

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

Re:	)	COMPLAINT
Pharmacist License of	)	AND STATEMENT
LINDA J. GIBSON	)	OF CHARGES
License No. 14275	)	AND
Respondent	)	NOTICE
	)	OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 5th day of October, 1993, and files this Complaint and Statement of Charges and Notice of Hearing against Linda J. Gibson, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent was issued a license to practice pharmacy in Iowa on June 6, 1973, by reciprocity.

3. Respondent was also licensed to practice pharmacy in the state of Colorado (license number 11956).

4. Respondent currently resides at 1500 South Bellaire, Denver, Colorado 80222.

5. Respondent's license to practice pharmacy in Iowa was current until June 30, 1988. It is now delinquent.

6. On July 20, 1993, the Board received certified copies of a Stipulation and Final Agency Order, titled In the Matter of Disciplinary Action Against the License to Practice Pharmacy of Linda J. Gibson, Case No. RG-PH-DLFVE, from the Colorado State Board of Pharmacy. The Stipulation and Final Agency Order, dated July 1, 1992, provides, in part, the following:

IT IS HEREBY STIPULATED by and between the Colorado Board of Pharmacy (the "Board") and the respondent, Linda J. Gibson, (the "respondent"), as follows:...

3. The Board commenced an investigation concerning respondent's conduct at Meadowlark Drug and her felony conviction for illegal possession of a controlled substance.

....

7. Respondent admits the following facts:

a. On July 9, 1990, respondent pled guilty to a felony, Class IV, for illegal possession of a controlled substance.

b. Respondent received a deferred judgment for the guilty plea. The deferred judgment is due to expire on July 8, 1992.

c. Respondent is participating in drug treatment for chemical dependence.

....

9. The respondent accepts the following discipline:

a. It is the intent of the Board that the license to practice pharmacy of the respondent be suspended for one year...

b. The respondent shall be on probation for 3 years...

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.

11. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(j), 9.1(4)(k), and 9.1(4)(u) by virtue of the allegations contained in paragraphs 6, 7, 8, and 9.

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

The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

j. Violating a statute or law of the 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.

....

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

....

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 10 and 11 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 1993 Iowa Code sections 155A.12(1), 155A.12(8), and 155A.12(10) and 657 Iowa Administrative Code sections 9.1(4)(j), 9.1(4)(k), 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 Linda J. Gibson appear before the Iowa Board of Pharmacy Examiners on Tuesday, January 11, 1994, at 2:00 p.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 Linda J. Gibson on June 6, 1973, 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 her 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 her 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 Theresa O'Connell Weeg, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-6858). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS

A handwritten signature in cursive script, appearing to read "Lloyd K. Jessen", written over a horizontal line.

Lloyd K. Jessen

Executive Secretary/Director

Exhibit 1

BEFORE THE STATE BOARD OF PHARMACY

STATE OF COLORADO

Case No. RG PH DLFVE

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY ACTION AGAINST THE LICENSE TO
PRACTICE PHARMACY OF LINDA J. GIBSON, LICENSE NUMBER 11956

IT IS HEREBY STIPULATED by and between the Colorado Board of Pharmacy (the "Board") and the respondent, Linda J. Gibson, (the "respondent"), as follows:

1. At all times relevant hereto, respondent was licensed as a pharmacist by the Board.
2. The Board has jurisdiction over the respondent and the subject matter of this action.
3. The Board commenced an investigation concerning respondent's conduct at Meadowlark Drug and her felony conviction for illegal possession of a controlled substance.
4. The respondent responded to both investigations pursuant to requests from the Board.
5. At regularly scheduled meetings in January and March, 1991, the Board considered the investigative reports and found probable cause to refer the respondent to hearing for violations of the laws governing the practice of pharmacy.
6. Respondent has had the opportunity to consult with counsel and the attorney for the Board to negotiate a resolution of this matter.
7. Respondent admits the following facts:
 - a. On July 9, 1990 respondent pled guilty to a felony, Class IV, for illegal possession of a controlled substance.

b. Respondent received a deferred judgment for the guilty plea. The deferred judgment is due to expire on July 8, 1992.

c. Respondent is participating in drug treatment for chemical dependence.

d. Respondent worked at Meadowlark Drug from June 16, 1990 to August 27, 1990.

e. During this time there was no manager of record as required by § 12-22-119, C.R.S. (1990).

f. Respondent acted as the "manager" without ever submitting the forms to notify the Board as required by § 12-22-119.

8. The respondent admits and the Board finds that such conduct violates § 12-22-119, 125(1)(b), (c), 125(2)(a)(II), and 314(1)(c).

9. The respondent accepts the following discipline:

a. It is the intent of the Board that the license to practice pharmacy of the respondent be suspended for one year. The period of time the respondent was not engaged in the practice of pharmacy is hereby credited to that one year period of suspension.

b. The respondent shall be on probation for 3 years, commencing on the day upon which this Stipulation and Final Agency Order is executed by the authorized representative of the Board.

c. Upon execution of this Stipulation, respondent shall submit to the Board, information about her drug treatment program. Urine screens shall be taken at the discretion of the treatment provider.

d. Respondent shall provide evidence to the Board that she has successfully completed all drug treatment and has remained drug free during the period of suspension.

e. Respondent will take and pass the Colorado jurisprudence examination. Respondent shall have two opportunities to take and pass the examination.

f. Respondent shall show a copy of this Stipu-

COLORADO BOARD OF PHARMACY

By: *D. P. Lums*
Program Administrator

Approved as to Form:

GALE A. NORTON
Attorney General

RAYMOND T. SLAUGHTER
Chief Deputy Attorney General

TIMOTHY M. TYMKOVICH
Solicitor General

MERRILL SHIELDS
Deputy Attorney General

LINDA L. SIDERIUS
First Assistant Attorney General

Thomas Frank
Attorney for Respondent

Kathleen M. Butler
KATHLEEN M. BUTLER, 13564*
Assistant Attorney General
Regulatory Law Section

Attorneys for Board of Pharmacy

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AG Alpha No. RG PH DLFVE
AG File No. CRL9202625.SL

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

RE: Pharmacist License of	)	FINDINGS OF FACT,
LINDA J. GIBSON	)	CONCLUSIONS OF LAW,
License No. 14275	)	DECISION AND ORDER
)	
Respondent	)	DIA NO. 94PHB-2

TO: LINDA J. GIBSON

On October 5, 1993, the Executive Secretary-Director for the Iowa Board of Pharmacy Examiners (Board) filed a Complaint and Statement of Charges and Notice of Hearing against Linda J. Gibson (Respondent) alleging that the Respondent's license to practice pharmacy in the state of Colorado had been disciplined effective July 1, 1992 and the Respondent failed to report the disciplinary action taken by the Colorado Board to the Iowa Board. The Complaint and Statement of Charges further alleged that the Respondent had violated Iowa Code section 155A.12(1), (8) and (10) and 657 IAC 9.1(4)(j), (k) and (u).

The hearing was held before the full Board on January 11, 1994 at 2:00 p.m., in the second floor conference room, Executive Hills West, 1209 East Court, Des Moines, Iowa. The following members of the Board were present: Marian L. Roberts, Chairperson; Phyllis A. Olsen, Vice Chairperson; Phyllis A. Miller, Mary Pat Mitchell, Matthew C. Osterhaus and Arlan D. VanNorman. The state was represented by Theresa O'Connell Weeg, Assistant Attorney General. Margaret LaMarche, an Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided.

The Respondent did not appear, nor was she represented by counsel. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1). The entire proceedings were recorded by a certified court reporter. After hearing the testimony and examining the exhibits, the Board convened in closed executive session to deliberate its decision, pursuant to Iowa Code section 21.5(1)(f) and instructed the administrative law judge to prepare their Findings of Fact, Conclusions of Law, Decision and Order.

THE RECORD

The record includes the Complaint and Statement of Charges and Notice of Hearing, the testimony of the witnesses, and the following exhibit:

State's Exhibit 1: Certified copy of Stipulation and Final Agency Order of the Colorado Board of Pharmacy

FINDINGS OF FACT

1. Respondent was issued a license to practice pharmacy in Iowa on June 6, 1973, by reciprocity. Respondent's license to practice pharmacy in Iowa was current until June 30, 1988. It is now delinquent. Respondent was also licensed to practice pharmacy in the state of Colorado. (Board file, Exhibit 1)
2. The Respondent currently resides at 1500 South Bellaire, Denver, Colorado 80222. (Board file)
3. On July 30, 1993, the Board received certified copies of a Stipulation and Final Agency Order, titled In the Matter of the Disciplinary Action Against the License to Practice Pharmacy of Linda J. Gibson, Case No. RG-PH-DLFVE, from the Colorado State Board of Pharmacy. In the Stipulation, the Respondent admits that she pled guilty to a Class IV felony, illegal possession of a controlled substance, and received a deferred judgment. The Respondent agreed to the discipline of her Colorado license as follows:
 - a) suspension of her license for one year,
 - b) followed by probation for three years, subject to certain conditions. (testimony of Lindy Pearson; Exhibit 1)
4. The discipline, imposed on Respondent's license to practice pharmacy in Colorado, was effective July 1, 1992. (testimony of Lindy Pearson; Exhibit 1)
5. The Iowa Board of Pharmacy Examiners sent the Complaint and Statement of Charges and Notice of Hearing dated October 5, 1993, to the Respondent by certified mail, return receipt requested. It was delivered on October 19, 1993 and signed for by "Linda Gibson." (Board file)

CONCLUSIONS OF LAW

1. 657 IAC 9.5 provides in relevant part:
 - 9.5(4) Delivery of the notice shall be by personal service or by certified mail, return receipt requested.
 - • •
 - 9.5(6) Notice of a hearing involving revocation or suspension of a license, permit, or registration shall be served no less than 30 days before the time set for the hearing.
- 657 IAC 9.13 provides:
- Failure by respondent to appear. If a respondent, upon whom a proper notice of hearing has been served, fails to appear either in person or by counsel at the

hearing, the board may proceed with the conduct of the hearing and the respondent shall be bound by the results of such hearing to the same extent as if the respondent were present.

The Respondent was properly served with notice of hearing by certified mail, more than 30 days before the hearing, but failed to appear. The Respondent is bound by this decision of the Board to the same extent as if she had appeared.

2. Iowa Code section 155A.12(1), (8) and (10) (1993) provide 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.

. . .

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.

3. 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:

. . .

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.

. . .

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

. . .

u. Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections 147.55, 155A.12 and 155A.15.

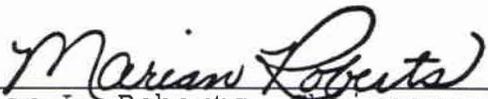
4. The preponderance of the evidence established that the Respondent has violated Iowa Code section 155A.12(1), (8) and (10) and 657 IAC 9.1(4)(j), (k) and (u) by virtue of the disciplinary action taken by the Colorado Board of Pharmacy disciplining Respondent's license to practice pharmacy, and Respondent's failure to report that disciplinary action to this Board.

DECISION AND ORDER

IT IS HEREBY ORDERED, that pharmacist license number 14275, issued to Linda J. Gibson, is hereby INDEFINITELY SUSPENDED.

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 of the Board shall bill the Respondent for any 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 31st day of January, 1994.



Marian L. Roberts, Chairperson
Iowa Board of Pharmacy Examiners

ML/jmm

cc: Theresa O'Connell Weeg, AAG