



conducted.

IT IS FURTHER ORDERED that Mark A. Hammon appear before the Iowa Board of Pharmacy Examiners on August 1, 1978, at 10:00 a.m. at the office of the Iowa Board of Pharmacy Examiners, Suite 217, Jewett Building, 9th and Grand, Des Moines, Iowa.

The order for temporary suspension and the notice of Hearing are rendered pursuant to the authority granted the Iowa Board of Pharmacy Examiners under chapters 17A, 155 and 204 of the Code of Iowa and Chapter 95 Acts of the 67th General Assembly 1st session.

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

Detailed information regarding the Hearing may be obtained from Thomas D. McGrane, Assistant Attorney General, State Capitol, Des Moines, Iowa, phone 281-5976.



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Angelo J. Palmer, Board Member



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Norman C. Johnson, Executive Secretary

August 29, 1978

State Ex 9

3-9-82

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Norman Johnson, Secretary, Board of Pharmacy Examiners

Michael Levine, Hearing Officer, Iowa Dept. of Job Service

Iowa Board of Pharmacy Examiners vs. Mark A. Hammon, Pharmacist

Revocation or Suspension of License to Practice Pharmacy  
Chapter 155, subsections 13 and 29(2), Code of Iowa, 1977.

STATEMENT OF THE CASE:

Pursuant to Chapter 17A of the Code, Iowa Administrative Procedure Act, a hearing was held on August 8, 1978, before the Iowa Board of Pharmacy Examiners and Hearing Officer Michael A. Levine, on assignment from the Iowa Department of Job Service, for the purpose of determining whether or not disciplinary action concerning Pharmacist Mark A. Hammon's license to practice pharmacy is warranted. Due notices advising of the time, date, and place of hearing had been issued. Board members present for the hearing were: Mr. Dennis Killion, Chairman, Mr. Max Eggleston, Mr. Gene Ewing, Vennetta Fiedler, Mr. Bob Bellinger, and Mr. Angelo Palmer. Mr. Tom McGrane, assistant attorney general, appeared on behalf of the State of Iowa. Mr. Mark A. Hammon personally appeared with his attorney, Mr. Bill Serangeli, attorney at law, Des Moines, Iowa.

FINDINGS OF FACT:

The hearing officer, having heard the testimony and considered all the evidence, finds that: Mark A. Hammon is a 26-year-old registered Iowa Pharmacist (H-15022) who, prior to June 1, 1978, owned and operated Hammon Pharmacy, 116 West Jefferson, Prairie City, Iowa, also known as PharmScope Services, Inc. Mr. Hammon is currently married, a native of Des Moines, Iowa, and a 1977 graduate of Drake University. On June 1, 1978, Mr. Hammon was hospitalized at the Marshalltown Area Community Hospital, Marshalltown, Iowa, pursuant to an order for psychiatric examination issued by a hospitalization referee. Mr. Hammon's commitment at this time was involuntary and prompted an investigation for drug addiction by the Board of Pharmacy Examiners. On June 12 and June 13, 1978, Investigators Thomas D. Hill and H. Christensen, conducted an audit of Schedule II controlled substances at Hammon Pharmacy. The audit covered the period September 2, 1977 (opening) to June 12, 1978. The audit and subsequent amendments thereto, exhibits II, III and IV, revealed the following shortages: Percodan tablets - 154 short - 30.8% shortage; Ritalin 5 mg tablets - 210 short - 42% shortage; Tuinal 100 mg capsules - 100 short - 50% shortage; Tuinal 200 mg capsules - 100 short - 50% shortage; Morphine Sulfate 10 mg amps. - 10 short - 50% shortage; Demerol 100 mg tablets - 180 short - 90% shortage; Demerol HCL 75 mg amps. - 22 short - 88% shortage; Demerol HCL 50 mg tablets - 380 short - 95% shortage; Cocaine HCL 1 1/4 oz. short - 100% shortage; Dilaudid HCL 2 mg tablets - 2100 short - 100% shortage; Dilaudid HCL 4 mg tablets - 3500 short - 100% shortage; Dilaudid HCL powder 81.49 grains - 90.5% shortage. In addition, various prescriptions appeared in the pharmacy files for a "S and M" cough syrup. The formula for this cough syrup was originally conceived by Mr. Hammon and Dr. Epstein at the College of Osteopathic Medicine and Surgery, utilizing codeine phosphate in place of Dilaudid HCL. These prescriptions were signed by either Dr. Epstein, D.O., or J. Veverka, M.D., Prairie City, or Dr. M. P. Phelan, M.D., Altoona, Iowa. Drs. Epstein, Phelan and Veverka all denied issuing

prescriptions for this cough syrup for any patients named on the prescriptions. Furthermore, Drs. Epstein and Veverka stated that Mr. Hammon had requested them to issue prescriptions for the cough syrup which Mr. Hammon was allegedly supplying to his customer-patients. Both physicians refused to issue prescriptions for persons not in their care, exhibit V. Dr. Veverka had requested Mr. Hammon to stock a small supply of cocaine hydrochloride that he, the doctor, could obtain for a topical anesthetic which he used to help in reducing nasal bone fractures. Dr. Veverka has not had any such fractures, and has not had occasion to use the cocaine HCL, exhibit V. Moreover, concerning the cough syrup's label indicating the presence of Dilaudid therein, Criminalistics Laboratory analysis revealed the presence of no Dilaudid contained in the cough syrup. Some 53 prescriptions were given to the Bureau of Criminal Investigation, Criminalistics Laboratory for handwriting analysis, exhibit VI. At the hearing it was stipulated by Mr. Hammon's attorney that these 53 prescriptions were forgeries of doctors' signatures, and were all signed by Mr. Hammon.

With the exception of the shortages relating to morphine sulfate and Ritalin, Mr. Hammon acknowledged responsibility for the other drug shortages as revealed by the audit and amendments thereto. He testified that approximately one year ago, at or near the time of the Pharmacy Board examinations, he first began to notice his drug dependency, which he stated consisted of being dependent upon Dilaudid to the extent of 100 mg per day. In the fall, 1977, he went through a 21-day detoxification program at ADASI, on an out-patient basis, but was unsuccessful in thwarting his drug dependency. In the spring, 1978, he again contacted ADASI and subsequently admitted himself to Powell III at Iowa Methodist Hospital, Des Moines, Iowa, and remained there for approximately nine days, readmitting himself in June, 1978. He remained in the treatment program from June 5, 1978, to July 21, 1978. Mr. Hammon further testified that he believes he is currently recovering from his drug dependency, and believes that he can return to the practice of pharmacy and work successfully again. No independent medical evidence was offered by Mr. Hammon to indicate that he has recovered from the drug dependency. In addition, Mr. Hammon acknowledged that the absence of the Schedule II controlled substance from the "S and M" cough syrup was due to his retaining it for his own personal use. Furthermore, he acknowledged the forgeries of the prescriptions were due to an attempt on his part to conceal his dependency. Mr. Hammon did not dispense any drugs with revealed shortages to any third parties.

Mr. Hammon acknowledged that in the past he had intravenously injected (mainlined) himself with Demerol and Dilaudid. He is uncertain as to why he became addicted to Dilaudid, or any other drugs, but indicated that approximately two years ago his brother committed suicide and he has been unsuccessful in dealing with that tragedy. Since July 21, 1978, he has not been under the care of any physician.

#### REASONING AND CONCLUSIONS OF LAW:

Section 155.13 of the Iowa Code provides in pertinent part: "Renewal--denial, suspension or revocation. Each license issued under this chapter unless sooner suspended or revoked, shall be renewable annually upon payment of the annual license fee. 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: (8) Violations of the provisions of this chapter."

Section 155.29 of the Iowa Code provides:

"Prohibited acts. 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.
3. For the purpose of obtaining a prescription drug, falsely assume the title of or represent himself to be a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, podiatrist, veterinarian, or other authorized person.
4. Make or utter any false or forged prescription or written order.
5. Affix any false or forged label to a package or receptacle containing prescription drugs.

Information communicated to a physician in an unlawful effort to procure a prescription drug or to procure the administration of any such drug shall not be deemed a privileged communication."

It is undisputed that Mr. Hammon suffered from a drug dependency and the evidence establishes that he engaged in unethical and unlawful conduct in an effort to conceal the same. He forged the signatures of physicians on prescriptions, falsely labeled medication, and created large inventory shortages by retaining these drugs for his own personal use. He recognized his drug dependency to a degree and attempted to terminate it on an out-patient basis in the fall, 1977, and then again in the spring, 1978. These attempts were unsuccessful. Despite the fact that he completed a treatment program on July 21, 1978, no independent medical evidence was offered which would indicate that he has in fact recovered from the dependency. As a pharmacist, having ready access to such drugs, it is the conclusion of the hearing officer, upon recommendation of the Board, that disciplinary action concerning Mr. Hammon's license to practice pharmacy is warranted as a measure of protection against both the consuming public which he would serve, and himself.

DECISION:

It is the decision of the hearing officer, upon the recommendation of the Board of Pharmacy Examiners, that Mr. Hammon's license to practice pharmacy be, and the same is hereby, suspended until September 1, 1979. In order to gain possible reinstatement, Mr. Hammon must show cause why the Board of Pharmacy privilege to practice pharmacy by way of substantial and competent medical evidence establishing that he no longer represents a danger to himself or to the community which he would serve. Upon such application for reinstatement, the Board of Pharmacy Examiners hereby reserves the right to require Mr. Hammon to undergo examination by physicians designated by the Board.



Michael A. Levine, Hearing Officer

State Ex. 8  
3-9-82  
DP

THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

\* \* \* \* \*  
RE: PHARMACY LICENSE OF : EMERGENCY ORDER:  
MARK A. HAMMON (15022) : LICENSE SUSPENSION  
\* \* \* \* \*

NOW on this 14th day of January 1982, the chairman of the Board of Pharmacy Examiners has reviewed the following evidence:

1. That Mark A. Hammon has a previous history of addiction to controlled substances. Evidence of this fact can be found in the Decision and Order of the Board dated August 29, 1978, which order suspended his license to practice pharmacy until September 1, 1979. A copy of that order is attached as part of this Emergency Order.

2. That results of an audit of Glass Road Pharmacy, 4225 Glass Road NE, Cedar Rapids, Iowa, shows evidence of shortages of controlled substances during the period December 1, 1980 to June 18, 1981. This period corresponds to the time when Mark A. Hammon was employed as pharmacist-manager of that pharmacy.

3. That results of an audit of Drug Fair #7, Newton Shopping Center, Newton, Iowa, shows evidence of shortages of controlled substances during the period of approximately October 1, 1981 through January 8, 1982. This period corresponds to the time when Mark A. Hammon was employed as pharmacist-manager of that pharmacy.

4. That the audit of records at Drug Fair #7, Newton Shopping Center, Newton, Iowa, conducted on January 8, 1982, and a search of the residence of Mark A. Hammon and his automobile, both located at 309 W. 4th Street, South, Newton, Iowa, indicates the following:

- a. Forgery of prescriptions for Schedule II controlled substances (two prescriptions are confirmed forgeries).

- b. Addiction to the use of controlled substances.
- c. Distribution of drugs for other than lawful purposes.

Such search being conducted under the authority of a search warrant issued by the District Court of Iowa in and for Jasper County, Iowa.

Based upon the above evidence, the chairman of the Iowa Board of Pharmacy Examiners, acting for the Board, finds that the public health and safety would be jeopardized if Mark A. Hammon were to be allowed to continue in the practice of pharmacy until a hearing can be conducted. The chairman finds that the public health and safety therefore makes emergency summary suspension imperative.

IT IS HEREBY ORDERED, pursuant to the authority of Chapter 17A.18(3), Code of Iowa 1981, that the license of Mark A. Hammon to practice pharmacy be temporarily suspended until such time as a hearing before the Iowa Board of Pharmacy Examiners can be conducted.

IT IS ALSO HEREBY ORDERED, pursuant to the authority of Chapter 258A.9, Code of Iowa 1981, that Mark A. Hammon submit to a physical and mental examination within ten (10) days of the receipt of this order. Such examination to be given by Remi J. Cadoret, M.D., University Hospitals and Clinics, University of Iowa, Iowa City, Iowa. In complying with this order, Mark A. Hammon is to notify the executive secretary of the Board as soon as an appointment with Dr. Cadoret has been arranged.

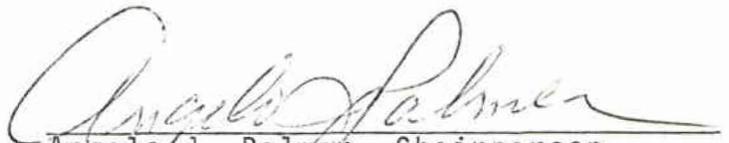
IT IS FURTHER ORDERED that Mark A. Hammon appear before the Iowa Board of Pharmacy Examiners on March 9, 1982, at 9:30 a.m. in Conference Room One, 2nd floor north, Grimes State Office Building, Capitol Complex, Des Moines, Iowa.

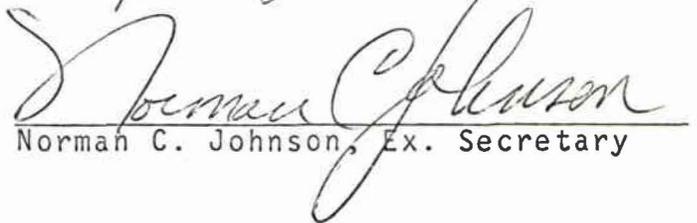
The order for temporary suspension, the order to submit to a physical and mental examination, and the notice of hearing are issued pursuant to the authority

granted the Iowa Board of Pharmacy Examiners under Chapters 17A, 155, 204, and 258A, Code of Iowa 1981.

You may bring counsel to the hearing and cross-examine any witness and call witnesses of your own. Failure to appear could result in 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.

  
Angelo J. Palmer, Chairperson

  
Norman C. Johnson, Ex. Secretary

STATE OF IOWA  
BEFORE THE BOARD OF PHARMACY EXAMINERS

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IN THE MATTER OF THE LICENSE	)	FINDINGS OF FACT,
TO PRACTICE PHARMACY OF	)	CONCLUSIONS OF LAW
MARK A. HAMMON,	)	AND DECISION
Respondent	)	

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STATEMENT OF THE CASE

Pursuant to Chapters 17A and 258A of the Code of Iowa, a hearing was held before the Board of Pharmacy Examiners March 9, 1982 for the purpose of determining whether or not disciplinary action should be taken concerning the license of Mark A. Hammon to practice pharmacy in Iowa.

Board members present for the hearing were: Angelo J. Palmer, Chairperson; Venetta M. Fiedler, Robert E. Bellinger, Dennis D. Killion, Gale W. Stapp, and Margo L. Underwood. Peter J. Fox served as hearing officer for the Board. The State was represented by Thomas D. McGrane, Assistant Attorney General. The Respondent failed to appear at the hearing. He was duly served with notice of the hearing.

The hearing officer having considered the testimony and evidence issues the following findings of fact, conclusions of law, and decision.

FINDINGS OF FACT

The Respondent Mark A. Hammon has had problems with drug dependency. On August 29, 1978 his license to practice pharmacy was suspended following a disciplinary hearing. (See State Exhibit 9). At that time the findings were that he forged signatures of physicians on prescriptions, falsely labeled medications, and created large inventory shortages by retaining the drugs for his personal use. The Board of Pharmacy Examiners reinstated his license after he stated that he no longer uses drugs and a favorable psychiatric report was received.

On December 28, 1982 the pharmacist-manager of the Glass Road Pharmacy at Cedar Rapids, Iowa reported to the Executive Secretary of the Board of Pharmacy Examiners that substitutions were made in two bottles of Demoral

tablets. An audit was commenced by J.W. Reardon, an investigator for the Board of Pharmacy Examiners. The audit indicated that during the time Mark Hammon was pharmacist manager of the Glass Road Pharmacy from December 9, 1980 to June 18, 1981 there was a shortage of 308 dosage units of Dexedrine, approximately 20 dosage units of Dexedrine Elixer, and 2591 dosage units of Percodan and Percocet-5.

Mr. Reardon also conducted an audit of two other pharmacies where Mr. Hammon had recently worked as a pharmacist in 1981. (See State Exhibit 1)

Mr. Hammon was the sole staff pharmacist at the Drug Fair #9 at Iowa City, Iowa from September 3, 1981 to September 28, 1981. The audit for the period June 20, 1981 to September 28, 1981 indicates shortages of 113 dosage units of central nervous system stimulants, 15.1 gm. of cocaine HCL, 484 dosage units of narcotics, and 25 dosage units of various central nervous system depressants. Mr. Hammon was the pharmacist manager of the Drug Fair #7 at Newton, Iowa from November 13, 1981 to January 8, 1982. The audit indicates a shortage of at least 805 dosage units of Percodan and Percocet-5 during that time.

A search warrant was obtained and the Mark Hammon residence in Newton, Iowa was searched on January 8, 1982. The search located a prescription pad from the Newton Clinic, P.C. found in the pocket of a pair of trousers on Mr. Hammon's bed, bloody kleenex found in Mr. Hammon's bedroom which were found to contain Cocaine, a bottle of Percocet-5 with 97 tablets without a prescription, and other items.

The Division of Criminal Investigation Criminalistics Laboratory identified a prescription with the signature of Ervin Wittenberg, M.D. to be a forgery. A tracing was found on the prescription pad found in the trousers of Mr. Hammon which corresponded with the forged prescription. (See State Exhibit 4).

An Emergency Order (State Exhibit 8) was issued January 14, 1982 suspending the license of Mark Hammon to practice pharmacy and directing that he submit to a physical and mental examination by Remi J. Cadoret, M.D. at the University of Iowa Hospital within ten days. Mr. Hammon has failed to appear for the physical and mental examination.

## CONCLUSIONS OF LAW

Section 155.13 of the Iowa Code provides in pertinent part: "Renewal-- denial, suspension or revocation. Each license issued under this chapter unless sooner suspended or revoked, shall be renewable annually upon payment of the annual license fee. 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, ...."

Subsection 6 of Section 155.13 provides as a ground for disciplinary action "Substitution of a drug or substance other than the drug or substance ordered in the prescription of a physician, dentist, podiatrist or veterinarian licensed by law."

Section 155.29 of the Code of Iowa provides:

155.29 Prohibited acts. 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.
3. For the purpose of obtaining a prescription drug, falsely assume the title of or represent himself to be a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, podiatrist, veterinarian or other authorized person.
4. Make or utter any false or forged prescription or written order.
5. Affix any false or forged label to a package or receptacle containing prescription drugs.

Information communicated to a physician in an unlawful effort to procure a prescription drug or to procure the administration of any such drug shall not be deemed a privileged communication.

The evidence proves conclusively that Mr. Hammon has reverted to a condition of drug dependency. Cocaine was found on bloody Kleenex in his residence. The evidence shows that he has substituted one drug for another. Other drugs were substituted for Demoral in the complaint to the Board December 28, 1981. The evidence is that Mr. Hammon forged the prescription of Dr. Erwin Wittenberg, M.D. A tracing of the prescription was found on a prescription pad in the residence of Mr. Hammon. Large shortages of both narcotics and central nervous system stimulants were found in the pharmacies where Mr. Hammon was employed in 1981. Mr. Hammon failed to appear for physical and mental examinations at University Hospitals as directed by the Board January 14, 1982.

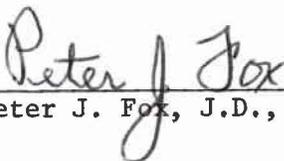
The factual situation is almost a repetition of what occurred in 1978 resulting in the suspension of Mark Hammon's license to practice pharmacy on August 29, 1978. (See State Exhibit 9) The license of Mr. Hammon was reinstated, but with the access to drugs in a pharmacy the drug dependency condition has recurred.

It is the conclusion of the Hearing Officer, upon recommendation of the Board, that disciplinary action to protect both the public and Mr. Hammon is required.

#### DECISION

It is the decision of the Hearing Officer, upon recommendation of the Board of Pharmacy Examiners, that the license of Mark A. Hammon to practice pharmacy in the State of Iowa is hereby revoked.

Dated March 15, 1982.

  
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Peter J. Fox, J.D., Hearing Officer

**copies to:**

Mark A. Hammon, Respondent  
Board of Pharmacy Examiners  
Thomas D. McGrane, Assistant Attorney General  
Jasper County Attorney