

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of	}	COMPLAINT
KENT C. CLAUSSEN	}	AND
License No. 15362	}	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 2nd day of April, 1991, and files this Complaint and Statement of Charges against Kent C. Claussen, 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 August 29, 1978, by examination.

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

4. Respondent was issued a license to practice pharmacy in Missouri (license number 41673).

5. Respondent currently resides at Rt. 76, Box 727, Camdenton, Missouri 65020.

6. On February 4, 1991, the Board received certified copies of the following documents: (1) a Complaint and Exhibit #1, Case No. 90-001118PH, titled Missouri Board of Pharmacy v. Kent C. Claussen; (2) a Stipulation of Facts and Waiver of Administrative Hearing Commission Hearing and Consent to a Finding of Cause for Discipline with Joint Proposed Findings of Fact and Conclusions of Law, Case No. 90-001118PH, titled Missouri Board of Pharmacy v. Kent C. Claussen; and (3) an Order of Disposition and Finding of Cause, Case No. 90-001118PH, titled Missouri Board of Pharmacy v. Kent C. Claussen. The Complaint provides, in part, the following:

3. From May, 1985, to August, 1988, respondent was employed as a pharmacist by Tolson Drug, Inc. and worked at the Tolson Drug store in Osage Beach, Missouri.

4. While employed at Tolson Drug, respondent unlawfully appropriated controlled substances from the pharmacy. The drugs which were misappropriated include Demerol, Methadone, ASA/Oxycodone, Nembutal, Fastin, APAP #4, Valium, Flurazepam, Ativan, Meperidine, Percocet, Roxanol SR, Dexedrine, Phentermine, Phenaphen #4, Halcion, Phenedimetrazine, Tussionex, Dilaudid, Percodan, M.S. Solution, Preludin, Fiorinal #3, Zydone, Diazepam, Dolophine, APAP/Oxycodone, Tuinal, Adipex, Tylenol #4, Xanax, Dalmane, Lorazepam.

5. Respondent administered these drugs to himself without a prescription from a physician.

6. Respondent has also unlawfully appropriated controlled substances from Glaize Drug in Osage Beach, Missouri, including Percocet, ASA/Oxycodone and Dolophine.

7. Respondent administered these drugs to himself without a prescription from a physician.

8. Respondent has unlawfully appropriated controlled substances from Village Pharmacy in Camdenton, Missouri, including Percocet.

9. Respondent administered these drugs to himself without a prescription from a physician.

10. Respondent has unlawfully appropriated the following controlled substances from KK Pharmacy in Osage Beach, Missouri: APAP/Oxycodone, ASA/Oxycodone.

11. Respondent administered these drugs to himself without a prescription from a physician.

12. The drugs identified in paragraphs 4, 6, 8 and 10 are all controlled substances as that term is defined in Section 195.010(6), RSMo 1986.

13. On or about May 30, 1989, respondent admitted in writing that he was responsible for controlled substances missing from the inventory of Tolson Drug, Osage Beach, Glaize Drug, Osage Beach, Village Pharmacy, Camdenton, and KK Pharmacy, Osage Beach. A true and correct copy of the written admission is attached hereto as Exhibit 1 and incorporated by reference as if fully set forth herein.

7. On February 4, 1991, the Board also received a certified copy of the Findings of Fact, Conclusions of Law, and Disciplinary Order, Case No. 90-001118PH, titled In the Matter of Kent C. Claussen, from the Missouri State Board of Pharmacy. The Disciplinary Order, entered on December 5, 1990, provides that on January 5, 1991, Respondent's license to practice pharmacy in Missouri was suspended for a period of six months, to be followed by probation for five years. The suspension was to be stayed, however, upon Respondent's submission of documentation of an aftercare program.

8. Respondent failed to report to the Board the disciplinary action taken by the Missouri Board of Pharmacy against his Missouri pharmacist license (license number 41673).

9. Respondent is guilty of violations of 1991 Iowa Code sections 155A.12(1), 155A.12(5), 155A.12(8), 155A.12(10), 155A.23(1)(a), 204.308(1), 204.402(1)(a), and 204.403(1)(c) by virtue of the information and allegations contained in paragraphs 6, 7, and 8.

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

...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.

....

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

....

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

....

10. Had a license to practice pharmacy issued by another state canceled, revoked, or suspended for conduct substantially equivalent to conduct described in subsections 1 through 9. A certified copy of the record of the state taking action as set out above shall be conclusive evidence of the action taken by such state.

Iowa Code section 155A.23 provides, in part, the following:

A person shall not:

1. Obtain or attempt to obtain a prescription drug or procure or attempt to procure the administration of a prescription drug by:

a. Fraud, deceit, misrepresentation, or subterfuge.

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

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.

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;...

Iowa Code section 204.403(1) provides, in part, the following:

It is unlawful for any person knowingly or intentionally:...

c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;...

10. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(d)(2), 9.1(4)(h), 9.1(4)(k), 9.1(4)(m), and 9.1(4)(u) by virtue of the information in paragraphs 6, 7, and 8.

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)...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:...

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

...  
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.

...  
k. Failure to report a license revocation, suspension or other disciplinary action taken by another state, territory or country.

....  
m. Inability to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment or chemical abuse.

...  
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 155A.12(1), 155A.12(5), 155A.12(8), 155A.12(10), 155A.23(1)(a), 204.308(1), 204.402(1)(a), and 204.403(1)(c), and 657 Iowa Administrative Code sections 9.1(4)(d)(2), 9.1(4)(h), 9.1(4)(k), 9.1(4)(m), 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 Kent C. Claussen appear before the Iowa Board of Pharmacy Examiners on Tuesday, July 16, 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 Kent C. Claussen on August 29, 1978, 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

**TO WHOM IT MAY CONCERN:**

I, Kent C. Claussen, hereby make this admission of my own free will and under no duress, to be used by any state regulatory agency that may have an affect on the status of my license to practice pharmacy in the State of Missouri, that which follows is the nearest estimation of quantity and kinds of controlled substance inventory that is missing, for which I am responsible, in each of the locations indicated.

Tolson Drug-Osage Beach			
Demerol	Meperidine	Dilaudid	Dolophine
Methadone	Percocet	Percodan	APAP/Oxycodone
ASA/Oxycodone	Roxanol SR	M.S. Solution	Tuinal
Nembutal	Dexedrine	Preludin	Adipex
Fastin	Phentermine	Fiorinal #3	Tylenol #4
APAP #4	Phenaphen #4	Zydone	Xanax
Valium	Halcion	Diazepam	Dalmane
Flurazepam	Phendimetrazine		Lorazepam
Ativan	Tussionex		

The actual quantities involved here are very large, and can only be determined by audit. There are probably lesser quantities missing of every other schedule drug stocked.

Glaize Drug-Osage Beach  
Percocet-20      ASA/Oxycodone-25      Dolophine-10

Village Pharmacy-Camdenton  
Percocet 300-500

KK Pharmacy-Osage Beach  
APAP/Oxycodone 20-50                      ASA/Oxycodone 20-50

These are fairly accurate estimates, but in actuality, may be larger.

*Kent C. Claussen* 5/30/89  
Kent C. Claussen, RPh.

Witness:  
*George E. Hallams, Bd of Pharmacy* 5-30-89  
*Low Maurice, Investigator, MO Bd of Pharmacy* 05/30/89



action (Case No. 90-001118PH) and the Federal probation (Case No. 91-03164-01-CR-S-4), and satisfaction of the terms of paragraph 9 of this Informal Settlement.

9. Until Respondent's license is reinstated, he shall report to the Board in writing once every six (6) months, beginning on January 5, 1992, and each six (6) months thereafter, stating his current status, including progress in substance abuse rehabilitation and compliance with applicable federal and state drug laws and criminal laws. Copies of the semi-annual reports required under the Missouri action may be submitted in satisfaction of this requirement until the Missouri reporting requirement is terminated. Further, Respondent shall provide for the Board to be notified of any positive bodily fluid drug test.

10. 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.

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11. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 8<sup>th</sup> day of October, 1991.

Kent C. Clausen  
KENT C. CLAUSSEN  
Respondent

Signed and sworn to before me this 5<sup>th</sup> day of October, 1991.

LUCINDA K. TREKELL  
NOTARY PUBLIC STATE OF MISSOURI  
CLAY COUNTY  
MY COMMISSION EXP OCT 15, 1994

Lucinda K. Trekell  
NOTARY PUBLIC IN AND FOR THE  
STATE OF MISSOURI

12. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 19<sup>th</sup> day of November, 1991.

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