter of Robert J. Garrity, Docket No. D-970228-031, dated July 17, 1997.
- (7) Exhibit 4--Copy of five-page Consent Order, State of Illinois Department of Professional Regulation v. Robert J. Garrity, No. 95-3410-LEG, dated March 21, 1996.

## Respondent's Exhibits:

- (1) Exhibit A--Copies of twenty-nine pages of AA/NA Attendance Verification sheets of Robert J. Garrity dated from September 30, 1995, through June 8, 1998.
- (2) Exhibit B--Copies of twenty-three pages of urine drug screens and/or related documentation of Robert Garrity dated from March 6, 1996, through June 5, 1998.
- (3) Exhibit C--Copy of two-page Pharmacists Rehabilitation Organization Pharmacist's Recovery Contract of Robert J. Garrity dated June 19, 1997; copy of letter from William X. Haase dated April 20, 1998; copy of two-page Illinois Pharmacist Recovery Program Pharmacist Recovery Contract of Robert J. Garrity dated September 29, 1995; copy of letter from Philip Caravello dated May 17, 1996; copy of Continuing Care Contract of Robert J. Garrity dated July 24, 1995; copy of State of Illinois Department of Professional Regulation v. Robert J. Garrity, Notice, No. 95-3410, dated March 21, 1996; copy of five-page Consent Order, No. 95-3410-LEG, from the State of Illinois Department of Professional Regulation v. Robert J. Garrity dated March 21, 1996; copy of Order of Discharge in the Circuit Court of the 15th Judicial Circuit, Stephenson County, State of Illinois, People of the State of Illinois vs. Robert J. Garrity, Case No. 95 CF 255, dated April 3, 1998; copy of two-page Sentencing Order in the Circuit Court of the 15th Judicial Circuit, Stephenson County, Illinois, People of the State of Illinois vs. Robert J. Garrity, Case No. 95CF255, dated October 2, 1995; and copy of State of Illinois, Department of Professional Regulation Registered Pharmacist License, No. 0051-034443, expiration date March 31, 2000.
- (4) Exhibit D--Copy of Certificate of Appreciation of Bob G. from West Park Group dated March 10, 1998; copy of Christian Legal Society good standing membership certificate of Bob Garrity for the year 1998; copy of Certificate of Appreciation of Bob G. from Lakewood Non-Smokers dated April 23, 1997; copy of Certificate of Appreciation of Bob Garrity from Orchard Grove dated March 31, 1997; copy of Certificate of Appreciation of Bob G. from Perpetual Help dated September 30, 1996; copy of Certificate of Participation from the University of Utah College of Pharmacy, Program No. 068-999-96-004-L01, of Robert J. Garrity dated July 25, 1996; and letter from Jerry Walton dated December 6, 1996.
- (5) Exhibit E--Copies of the following: Resume of Robert J. Garrity, not dated; copy of letter from Jeffrey E. Rinda dated April 21, 1998; letter from Nick A. Kallis dated May 7, 1998; letter from Bernard F. Klaus dated April 25, 1998; letter from Jim O'Connor dated May 19, 1998; letter from Alan R. Pires dated May 12, 1997; letter from Marianne Ausmus dated May, 1998; letter from Ernest T. Witzke, not dated; three-page letter from Cheryl L. Farine dated May 18, 1998; and letter from David N. Gragg dated May 15, 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 indicate that on or about March 9, 1998, Robert James Garrity submitted a National Association of Boards of Pharmacy Official Application for Transfer of Pharmaceutic Licensure to the state of Ohio.

- (2) Records further indicate that Robert James Garrity previously submitted a National Association of Boards of Pharmacy Official Application for Transfer of Pharmaceutic Licensure to the state of Ohio. Robert James Garrity's application was proposed to be denied and, on or about July 17, 1997, the Board found the following to be fact:
- (a) Robert James Garrity was, on or about March 21, 1996, disciplined by the Illinois Department of Professional Regulation pursuant to a consent order wherein the following was stipulated: "Respondent has a history of substance abuse, involving among others, alcohol, crack cocaine, and Valium. Respondent practiced pharmacy while in an impaired condition. In addition, on or about September 25, 1995, Respondent received a felony conviction for unlawful possession of controlled substance(s)."

For this reason, the Board concluded that Robert James Garrity had been convicted of a felony, convicted of violating state or federal pharmacy or drug laws, not of good moral character and habits, and that Robert James Garrity had been disciplined by the State of Illinois Department of Professional Regulation. Pursuant to Rule 4729-5-04 of the Ohio Administrative Code and Section 4729.09 of the Ohio Revised Code, Robert James Garrity's application was denied.

#### ACTION OF THE BOARD

Pursuant to Section 4729.09 of the Ohio Revised Code, the State Board of Pharmacy hereby approves the issuance of a certificate of registration or an identification card, and therefore approves the NABP Official Application for Transfer of Pharmaceutic Licensure submitted by Robert James Garrity with the following stipulations:

- (A) On the basis of paragraph (2) of the Findings of Fact set forth above, the State Board of Pharmacy hereby places the pharmacist identification card of Robert James Garrity on probation for five years, from the date his identification card is issued. The terms of probation are as follows:
- (1) Robert James Garrity must enter into a new contract, after the effective date of this Order, with a treatment provider acceptable to the Board, for a period of not less than five years and submit a copy of the signed contract to the Board office before appearing at the Reciprocity Hearing. The contract must provide that:
- (a) random, **observed** urine drug screens shall be conducted at least every three months. The urine sample must be given within twelve hours of notification. The urine drug screen must report testing for alcohol and must also report testing for creatinine or specific gravity of the sample as the dilutional standard;
- (b) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required;

- (c) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
- (d) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.

Results of urine screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract and probation.

- (2) Robert James Garrity must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
  - (a) the written report and documentation provided by the treatment program pursuant to the contract, and
  - (b) a written description of his progress towards recovery and what he has been doing during the previous three months.
- (3) Other terms of probation are as follows:
  - (a) The State Board of pharmacy hereby declares that Robert James Garrity's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
  - (b) Robert James Garrity may not serve as a responsible pharmacist.
  - (c) Robert James Garrity may not destroy, assist in, or witness the destruction of controlled substances.
  - (d) Robert James Garrity must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
  - (e) Robert James Garrity must not violate the drug laws of the state of Ohio, any other state, or the federal government.
  - (f) Robert James Garrity must abide by the rules of the Ohio State Board of Pharmacy.
  - (g) Robert James Garrity must comply with the terms of this Order.

- (B) Robert James Garrity 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-5/Nay-1).

MOTION CARRIED.

SO ORDERED.

**ORDER EFFECTIVE JULY 16, 1998**

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-970228-031)

In The Matter Of:

**ROBERT J. GARRITY**  
1196 Summit Avenue  
Lakewood, Ohio 44107  
(D.O.B. 11/22/59)

INTRODUCTION

THE MATTER OF ROBERT J. GARRITY CAME TO HEARING ON JUNE 17, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, 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.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ROBERT J. GARRITY WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Robert J. Garrity, Respondent

Respondent's Witnesses:

- (1) Charles Broussard, Pharmacists Rehabilitation Organization, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated February 28, 1997.
- (2) Exhibit 1A--Hearing Request letter dated March 4, 1997.
- (3) Exhibit 1B--Hearing Schedule letter dated March 7, 1997.
- (4) Exhibit 1C--Hearing Schedule letter dated May 20, 1997.
- (5) Exhibit 2--Four-page National Association of Boards of Pharmacy Official Application For Transfer Of Pharmaceutical Licensure™ to the state of Ohio of Robert James Garrity dated December 16, 1996.
- (6) Exhibit 3--Copy of Illinois Department of Professional Regulation Certification by Nikki M. Zollar, dated December 11, 1996, for the attached: copy of five-page Consent Order in the State of Illinois Department of Professional Regulation, No. 95-3410-LEG, of Robert J. Garrity dated March 21, 1996.

## Respondent's Exhibits:

- (1) Exhibit A1--Copy of AA/NA Attendance Verification of Robert Garrity dated from May 29, 1997, through June 15, 1997.
- (2) Exhibit A2--Copy of AA/NA Attendance Verification of Robert J. Garrity dated from April 22, 1997, through May 27, 1997.
- (3) Exhibit A3--Copy of AA/NA Attendance Verification of Robert Garrity dated from March 17, 1997, through April 21, 1997.
- (4) Exhibit A4--Copy of AA/NA Attendance Verification of Robert Garrity dated from February 10, 1997, through March 16, 1997.
- (5) Exhibit A5--Copy of AA/NA Attendance Verification of Robert J. Garrity dated from January 15, 1997, through February 9, 1997.
- (6) Exhibit A6--Copy of AA/NA Attendance Verification dated from December 15, 1996, through January 13, 1997.
- (7) Exhibit A7--Copy of AA/NA Attendance Verification of Robert Garrity dated from November 7, 1996, through December 11, 1996.
- (8) Exhibit A8--Copy of AA/NA Attendance Verification dated from September 19, 1996, through November 4, 1996.
- (9) Exhibit A9--Copy of AA/NA Attendance Verification dated from August 12, 1996, through September 18, 1996.
- (10) Exhibit A10--Copy of AA/NA Attendance Verification dated from July 18, 1996, through August 10, 1996.
- (11) Exhibit A11--Copy of AA/NA Attendance Verification dated from June 16, 1996, through July 17, 1996.
- (12) Exhibit A12--Copy of AA/NA Attendance Verification dated from May 23, 1996, through June 14, 1996.
- (13) Exhibit A13--Copy of AA/NA Attendance Verification dated from May 3, 1996, through May 22, 1996.
- (14) Exhibit A14--Copy of AA/NA Attendance Verification dated from April 17, 1996, through May 2, 1996.
- (15) Exhibit A15--Copy of AA/NA Attendance Verification dated from March 17, 1996, through April 16, 1996.
- (16) Exhibit A16--Copy of AA/NA Attendance Verification dated from February 25, 1996, through March 16, 1996.
- (17) Exhibit A17--Copy of AA/NA Attendance Verification dated from January 11, 1996, through February 21, 1996.
- (18) Exhibit A18--Copy of AA/NA Attendance Verification dated from November 18, 1995, through January 8, 1996.
- (19) Exhibit A19--Copy of AA/NA Attendance Verification dated from September 30, 1995, through November 16.
- (20) Exhibit B1--Copy of urine drug screen report of Robert Garrity dated June 5, 1997.
- (21) Exhibit B2--Copy of document regarding the drug screen of Robert Garrity performed on June 3, 1997.
- (22) Exhibit B3--Copy of urine drug screen report of Robert Garrity dated February 19, 1997.
- (23) Exhibit B4--Copy of document regarding the drug screen of Robert Garrity performed on February 18, 1997.
- (24) Exhibit B5--Copy of urine drug screen report of Robert Garrity dated December 12, 1996.
- (25) Exhibit B6--Copy of document regarding the drug screen of Robert Garrity performed on December 11, 1996.

- (26) Exhibit B7--Copy of urine drug screen report of Robert Garrity dated September 24, 1996.
- (27) Exhibit B8--Copy of memorandum from Georgia D. Hatjikiriakos dated January 9, 1997.
- (28) Exhibit B9--Copy of three Roche Abuscreen® ONTRACK™ Rapid Assay for Drug Abuse packages, testing for Cocaine, THC, and Amphetamines, each labeled for Robert Garrity and dated March 6, 1996.
- (29) Exhibit B10--Copy of urine drug screen report of Subject No. 344-56-4788 dated June 14, 1996.
- (30) Exhibit C1--Copy of page one of two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Robert J. Garrity dated August 27, 1996.
- (31) Exhibit C2--Copy of page two of two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Robert J. Garrity dated August 27, 1996, and August 30, 1996.
- (32) Exhibit C3--Copy of page one of two-page Illinois Pharmacist Recovery Program Pharmacist Recovery Contract of Robert J. Garrity, not dated.
- (33) Exhibit C4--Copy of page two of two-page Illinois Pharmacist Recovery Program Pharmacist Recovery Contract of Robert J. Garrity dated September 29, 1995.
- (34) Exhibit C5--Copy of letter from Philip Caravello dated May 17, 1996.
- (35) Exhibit C6--Copy of Continuing Care Contract of Robert Garrity dated July 24, 1995.
- (36) Exhibit C7--Copy of Notice of the State of Illinois Department of Professional Regulation, No. 95-3410, of Robert J. Garrity dated March 21, 1996.
- (37) Exhibit C8--Copy of page one of five-page Consent Order in the State of Illinois Department of Professional Regulation, No. 95-3410-LEG, of Robert J. Garrity dated March 21, 1996.
- (38) Exhibit C9--Copy of page two of five-page Consent Order in the State of Illinois Department of Professional Regulation, No. 95-3410-LEG, of Robert J. Garrity dated March 21, 1996.
- (39) Exhibit C10--Copy of page three of five-page Consent Order in the State of Illinois Department of Professional Regulation, No. 95-3410-LEG, of Robert J. Garrity dated March 21, 1996.
- (40) Exhibit C11--Copy of page four of five-page Consent Order in the State of Illinois Department of Professional Regulation, No. 95-3410-LEG, of Robert J. Garrity dated March 21, 1996.
- (41) Exhibit C12--Copy of page five of five-page Consent Order in the State of Illinois Department of Professional Regulation, No. 95-3410-LEG, of Robert J. Garrity dated March 21, 1996.
- (42) Exhibit C13--Copy of page one of two-page Sentencing Order in the Circuit Court of the 15th Judicial Circuit, Stephenson County, Illinois, Case No. 95CF255, of Robert J. Garrity dated September 25, 1995.
- (43) Exhibit C14--Copy of page two of two-page Sentencing Order in the Circuit Court of the 15th Judicial Circuit, Stephenson County, Illinois, Case No. 95CF255, of Robert J. Garrity dated September 25, 1995.
- (44) Exhibit C15--Copy of license issued by the State of Illinois Department of Professional Regulation for Registered Pharmacist, License No. 051-034443, of Robert J. Garrity, expiration date of March 31, 1998.
- (45) Exhibit D1--Copy of Certificate of Appreciation of Bob G. dated April 23, 1997.
- (46) Exhibit D2--Copy of Certificate of Appreciation of Bob Garrity dated March 31, 1997.
- (47) Exhibit D3--Copy of Certificate of Appreciation of Bob dated September 30, 1996.

- (48) Exhibit D4--Copy of letter from Jerry Walton dated December 6, 1996.
- (49) Exhibit D5--Copy of Certificate of Participation from the University of Utah College of Pharmacy, Program No. 068-999-96-004-L01, of Robert J. Garrity dated July 25, 1996.
- (50) Exhibit E1--Copy of letter from Jeffrey E. Rinda dated April 22, 1997.
- (51) Exhibit E2--Copy of letter from Nick A. Kallis dated March 31, 1997.
- (52) Exhibit E3--Copy of letter from Charles Broussard dated March 16, 1997.
- (53) Exhibit E4--Copy of letter from Bernard F. Klaus dated June 8, 1997.
- (54) Exhibit E5--Copy of letter from Jim O'Connor, not dated.
- (55) Exhibit E6--Copy of letter from Alan R. Pires dated June 12, 1997.
- (56) Exhibit E7--Copy of letter from JoDe L. Rimar dated June 9, 1997.
- (57) Exhibit E8--Copy of letter from Marianne Ausmus dated June, 1997.
- (58) Exhibit E9--Copy of letter from Ernest T. Witzke dated March 19, 1997.
- (59) Exhibit E10--Copy of letter from Judith A. Nicely dated June 16, 1997.

#### FINDING 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) Robert J. Garrity was, on or about March 21, 1996, disciplined by the Illinois Department of Professional Regulation pursuant to a "consent order" wherein the following was stipulated: Respondent has a history of substance abuse, involving among others, alcohol, crack cocaine, and Valium. Respondent practiced pharmacy while in an impaired condition. In addition, on or about September 25, 1995, Respondent received a felony conviction for unlawful possession of controlled substance(s).

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the Finding of Fact constitutes being convicted of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the Finding of Fact constitutes being convicted of violating any state or federal pharmacy or drug law as provided in paragraph (B) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the Finding of Fact constitutes not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code and Division (B) of Section 4729.09 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the Findings of Fact constitutes having been disciplined by the State of Illinois Department of Professional Regulation as provided in paragraph (F) of Rule 4729-5-04 of the Ohio Administrative Code.

**ACTION OF THE BOARD**

Pursuant to Section 4729.09 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, the State Board of Pharmacy hereby refuses the issuance of a certificate of registration or an identification card, and therefore denies the National Association of Boards of Pharmacy Official Application For Transfer Of Pharmaceutic Licensure™ to the state of Ohio submitted by Robert James Garrity.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-2).

MOTION CARRIED.

SO ORDERED.

**ORDER EFFECTIVE JULY 17, 1997**