

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacy License of	}	
<b>AMERICA'S PHARMACY</b>	}	<b>COMPLAINT</b>
License No. 347	}	<b>AND</b>
Roland L. Rasmusen	}	<b>STATEMENT</b>
Pharmacist in charge,	}	<b>OF CHARGES</b>
Respondent	}	<b>AND</b>
		<b>NOTICE OF HEARING</b>

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**COMES NOW**, Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 6th day of September, 1991, and files this Complaint and Statement of Charges against America's Pharmacy, a pharmacy licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Melba L. Scaglione, Chairperson; Alan M. Shepley, Vice Chairperson; Rollin C. Bridge; Donna J. Flower; Phyllis A. Olson; Marian L. Roberts; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent is licensed to operate a pharmacy at 2109 McKinley in Des Moines, Iowa, and holds license number 347.

3. General pharmacy license number 347, issued in the name of America's Pharmacy, with Roland L. Rasmusen as pharmacist in charge, was renewed on December 7, 1990, and is current until December 31, 1991.

4. Respondent was issued a written administrative warning by the board on December 31, 1990, for a dispensing error that occurred at America's Pharmacy on July 25, 1990. In that incident, one of Respondent's pharmacists dispensed the wrong prescription medication to a patient who received Parlodel 5mg when she should have received Pindolol 5mg.

5. On March 19, 1991, a complaint was received at the Board office which alleged that 180 tablets of Darvocet-N 100, a schedule IV controlled substance, were dispensed via United Parcel Service by Respondent to a resident of Connecticut which were not prescribed for that person. The complaint was referred to Pharmacy Investigator Charles H. Vandenburg and Chief Investigator James P. Theis for investigation.

6. On April 3, 1991, the Board received an investigative report from Chief Investigator James P. Theis which indicates the following:

a. On March 1, 1991, Robert M. Kelleher, M.D., of Albany, New York, mailed a prescription order issued by him on February 28, 1991, for 180 tablets of Darvocet-N 100, a schedule IV controlled substance, for a male patient to America's Pharmacy in Des Moines.

b. America's Pharmacy received the prescription on March 4, 1991. The prescription contained no address for the patient.

c. One of Respondent's pharmacists located the patient's name on a membership list of persons covered by a prescription drug benefit program administered by America's Pharmacy. The person selected from the list was a Connecticut resident and was not the person for whom the prescription was issued. The prescription had apparently been issued for a New York resident who had the same name as the Connecticut resident. The New York resident had previously had other prescriptions for Darvocet-N 100 filled at America's Pharmacy. The Connecticut resident had never had prescriptions filled at America's Pharmacy.

d. The prescription was then assigned prescription number 941473 and was filled on or about March 8, 1991. The prescription medication (180 tablets of Darvocet-N 100, a schedule IV controlled substance) was then shipped to the Connecticut resident.

e. Along with the prescription medication, America's Pharmacy enclosed invoice number 1659647 dated March 11, 1991, which requested payment for prescription number 941473.

f. When the Connecticut resident received prescription number 941473 on March 15, 1991, he contacted America's Pharmacy and then turned the medication over to the Monroe (Connecticut) police department. The police department then contacted the board.

7. Respondent is guilty of violations of Iowa Code sections 155A.15(2)(c), 155A.15(2)(d), 204.308(3), and 204.402(1)(a) by virtue of the allegations in paragraphs 4, 5, and 6.

Iowa Code section 155A.15 provides, in part, the following:

2. The board shall refuse to issue a pharmacy license for failure to meet the requirements of section 155A.13. The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:...

c. Violated any provision of this chapter or any rule adopted under this chapter or that any owner or employee of the pharmacy has violated any provision of this chapter or any rule adopted under this chapter.

d. Delivered without legal authorization prescription drugs or devices to a person other than one of the following:

- (1) A pharmacy licensed by the board.
- (2) A practitioner.
- (3) A person who procures prescription drugs or devices for the purpose of lawful research, teaching, or testing, and not for resale.
- (4) A manufacturer or wholesaler licensed by the board....

Iowa Code section 204.308 provides, in part, the following:

3. ...[A] controlled substance included in schedule III or IV, which is a prescription drug... shall not be dispensed without a written or oral prescription of a practitioner.

Iowa Code section 204.402(1) provides, in part, the following:

It is unlawful for any person:

a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 204.308;...

8. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(b)(3), 9.1(4)(j), and 9.1(4)(u) by virtue of the allegations in paragraphs 4, 5, and 6.

657 Iowa Administrative Code section 9.1 provides, in part, the following:

4. The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

b. Professional incompetency. Professional incompetency includes but is not limited to:...

(3) A failure by a pharmacist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average pharmacist in the state of Iowa acting under the same or similar circumstances.

....  
j. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy.  
....

u. Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections 147.55, 155A.12 and 155A.15.

The Iowa Board of Pharmacy Examiners finds that paragraphs 7 and 8 constitute grounds for which Respondent's license to operate a pharmacy in Iowa can be suspended or revoked.

**WHEREFORE**, the undersigned charges that Respondent America's Pharmacy has violated Iowa Code sections 155A.15(2)(c), 155A.15(2)(d), 204.308(3), and 204.402(1)(a) and 657 Iowa Administrative Code sections 9.1(4)(b)(3), 9.1(4)(j), and 9.1(4)(u).

**IT IS HEREBY ORDERED**, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that Roland L. Rasmusen appear on behalf of America's Pharmacy before the Iowa Board of Pharmacy Examiners on Thursday, November 21, 1991, at 2:00 p.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

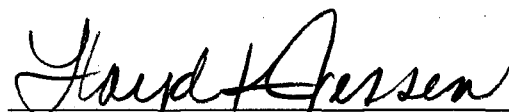
The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to suspend, revoke, or not renew the license to operate a pharmacy issued to America's Pharmacy on December 7, 1990, and take whatever additional action that they deem necessary and appropriate.

Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of its own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision may be rendered. The failure of Respondent to appear could result in the permanent suspension or revocation of its license.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department of Inspections and Appeals. The office of the Attorney General is responsible for the public interest in these proceedings.

Information regarding the hearing may be obtained from Lynette A. F. Donner, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-8760). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen  
Executive Secretary

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacy License of	}	
AMERICA'S PHARMACY	}	AMENDMENT TO
License No. 347	}	COMPLAINT AND
Roland L. Rasmusen	}	STATEMENT
Pharmacist in charge,	}	OF CHARGES
Respondent	}	AND
		NOTICE OF HEARING

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COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 11th day of February, 1992, and files this Amendment to the Complaint and Statement of Charges and Notice of Hearing issued on September 6, 1991, to America's Pharmacy, a pharmacy licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Melba L. Scaglione, Chairperson; Alan M. Shepley, Vice Chairperson; Rollin C. Bridge; Donna J. Flower; Phyllis A. Olson; Marian L. Roberts; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent is licensed to operate a pharmacy at 2109 McKinley in Des Moines, Iowa, and holds license number 347.

3. General pharmacy license number 347, issued in the name of America's Pharmacy, with Roland L. Rasmusen as pharmacist in charge, was renewed on December 12, 1991, and is current until December 31, 1992.

4. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on September 6, 1991. That Complaint and Statement of Charges is incorporated by reference into this Complaint and Statement of Charges and Notice of Hearing as if fully set forth herein. Roland L. Rasmusen has been the pharmacist in charge of America's Pharmacy during all times relevant to this Complaint and Statement of Charges and the Complaint and Statement of Charges filed on September 6, 1991.

5. Since September 6, 1991, the Board has reviewed 22 other complaints against Respondent which were received by the Board between March 15, 1985, and September 9, 1991. These 22 complaints indicate a course of conduct that allegedly demonstrates that Respondent has repeatedly violated provisions of Iowa pharmacy law contained in Iowa Code chapters 155 and 155A, provisions of Iowa controlled substance law contained in Iowa Code chapter 204, and Board administrative rules contained in 620 and 657 Iowa Administrative Code.

The Iowa Board of Pharmacy Examiners finds that the information contained in paragraph 5 constitutes additional grounds for which Respondent's license to operate a pharmacy in Iowa can be suspended or revoked.

**IT IS HEREBY ORDERED,** pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that Roland L. Rasmusen appear on behalf of America's Pharmacy before the Iowa Board of Pharmacy Examiners on Tuesday, April 28, 1992, at 2:00 p.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

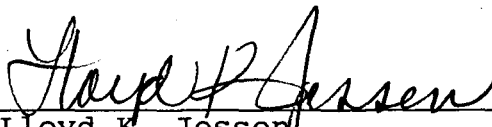
The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to suspend, revoke, or not renew the license to operate a pharmacy issued to America's Pharmacy on December 12, 1991, and take whatever additional action that they deem necessary and appropriate.

Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of its own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision may be rendered. The failure of Respondent to appear could result in the permanent suspension or revocation of its license.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department of Inspections and Appeals. The office of the Attorney General is responsible for the public interest in these proceedings.

Information regarding the hearing may be obtained from Lynette A. F. Donner, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-8760). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS

  
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Lloyd K. Jessen  
Executive Secretary/Director

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacy License of	}	
<b>AMERICA'S PHARMACY</b>	}	STIPULATION
License No. 347	}	AND
Roland L. Rasmusen	}	INFORMAL
Pharmacist in charge,	}	SETTLEMENT
Respondent	}	

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COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and America's Pharmacy (Respondent) and, pursuant to Iowa Code sections 17A.10 and 258A.3(4), enter into the following Stipulation of the contested case currently on file:

1. Respondent is licensed to operate a pharmacy at 2109 McKinley in Des Moines, Iowa 50321, and holds license number 347.

2. Respondent's license to operate a pharmacy in Iowa was renewed on December 12, 1991.

3. Respondent's license is current until December 31, 1992.

4. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on September 6, 1991. An Amendment to that Complaint and Statement of Charges was filed against Respondent on February 11, 1992.

5. The Board has jurisdiction of the parties and the subject matter.

6. Respondent does not contest the allegations set forth in the complaint and agrees that the Board may treat the allegations as true. The Respondent understands that

there is no admission on its part of the truth of the allegations, but merely an agreement that the Board may treat the allegations as true for the purpose of this Informal Settlement.

7. Respondent shall remit a \$7,000.00 civil penalty to the Board office within thirty (30) days of the effective date of this Stipulation and Informal Settlement.

8. Respondent shall submit a written report to the Board within six (6) months of the effective date of this Stipulation and Informal Settlement which includes the following:

a. Respondent's method or procedure for documenting verbal prescription drug orders or verbal prescription drug order clarifications received from physicians via the telephone, including the identity of the person receiving the order, information, or verification.

b. Respondent's method or procedure for assuring accurate patient identification when processing prescription drug orders received without a patient address or other patient-identifying information.

c. Respondent's method or procedure for ascertaining whether a patient is eligible for services as either a subscriber or a subscriber's covered dependent.

d. Notification of the installation and implementation of a new pharmacy automated data processing system, when fully operational.



9. Stipulation and Informal Settlement is subject to approval of the Board. If the Board approves this Stipulation and Informal Settlement, it becomes the final disposition of this matter. If the Board fails to approve this Stipulation and Informal Settlement, it shall be of no force or effect to either party.

10. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 12 day of March, 1992.

Roland L. Rasmusen  
ROLAND L. RASMUSEN  
Pharmacist in charge  
America's Pharmacy  
Respondent

Signed and sworn to before me this 12<sup>th</sup> day of March, 1992.

Richard Sean Kuchowich  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

11. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 19<sup>th</sup> day of March, 1992.

Melba L. Scaglione  
MELBA L. SCAGLIONE, Chairperson  
Iowa Board of Pharmacy Examiners