

THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	:	EMERGENCY ORDER
	:	AND
MARK H. BREWER (16794)	:	COMPLAINT AND
	:	STATEMENT OF CHARGES
Respondent	:	

Now on this 18th day of December 1987, the chairman of the Iowa Board of Pharmacy Examiners has reviewed the following evidence.

1. That Respondent was issued a license to practice pharmacy in Iowa on August 13, 1986, by reciprocity.
2. That Respondent was employed as a nursing home consultant pharmacist by the Prescription Center, 101 Pearl Street, Council Bluffs, Iowa, during the period of March 1986 to November 9, 1987.
3. That Respondent has admitted to diverting controlled substances from the Prescription Center, 101 Pearl Street, Council Bluffs, Iowa, to satisfy his personal addiction to those substances.
4. That Respondent has admitted to diverting controlled substances belonging to residents of six nursing homes located in Omaha, Nebraska, during the period of his employment at the Prescription Center.
5. That Respondent has admitted to supplying controlled substances obtained from the sources described in paragraphs 3 and 4 to three male roommates during the period of August 1986 to August 1987.
6. That Respondent was admitted to the Eppley Treatment Center, 3612 Cuming Street, Omaha, Nebraska, on November 9, 1987, for treatment of his chemical dependency.
7. That the information in paragraphs 3, 4 and 5 indicate that Respondent poses a threat to the public health and safety if he were allowed to continue to practice pharmacy.

Based upon the above evidence, the chairman of the Iowa Board of Pharmacy Examiners finds that the public health and safety would be jeopardized if Mark H. Brewer were to be allowed to continue in the practice of pharmacy until a hearing can be held. The chairman finds that the public health and safety, therefore, makes emergency summary license suspension imperative and directs the executive secretary to issue such order.

IT IS HEREBY ORDERED, pursuant to the authority of Iowa Code Section 17A.18(3), that the license of Mark H. Brewer to practice pharmacy in Iowa be temporarily suspended until such time as a hearing before the Iowa Board of Pharmacy Examiners can be held.

With this notice, the chairman of the Iowa Board of Pharmacy Examiners has also directed the executive secretary to file a Complaint and Statement of Charges against Respondent, who is a pharmacist licensed pursuant to Iowa Code Chapter 155A. In filing said Complaint and Statement of Charges, the secretary alleges that:

8. Rollin C. Bridge, chairperson; Jerry M. Hartleip, vice chairperson; Donna M. Flower; John M. Rode; Melba L. Scaglione; Alan M. Shepley; and Gale W. Stapp are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.
9. Respondent's license to practice pharmacy is current until June 30, 1988.
10. Respondent is guilty of violations of Iowa Code Subsections 155A.12 (1), (3) and (5); 204.308(1); 204.402(1) by virtue of the allegations in paragraphs 3, 4, 5 and 6.

Subsection 155A.12(1), (3) and (5) read as follows:

...The board shall refuse to issue a pharmacist license for failure to meet the requirements of section 155A.8. 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.

(5) Violated any provision of the controlled substances Act or rules relating to that Act.

Subsection 147.55(4) reads as follows:

Grounds. A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

(4) Habitual intoxication or addiction to the use of drugs.

Subsection 204.308(1) reads as follows:

...(1) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in

schedule II may be dispensed without the written prescription of a practitioner.

Subsection 204.402(1) reads as follows:

...(1) 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.

11. Respondent is guilty of a violation of Board Rule §620--10.1(4) "d," "h," "j" and "u" by virtue of the allegations in paragraphs 3, 4, 5, 6 and 10.

Rule 10.1(4) reads as follows:

The board may impose any of the disciplinary sanctions set out in subrule 10.1(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:

d. Habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to:

(1) The inability of a pharmacist to practice pharmacy with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

(2) The excessive use of drugs which may impair a pharmacist's ability to practice pharmacy with reasonable skill and safety.

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

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 section...147.55 of The Code.

12. Paragraphs 11 and 12 constitute grounds for which Respondent's license to practice pharmacy can be suspended or revoked.

WHEREFORE, the undersigned charges that Mark H. Brewer has violated subsections 155A.12(1); 155A.12(3); 155A.12(5); 204.308(1); 204.402(1) of the Code of Iowa 1987, and Board Rule §620--10.1(4)"d," "h," "j" and "u" of the Iowa Administrative Code.

IT IS HEREBY ORDERED, that Mark H. Brewer appear before the Iowa Board of Pharmacy Examiners at 10:00 a.m. on February 9, 1988, in Conference Room A, 1209 East Court, Executive Hills West, Capitol Complex, Des Moines, Iowa.

The Order for temporary suspension and notice of hearing are issued pursuant to the authority granted the Iowa Board of Pharmacy Examiners, under Chapters 17A, 155A, 204, 258A, Code of Iowa 1987.

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


Norman C. Johnson
Executive Secretary

RECEIVED

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

JUN 06 1988

IOWA PHARMACY EXAMINERS

In the Matter of :
MARK H. BREWER : STIPULATION
License No. 16794 :

WHEREAS, Mark H. Brewer, hereinafter referred to as the Licensee, has had certain allegations made against him by the Board of Pharmacy Examiners, hereinafter referred to as the Board, concerning his professional conduct as a pharmacist, and

WHEREAS, the Licensee admits to the allegations made against him, and

WHEREAS, both the Licensee and the Board desire to arrive at a mutually agreeable informal settlement of this matter,

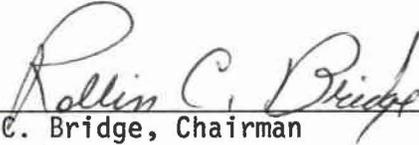
IT IS MUTUALLY AGREED AND STIPULATED as follows between the Licensee and the Board:

1. That the Board and the Licensee have entered into settlement discussions and have agreed upon a disposition of this matter.
2. That the Licensee desires to avoid the uncertainty and the expense of a trial and desires to consent to the disciplinary action to be taken by the Board as specified in paragraph 4, infra.
3. It is the purpose and intent of the parties hereto to waive all the provisions of Chapter 17A of the 1987 Code of Iowa as they relate to notice and hearing on the matter of revocation or suspension of Licensee's license to be a pharmacist, and to acknowledge that each are fully aware of their rights and procedures afforded them through Chapter 17A of the 1987 Code of Iowa and the rules of the Board of Pharmacy Examiners promulgated in accordance and pursuant thereto, particularly Section 17A.12 as it relates to contested cases and provides notice of hearing and records, and Section 17A.18, as it relates to the requirements concerning notice of the suspension and revocation of licenses.
4. It is the understanding of both the Licensee and the Board that they will enter into an Order and Consent to Order which will provide for the following:
 - a. Licensee's license to practice pharmacy in Iowa is suspended for three years effective with the signing of this Order. Immediately prior to the end of the suspension period, Licensee shall appear before the Board to show cause why the suspension provisions should be ended.

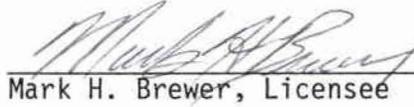
- b. During the period of suspension, Licensee shall not enter any pharmacy prescription area and shall not engage in any pharmacy related activities.
- c. Licensee shall obtain 15 hours of approved continuing education credits during each licensing year (July 1 through June 30) of his suspension period. Such continuing education credits shall be obtained from providers approved by the American Council on Pharmaceutical Education (ACPE).
- d. Licensee shall participate in a drug treatment program approved by the Board. During the first year of license suspension, Licensee and his treatment program counselor shall file separate monthly reports. During the second and third years of license suspension, these reports shall be filed quarterly. The monthly and quarterly reports shall relate to Licensee's rehabilitation and aftercare program.
- e. Licensee shall submit to random biological fluid testing no less than every 60 days during the first year of his suspension and no less than every 90 days during the second and third years of his suspension. These tests shall be at Licensee's expense. Results of each test shall be sent to the Board office as soon as practicable after the results are obtained.
- f. Upon completing the period of license suspension, Licensee shall be on probation for a period of five years.
- g. During the period of probation, Licensee shall not own or be the pharmacist-in-charge of any pharmacy.
- h. Licensee shall not be a preceptor nor otherwise supervise any pharmacy intern during the period of probation.
- i. Licensee shall notify all employers of this agreement while he is on probation.
- j. Licensee shall obey all federal and state laws and rules substantially related to the practice of pharmacy.
- k. Should Licensee violate probation in any respect, the Board, after giving Licensee notice and an opportunity to be heard, may revoke probation. If a petition to revoke probation is filed against Licensee 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.
- l. Upon a satisfactory completion of probation, Licensee's license to practice pharmacy shall be fully restored.

- m. A copy of this Agreement and the Order and Consent to Order shall be furnished to the Nebraska Board of Pharmacy.

THE ABOVE AND FOREGOING CONSTITUTE THE FULL AND COMPLETE STIPULATION AND AGREEMENT OF THE PARTIES HERETO.



Rollin C. Bridge, Chairman
Iowa Board of Pharmacy Examiners



Mark H. Brewer, Licensee

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

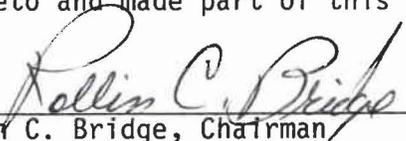
In the Matter of Pharmacist :
 :
MARK H. BREWER :
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ORDER AND CONSENT TO ORDER

The Iowa Board of Pharmacy Examiners, having been advised of the allegations that Mark H. Brewer has conducted himself in a manner which could cause his license to practice pharmacy to be suspended or revoked, and the Board of Pharmacy Examiners through a Board Member and said Mark H. Brewer having entered into a Stipulation representing their mutual informed consent as to the waiver of the provisions found in the Iowa Administrative Code appearing at Chapter 17A, particularly Section 17A.12 and Section 17A.18, Code of Iowa 1987, in regards to Notice and Hearing, the parties to this action agree to an informal settlement of this matter, namely that the license of Mark H. Brewer to practice pharmacy in Iowa will be suspended according to the conditions attached hereto.

ORDER

IT IS THEREFORE ORDERED, subject to Mark H. Brewer's consent to be contained herein to this Order that the License of Mark H. Brewer to practice pharmacy in Iowa be suspended according to the conditions outlined in the Stipulation attached hereto and made part of this Order.



Rollin C. Bridge, Chairman
Iowa Board of Pharmacy Examiners
Date 3/23/88

CONSENT TO ORDER

I, Mark H. Brewer, hereby consent to the Order set forth above, waive my right to a hearing in this matter, and thereby specifically waive a right to confrontation, cross-examination of witnesses, production of evidence, making of a record and judicial review.



Mark H. Brewer
Date 6-3-88