

THE BOARD OF PHARMACY EXAMINERS

OF THE STATE OF IOWA

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RE: PHARMACY LICENSE OF : EMERGENCY ORDER:  
LLOYD G. BARE (12912) : LICENSE SUSPENSION  
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NOW on this 5th day of November, 1982, the chairman of the Board of Pharmacy Examiners has reviewed the following evidence:

1. That Lloyd G. Bare was arrested by the Mason City Police on October 29, 1982.

2. That the police report relating to that arrest indicates that Lloyd G. Bare had in his possession at the time of his arrest a small packet believed to contain cocaine.

3. That Lloyd G. Bare had delivered a small packet of a powder substance to an undercover agent of the Mason City Police Department on September 23, 1982. That powder substance was later identified as containing cocaine.

4. That a search warrant of Bare's Pharmacy, 204 E. Main, Rockford, Iowa, executed on October 29, 1982, uncovered 3 additional small packets of a powder substance, one of which was field tested and found to contain cocaine.

Based upon the above evidence, the chairman of the Iowa Board of Pharmacy Examiners, acting for the Board, finds that the public health and safety would be jeopardized if Lloyd G. Bare were to be allowed to continue in the practice of pharmacy until a hearing can be conducted. The chairman finds that the public health and safety therefore makes emergency summary suspension imperative.

IT IS HEREBY ORDERED, pursuant to the authority of Chapter 17A.18(3), Code of Iowa 1981, that the license of Lloyd G. Bare to practice pharmacy be temporarily suspended until such time as a hearing before the Iowa Board of Pharmacy Examiners can be conducted.

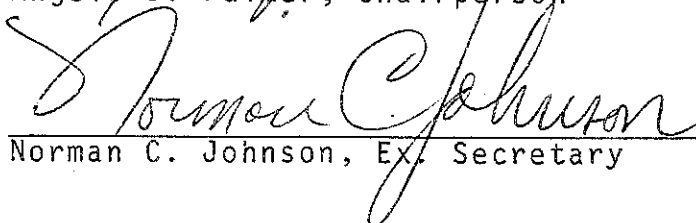
IT IS FURTHER ORDERED, that Lloyd G. Bare appear before the Iowa Board of Pharmacy Examiners on December 14, 1982, at 9:30 a.m. in Conference Room One, second floor North, Grimes State Office Building, Capitol Complex, Des Moines, Iowa.

The order for temporary suspension and the notice of hearing are issued pursuant to the authority granted the Iowa Board of Pharmacy Examiners under Chapters 17A, 155, 204, and 258A, Code of Iowa 1981.

You may bring counsel to the hearing and cross-examine any witness and call witnesses of your own. Failure to appear could result in suspension or revocation of your license.

Detailed information of charges will be forwarded to you prior to the hearing date. Information regarding the hearing may be obtained from Thomas D. McGrane, Assistant Attorney General, State Capitol, Des Moines, Iowa.

  
Angelo J. Palmer, Chairperson

  
Norman C. Johnson, Ex. Secretary

THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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RE: PHARMACY LICENSE OF : LICENSE  
LLOYD G. BARE (12912) : REINSTATEMENT

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Now on this 23rd day of November, 1982 the Board of Pharmacy Examiners acting in an emergency telephone conference session agree to reinstate the license to practice pharmacy of Lloyd G. Bare effective November 24, 1982.

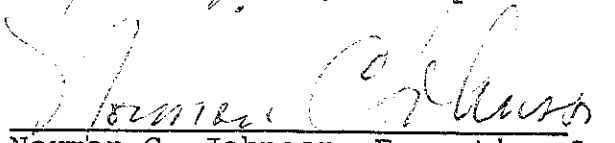
This reinstatement is issued under the following conditions:

1. Lloyd G. Bare will neither purchase nor dispense any cocaine product.

2. The prescription records of Lloyd G. Bare and Bares Drug, 201 E. Main, Rockford, Iowa will be subjected to periodic audits. The audit period will begin on the date of this order and extend for 90 days or the date of Mr. Bares hearing before the Board, whichever comes first. Mr. Bare will be required to show reasonable accountability for all controlled substances purchased or dispensed from Bares Drug during this period. Any shortage or overage deviations which exceed normal limits will be grounds for license revocation.

IT IS HEREBY ORDERED, pursuant to the authority granted the board under Iowa Code, chapter 258A, that the license of Lloyd G. Bare to practice pharmacy be reinstated subject to the conditions described above and with the understanding that a hearing on the matters detailed in the license suspension order issued on November 5, 1982 will be convened within a reasonable period of time.

  
Angelo J. Palmer, Chairperson

  
Norman C. Johnson, Executive Secretary

STATE OF IOWA  
BOARD OF PHARMACY EXAMINERS

In the Matter of the	)	
License to Practice Pharmacy	)	Findings of Fact,
of Lloyd G. Bare,	)	Conclusions of Law
Respondent	)	and Decision

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STATEMENT OF THE CASE

Pursuant to Chapters 17A and 258A of the Code of Iowa, a hearing was held before the Board of Pharmacy Examiners on March 15, 1983, for the purpose of receiving evidence to determine whether or not disciplinary action should be taken concerning the license of Lloyd G. Bare to practice pharmacy in Iowa.

Board members present for the hearing were: Angelo J. Palmer, Chairperson; Vennetta M. Fiedler, Vice Chairperson; Jerry M. Hartleip; John F. Rode; Gale W. Stapp; and Margo Underwood. Robert E. Bellinger served as hearing officer for the Board. The State was represented by Thomas D. McGrane, Assistant Attorney General. Respondent was represented by David E. Funkhouser, attorney-at-law.

The hearing officer, having considered the testimony and evidence, issues the following findings of fact, conclusions of law and decision.

FINDINGS OF FACT

1. Respondent is licensed to practice pharmacy in Iowa having been issued license #12912 on June 12, 1963. His license is current, having been renewed on June 24, 1982, expiring on June 30, 1984. He is therefore subject to disciplinary action by the Board.
2. Respondent was arrested by the Mason City Police on October 29, 1982.
3. The police report relating to that arrest indicates that Lloyd G. Bare had in his possession at the time of his arrest a small packet believed to contain cocaine.
4. Respondent had delivered a small packet of a powder substance to an undercover agent of the Mason City Police Department on September 23, 1982. The powder substance was later identified as containing cocaine.
5. A search warrant of Bare's Pharmacy, 204 E. Main, Rockford, Iowa, executed on October 29, 1982, uncovered three additional small packets of a powder substance which were found to contain cocaine.
6. Respondent admitted that he carried one of these packets in his billfold on the occasion of the delivery to an undercover agent of the Mason City Police Department on September 23, 1982.
7. Respondent admitted all of the findings in paragraphs 2 through 6 in his testimony before the Board. In addition, he admitted to the possession and delivery of the cocaine and related the circumstances under which the cocaine was obtained. Respondent admitted obtaining the cocaine by allowing a 10% solution of cocaine, returned to him by a local physician for destruction, to evaporate. The residue from that evaporation was then dried and placed into papers or packets which he asserted were obtained from a friend. These papers were identified as "sno-seals" and were described by respondent as the normal "street packaging" for cocaine.

8. Respondent pled guilty to the crime of delivery of cocaine in violation of Section 204.401(1)"a," Code of Iowa 1981. Judgment was entered against respondent and he was sentenced to a term of not more than ten years in the Men's Reformatory at Anamosa, Iowa. That sentence was suspended and respondent was placed on probation.
9. Based upon respondent's testimony, the Board finds that he did prepare these packets of cocaine for street use. Respondent indicated that the packets were originally prepared for use by a terminally ill friend. Assuming that this is true, it is clear that when that need no longer existed, respondent chose to keep the "packets" rather than destroy the cocaine. We therefore conclude that his action in delivery of the cocaine was deliberate.
10. We find that respondent did commit a felony, was convicted of that felony and that the felony did relate to the profession of pharmacy.
11. Respondent did admit in testimony that just prior to and at the time of the violation he had some problems with drinking and with gambling. The gambling related to business opportunities and not to other traditional forms of gambling.

#### CONCLUSIONS OF LAW

1. Code of Iowa, Section 258A.3(2)"a" provides in pertinent part: "Each licensing board may impose one or more of the following as licensee discipline: a. Revoke a license or suspend a license either until further order of the board or for a specified period, upon grounds specified in...147.55...."
2. Code of Iowa, Section 147.55 states in pertinent part: "A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses: (5) Conviction of a felony related to the profession... of the licensee or the conviction of any felony that would affect his or her ability to practice within the profession. A copy of the record of conviction or a plea of guilty shall be conclusive evidence."
3. Code of Iowa, Section 155.13 provides in pertinent part: "The Board shall have the authority to deny, suspend or revoke a license in any case where it finds that there has been a substantial failure to comply with the provisions of this chapter or the regulations promulgated hereunder...." Sub-section 2 of this section states that grounds for disciplinary action under this section are, "Conviction of an offense or where a penalty or fine has been invoked for violation of Chapter 147, Chapter 203, Chapter 203A, Chapter 204, or the federal food, drug and cosmetic act. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section."
4. Code of Iowa, Chapter 258A.10 provides in pertinent part: "A licensing board established after January 1, 1978, and pursuant to the provisions of this chapter, shall by rule include provisions for the revocation or suspension of a license which shall include but is not limited to the following: ...s. conviction of a felony related to the profession...of the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence."
5. Rules of the board found in 620--10.1(4)--Iowa Administrative Code provides that, "The board may impose any of the disciplinary sanctions set out in Subrule 10.1(2)...when the board determines that the licensee...is guilty of the following acts or offenses: ..."e" conviction of a felony. A copy of the record of conviction or a plea of guilty shall be conclusive evidence."

6. The Board believes that the delivery of controlled substances by a pharmacist for use on the street is one of the most serious offenses to be committed by a pharmacist and justifies action by this Board.

DECISION

It is the decision and order of the Board that the license of the respondent, Lloyd G. Bare, to practice pharmacy in the state of Iowa is suspended for a period of two years. The suspension will commence on April 15, 1983, and end on April 15, 1985. Respondent will also serve a period of probation following reinstatement of his license of three years. During the period of suspension, respondent will submit to psychological counseling by a recognized counselor of his choice. Such counseling shall be at a frequency established by the counselor but shall include quarterly reports to be submitted to the board by the counselor. These quarterly reports shall be submitted to the board office beginning on July 15, 1983 and continue through January 15, 1985. Reinstatement of respondent's license to practice pharmacy is predicated upon the following conditions being met:

1. He must take and pass, with a minimum score of 60%, the National Association of Boards of Pharmacy Federal Drug Law Exam.
2. The quarterly reports submitted by the counselor must show satisfactory improvement and progress.

Dated this 23<sup>rd</sup> day of March 1983.

  
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Robert E. Bellinger  
Hearing Officer