BEFORE THE BOARD OF PHARMACY EXAMINERS

OF THE STATE OF IOWA

In the Matter of the Complaint and Statement of Charges Against HESS PHARMACY, INC., RONALD D. HESS, Pharmacist In Charge and Corporate President, Respondent.	:	COMPLAINT AND STATEMENT OF CHARGES

COMES NOW, Norman C. Johnson, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 15th day of January, 1988, and files this Complaint and Statement of Charges against Hess Pharmacy, Inc., a pharmacy licensed pursuant to Iowa Code Chapter 155A, and against Ronald D. Hess, president and pharmacist in charge of Hess Pharmacy, Inc., and alleges that:

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

2. Respondent is licensed to do business at 210 1st Street East, Independence, Iowa, and was issued license #8 on December 15, 1986.

3. General pharmacy license #8, issued in the name of Hess Pharmacy, Inc., with Ronald D. Hess as pharmacist in charge and president, expired on December 31, 1987.

4. Hess Pharmacy, Inc., by and through its president, Ronald D. Hess, did defraud insurors who supplied payments for prescription drugs on behalf of its subscribers or insurees of money by submitting false claims to these insurors for payment. These false submissions were made on numerous occasions during 1986 and 1987 to Deere and Company and Heritage National Health Plan, Inc., for amounts totaling at least $15,000.

5. Ronald D. Hess, d/b/a Hess Pharmacy, and Hess Pharmacy, Inc., entered into a judgment by confession in the District Court of Iowa, in and for Buchanan County, on November 12, 1987. Said judgment was confessed for the sum of $15,000 in favor of Deere and Company and Heritage National Health Plan, Inc., as plaintiffs, based upon a significant number of incorrect and inaccurate prescription claims that were filed by Hess Pharmacy.

6. Respondent is guilty of a violation of Iowa Code paragraph 155A.15 (2)"c" by virtue of the allegations in paragraphs 4 and 5.

Paragraph 155A.15(2)"c" reads as follows:

"...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:

c. Violated any provision of this chapter or any rule adopted under this chapter or that any owner or employee of the pharmacy has violated any provisions of this chapter or any rule adopted under this chapter."

7. Respondent is guilty of a violation of Board Rule §620--10.1(4) "t" by virtue of the allegations in paragraphs 4 and 5.

Rule 10.1(4)"t" 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 $25,000.00, when the board determines that the licensee or registrant is guilty of the following acts or offenses:

t. Obtaining any fee by fraud or misrepresentation."

8. Paragraphs 6 and 7 constitute grounds for which Respondent's license to operate a pharmacy can be suspended or revoked.

9. WHEREFORE, the undersigned charges that Hess Pharmacy, Inc., with Ronald D. Hess as president and pharmacist in charge has violated paragraph 155A.15(2)"c" of the Code of Iowa and Board Rule §620--10.1(4)"t" of the Iowa Administrative Code.

IT IS HEREBY ORDERED that Ronald D. Hess, as president and pharmacist in charge of Hess Pharmacy, Inc., appear before the Iowa Board of Pharmacy Examiners on March 15, 1988, at 10:00 a.m. in the second floor conference room, 1209 East Court, Executive Hills West, 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 operate a pharmacy issued to Hess Pharmacy, Inc., Ronald D. Hess, president and pharmacist in charge, on December 15, 1986, or take whatever additional steps they deem necessary.

IOWA BOARD OF PHARMACY EXAMINERS

Norman C. Johnson
Executive Secretary

BEFORE THE BOARD OF PHARMACY EXAMINERS

OF THE STATE OF IOWA

In the Matter of HESS PHARMACY, INC. Ronald D. Hess, President License No. 13237	: : : :	STIPULATION

WHEREAS, Hess Pharmacy, Inc., Ronald D. Hess, president, hereinafter referred to as the Licensee, has had certain allegations made against them by the Board of Pharmacy Examiners, hereinafter referred to as the Board, concerning the operation of Hess Pharmacy, Inc., 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 J. Scott Boggus, have entered into settlement and have agreed upon a disposition of this matter.

2. That the Licensee desires to avoid the uncertainty and the expense of a formal hearing and consents 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 operate a pharmacy, 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, and 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 for the following:

   Licensee shall adopt policies and procedures relative to proper third-party payor billing. These policies and procedures shall

be submitted to the Board for approval within 60 days of the signing of this Stipulation and Consent to Order.

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

Rollin C. Bridge

Rollin C. Bridge, Chairman
Iowa Board of Pharmacy Examiners

Hess Pharmacy, Inc.
Ronald D. Hess, Pres.

Hess Pharmacy, Inc.
Ronald D. Hess, President/Licensee

BEFORE THE BOARD OF PHARMACY EXAMINERS

OF THE STATE OF IOWA

In the Matter of	:	
HESS PHARMACY, INC.	:	ORDER AND CONSENT TO ORDER
Ronald D. Hess, President	:	

The Iowa Board of Pharmacy Examiners, having been advised of the allegations and charges against Hess Pharmacy, which could cause action to be taken against its license, and Licensee, having entered into a Stipulation representing their mutual informed consent as to 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 Hess Pharmacy be disciplined according to the conditions attached hereto.

ORDER

IT IS THEREFORE ORDERED, subject to Ronald D. Hess' consent to be contained in this Order, that the license of Hess Pharmacy, Inc., to operate as a pharmacy in Iowa be disciplined according to the conditions outlined in the Stipulation attached hereto and made part of this Order.

Rollin C. Bridge

Rollin C. Bridge, Chairman
Iowa Board of Pharmacy Examiners

Date July 28, 1988

CONSENT TO ORDER

I, Ronald D. Hess, president of Hess Pharmacy, Inc., hereby consent to the Order set forth above, waive my right to a hearing in this matter, and thereby specifically waive a right to confrontation, cross-examination of witnesses, production of evidence, making of a record and judicial review.

Ronald D. Hess, Pres.

Ronald D. Hess, President
Hess Pharmacy, Inc.

Date Aug. 13th, 1988

BEFORE THE BOARD OF PHARMACY EXAMINERS

OF THE STATE OF IOWA

In the Matter of the Complaint and Statement of Charges Against RONALD D. HESS (#13237), Pharmacist, Respondent.	:	COMPLAINT AND STATEMENT OF CHARGES

COMES NOW, Norman C. Johnson, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 15th day of January, 1988, and files this Complaint and Statement of Charges against Ronald D. Hess, a pharmacist licensed pursuant to Iowa Code Chapter 155A, and alleges that:

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

2. Respondent resides at 227 Terrace Drive S.E., Independence, Iowa.

3. Respondent was issued license #13237 to practice pharmacy in Iowa on September 7, 1966.

4. Respondent's license to practice pharmacy is current until June 30, 1988.

5. Respondent is the pharmacist in charge/president of Hess Pharmacy, Inc., 201 First Street East, Independence, Iowa.

6. Respondent has defrauded insurors who supplied payments for prescription drugs on behalf of its subscribers or insurees of money by submitting false claims to these insurors for payment. These false submissions were made on numerous occasions during 1986 and 1987 to Deere and Company and Heritage National Health Plan, Inc., for amounts totaling at least $15,000.

7. Ronald D. Hess, d/b/a Hess Pharmacy, and Hess Pharmacy, Inc., entered into a judgment by confession in the District Court of Iowa, in and for Buchanan County, on November 12, 1987. Said judgment was confessed for the sum of $15,000 in favor of Deere and Company and Heritage National Health Plan, Inc., as plaintiffs, based upon a significant number of incorrect and inaccurate prescription claims that were filed by Hess Pharmacy.

8. Respondent is guilty of a violation of Iowa Code Subsection 155A.12(1) by virtue of the allegations in paragraphs 6 and 7.

Subsection 155A.12(1) reads as follows:

"...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."

9. Respondent is guilty of a violation of Board Rule §620--10.1(4) "t" by virtue of the allegations in paragraphs 6 and 7.

Rule 10.1(4)"t" 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 $25,000.00, when the board determines that the licensee or registrant is guilty of the following acts or offenses:

t. Obtaining any fee by fraud or misrepresentation."

10. Paragraphs 8 and 9 constitute grounds for which Respondent's license to practice pharmacy can be suspended or revoked.

11. WHEREFORE, the undersigned charges that Ronald D. Hess has violated Iowa Code Section 155A.12(1) and Board rule §620--10.1(4)"t" of the Iowa Administrative Code.

IT IS HEREBY ORDERED that Ronald D. Hess appear before the Iowa Board of Pharmacy Examiners on March 15, 1988, at 10:00 a.m. in the second floor conference room, 1209 East Court, Executive Hills West, 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 Ronald D. Hess on September 7, 1966, or take whatever additional steps they deem necessary.

IOWA BOARD OF PHARMACY EXAMINERS

Norman C. Johnson
Executive Secretary

BEFORE THE BOARD OF PHARMACY EXAMINERS

OF THE STATE OF IOWA

In the Matter of	:	
Ronald D. Hess	:	STIPULATION
License No. 13237	:	

WHEREAS, Ronald D. Hess, 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 J. Scott Boggus, have entered into settlement and have agreed upon a disposition of this matter.

2. That the Licensee desires to avoid the uncertainty and the expense of a formal hearing and consents 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, and 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 for the following:

   a. Licensee's license to practice pharmacy is suspended for three years or for the period of time he serves in federal prison, whichever is less. Such suspension shall be retroactive to April 12, 1988.

   b. Upon Licensee's release from federal custody, he shall provide notice of that release to the Board. Notice shall be in writing

and shall include reports on any ongoing aftercare or treatment programs required or recommended by federal custodial authorities and/or physicians. Such report shall also contain a statement signed by treatment counselors that Licensee is able to cope with the stresses and demands of the practice of pharmacy.

c. Licensee is placed on probation for a period of three years to begin immediately following the termination of his suspension.

d. During the period of probation Licensee shall:

(1) Obey all federal and state laws and regulations substantially related to the practice of pharmacy.

(2) Report to the Board quarterly. Such reports may be in person or in writing. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the report is made. Such reports shall include a general and summarized description of Licensee's activities during the preceeding quarter, with emphasis on matters pertaining to pharmacy practice. These reports shall also include program reports and/or status reports as to participation in any aftercare or treatment programs identified in parabraph "b" above.

(3) Submit to peer review as deemed necessary by the Board.

(4) Not supervise any registered intern and shall not perform any of the duties of a preceptor.

e. Licensee must show proof of compliance with restitution arrangements made with Deere and Company and Heritage National Health Plan, Inc., in connection with the Judgment by Confession entered in District Court of Iowa in and for Buchanan County, approved on November 12, 1987.

f. Should Licensee leave Iowa to reside or practice outside this state, he 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.

g. Within 15 days of Licensee undertaking new employment, he shall cause his employer to report to the Board in writing acknowledging that the employer has read the decision in this case, including the terms, conditions and restrictions imposed on Licensee.

h. Should Licensee violate probation in any respect, the Board, after giving him notice and an opportunity to be heard, may revoke probation and carry out the suspension order which was stayed. If a petition to revoke probation is filed against Licensee 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.

i. Licensee shall comply with the mandatory continuing education requirements of the Board during the period of suspension and probation.

j. Upon successful completion of probation, Licensee's license to practice pharmacy will be fully restored.

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

Rollin C. Bridge, Chairman
Iowa Board of Pharmacy Examiners

Ronald D. Hess
Licensee

BEFORE THE BOARD OF PHARMACY EXAMINERS

OF THE STATE OF IOWA

In the Matter of Pharmacist	:	
	:	ORDER AND CONSENT TO ORDER
RONALD D. HESS	:	

The Iowa Board of Pharmacy Examiners, having been advised of the allegations and charges against Ronald D. Hess, which could cause action to be taken against his license, and Licensee, having entered into a Stipulation representing their mutual informed consent as to 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 Ronald D. Hess be disciplined according to the conditions attached hereto.

ORDER

IT IS THEREFORE ORDERED, subject to Ronald D. Hess' consent to be contained in this Order, that the license of Ronald D. Hess to practice pharmacy in Iowa be disciplined according to the conditions outlined in the Stipulation attached hereto and made part of this Order.

Rollin C. Bridge

Rollin C. Bridge, Chairman
Iowa Board of Pharmacy Examiners

Date July 28, 1988

CONSENT TO ORDER

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

Ronald D. Hess

Ronald D. Hess

Date, Aug 13th, 1988