

THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	:	EMERGENCY ORDER
	:	AND
EMILY JO DYKSTRA (16706)	:	COMPLAINT AND
Respondent	:	STATEMENT OF CHARGES

Now on this 8th day of December 1986, the Iowa Board of Pharmacy Examiners has reviewed the following evidence:

1. That Respondent was issued a license to practice pharmacy in Iowa on February 27, 1986, by examination.

2. That Respondent was employed as pharmacist-manager of People's Drug #5291, 206 Jefferson Street, Burlington, Iowa, beginning September 2, 1986.

3. That the Board has reviewed arrest reports of the city of Burlington Police Department and information from Board Investigator E. Ray Shelden, who aided the Burlington Police and who initiated an investigation for the Board. Those reports and information indicate that Respondent was arrested on November 7, 1986, and charged with conspiracy to commit theft in the second degree, a Class D felony, and possession of prescription drugs, a serious misdemeanor.

4. The same sources of information show, to the Board's satisfaction, that Respondent had in her possession at her residence of 601 N. Sixth St., Burlington, Iowa, a quantity of controlled substances which had been taken without authorization from People's Drug #5291, 206 Jefferson, Burlington, Iowa.

5. That the information in paragraphs 3 and 4, together with other confidential information in the possession of the Board, indicates that Respondent would pose a threat to the public health and safety if she were allowed to continue to practice pharmacy.

Based upon the above evidence, the Iowa Board of Pharmacy Examiners finds that the public health and safety would be jeopardized if Emily Jo Dykstra were to be allowed to continue in the practice of pharmacy until a hearing can be conducted. The Board finds that the public health and safety, therefore, makes emergency summary license suspension imperative, and so 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 Emily Jo Dykstra to practice pharmacy in Iowa be temporarily suspended until such time as a hearing before the Board of Pharmacy Examiners can be conducted.

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

6. Margo L. Underwood, Chairperson; Rollin C. Bridge, Vice Chairperson; Jerry M. Hartleip; 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.

7. Respondent's license to practice pharmacy is current until June 30, 1987.

8. Respondent was discharged as an employee of People's Drug on or about November 7, 1986.

9. Respondent is guilty of violations of Iowa Code Sections 155.13(3) and (8); 204.308(3); 204.402(1)"a" by virtue of the allegations in paragraph 4.

Section 155.13(3) and (8) read as follows:

"...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, or the violation thereof, and in addition, the board shall have the power to deny, suspend or revoke a license, when the applicant or licensee, or any employee, providing the offense is committed on licensed premises or is in the conduct of the business licensed, is guilty of any of the following facts or offenses:...

(3) Distributing on the premises of...drugs for any other than lawful purposes.

(8) Violations of the provisions of this chapter."

Section 204.308(3) reads as follows:

"(3) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under Section 155.3, subsections 9 and 10, shall not be dispensed without a written or oral prescription of a practitioner...."

Section 204.402(1)"a" reads as follows:

"It is unlawful for any person:

a. Who is subject to Division III to distribute or dispense a controlled substance in violation of 204.308."

10. 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 4 and 5.

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 \$1000.00, 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 155, 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...155.13 of The Code."

11. That paragraphs 9 and 10 constitute grounds for which Respondent's license to operate a pharmacy can be suspended or revoked.

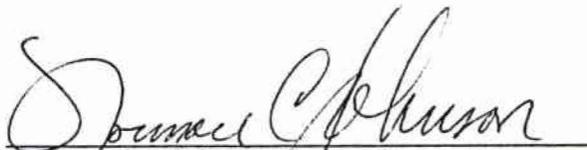
12. The information referred to in paragraph 5 is confidential and is sealed in the Board office. Respondent may obtain a copy from the Board, but it shall otherwise remain sealed.

WHEREFORE, the undersigned charges that Emily Jo Dykstra has violated Sections 155.13(3); 155.13(8); 204.308(3); 204.402(1)"a" of the Code of Iowa 1985, and Board Rule §620--10.1(4) "d," "h," "j" and "u" of the Iowa Administrative Code.

IT IS HEREBY ORDERED, that Emily Jo Dykstra appear before the Iowa Board of Pharmacy Examiners on January 20, 1987, at 1:30 p.m. in the second floor conference room, 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, 155, 204, 258A, Code of Iowa 1985.

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 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.



Norman C. Johnson
Executive Secretary

BEFORE THE IOWA BOARD OF PHARMACY EXAMINERS

IN THE MATTER OF THE EMERGENCY ORDER) DIA NO. NHS 870025
AND COMPLAINT & STATEMENT OF CHARGES)
AGAINST EMILY JO DYKSTRA (16706),) DECISION & ORDER
RESPONDENT)

To: Emily Jo Dykstra:

An Emergency Order and Complaint and Statement of Charges was filed by the Executive Secretary of the Iowa Board of Pharmacy Examiners on December 8, 1986, alleging that:

1. While Ms. Dykstra, the Respondent, was employed as a pharmacist-manager of People's Drug #5291 in Burlington, Iowa, she was arrested on November 7, 1986 and charged with conspiracy to commit theft in the second degree and possession of prescription drugs.
2. The Respondent had in her possession at her home a quantity of controlled substances taken without authorization from People's Drug #5291.
3. The Respondent would pose a threat to public health and safety if she were allowed to continue to practice pharmacy.
4. The Respondent was discharged as an employee of People's Drug on or about November 7, 1986.

The Emergency Order temporarily suspended Ms. Dykstra's pharmacy license until hearing before the Board.

The Complaint alleged that the Respondent had violated Iowa Code Sections 155.13(3) and (8); 204.308(3); 204.402(1)(a); and §620 Iowa Administrative Code Sections 10.1(4)(d), (h), (j), and (u).

The Order set the hearing for January 20, 1987. The hearing was continued at the request of Ms. Dykstra.

The hearing on the above Emergency Order and Complaint and Statement of Charges was held on Tuesday, February 9, 1988 at 2 p.m. in the conference room, Iowa Board of Pharmacy Examiners, Executive Hills West, Des Moines, Iowa 50319. Present were the Board and its counsel, Thomas D. McGrane, Assistant Attorney General. The Respondent, Emily Jo Dykstra, was present and was represented by her counsel, Harvey Harrison, attorney. Ms. Dykstra was accompanied by her parents. Present also were members of the staff of the Board and a court reporter. The undersigned hearing officer presided. At the request of Ms. Dykstra, the hearing was closed to the public pursuant to Iowa

Code § 258A.6(1)(1987). After hearing the testimony and examining the exhibits, the Board convened in closed executive session pursuant to Iowa Code §21.5(1)f(1987) to deliberate. The undersigned hearing officer was instructed to prepare this Board's decision and Order.

The Record

The evidentiary record in this case includes the Emergency Order and Complaint and Statement of Charges; the Investigative Report dated November 24, 1986 by E. Ray Shelden; a letter dated December 17, 1986 from Norman C. Johnson to Emily Jo Dykstra; a correction to the original Complaint and Statement of Charges changing Ms. Dykstra's address as stated in paragraph four; the recorded testimony of the witness; and the following exhibits:

Pharmacist's Exhibit 1 - letter dated November 12, 1986 from Arthur J. Schut, Executive Director of MECCA, to E. Ray Shelden, Iowa Board of Pharmacy Examiners. (see 42 CFR part 2)

Pharmacist's Exhibit 2- letter dated February 5, 1988 from Jennifer Burrows, CSAC II, to Harvey Harrison, attorney. (see 42 CFR part 2)

Findings of Fact

1. The Respondent, Emily Jo Dykstra, was issued Iowa pharmacist's license no. 16706. This license was temporarily suspended by Emergency Order on December 8, 1986, and remained suspended through the date of the hearing.
(official file; testimony of Ms. Dykstra)

2. The Respondent, Emily Jo Dykstra, admitted at the hearing through her attorney that the charges contained in the Complaint and Statement of Charges were true.

3. The theft charges referred to in the Emergency Order and Complaint and Statement of Charges filed against Ms. Dykstra were dismissed by the Burlington Police Department.

4. The Respondent was born on January 23, 1955. She has had a long history of alcohol and drug abuse. Ms. Dykstra began drinking alcoholic beverages at age 15 and began using marijuana in high school. She continued to use alcohol and marijuana while attending the University of South Dakota and while working for the University. Ms. Dykstra was married on December 31, 1973. She and her husband drank heavily and used drugs during the marriage. Ms. Dykstra was physically and verbally abused by her husband. They were divorced in January of 1980.

After the divorce, Ms. Dykstra attended the University of Iowa. She graduated in May of 1984 with a B.S. in pharmacy. During her first year at pharmacy school, Ms. Dykstra used no alcohol. She

began drinking again during her second year at school, and participated in alcohol and drug use while a student.

When she graduated, she moved to Florida, was licensed in Florida in August 1984, and held five different jobs as a pharmacist between 1984 and April 15, 1986. She was not fired from any of these jobs, but felt that each one was a career advancement. She now realizes that her alcohol and drug use contributed to her frequent job changes.

While in Florida, Ms. Dykstra flew back to Iowa to complete the licensing process and was licensed in Iowa in February 1986.

Ms. Dykstra used alcohol, cocaine, and some prescription drugs heavily while she was in Florida. She had a relationship with a man which did not work out, and she was arrested for disorderly conduct during an argument with this man. After she was released, she attempted to commit suicide. Her father and sister-in-law came to Florida, and took Ms. Dykstra to Mercy Hospital in Iowa City. She remained hospitalized for eight days for a drug overdose. She was then admitted on an in-patient basis to the Mid-Eastern Council on Chemical Abuse (MECCA) Residential Substance Abuse Treatment Program on April 24, 1986. Ms. Dykstra has no recollection of being in the hospital and does not have complete recollection of the time she was an in-patient at MECCA because of her use of drugs, and because she was prescribed Valium to control seizures when first admitted to MECCA.

Ms. Dykstra remained in the MECCA program as a in-patient for 30 days. While in the MECCA program, she denied and minimized her alcohol and drug problem. As a part of the MECCA program, Ms. Dykstra received counseling. She received counseling for six weeks as a part of the after care program of MECCA when she was no longer a resident at the facility. However, she received no long-term treatment at that time. Ms. Dykstra did not inform the Iowa Board of Pharmacy Examiners regarding her problems in Florida and her treatment in Iowa.

In September, 1986, Ms. Dykstra began a job as a manager/pharmacist at People's Drug in Burlington, Iowa. For approximately three weeks Ms. Dykstra did not use alcohol or drugs. Ms. Dykstra inventoried the Schedule II substances but not the remaining controlled substances. After Ms. Dykstra had been at Peoples's for approximately three weeks, the store was burglarized. Ms. Dykstra began using alcohol and drugs again in excessive amounts. She was engaged to a man whom she had met while at MECCA. In late October or early November, 1986, Ms. Dykstra and her fiance found a box of outdated drugs in the backroom at People's, and took them to her apartment. They attempted to dispose of some of the drugs by flushing them down the toilet. The toilet clogged, they called a plumber, and the plumber found this evidence and called the Burlington Police. Ms. Dykstra and her fiance were arrested on theft and possession charges. The charges against Ms. Dykstra were dismissed.

E. Ray Sheldon inventoried the controlled substances at People's Drug on November 5, 6, and 10, 1986. The inventory showed shortages and overages of controlled substances.

After Ms. Dykstra was arrested and released, she was depressed. She was prescribed an anti-depressant, became catatonic upon taking it, and her boyfriend called her mother and father. Her parents brought her home on December 21, 1986.

Ms. Dykstra requested that the Pharmacy Board postpone the hearing which had been set as a result of the entering of the Emergency Order and Complaint. She began counseling through the Sioux County Drug and Alcohol Services, and it was recommended that she receive long-term treatment for alcohol and drug abuse. On January 14, 1987, she voluntarily entered Jackson Street Manor, which is a residential treatment facility for women recovering from chemical dependence.

Ms. Dykstra has not used alcohol or drugs since December 1986. She has received counseling and learned responsible, sober living through participation in this program. She has held employment while in the program. Her latest job began in May, 1987. Ms. Dykstra works as a night auditor at the Howard Johnson's Hotel. She has been very successful at this job. She has paid for her treatment at Johnson Street Manor. She has participated in Alcoholics Anonymous. She has been emotionally supported by people who have been through the program. She has made significant progress. She has followed the suggestions of her counselors. She will continue to follow all of the suggestions made by her counselors for her after-care program. She will continue to attend AA meetings. She is continuing her counseling on a weekly basis at Siouxland Mental Health.
(testimony of Ms. Dykstra; Pharmacist's Exhibits 1 and 2; Investigative Report)

5. Ms. Dykstra has talked with a pharmacist at a hospital in Sioux City about the possibility of her working as a pharmacist at the hospital, and regarding his employment. There is no definite position for which she has applied at this time.
(testimony of Ms. Dykstra)

6. Ms. Dykstra has had a problem in the past with dependence on relationships with men who are also alcohol and drug abusers. She is continuing to work on this problem in her counseling.
(testimony of Ms. Dykstra; Exhibit 2)

7. At various times prior to December 1986, Ms. Dykstra used and abused alcohol, cocaine, marijuana, "speed", and valium. She maintained a 2-gram per day cocaine habit while in Florida. She did not take drugs from her employment as a pharmacist except at People's Drug in Burlington.
(testimony of Ms. Dykstra).

8. Ms. Dykstra has broken her engagement with the fiancé she had in Burlington, although she maintains some contact with him. He is currently serving time in the penitentiary.
(testimony of Ms. Dykstra)

9. Ms. Dykstra has attempted to keep up with knowledge in the pharmacy field by reading and by taking some continuing education. She has fallen behind to some extent.
(testimony of Ms. Dykstra)

10. Ms. Dykstra will continue weekly counseling at Siouxland Mental Health for at least one more year, which was recommended by her counselors. Her plan for after-care is to follow whatever recommendations are given to her by her counselors.
(testimony of Ms. Dykstra)

11. Ms. Dykstra's judgment at work as a pharmacist prior to December 1986 was impaired by her use of alcohol and drugs.
(testimony of Ms. Dykstra)

12. Ms. Dykstra has made tremendous progress in dealing with her alcohol and drug dependence in the past fourteen months. She is to be commended for her hard work and commitment to recovery. Her counselor stated in a letter that her prognosis is "positive". The Board is very impressed with the progress she has made so far.
(testimony of Ms. Dykstra; Exhibit 2)

13. At the hearing, Ms Dykstra appeared to be somewhat tentative and hesitant. She still needs a great deal of guidance and direction from her counselors to continue to recover.
(testimony of Ms. Dykstra)

Conclusions of Law

Iowa Code sections 155.13(3) and (8) provide in 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, or the violation thereof, and in addition, the board shall have the power to deny, suspend or revoke a license, when the applicant or licensee, or any employee, providing the offense is committed on licensed premises or is in the conduct of the business licensed, is guilty of any of the following facts or offenses:...

(3) Distributing on the premises of...drugs for any other than lawful purposes.

(8) Violations of the provisions of this chapter."

Iowa Code section 204.308(3) provides in part:

"(3) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included

in schedule III or IV, which is a prescription drug as determined under Section 155.3, subsections 9 and 10, shall not be dispensed without a written or oral prescription of a practitioner...."

Iowa Code section 204.402(1)(a) provides that
"It is unlawful for any person:

a. Who is subject to Division III to distribute or dispense a controlled substance in violation of 204.308."

The evidence showed that Ms. Dykstra is guilty of violating Iowa Code sections 155.13(3) and (8), Iowa Code section 204.308(3), and Iowa Code section 204.402(1)(a).

620 Iowa Administrative Code sections 10.1(4)(d),(h),(j), and (u) provide that

"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 \$1000.00, 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 155,203,203A, 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...155.13 of The Code."

The evidence showed that Ms. Dykstra violated 620 Iowa Administrative Code sections 10.1(4)(d),(h),(j), and (u).

Decision and Order

Although the Board is convinced that Ms. Dykstra has made significant progress in her recovery, she is not ready yet to be placed in the setting of a pharmacy with its attendant stresses and access to drugs. Allowing Ms. Dykstra to be in a pharmacy at this time would be putting her in a situation which is dangerous

to both herself and the public. Ms. Dykstra needs more time without temptation to continue progressing in her recovery. She continues to need someone (her counselors) to tell her what to do. Her plan for continuing after-care is to do whatever her counselors recommend. While this attitude is commendable, it also shows that Ms. Dykstra is still dependent on her counselors to a great degree. She continues to maintain contact with her former fiance. She is tentative in her manner. She needs time to become more sure of herself. She needs more continuing education so that she will be caught up when she is ready to re-enter the profession.

It would be a disservice to Ms. Dykstra either (1) to not let her re-enter the profession, or (2) to let her re-enter it too soon. The best thing for Ms. Dykstra and for the public at this time is for Ms. Dykstra to continue her employment outside the pharmacy area, and to continue her counseling and recovery.

Therefore, it is the ORDER of the Iowa Board of Pharmacy Examiners that the license to practice pharmacy issued to Emily Jo Dykstra, number 16706, is hereby suspended for a period of at least one year, effective upon receipt by Ms. Dykstra of this Decision and Order.

At the completion of this one-year period, Ms. Dykstra may appear before the Board and request a lifting of the suspension. The Board will not lift the suspension until the Board is convinced there is no danger to the public, and Ms. Dykstra is ready and able to accept responsibility as a pharmacist.

It is the further ORDER of the Board that during this suspension period, Ms. Dykstra will submit monthly reports to the Board regarding progress in her after care program, her employment, and her residence. Ms. Dykstra will submit her plan for her after care program in writing to the Board. During the suspension, Ms. Dykstra's counselor will submit monthly reports to the Board regarding Ms. Dykstra's progress.

It is the further ORDER of the Board that during the period of suspension, Ms. Dykstra will submit to random fluid testing to be performed at least quarterly. Ms. Dykstra is to arrange to have this done by her counselor, at Ms. Dykstra's expense. The counselor will decide when to perform the test, and will report the results of the tests to the Board.

It is the further ORDER of the Board that Ms. Dykstra will notify the Florida Board of Pharmacy Examiners of this Decision and Order.

It is the further ORDER of the Board that during the period of the suspension, Ms. Dykstra will not enter any pharmacy prescription area and will not manage, administer any pharmacy or engage in pharmacy-related service.

It is the further ORDER of the Board that Ms. Dykstra will attend at least fifteen hours of continuing education per year until her license is reinstated. When Ms. Dykstra appears before the Board in one year, she will submit evidence of this continuing education to the Board.

It is the further ORDER of the Board that Ms. Dykstra is placed on probation for a period of five years following the completion of her suspension period, upon the following terms and conditions:

Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.

Respondent shall report to the Board or its designee quarterly. Said report shall be either in person or in writing, as directed. Should the final probation report not be made as directed, the period of probation shall be extended until such times as the final report is made.

Respondent shall submit to peer review as deemed necessary by the Board.

Respondent shall notify all prospective pharmacy-related employers of the decision in this case and the terms, conditions and restrictions imposed on respondent by said decision.

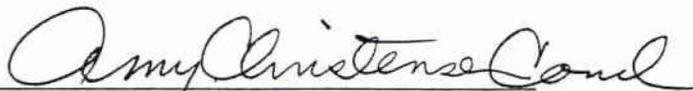
Within 15 days of respondent undertaking new employment in a pharmacy-related job, respondent shall cause her employer to report to the Board in writing acknowledging that the employer has read this decision.

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 or suspension period.

Should respondent violate probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation. 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.

Upon successful completion of probation, respondent's certificate will be fully restored.

This Decision and Order was prepared by me at the direction of the Iowa Board of Pharmacy Examiners on the 22nd day of February, 1988.



Amy Christensen Couch

Hearing Officer

Department of Inspections and Appeals

Lucas State Office Building

Des Moines, Iowa 50319-0083

ACC/nlh

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

In the Matter of the	:	
Emergency Order and Complaint and	:	
Statement of Charges Against	:	ORDER
Emily Jo Dykstra	:	
Pharmacist	:	
License No. 16706	:	

Emily Jo Dykstra has appeared before the Board asking that the Order of February 22, 1988, be modified to reflect an end to the suspension of her license to practice pharmacy in Iowa.

After hearing testimony and being satisfied that all of the conditions of the February 22, 1988, Decision and Order have been satisfied, the Board hereby declares that the license to practice pharmacy issued to Emily Jo Dykstra on February 26, 1986, is restored to a current, active status effective upon receipt from Ms. Dykstra of an application for renewal of that license.

Upon receipt of such application for renewal, the license to practice pharmacy issued to Emily Jo Dykstra will be placed on probation according to the terms of the Decision and Order dated February 22, 1988.



Norman C. Johnson
Executive Secretary
March 3, 1989

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	}	MODIFICATION OF
EMILY JO DYKSTRA	}	DECISION
License No. 16706	}	AND
Respondent	}	ORDER

COMES NOW, Melba L. Scaglione, Chairperson of the Iowa Board of Pharmacy Examiners, on the 2nd day of March, 1992, and declares that:

1. On February 22, 1988, the Board issued a Decision and Order (DIA No. NHS 870025) which included, in part, the following provision:

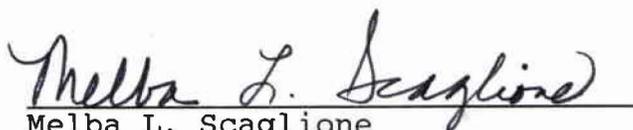
Respondent shall report to the Board or its designee quarterly. Said report shall be either in person or in writing, as directed. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the final report is made.

2. The provision of the Decision and Order (DIA No. NHS 870025) for Emily Jo Dykstra, as stated above, is now hereby modified to provide as follows:

From the date of restoration of her license until March 2, 1992, Respondent shall report to the Board or its designee quarterly. From March 3, 1992, until the end of the probationary period, Respondent shall report to the Board annually. Said report shall be in writing. Should the final probation report not be made, the period of probation shall be extended until such time as the final report is made.

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**

Re:)
Pharmacist License of)
EMILY JO DYKSTRA) **STATEMENT OF CHARGES**
License No. 16706)
Respondent)

COMES NOW, the Complainant, Lindy A. Pearson, and states:

1. She is the Chief Investigator for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in her official capacity.

2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (1995).

3. On February 27, 1986, Emily Jo Dykstra, the Respondent, was issued license number 16706 by the Board to engage in the practice of pharmacy, subject to the laws of the State of Iowa and the rules of the Board.

4. An emergency order was issued by the Board on December 8, 1986, which temporarily suspended Respondent's pharmacist license until such time as a hearing could be scheduled, as a result of various allegations including illegal possession of prescription drugs. Following an administrative hearing on February 9, 1988, Respondent's pharmacist license was suspended for one year with conditions. On May 19, 1989, Respondent's pharmacist was reinstated and placed on probation with conditions for five years. Respondent completed probation on May 19, 1994, and her license was fully restored on that date.

5. License number 16706 is now current and active until June 30, 1997.

6. Respondent currently resides at 31702 Granite Avenue, Hinton, Iowa 51204.

7. Respondent was employed as the pharmacist in charge of the Hy-Vee Pharmacy #1, 313 Cook Street, Sioux City, Iowa 51103, until March 1, 1996. Respondent is currently not employed as a pharmacist.

COUNT I

The Respondent is charged under Iowa Code § 124.308(3), 124.401(1)(c)(6), 124.401(1)(d), 124.402(1)(a), 147.55(3), 155A.12(1), 155A.12(2), 155A.12(4), 155A.12(5), 155A.23(2), 155A.23(4), and 205.3 and 657 Iowa Administrative Code sections 8.5(1), 9.1(4)(b)(2), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(h), 9.1(4)(j), and 9.1(4)(u) with theft of various controlled substances.

COUNT II

The Respondent is charged under Iowa Code § 124.308(3), 124.401(1)(c)(6), 124.401(1)(d), 124.402(1)(a), 147.55(3), 155A.12(1), 155A.12(2), 155A.12(4), 155A.12(5), 155A.23(2), 155A.23(4), and 205.3 and 657 Iowa Administrative Code sections 8.5(1), 9.1(4)(b)(2), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(h), 9.1(4)(j), and 9.1(4)(u) with illegal possession of various controlled substances.

COUNT III

The Respondent is charged under Iowa Code Sections 155A.12(1), 155A.12(5), 155A.23(1)(a), 124.308(3), 124.402(1)(a), and 124.403(1)(c) (1995) with obtaining prescription drugs by misrepresentation, fraud, forgery, deception, or subterfuge.

COUNT IV

The Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of her unauthorized use of drugs, in violation of 657 Iowa Administrative Code Sections 9.1(4)(c), 9.1(4)(d), 9.1(4)(h), 9.1(4)(j), 9.1(4)(m), and 9.1(4)(u).

THE CIRCUMSTANCES

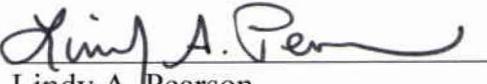
The Board has received investigative information which alleges the following:

1. Respondent was employed as the pharmacist in charge of the Hy-Vee Pharmacy #1, 313 Cook Street, Sioux City, Iowa 51103, until March 1, 1996. Respondent is currently not employed as a pharmacist.

2. On March 1, 1996, the Board received information which alleged that the Respondent was obtaining controlled substances without prescriber authorization. The Board has also received information which alleges that Hy-Vee Pharmacy #1 of Sioux City, Iowa, has discovered significant shortages of certain controlled substances. Respondent was employed by Hy-Vee Pharmacy #1 as the pharmacist in charge during the time in question. Furthermore, Respondent has admitted, in writing, that she created false prescriptions for certain controlled substances at Hy-Vee Pharmacy #1.

3. On March 1, 1996, and at other times during the past year, Respondent has allegedly experienced chemical dependency problems.

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it may deem to be appropriate under the law.


Lindy A. Pearson
Chief Investigator

On this 19th day of March, 1996, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Marian L. Roberts, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Linny Emrich
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

RECEIVED
APR 07 1997
IOWA PHARMACY EXAMINERS

RE:)
Pharmacist License of)
EMILY JO DYKSTRA)
License No. 16706) STIPULATION OF
Respondent) FACTS
)

COME NOW the parties and hereby Stipulate to the following facts:

1. The Iowa Board of Pharmacy Examiners has jurisdiction in this matter pursuant to Iowa Code chapters 155A and 272C (1995).
2. Respondent holds license number 16706 which was issued on February 27, 1986. Respondent's license is current and active until June 30, 1997.
3. Respondent's address is 31702 Granite Avenue, Hinton, Iowa, 51204.
4. On December 8, 1986, Respondent was charged with dispensing controlled substances without prescriber authorization, distributing drugs for other than lawful purposes, and habitual intoxication or addiction to the use of drugs. (Exhibit 1)
5. On February 22, 1988, the Board found Respondent had committed the violations as charged, and suspended her license for at least one year. Following the period of suspension, Respondent was to be placed on probation for five years with conditions. (Exhibit 2)
6. Respondent's probation was completed on May 19, 1994.

7. Respondent was employed as pharmacist in charge of the Hy-Vee Pharmacy #1, 313 Cook Street, Sioux City, Iowa, 51103, from 1990 to March 1, 1996.

8. Respondent admits that during her employment at Hy-Vee, there were shortages of various Schedule IV controlled substances that could not be accounted for. Respondent has accepted responsibility as pharmacist in charge for these losses. (Exhibit 3, Written Statement of Emily Jo Dykstra, March 1, 1996).

9. Respondent admits that during her employment at Hy-Vee, she prepared two fraudulent prescriptions: Diazepam, 10 mg #120 RX #351660 dtd 2/25/96 and Lorcet 10/650 mg #60 RX #351659 dtd 2/2/96. (Exhibit 4)

10. Respondent admits that she is chemically dependent and used drugs illegally in 1995 and 1996.

11. On May 1, 1996, Respondent was criminally charged with possession of valium and xanax with intent to deliver and theft in the second degree in Woodbury County District Court. On October 14, 1996, Respondent was charged with creating a fraudulent prescription. Respondent pled guilty to the charge of prescription fraud and was sentenced on November 21, 1996, to 10 years imprisonment. This sentence was suspended pending Respondent's successful completion of three years probation with conditions. (Exhibits 5, 6, 7, 8, 9, and 10)

12. Respondent admits that she violated the statutes and rules as charged in Counts II, III, and IV of the Statement of Charges. (Exhibit 11)

13. The parties agree that this Stipulation of facts and supporting exhibits shall be presented to the Board at the hearing scheduled for April 8, 1997.

STATE OF IOWA

by *Linny Emrich* *April 7, 1997*
Date

LINNY EMRICH
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319
(515) 281-6858
FAX: (515) 281-6771

Emily Jo Dykstra *4-4-97*
Date

EMILY JO DYKSTRA
31702 Granite Avenue
Hinton, Iowa, 51204

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

RE:	)	DIA NO: 96PHB-3
Pharmacist License of)	
EMILY JO DYKSTRA	)	FINDINGS OF FACT,
License No. 16706	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

TO: EMILY JO DYKSTRA

On March 19, 1996, the Iowa Board of Pharmacy Examiners (Board) found probable cause to file a Statement of Charges and Notice of Hearing against Emily Jo Dykstra (Respondent), a licensed pharmacist, alleging that the Respondent had violated a number of pharmacy related statutes and rules.

The hearing on the Statement of Charges was held on April 8, 1997 at 1:30 p.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa. The following members of the Board were present: Phyllis A. Olson, Chairperson; Marian L. Roberts; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; and Arlan D. Van Norman. The Respondent appeared pro se. The state was represented by Linny Emrich, Assistant Attorney General. The hearing was recorded by a certified court reporter. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided. The hearing was closed to the public, at the request of the Respondent, pursuant to Iowa Code Section 272C.6(1) (1997).

After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The administrative law judge was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with the Board's deliberations.

THE RECORD

The record includes the Statement of Charges and Notice of Hearing; Order Continuing the Hearing; Stipulation of Facts; the testimony of the witness; and the following exhibits:

- State Exhibit 1: Emergency Order and Complaint and Statement of Charges, 12/8/86
- State Exhibit 2: Decision and Order, 2/22/88
- State Exhibit 3: Respondent's Statement, 3/1/96
- State Exhibit 4: Copies of prescription, prescription

- records, Hy-Vee Pharmacy, 2/23/96-2/26/96, Physician's Statements
- State Exhibit 5: Trial Information, Criminal No. 46448, Woodbury County District Court
- State Exhibit 6: Motion to Amend Trial Information, Criminal No. 46488, Woodbury County District Court
- State Exhibit 7: Order, Criminal No. 46488, Woodbury County District Court
- State Exhibit 8: Plea Agreement, Criminal No. 46488, Woodbury County District Court.
- State Exhibit 9: Order, Criminal No. 46488, Woodbury County District Court
- State Exhibit 10: Judgment and Order for Suspended Sentence and Probation, Criminal No. 46488, Woodbury County District Court
- State Exhibit 11: Statement of Charges, 3/19/96
- Respondent's Exhibit A: Letter dated 11/6/96 (Rosenkrans, M.D. to Martinek); Letter dated 12/27/96 (Parrinello, LISW to Board); Letter dated 4/2/97 (Tom Welsh, CACI to Board); Respondent's Recommendations to the Board.

FINDINGS OF FACT

The following facts were stipulated, pursuant to a written agreement of the parties, executed on April 4, 1997:

1. The Iowa Board of Pharmacy Examiners has jurisdiction in this matter pursuant to Iowa Code chapters 155A and 272C (1995).
2. Respondent holds license number 16706 which was issued on February 27, 1986. Respondent's license is current and active until June 30, 1997.
3. Respondent's address is 31702 Granite Avenue, Hinton, Iowa, 51204.
4. On December 8, 1986, Respondent was charged with dispensing controlled substances without prescriber authorization, distributing drugs for other than lawful purposes, and habitual intoxication or addiction to the use of drugs. (Exhibit 1)

5. On February 22, 1988, the Board found Respondent had committed the violations as charged, and suspended her license for at least one year. Following the period of suspension, Respondent was to be placed on probation for five years with conditions. (Exhibit 2)

6. Respondent's probation was completed on May 19, 1994.

7. Respondent was employed as pharmacist in charge of the Hy-Vee Pharmacy #1, 313 Cook Street, Sioux City, Iowa 51103, from 1990 to March 1, 1996.

8. Respondent admits that during her employment at Hy-Vee, there were shortages of various Schedule IV controlled substances that could not be accounted for. Respondent has accepted responsibility as pharmacist in charge for these losses. (Exhibit 3, Statement of Emily Jo Dykstra, March 1, 1996)

9. Respondent admits that during her employment at Hy-Vee, she prepared two fraudulent prescriptions: Diazepam, 10 mg #120 RX #351660 dtd 2/25/96 and Lorcet 10/650 mg #60 RX #351659 dtd 2/2/96. (Exhibit 4)

10. Respondent admits that she is chemically dependent and used drugs illegally in 1995 and 1996.

11. On May 1, 1996, Respondent was criminally charged with possession of valium and xanax with intent to deliver and theft in the second degree in Woodbury County District Court. On October 14, 1996, Respondent was charged with creating a fraudulent prescription. Respondent pled guilty to the charge of prescription fraud and was sentenced on November 21, 1996, to 10 years imprisonment. This sentence was suspended pending Respondent's successful completion of three years probation with conditions. (Exhibits 5, 6, 7, 8, 9, and 10)

12. Respondent admits that she violated the statutes and rules as charged in Counts II, III, and IV of the Statement of Charges. (Exhibit 11)

13. The parties agree that this Stipulation of Facts and supporting exhibits shall be presented to the Board at the hearing scheduled for April 8, 1997.

The Board also makes the additional Findings of Fact based upon the testimony and evidence presented by the Respondent at the hearing:

14. The Respondent has had a long term relationship with a boyfriend, BK, who she met while they were both participating in inpatient chemical dependency treatment in 1986. BK has contributed to her problems with controlled substances in the past. On February 5, 1996, BK suffered a severe brain injury, following a

suicide attempt. He is now disabled and requires 24 hour supervision. He has been living with the Respondent since July 30, 1996, and she has been his caretaker since that time. The Respondent is not currently working in pharmacy, but is receiving a stipend from the Department of Human Services for taking care of BK. The Respondent testified that, due to his extensive brain injury, the nature of her relationship with BK has changed and is no longer intimate. (Testimony of Respondent; State Exhibit 2)

15. The Respondent has a long history of drug abuse dating back to 1970. She did not use drugs while on probation with the Board. Her probation was completed in May 1994 and by spring 1995 she had relapsed. She attributes her relapse in part to her co-dependency and to the relapse of BK. She continued to use alcohol and benzodiazepines from Spring 1995 until Spring 1996, when her employer discovered the drug shortage in the pharmacy. During this time, BK was her only support group. She stopped attending her structured support groups on a regular basis in November 1994. (Testimony of Respondent; State Exhibit 2)

16. In June 1994, BK went into prison and the Respondent took his three step siblings, who were teenagers, into her home. After BK's release from prison, her home situation grew worse. BK had relapsed and was going to various doctors to obtain drugs. In October 1994, the Respondent had a car accident and began using benzodiazepines for a seat belt injury that she received. She created false prescriptions and took bottles of controlled substances from the pharmacy where she was employed. Her use continued until March 1, 1996. (Testimony of Respondent)

17. The Respondent was hospitalized for depression, chemical dependency, and post traumatic stress from March 2, 1996 until March 8, 1996. After her discharge from the hospital, the Respondent was referred to aftercare at St. Luke's Gordon Recovery Centers where she participated in both individual and group counselling. Her psychiatrist has prescribed anti-depressants for her depression and post traumatic stress disorder. The Respondent attends between two and six 12-step meetings each week and has obtained a sponsor. (Testimony of Respondent; Respondent Exhibit A)

18. The Respondent testified that her psychiatrist has not yet released her to return to work. She is attempting to put some safeguards in place to enable her to return to work and hopes that it will be an option for her at some point. She has discussed with her psychiatrist the possibility of working with a proctor before she works on her own as a pharmacist. (Testimony of Respondent)

CONCLUSIONS OF LAW

1. Iowa Code section 155A.12(1995) provides in relevant part:

...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.

2. Engaged in unethical conduct as that term is defined by rules of the board.

...
4. Failed to keep and maintain records required by this chapter or failed to keep and maintain complete and accurate records of purchases and disposal of drugs listed in the controlled substances act.

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

2. Iowa Code section 155A.23(1995) provides in relevant part:

A person shall not:

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

a. Fraud, deceit, misrepresentation, or subterfuge...

2. Willfully make a false statement in any prescription, report, or record required by this chapter.

...
4. Make or utter any false or forged prescription or written order.

3. Iowa Code section 124.308(1995) provides in relevant part:

...
3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner...

4. Iowa Code section 124.401(1)(1995) provides in relevant part:

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance, ...

c. Violation of this subsection with respect to the following controlled substances,...is a class "C" felony, and in addition to the provisions of section 902.9, subsection 3, shall be punished by a fine of not less than one thousand dollars nor more than fifty thousand dollars:

...
(6) Any other controlled substance, ... classified in schedule I, II or III.

d. Violation of this subsection, with respect to any other controlled substances,... classified in schedule IV or V is an aggravated misdemeanor...

5. Iowa Code section 124.402(1)(1995) provides in relevant part:

It is unlawful for any person:

a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 124.308;...

...

6. Iowa Code section 124.403(1)(1993) provides in relevant part:

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;

7. 657 IAC 8.5(1) provides:

A pharmacist shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

8. 657 IAC 9.1(4) provides in relevant part:

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:

(2) A substantial deviation by a pharmacist from the standards of learning or skill ordinarily possessed and applied by other pharmacists in the state of Iowa acting in the same or similar circumstances.

...

(4) A willful or repeated departure from, or the failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa.

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of pharmacy or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.

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, 123, 123A, and 124.

...

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 a misdemeanor, which statutes or law relates to the practice of pharmacy.

...

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.

9. The Respondent has stipulated that she has violated the code sections and rules cited in Counts II, III and IV of the Statement of Charges.

10. The preponderance of the evidence also established that the Respondent has violated the statutes and rules outlined in Count I of the Statement of Charges, by her theft of various controlled substances. The Board is satisfied that the Respondent's admissions of writing false prescriptions and taking bottles of drugs from the Hy-Vee pharmacy where she was employed, and her criminal conviction for prescription fraud constitute theft of

those controlled substances for which she did not have a valid prescription.

DECISION AND ORDER

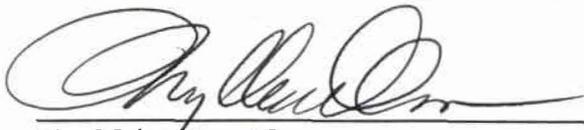
The Respondent has had a long personal history of chemical use and chemical dependence. The Board has previously suspended her license for one year, and she has served a five year probation for previous violations of the Board's statutes and rules. The Respondent has relapsed and has again committed serious violations of the Board's statutes and rules. The Board is very concerned that the Respondent continued her involvement with BK after her previous disciplinary action, and she concedes that his relapse contributed to her own. The Respondent is now in an extremely stressful situation, serving as a 24 hour caretaker for the same person who has contributed to her own chemical dependency problems in the past. Her psychiatrist does not feel that she is ready to return to the practice of pharmacy, and the Respondent does not dispute his conclusion. The evidence presented at this hearing does not support the conclusion it is in the public interest for the Respondent to continue to practice pharmacy. Moreover, since this is the second disciplinary action against the Respondent, it is appropriate that a more severe sanction be imposed.

IT IS THEREFORE ORDERED, that the license to practice pharmacy, issued to Emily Jo Dykstra, license no. 16706, is hereby SUSPENDED for a minimum period of three (3) years, effective upon issuance of this decision by the Board.

IT IS FURTHER ORDERED, that before the Respondent's license is reinstated, she must appear before the Board and establish that it is in the public interest for her license to be reinstated. Conditions of probation would be set at the time of reinstatement.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 9.27, that the Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive secretary/director of the Board shall bill the Respondent for any witness fees or transcript costs associated with this disciplinary hearing. The Respondent shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this *1st* day of May, 1997.



Phyllis A. Olson,
Chairperson
Iowa Board of Pharmacy Examiners

cc: Linny Emrich
Assistant Attorney General

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

RE:	)	DIA NO: 00PHB002
Pharmacist License of)	
EMILY JO DYKSTRA	)	FINDINGS OF FACT,
License No. 16706	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

TO: EMILY JO DYKSTRA

On May 1, 1997, the Iowa Board of Pharmacy Examiners (Board) issued Findings of Fact, Conclusions of Law, and Decision and Order which suspended pharmacist license no. 16706, issued to Emily Jo Dykstra (Respondent) for a minimum of three (3) years. On March 3, 2000, the Respondent filed a request for reinstatement. A formal hearing was scheduled for July 12, 2000 at 1:00 p.m.

The hearing was held on July 12, 2000 at 1:00 p.m., in the conference room at 400 SW 8th Street, Des Moines, Iowa. The following members of the Board were present: Matthew C. Osterhaus, Chairperson; Phyllis A. Olson; Michael J. Seifert; Lemman Olson; Mary Pat Mitchell and G. Kay Bolton. The Respondent appeared and was not represented by counsel. The state was represented by Shauna Russell Shields, Assistant Attorney General. The hearing was recorded by a certified court reporter. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, assisted the Board in conducting the hearing. The hearing was closed to the public, at the request of the Respondent, pursuant to Iowa Code section 272C.6(1) (1999).

After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The administrative law judge was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with the Board's deliberations.

THE RECORD

The record includes the request for reinstatement and additional correspondence dated 3/16/2000 and 3/30/2000; Notice of Hearing; the testimony of the witness; and the following exhibits:

- State Exhibit A: Emergency Order and Complaint and Statement of Charges dated 12/8/86
- State Exhibit B: Decision and Order dated 2/22/88
- State Exhibit C: Order dated 3/3/89

- State Exhibit D: Modification of Decision and Order, dated 3/4/92
- State Exhibit E: Statement of Charges, dated 3/19/96
- State Exhibit F: Findings of Fact, Conclusions of Law, Decision and Order dated 5/1/97
- Respondent Exhibit 1: Iowa Pharmacy Recovery Network, Inc. Client Recovery Network, executed 3/10/00; Letters in support of Respondent's Request for Reinstatement
- Respondent Exhibit 2: Continuing Education completed by the Respondent, 5/97-3/2000.
- Respondent Exhibit 3: Letters regarding condition of RK

FINDINGS OF FACT

1. On February 27, 1986, the Respondent was issued license number 16706 by the Board to engage in the practice pharmacy in Iowa, subject to the laws of the state of Iowa and the rules of the Board. (Testimony of Respondent; State Exhibit F)
2. The Respondent has a history of disciplinary action by this Board. The Respondent has also been criminally convicted of writing fraudulent prescriptions.
 - a) On December 8, 1986, the Respondent was charged with dispensing controlled substances without prescriber authorization, distributing drugs for other than lawful purposes, and habitual intoxication or addiction to the use of drugs. On February 22, 1988, the Respondent's pharmacist license was suspended for a year, which was followed by a five year probation. The Respondent successfully completed this probation on May 19, 1994. (State Exhibits A-D)
 - b) On March 19, 1996, the Respondent was charged with violating numerous sections of the Iowa Code and Iowa Administrative Code when she wrote false prescriptions and stole drugs from her employer, Hy-Vee. The Respondent admitted these violations. On May 1, 1997, the Board suspended the Respondent's pharmacist license for a minimum period of three (3) years.
 - c) Criminal charges were also filed against the Respondent. She pled guilty to a lesser offense, fraudulent prescriptions, and was sentenced to a term of imprisonment of ten years, which was stayed by the Court. The Respondent was placed on

criminal probation for a period of three (3) years. She satisfactorily completed her three year criminal probation in January 1999. (State Exhibits E-F; Testimony of Respondent)

3. The Respondent has a long history of alcohol and drug abuse.

a) The Respondent's alcohol and drug use began when she was a teenager and continued off and on through her years in college. The Respondent completed a thirty day chemical dependency treatment program in March 1986, but the treatment was ineffective and she relapsed immediately following her discharge.

b) The Respondent was working at People's Drug in Burlington, Iowa, when she was arrested for conspiracy to commit theft and possession of prescription drugs. Following her arrest, the Respondent entered a halfway house in Sioux City. She became substance free and successfully completed this program in thirteen months. The criminal charges against the Respondent were eventually dropped.

c) The Respondent's pharmacist license was reinstated on five years' probation following a one year suspension. She found good employment and was able to maintain her sobriety. The probation was successfully completed in May 1994. She relapsed in approximately October 1994. Her long term relationship with RK, who was also chemically dependent, was a factor in her relapses. In February 1996, RK suffered a severe brain injury.

(Testimony of Respondent; State Exhibit F)

4. On March 1, 1996, the Respondent was admitted to St. Luke's Hospital for an overdose, depression, and post traumatic stress disorder. Her family physician, Dr. Rosenkranz, referred her to Dr. Rodney Dean, M.D., a psychiatrist. Dr. Dean designed a recovery plan for the Respondent. The recovery plan included medication management by Dr. Dean, individual and group therapy through Gordon Recovery Centers, and extensive involvement in Alcoholic Anonymous (AA).

Both the Respondent and RK have been substance free for four years, and the Respondent continues to serve as a caretaker for RK. The Respondent submitted letters supporting her request for reinstatement from both Dr. Dean and her therapist at Gordon Recovery Centers. Both believe that she is stable in her recovery and is ready to return to the practice of pharmacy.

The Respondent is currently seeing Carol Parrinello, LISW, every two weeks for therapy. She is receiving medications for depression and is regularly monitored by Dr. Dean. She attends three to five

AA or NA meetings each week, is an officer in the local AA chapter, and chairs meetings for the district AA on occasion. She has an AA sponsor, with whom she maintains close contact. The Respondent also attends a women's after care group each week.

The Respondent entered into a client recovery contract with the Iowa Pharmacy Recovery Network, Inc. on March 10, 2000. The Respondent has been assigned a monitor and has agreed to abide by numerous terms and conditions outlined in the contract. (Testimony of Respondent; Respondent Exhibit 1)

5. The Respondent has not been employed since her license was suspended. She has served as caretaker for RK and in addition to her support groups, has done volunteer work for the Brain Injury Association of Iowa.

The Respondent has completed thirty hours of continuing education during each year that her license has been suspended. However, this number of continuing education credits has been insufficient to prepare the Respondent to return to the full practice of pharmacy. The Respondent testified that she would prefer to return to the practice of pharmacy on a part-time basis initially and gradually increase her work hours. (Testimony of Respondent; Respondent Exhibit 1)

CONCLUSIONS OF LAW

657 Iowa Administrative Code 36.13 provides, in relevant part:

657-36.13 (17A,124B,147,155A,272C) Reinstatement. Any person whose license to practice pharmacy...has been revoked or suspended must meet the following eligibility requirements:

1. Must have satisfied all the terms of the order of revocation or suspension or court proceedings as they apply to that revocation or suspension. If the order of revocation or suspension did not establish terms or conditions upon which reinstatement might occur, or if the license, registration, or permit was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the board's order or the date of voluntary surrender.

2. A person whose license to practice pharmacy was revoked must successfully pass the North American Pharmacist Licensure Exam (NAPLEX) or an equivalent examination as determined by NABP and the Multistate Pharmacy Jurisprudence Examination (MPJE), Iowa Edition.

3. All proceedings for reinstatement shall be initiated

by the respondent who shall file with the board an application for reinstatement of the license...Such application shall be docketed in the original case in which the license, registration, or permit was revoked, suspended, or relinquished. All proceedings upon petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board. The board and the respondent may informally settle the issue of reinstatement. The respondent may choose to have an informal settlement conference before the board...

4. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license... to be reinstated. The burden of proof to establish such facts shall be on the respondent.

5. An order for reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law and must be based upon the affirmative vote of a quorum of the board. This order shall be available to the public as provided in 657-Chapter 14.

Based on the testimony and evidence in this record, the Board is satisfied that the reasons for suspension of the Respondent's license to practice pharmacy have been sufficiently addressed by the Respondent and that it is in the public interest for her to begin the process leading to reinstatement of her license. Due to the lengthy period of time that the Respondent has been away from the practice of pharmacy, the Board believes that she should be required to complete an internship prior to reinstatement.

DECISION AND ORDER

IT IS THEREFORE ORDERED that upon proper application and payment of the required \$11.00 fee, the Respondent shall be permitted to register as a pharmacist-intern, pursuant to the provisions of 657 IAC chapter 4 for a period of twelve (12) months, contingent upon the following terms and conditions:

1. The Respondent must successfully complete a minimum of four months and 500 hours of internship, pre-approved by the Board. In order to obtain pre-approval for her internship, the Respondent's proposed preceptor must submit to the Board office a written description of the pharmacy practice and the duties of the Respondent as an intern. The Respondent shall complete the objectives of internship as provided by 657 IAC

4.2(2). The Respondent shall submit affidavits of the preceptors under whose supervision the Respondent obtained the competencies, pursuant to 657 IAC 4.6(2)(c) and 4.9(2), as evidence of completion of the objectives of internship.

2. During her registration as a pharmacist-intern, the Respondent shall abstain from the use of all mood-altering substances, including alcohol.

3. During her registration as a pharmacist-intern, the Respondent shall comply fully with her Iowa Pharmacy Recovery Network (IPRN) contract and shall participate in three weekly meetings of either Alcoholics Anonymous (AA) or Narcotics Anonymous (NA). The Respondent shall obtain verification of her attendance at these meetings. This verification shall be submitted to the Board in monthly written reports

4. During her registration as a pharmacist-intern, the Respondent shall cooperate with the Board if it requests random urinalysis. The Respondent shall provide the Board with any necessary release of information to allow the Board to obtain all information concerning the results of urinalysis. The expense of any urinalysis requested by the Board shall be the responsibility of the Respondent.

5. The Respondent shall notify any prospective preceptor of the decision in this case and the terms, conditions and restrictions imposed upon the Respondent by this decision. Within fifteen (15) days of Respondent undertaking new employment as a pharmacist-intern, the Respondent shall cause her preceptor to report to the Board in writing acknowledging that the preceptor has read this Order of the Board and understands it.

6. The Respondent's internship shall be for a period of 500 hours or for four months, whichever constitutes a longer period of time.

Following successful completion of the internship, and submission of a proper application and the \$110.00 application fee, the Respondent's pharmacist license shall be REINSTATED and placed on probation for a period of five (5) years, subject to the following terms and conditions:

1. During the period of probation, the Respondent shall notify any and all prospective employers of this decision and order and the terms, conditions and restrictions imposed on Respondent by this decision. Within 15 days of undertaking new employment as a pharmacist, the Respondent shall cause her employer to report to the Board in writing acknowledging that the employer has read the decision in this case and understands it.

2. During the Respondent's first six months of employment as a pharmacist, another licensed pharmacist must be present at the place of employment while the Respondent is working.

3. The Respondent shall file sworn quarterly reports with the Board attesting to her compliance with all of the terms and conditions of probation. The reports shall be filed not later than September 5, December 5, March 5 and June 5 of each year of the Respondent's probation. The quarterly reports shall include the Respondent's place of employment, current address, verification of AA attendance, and any further information deemed necessary by the Board from time to time.

4. The Respondent shall completely abstain from the personal use of alcohol. The Respondent shall completely abstain from the personal use of all controlled substances or drugs in any form unless prescribed by a duly licensed treating physician. The Respondent shall advise any treating physician of her previous chemical dependency prior to accepting any prescription drug. The Respondent shall report to the Board within fourteen days any use of controlled substances prescribed by physicians to Respondent. The report shall include a copy of the prescription and the name of the pharmacy where the prescription was filled.

5. The Respondent shall attend a minimum of three (3) meetings of Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) each week and shall obtain written verification of her attendance. Written verification of her attendance shall be submitted to the Board with the Respondent's quarterly reports.

6. The Respondent shall comply with all of the terms of her Client Recovery Contract with the Iowa Pharmacy Recovery Network, Inc.

7. The Respondent shall cooperate with the Board if it requests random urinalysis or blood tests. The Respondent shall provide the Board with any necessary release of information to allow the Board to obtain all information concerning the results of urinalysis or blood testing. The expense of any such testing requested by the Board shall be the responsibility of the Respondent.

8. The Respondent shall notify the Board within ten (10) days of any change in employment or address.

9. The Respondent shall make personal appearances before the Board upon request of the Board.

10. The Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy and the distribution of controlled substances and all federal and state criminal laws.

11. During the period of probation, the Respondent shall not supervise any registered intern and shall not perform any of the duties of a preceptor.

12. Should the 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.

13. Should the Respondent violate probation in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may revoke probation. 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.

14. Upon successful completion of probation, the Respondent's license will be fully restored.

Dated this 12th day of Sept. , 2000.



Matthew C. Osterhaus, Chairperson
Iowa Board of Pharmacy Examiners

cc: Shauna Russell Shields, Assistant Attorney General

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.

**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:	)	Case No. 2002-16706
Pharmacist License of)	
EMILY JO DYKSTRA	)	STATEMENT OF CHARGES
License No. 16706)	
Respondent)	

COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (2001).
3. On February 27, 1986, the Board issued Respondent, Emily Jo Dykstra, a license to engage in the practice of pharmacy by examination as evidenced by license number 16706, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 16706 is current and active until June 30, 2003, but subject to probation.
5. Respondent's current address is 31702 Granite Avenue, Hinton, Iowa 51024.
6. Respondent is not currently employed as a pharmacist. The Respondent was employed as a pharmacist at Shopko Pharmacy 240, 3025 Hamilton Blvd., Sioux City, Iowa 51104 and was employed as such during times relevant to this statement of charges.

COUNT I

The Respondent is charged under Iowa Code § 155A.12(1) (2001) and 657 Iowa Administrative Code § 36.1(4)(b)(4) with professional incompetency, including repeated departure from, or failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the State of Iowa.

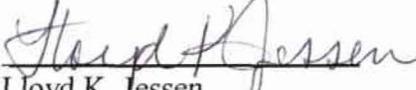
THE CIRCUMSTANCES

1. On or about April 9, 2002, the Board received a complaint about a dispensing

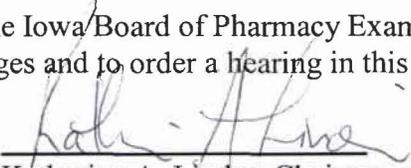
error that occurred at the pharmacy where the Respondent was employed as a pharmacist.

2. Upon investigation of the complaint referred to in Paragraph 1, the Board investigators learned that the Respondent was responsible for the dispensing error complained about.
3. During the investigation, the Board investigator also learned that the Respondent had committed an additional dispensing error and that this dispensing error was the sixth error committed by the Respondent during an approximately four-month time period.
4. While the investigation was still pending, the Board learned that the Respondent had made an additional six dispensing errors since the dispensing error referred to in Paragraph 1.
5. The Respondent's employer had terminated the Respondent's employment because she had committed twelve dispensing errors in the approximately nine months that the Respondent worked in her employer's pharmacy.

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it may deem to be appropriate under the law.


Lloyd K. Jessen
Executive Secretary/Director

On this 19 day of February, 2002, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Katherine A. Linder, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

placed on probation for five years. Probation was completed on May 19, 1994. On March 19, 1996, Respondent was again charged with numerous violations of pharmacy law and rules. On May 1, 1997, Respondent's license was suspended for a minimum of three years. An administrative hearing was held before the board on July 12, 2000, and a Decision and Order was issued on September 12, 2000. Respondent's license was subsequently reinstated effective March 22, 2001, and placed on probation with conditions for five years.

3. That Iowa Pharmacist License Number 16706 issued to Respondent is active and current until June 30, 2003.

4. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.

5. A Statement of Charges was filed against Respondent on February 19, 2003.

SECTION I

Respondent's probationary period, including all terms and conditions, which was previously established by the Board's Decision and Order dated September 12, 2000, shall continue in force and shall be extended until July 1, 2007, with the following additional terms and conditions, beginning on the date this Order is accepted by the Board:

1. Within thirty (30) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall cause to be submitted to the Board the results of an eye examination conducted by a qualified and licensed optician, optometrist or ophthalmologist on or after April 1, 2003. The results shall include any recommendations as to whether Respondent needs corrective lenses for proper near

vision and, if so, whether the use of corrective lenses can provide Respondent with sufficient near vision to safely perform the duties of a pharmacist. If the use of corrective lenses is recommended for Respondent, Respondent agrees to obtain and wear such lenses whenever working as a pharmacist. In addition, Respondent agrees to ensure that she has whatever additional lighting and magnification devices may be necessary when working as a pharmacist in any prescription department, in order for her to safely process prescription orders and medication orders and also to verify the accuracy of filled prescriptions before any medication is dispensed to a patient or a patient's representative or caregiver.

2. Within thirty (30) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall submit to the Board, for its approval, a written policy and procedure for documenting, resolving, and preventing medication dispensing errors in the practice of pharmacy. The policy and procedure shall include a written protocol which describes the procedure for Respondent to follow when a dispensing error occurs. The policy and procedure shall also require that all records of Respondent's dispensing errors be consistently and periodically evaluated by the Respondent as part of a cycle of continuous quality improvement. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to this policy and procedure whenever engaging in the practice of pharmacy.

3. Within one (1) year of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall complete continuing pharmacy education (CPE) or other formal, structured education in preventing medication dispensing errors and/or enhancing patient safety in pharmacy practice. The education shall be *not less than* four (4) hours in length and shall be pre-approved by the Board. Documentation of satisfactory completion of the education shall be submitted to the Board. This education is in addition to the thirty (30) hours of continuing pharmacy education required every

two years for license renewal.

4. Within one (1) year of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall complete continuing pharmacy education (CPE) or other formal, structured education in continuous quality improvement programs or quality assurance programs for pharmacy practice. The education shall be *not less than* four (4) hours in length and shall be pre-approved by the Board. Documentation of satisfactory completion of the education shall be submitted to the Board. This education is in addition to the thirty (30) hours of continuing pharmacy education required every two years for license renewal.

5. Between July 1, 2003, and June 30, 2005, the Respondent shall complete all thirty (30) hours of continuing pharmacy education (CPE) required for her July 1, 2005, license renewal in ACPE-approved courses dealing with drug therapy, as defined in 657 Iowa Administrative Code 2.12(4). Between July 1, 2005, and June 30, 2007, the Respondent shall complete all thirty (30) hours of continuing pharmacy education (CPE) required for her July 1, 2007, license renewal in ACPE-approved courses dealing with drug therapy, as defined in 657 Iowa Administrative Code 2.12(4).

6. During probation, Respondent shall not be the pharmacist in charge of a pharmacy, nor be employed as a pharmacy manager, nor be self-employed as a pharmacy owner/operator, nor supervise any registered intern, nor perform any of the duties of a pharmacy preceptor.

7. During probation, Respondent shall not accept employment in any pharmacy where Respondent would routinely be required to fill or process more than 80 prescriptions on average during an 8-hour shift, with or without the assistance of pharmacy technicians or clerks. Respondent may work as a pharmacist without another pharmacist being on duty at the same time.

8. During probation, Respondent shall inform the board in writing within ten

(10) days of any change of home address, place of employment, home telephone number, or work telephone number.

9. During probation, Respondent shall report to the board or its designee monthly. Said report shall be in writing and shall be due the 5th day of each month. The report shall include the Respondent's place of employment, current address, and any further information deemed necessary by the board from time to time. In addition, if Respondent commits a dispensing error that reaches a patient, Respondent shall, within 72 hours of learning of the error, submit to the Board a complete written description of the dispensing error, along with a description of the action taken by Respondent in response to the dispensing error. Any additional dispensing errors committed by Respondent will be reviewed by the Board in closed session. Upon notice and opportunity for hearing, such errors may result in further disciplinary action, including the permanent revocation of Respondent's license to practice pharmacy.

10. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.

11. Respondent shall notify all present and prospective employers of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. Within thirty (30) days after approval of this Stipulation and Consent Order by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause her pharmacy employer to report to the Board in writing acknowledging that the employer has read this document and understands it.

SECTION II

1. Should Respondent leave Iowa to reside or practice in another state, she shall notify the Board in writing fourteen (14) days prior to her departure and within

fourteen (14) days of her return. Periods of residency or practice outside the State of Iowa shall not apply to reduction of the probationary period without prior request to and approval by the Board.

2. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a). If a statement of charges or 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.

3. Upon successful completion of probation, Respondent's certificate will be fully restored.

4. This proposed settlement is subject to approval of a majority of the full Board. If the Board fails to approve this proposed settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

5. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 2nd day of April, 2003.

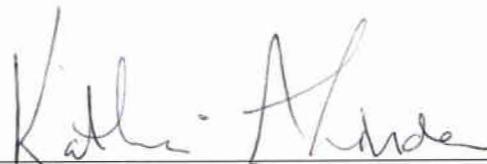
Emily Jo Dykstra
EMILY JO DYKSTRA, R.Ph.
Respondent

Subscribed and Sworn to before me on this 2nd day of April, 2003.

Dorrie S. Jorgenson
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA



6. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 23 day of April, 2003.



KATHERINE A. LINDER, Chairperson
Iowa Board of Pharmacy Examiners
RiverPoint Business Park
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309-4688

BEFORE THE BOARD OF PHARMACY STATE OF IOWA

**IN THE MATTER OF THE AGAINST
EMILY JO DYKSTRA, R.Ph., RESPONDENT**

TERMINATION ORDER

DATE: July 1, 2007

1. On April 23, 2003, a Stipulation and Consent Order was issued by the Iowa Board of Pharmacy extending and placing the license to practice pharmacy, number 16706 issued to Emily Jo Dykstra on February 27, 1986, on probation until July 1, 2007, including all terms and conditions previously established by the Board's Decision and Order dated September 12, 2000.

2. Respondent has successfully completed the probation as directed.

3. The Board directed that the probation placed upon the Respondent's license to practice pharmacy should be terminated.

IT IS HEREBY ORDERED:

That the probation placed upon the Respondent's license to practice pharmacy is terminated, and the license is returned to its full privileges free and clear of all restrictions.

IOWA BOARD OF PHARAMCY



Paul Abramowitz, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688