

THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of : **EMERGENCY ORDER**
: **AND**
JOHN A. HAMANN (15187) : **COMPLAINT AND**
Respondent : **STATEMENT OF CHARGES**

Now on this 5th day of May 1987, the Iowa Board of Pharmacy Examiners has reviewed the following evidence:

1. That Respondent was issued a license to practice pharmacy in Iowa on March 7, 1978, by examination.

2. That Respondent was employed as pharmacist-manager of Medicine Chest Discount Center, 1027 Ninth Street, Onawa, Iowa, beginning on or about August 28, 1984.

3. That the Board has reviewed an investigative report from Board Investigator Morrell A. Spencer. That report indicates that Respondent: (a) cannot account for substantial amounts of Schedule II controlled substances; (b) obtained a supply of blank prescription forms which were signed in advance by Dr. M. Thomas Gordon, D. O., of Onawa; (c) utilized these signed blank prescription forms to create false prescriptions for Schedule II controlled substances; and (d) failed to comply with state and federal recordkeeping requirements pertaining to controlled substances.

4. That even after considering all Schedule II prescriptions contained in Respondent's pharmacy file, including those prescriptions known to have been falsely created by the Respondent and all other prescriptions handwritten by Respondent on the blank prescription forms which were signed in advance by Dr. M. Thomas Gordon, D. O., substantial amounts of Schedule II controlled substances under Respondent's control remain unaccounted for.

5. That Respondent has admitted to having a history of personal drug and alcohol abuse problems.

6. That Respondent's license to practice pharmacy in Iowa is current until June 30, 1988.

7. That Respondent was suspended as an employee of Medicine Chest Discount Centers, Inc., on or about April 30, 1987.

8. That Respondent currently resides at 1417 Sixth Street in Onawa, and continues to live in the community where he has failed to provide accountability for Schedule II controlled substances and has been engaged in the illegal distribution or disposition of Schedule II controlled substances.

9. 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 he were allowed to continue to practice pharmacy.

Based upon the above evidence, the Iowa Board of Pharmacy Examiners finds that the public health, safety, and welfare would be jeopardized if John A. Hamann were to be allowed to continue in the practice of pharmacy until a hearing can be conducted. Therefore, the Board finds that the public health, safety, and welfare 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 John A. Hamann 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:

10. Rollin C. Bridge, Chairperson; Jerry M. Hartleip, Vice Chairperson; John M. Rode; Melba L. Scaglione; Alan M. Shepley; Gale W. Stapp; and Donna J. Flower are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

11. Respondent is guilty of violations of Iowa Code sections 155.13(3); 155.13(8); 155.29(1)(a), (b), (c), and (d); 155.29(2) and (4); 204.308(1); 204.402(1)(a); and 204.403(1)(c) and (d) by virtue of the allegations contained in paragraphs 3, 4, 5, 6, 7, and 8.

Iowa Code section 155.13 provides in part as follows:

"...The board [of pharmacy] 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 155.29 provides in part as follows:

"No person shall:

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

a. Fraud, deceit, misrepresentation, or subterfuge.

b. Forgery or alteration of a prescription or of any written order.

c. Concealment of a material fact.

d. Use of a false name or the giving of a false address.

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...."

Iowa Code section 204.308(1) provides as follows:

"Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner."

Iowa Code section 204.402(1)(a) provides 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 section 204.308."

Iowa Code section 204.403(1) provides in part as follows:

"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;

d. To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter...."

12. Respondent is guilty of violations of Board Rules contained in 620 Iowa Administrative Code sections 10.1(4)(b)(1), (2), (3), and (4); 10.1(4)(c); 10.1(4)(j); and 10.1(4)(u) by virtue of the allegations contained in paragraphs 3 and 4.

620 Iowa Administrative Code section 10.1(4) provides in part 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:...

b. Professional incompetency. Professional incompetency includes but is not limited to:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the pharmacist's practice.

(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.

(3) A failure by a pharmacist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average pharmacist in the state of Iowa acting under 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.

....

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 sections 147.55 and 155.13 of the Code."

13. That paragraphs 11 and 12 constitute grounds for which Respondent's license to practice pharmacy in Iowa can be suspended or revoked.

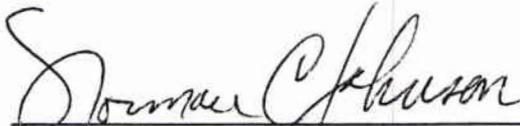
14. The information referred to in paragraphs 3, 4, 5, 7, and 8 is confidential and is sealed in the Board office. Respondent may obtain a copy from the Board, but it shall otherwise remain sealed.

WHEREFORE, the undersigned charges that John A. Hamann has violated sections 155.13(3); 155.13(8); 155.29(1)(a), (b), (c), and (d); 155.29(2); 155.29(4); 204.308(1); 204.402(1)(a); 204.403(1)(c); and 204.403(1)(d) of the Code of Iowa 1987, and sections 10.1(4)(b)(1), (2), (3), and (4); 10.1(4)(c); 10.1(4)(j); and 10.1(4)(u) of 620 Iowa Administrative Code.

IT IS HEREBY ORDERED, that John A. Hamann appear before the Iowa Board of Pharmacy Examiners on June 16, 1987, at 1:30 p.m. in second floor conference room "A," 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

The Orders 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, and 258A of the Code of Iowa 1987.

You may bring counsel to the hearing and cross-examine any witnesses and call witnesses of your own. Failure to appear could result in the permanent 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, Hoover Building, Capitol Complex, Des Moines, Iowa.



Norman C. Johnson
Executive Secretary

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

In the Matter of	:	
JOHN A. HAMANN, PHARMACIST	:	STIPULATION
License No. 15187	:	

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

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

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

1. That the Board and the Licensee, by and through his attorney, Brent R. Appel, have entered into settlement discussions and have agreed upon a disposition of this matter.
2. That the Licensee desires to avoid the uncertainty and the expense of a hearing and desires to consent to the disciplinary action to be taken by the Board as specified in paragraph 4, infra.
3. It is the purpose and intent of the parties hereto to waive all the provisions of Chapter 17A of the 1987 Code of Iowa as they relate to notice and hearing on the matter of revocation or suspension of Licensee's license to be a pharmacist, and to acknowledge that each are fully aware of their rights and procedures afforded them through Chapter 17A of the 1987 Code of Iowa and the rules of the Board of Pharmacy Examiners promulgated in accordance and pursuant thereto, particularly section 17A.12 as it relates to contested cases and provides notice of hearing and records, section 17A.18, as it relates to the requirements concerning notice of the suspension and revocation of licenses.
4. It is the understanding of both the Licensee and the Board that they will enter into an Order and Consent to Order which will provide the following:
 - a. The Licensee's license to practice pharmacy is

suspended for two years beginning May 5, 1987.

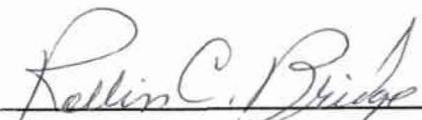
- b. During the period of the Licensee's suspension, the Licensee is prohibited from having any involvement whatsoever in the practice of pharmacy.
- c. During the period of the Licensee's suspension, the Licensee must apply for and successfully pass the Federal Drug Law Examination (FDLE), or its equivalent, which will be offered by the Board in September 1987 and in January, June, and September every year thereafter. Should the Licensee not pass the FDLE exam at an examination date prior to the proposed completion of his period of suspension on May 4, 1989, his suspension will continue in effect beyond May 4, 1989, until such time as he does successfully pass FDLE.
- d. Upon completing the period of suspension and achieving a passing score on FDLE, the Licensee is placed on five years probation beginning no sooner than May 5, 1989.
- e. During the probationary period, the Licensee shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.
- f. During both the period of suspension and the probationary period, the Licensee shall:
 - (i) Submit monthly written reports to the Board office concerning the Licensee's place of residence, place of employment, and involvement with the support group Alcoholics Anonymous, which are to be received no later than the tenth of each month.
 - (ii) Continue his involvement with Alcoholics Anonymous by regularly attending meetings and ensuring that his sponsor/counselor submits quarterly progress reports to the Board office verifying the Licensee's involvement with Alcoholics Anonymous and specifying the scope of that involvement.
 - (iii) Continue earning a minimum of thirty hours of continuing pharmacy education during each twenty-four month period. As continuing education credits are earned and accumulated, the Licensee shall submit proof of completion to the Board office. This proof shall be in the form of provider documentation. These documents may be submitted monthly along with

the information required under section 4(f)(i) of this stipulation.

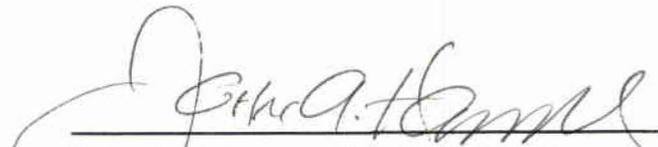
- (iv) Discontinue any supervision of pharmacy students, externs, or interns. The Licensee shall not perform any of the duties of a pharmacy preceptor.
 - (v) Submit to random testing of body fluids as requested by the Board, to be accomplished not less than four times a year. The Licensee shall bear all costs of such testing, as well as the reporting of test results.
 - (vi) Continue his involvement in the support group, Pharmacists Aiding Pharmacists in Iowa (PAP'I).
- g. If during the probationary period the Licensee resumes the practice of pharmacy, the Licensee shall notify all employers and prospective employers of the terms, conditions, and restrictions imposed upon him by this agreement. Within 15 days of the date that the Licensee resumes employment in the practice of pharmacy, the Licensee shall cause his employer to submit a written report to the Board acknowledging that the employer has read the conditions of this agreement.
- h. Should the Licensee leave Iowa to reside or practice outside this State, the Licensee 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 the reduction of the Licensee's probationary period which shall be tolled during the Licensee's absence from Iowa.
- i. Upon successful completion of the probationary period, the Licensee's license to practice pharmacy in Iowa will be fully restored.
- j. Should the Licensee violate any of the conditions of his probation, the Board, after giving the Licensee notice and an opportunity to be heard, may revoke probation and impose the disciplinary action described in paragraph k, below. If a petition to revoke probation is filed against the Licensee during his probationary period, the Board shall have continuing jurisdiction and the period of probation shall be extended until the matter is final. The Licensee retains all rights relating to judicial review of any revocation under this paragraph pursuant to Iowa Code Chapter 17A.

- k. Upon determining that the Licensee has violated a condition of his probation, the Board may issue an Order revoking the Licensee's license to practice pharmacy in Iowa. The Licensee retains all rights relating to judicial review of any revocation under this paragraph pursuant to Iowa Code Chapter 17A. The Licensee may not request license reinstatement for a period of five years from the date of such revocation Order. Before the Licensee's license will then be reinstated, the Licensee shall:
- (i) Apply for and successfully pass the National Association of Boards of Pharmacy Examination (NABPLEX), or its equivalent.
 - (ii) Apply for and successfully pass the Iowa Drug Law Examination (IDLE), or its equivalent.
 - (iii) Again apply for and successfully pass the Federal Drug Law Examination (FDLE), or its equivalent.
 - (iv) Appear before the Board for whatever purposes the Board deems necessary and appropriate.
- l. It is the understanding of both the Licensee and the Board that the only information concerning this matter which may be released to the public is that information which is contained in the Emergency Order and Complaint and Statement of Charges, the Stipulation, and the Order and Consent to Order. All other information shall remain confidential and be maintained under seal in the Board office.

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



Rollin C. Bridge, Chairperson
Iowa Board of Pharmacy Examiners



John A. Hamann, Licensee

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

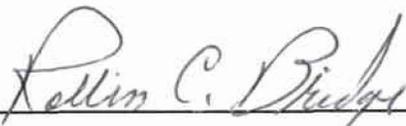
In the Matter of :
JOHN A. HAMANN, PHARMACIST : ORDER AND CONSENT TO ORDER
License No. 15187 :

The Iowa Board of Pharmacy Examiners, having been advised of the allegations and charges made against John A. Hamann, which could cause action to be taken against his license, and Licensee, having entered into a Stipulation representing their mutual informed consent as to the waiver of provisions found in sections 17A.12 and 17A.18, code of Iowa 1987, in regards to notice and hearing, the parties to this action agree to an informal settlement of the matter, namely that the license of John A. Hamann be disciplined according to the conditions attached hereto.

ORDER

IT IS THEREFORE ORDERED, subject to the consent of John A. Hamann to be contained herein to this Order, that the license of John A. Hamann to practice pharmacy be disciplined according to the conditions outlined in the Stipulation attached hereto and made part of this Order.

Date September 15, 1987

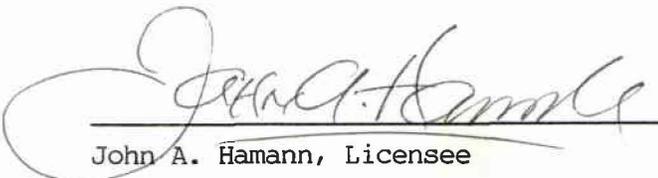


Rollin C. Bridge, Chairperson
Iowa Board of Pharmacy Examiners

CONSENT TO ORDER

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

Date Oct 7, 1987



John A. Hamann, Licensee