

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

---

Re: Pharmacist License of	}	COMPLAINT
DARRELL D. BOBINET	}	AND
License No. 13976	}	STATEMENT
Respondent	}	OF CHARGES
	}	AND
	}	NOTICE OF HEARING

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COMES NOW, Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 8th day of March, 1991, and files this Complaint and Statement of Charges against Darrell D. Bobinet, a pharmacist 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 John F. Rode are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent was issued a license to practice pharmacy in Iowa on December 14, 1971, by examination.

3. Respondent's license to practice pharmacy in Iowa is current until June 30, 1992.

4. Respondent's current mailing address is 205 West Hurd, Edmond, Oklahoma 73034.

5. Respondent was employed as the Chief of Pharmaceutical Services, Department of Veteran's Affairs Medical Center, Oklahoma City, Oklahoma.

6. The Board has received a certified copy of an Information in the United States District Court for the Western District of Oklahoma, titled United States of America v. Darrell Dean Bobinet, Criminal Case No. 90-147-R, in which the United States Attorney charged Respondent on July 17, 1990, with the following:

That on or about between January 21, 1986, and January 25, 1990, in the Western District of Oklahoma and elsewhere, Darrell Dean Bobinet, the defendant herein, did knowingly and willfully embezzle and convert to his own use pharmaceutical products, property of the United States, of the value of more than \$100.00, which said property had come into the possession, and under the

care of Darrell Dean Bobinet by virtue of his employment as Chief of Pharmaceutical Services, Department of Veteran's Affairs Medical Center, Oklahoma City, Oklahoma, an agency of the United States. All in violation of Title 18, United States Code, Section 641.

7. Respondent pleaded guilty to the count contained in the Information described in paragraph 6, above. On September 17, 1990, Respondent appeared for sentencing in United States District Court for the Western District of Oklahoma before U.S. District Judge David L. Russell. The Respondent was adjudged guilty of one count of embezzling and converting to his own use property of the United States, in violation of Title 18, United States Code, section 641. Respondent was sentenced to serve a term of imprisonment of 21 months followed by a two-year term of supervised release. Respondent was also ordered to make restitution of \$100,000 to the U.S. Department of Justice. See Judgment In A Criminal Case, United States of America v. Darrell Dean Bobinet, No. CR. 90-147-R, pages 1 through 5. The Board has received a certified copy of this Judgment.

8. On or about October 1, 1990, Respondent surrendered for service of sentence at a federal correctional facility located at El Reno, Oklahoma.

9. Respondent is guilty of violations of 1991 Iowa Code sections 147.55(5), 155A.12(1), 155A.12(3), 155A.12(8), and 155A.12(9) by virtue of the allegations in paragraphs 6 and 7.

1991 Iowa Code section 147.55 provides, in part, the following:

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 or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

1991 Iowa Code section 155A.12 provides in part, the following:

...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:

1. Violated any provision of this chapter or any rules of the board adopted under this chapter.

....  
3. Violated any of the provisions for licensee discipline set forth in section 147.55.

....  
8. Violated the pharmacy or drug laws or rules of any other state of the United States while under the other state's jurisdiction.

9. Been convicted of an offense or subjected to a penalty or fine for violation of chapter 147, 203, 203A, 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.

10. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(e), 9.1(4)(h), 9.1(4)(j) and 9.1(4)(u) by virtue of the allegations in paragraphs 6 and 7.

657 Iowa Administrative Code section 9.1(4) provides, in part, the following:

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:...

e. Conviction of a felony. A copy of the record of conviction or a plea of guilty shall be conclusive evidence.

....  
h. Distribution of...drugs for other than lawful purposes. The distribution of drugs for other than lawful purposes includes but is not limited to the disposition of drugs in violation of Iowa Code chapters 155A, 203, 203A, and 204.

....  
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 9 and 10 constitute grounds for which Respondent's license to practice pharmacy in Iowa can be suspended or revoked.

**WHEREFORE,** the undersigned charges that Respondent has violated 1991 Iowa Code sections 147.55(5), 155A.12(1), 155A.12(3),

155A.12(8), and 155A.12(9) and 657 Iowa Administrative Code sections 9.1(4)(e), 9.1(4)(h), 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 Darrell D. Bobinet appear before the Iowa Board of Pharmacy Examiners on Monday, April 15, 1991, at 10:00 a.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 or revoke the license to practice pharmacy issued to Darrell D. Bobinet on December 14, 1971, 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 his 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 his 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: PHARMACIST LICENSE OF	)	DIA NO. 91PHB-1
	)	
DARRELL D. BOBINET,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

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To: Darrell D. Bobinet

A Complaint and Statement of Charges was filed by Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners, on March 8, 1991. The Complaint alleged that the Respondent had violated a number of pharmacy-related statutes and rules. The Complaint and Statement of Charges included the Notice of Hearing which set the hearing for April 15, 1991. The hearing was later continued to July 16, 1991.

A hearing on the above Complaint and Statement of Charges was held on July 16, 1991, at 10:00 a.m. Present were the following members of the Board: Melba L. Scaglione, Chairperson; Phyllis Olson, Rollin Bridge, Marian Roberts, Alan Shepley, Jack Van Norman, and Donna Flower. Lynnette Donner, Assistant Attorney General, appeared on behalf of the State. The Respondent, Darrell D. Bobinet, did not appear. Present also were members of the staff of the Board and a court reporter. Margaret LaMorne, Administrative Law Judge from the Iowa Department of Inspection and Appeals, presided. The hearing was open to the public. After hearing the testimony and examining the exhibits, the Board convened in closed executive session pursuant to Iowa Code section 21.5(1)"f" (1991) to deliberate. The undersigned Administrative Law Judge was instructed to prepare this Board's Decision and Order.

THE RECORD

The record in this case includes the Complaint and Statement of Charges, Order for Continuance, the recorded testimony of the witnesses, and the following exhibits:

State's Exhibit 1: Trial Information, U.S. District Court  
for the Western District of Oklahoma,  
CR-90-147-R

State's Exhibit 2: Judgment in a Criminal Case, CR-90-147-R

Respondent's Exhibit 1: Letter dated 4/6/91 (Respondent to  
Board)

Respondent's Exhibit 2: Program Review Report

- Respondent's Exhibit 3: Letter dated 8/21/90 (Orwig to Russell)
- Respondent's Exhibit 4: Letter dated 8/7/90 (Smith to Russell)
- Respondent's Exhibit 5: Letter dated 8/23/90 (Ramsey to Smith)
- Respondent's Exhibit 6: Letter dated 8/6/90 (Sargeant to Russell)
- Respondent's Exhibit 7: Letter dated 8/15/90 (Yale to Russell)
- Respondent's Exhibit 8: Letter dated 8/22/90 (Britton to Russell)
- Respondent's Exhibit 9: Letter dated 8/1/90 (James to Russell)
- Respondent's Exhibit 10: Letter dated 8/15/90 (Masters to Russell)
- Respondent's Exhibit 11: Letter (Kyra Bobinet to Russell)
- Respondent's Exhibit 12: Letter dated 8/24/90 (LaMar to Russell)
- Respondent's Exhibit 13: Letter dated 8/6/90 (Juhl to Russell)
- Respondent's Exhibit 14: Letter dated 8/20/90 (Foster to Russell)
- Respondent's Exhibit 15: Fax dated 7/13/91 (Respondent to Board) and Newspaper Article dated June 20, 1991

#### FINDINGS OF FACT

1. Respondent was issued a license to practice pharmacy in Iowa on December 14, 1971, by examination. Respondent's license is current until June 30, 1992. (official file)
2. Respondent was employed as the Chief of Pharmaceutical Services, Department of Veteran's Affairs Medical Center, Oklahoma City, Oklahoma. (Respondent's Exhibits 1 - 15; testimony of Lloyd Jessen)
3. On July 17, 1990, a Trial Information was filed in the United States District Court for the Western District of Oklahoma charging the Respondent with the following:

That on or about between January 21, 1986, and January 25, 1990, in the Western District of Oklahoma and elsewhere, Darrell Dean Bobinet, the defendant herein, did knowingly and willfully embezzle and convert to his own use pharmaceutical products, property of the United States, of the value of more than \$100.00, which said property had come into the possession, and under the care of Darrell Dean Bobinet by virtue of his employment as Chief of Pharmaceutical Services, Department of Veteran's Affairs Medical Center, Oklahoma City, Oklahoma, an agency of the United States. All in violation of Title 18, United States Code, Section 641. (State's Exhibit 1; testimony of Lloyd Jessen)

4. Respondent pleaded guilty to the count contained in the Trial Information. On September 17, 1990, Respondent appeared for sentencing in United States District Court for the Western District of Oklahoma before U.S. District Judge David L. Russell. The Respondent was adjudged guilty of one count of embezzling and converting to his own use property of the United States, in violation of Title 18, United States Code, section 641. Respondent was sentenced to serve a term of imprisonment of 21 months followed by a two-year term of supervised release. Respondent was also ordered to make restitution of \$100,000 to the U.S. Department of Justice. See Judgment In A Criminal Case, United States of America v. Darrell Dean Bobinet, No. CR. 90-147-R, pages 1 through 5. The Board has received a certified copy of this Judgment. (State's Exhibit 2; testimony of Lloyd Jessen)

5. On October 1, 1990, Respondent surrendered for service of sentence at a federal correctional facility located at El Reno, Oklahoma. Respondent is scheduled for release on April 8, 1992. (State's Exhibit 2; Respondent's Exhibit 2; testimony of Lloyd Jessen)

6. The Notice of Hearing was served on Respondent by Certified Mail on March 15, 1991. Respondent was unable to attend the hearing because the Federal Camp Administrator cancelled his furlough. The Respondent asked the Board to proceed in his absence, but requested the Board to consider his exhibits one through fifteen. (Respondent's Exhibits 1 - 15; Original Notice of Hearing; testimony of Lloyd Jessen)

7. In a letter to the Board dated April 6, 1991, Respondent explained the circumstances surrounding his conviction. Respondent had been under financial strain due to a financial settlement. He also had joint custody, and, eventually, custody of his two children. For six years Respondent painted houses part-time to earn extra money. According to Respondent, exhaustion set in and he began taking items from the VA Pharmacy and selling them. None of the items taken were controlled drugs. In all, Respondent embezzled \$25,000 worth of items per year for a four-year period. Respondent acknowledges that he made a "grave mistake". Respondent states that he has been

penalized in a personal sense in addition to the prison term and \$100,000 restitution order. Respondent wishes to return to the practice of pharmacy and requests leniency from the Board. (Respondent's Exhibit 1)

8. Respondent submitted twelve letters of recommendation to the Board which were written by friends, relatives, an FBI agent, and co-workers. The letters stated that Respondent was respected as an honest person and an outstanding pharmacist and parent. Many commented that Respondent's criminal actions were a shock to them and did not reflect his general character. Among those writing in support of Respondent were the Associate Chief of Staff of the VA Hospital, the Chief of Mental Health Services, the Administrative Director of the VA Medical Center's Mental Health Clinic, the Coordinator of Clinical Pharmacy Services at the Oklahoma City VA Hospital, and the Dean of the University of Pittsburgh School of Pharmacy. (Respondent's Exhibits 1 - 15)

#### CONCLUSIONS OF LAW

1. Iowa Code section 17A.12(3) (1991) provides that if a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of a party.

The notice was properly served on the Respondent, and he failed to appear. The Board proceeded in his absence, and he is bound by the results of the hearing.

2. Iowa Code section 147.55 (1991) provides, in part, the following:

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 or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

Iowa Code section 155A.12 (1991) provides in part, the following:

. . . 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:

1. Violated any provision of this chapter or any rules of the board adopted under this chapter. . . .

3. Violated any of the provisions for licensee discipline set forth in section 147.55. . . .

8. Violated the pharmacy or drug laws or rules of any other state of the United States while under the other state's jurisdiction.

9. Been convicted of an offense or subjected to a penalty or fine for violation of chapter 147, 203, 203A, 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.

3. 657 Iowa Administrative Code section 9.1(4) provides, in part, the following:

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: . . .

e. Conviction of a felony. A copy of the record of conviction or a plea of guilty shall be conclusive evidence. . . .

h. Distribution of . . . drugs for other than lawful purposes. The distribution of drugs for other than lawful purposes includes but is not limited to the disposition of drugs in violation of Iowa Code chapters 155A, 203, 203A, and 204. . . .

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.

4. The preponderance of the evidence established that the Respondent violated Iowa Code section 147.55(5) (1991) and 155A.12(3) and 657 I.A.C. 9.1(4)(e), (j) and (u) by virtue of his conviction for embezzlement in the United States District Court for the Western District of Oklahoma.

#### DECISION AND ORDER

THEREFORE, IT IS THE ORDER of the Iowa Board of Pharmacy Examiners that License Number 13976 issued to the Respondent, Darrell D. Bobinet, is suspended for a period of one year, concurrent with his incarceration. Upon his release from incarceration, the suspension of Respondent's license shall be stayed, and will be placed on probation for a period of two years, subject to the following terms and conditions:

- 1) Within six (6) months of his release from incarceration, Respondent shall make a personal appearance before the Board;
- 2) Respondent shall maintain the hours of continuing education as are normally required by the Board for license renewal;
- 3) Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.
- 4) Respondent shall report to the Board or its designee quarterly. Said report shall be in writing and should include Respondent's current address, place of employment and duties. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the final report is made.
- 5) Respondent shall notify all present and prospective employers of the decision in case No. 91PHB-1 and the terms, conditions and restriction imposed on Respondent by said decision.  
Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking new employment, Respondent shall cause his employer to report to the Board in writing acknowledging the employer has read the decision in case No. 91PHB-1.
- 6) Respondent shall not supervise any registered intern and shall not perform any of the duties of a preceptor.
- 7) Should Respondent leave Iowa to reside or practice outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.
- 8) Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
- 9) Upon successful completion of probation, Respondent's certificate will be fully restored.

Dated this *22nd* day of *July*, 1991.

*Melba Scaglione*  
\_\_\_\_\_  
Melba Scaglione, Chairperson  
Iowa Board of Pharmacy Examiners

*Margaret S. LaMarche*  
\_\_\_\_\_  
Margaret LaMarche  
Administrative Law Judge

ML/jmm

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of	}	<b>MODIFICATION OF</b>
<b>DARRELL D. BOBINET</b>	}	<b>DECISION</b>
License No. 13976	}	<b>AND</b>
Respondent	}	<b>ORDER</b>

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**COMES NOW**, Melba L. Scaglione, Chairperson of the Iowa Board of Pharmacy Examiners, on the 4th day of March, 1992, and declares that:

1. On July 22, 1991, the Board issued a Decision and Order (DIA No. 91PHB-1) which included, in part, the following provision:

Upon his release from incarceration, the suspension of Respondent's license shall be stayed, and will be placed on probation for a period of two years, subject to the following terms and conditions:

1) Within six (6) months of his release from incarceration, Respondent shall make a personal appearance before the Board...

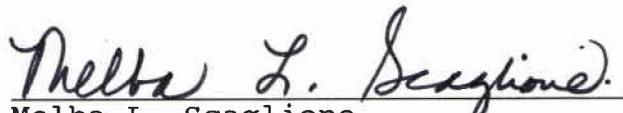
2. The provision of the Decision and Order (DIA No. 91PHB-1) for Darrell D. Bobinet, as stated above, is now hereby modified to provide as follows:

Upon his release from incarceration, the suspension of Respondent's license shall be stayed, and will be placed on probation for a period of two years, subject to the following terms and conditions:

1) Within one (1) year of his release from incarceration, Respondent shall make a personal appearance before the Board...

Dated this 4th day of March 1992.

IOWA BOARD OF PHARMACY EXAMINERS

  
Melba L. Scaglione  
Chairperson

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of	)	<b>MODIFICATION OF</b>
<b>DARRELL D. BOBINET</b>	)	<b>DECISION</b>
License No. 13976	)	<b>AND</b>
Respondent	)	<b>ORDER</b>

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**COMES NOW**, Marian L. Roberts, Vice Chairperson of the Iowa Board of Pharmacy Examiners, on the 27th day of July, 1992, and declares that:

1. On July 22, 1991, the Board issued a Decision and Order (DIA No. 91PHB-1) which included, in part, the following provision:

Upon his release from incarceration, the suspension of Respondent's license shall be stayed, and will be placed on probation for a period of two years, subject to the following terms and conditions:...

7) Should Respondent leave Iowa to reside or practice outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

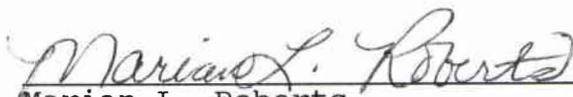
2. The provision of the Decision and Order (DIA No. 91PHB-1) for Darrell D. Bobinet, as stated above, is now hereby modified to provide as follows:

Upon his release from incarceration, the suspension of Respondent's license shall be stayed, and will be placed on probation for a period of one year (ending October 8, 1992), subject to the following terms and conditions:...

7) Should Respondent leave Iowa or Oklahoma to reside or practice outside this state or the state of Oklahoma, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside this state or outside the state of Oklahoma shall not apply to reduction of the probationary period.

Dated this 27th day of July 1992.

IOWA BOARD OF PHARMACY EXAMINERS

  
Marian L. Roberts  
Vice Chairperson