

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of JIM N. HOPKINS License No. 12710 Respondent	} } } } } }	COMPLAINT AND STATEMENT OF CHARGES AND NOTICE OF HEARING
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COMES NOW, Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 8th day of March, 1991, and files this Complaint and Statement of Charges against Jim N. Hopkins, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Melba L. Scaglione, Chairperson; Alan M. Shepley, Vice Chairperson; Rollin C. Bridge; Donna J. Flower; Phyllis A. Olson; Marian L. Roberts; and John F. Rode 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 27, 1961, by examination.

3. Respondent's license to practice pharmacy in Iowa is current until June 30, 1992.

4. Respondent is a self-employed pharmacist and part-owner of the Family Pharmacy located at 44 First Avenue N.E. in LeMars, Iowa 51031.

5. Respondent currently resides at 231 10th Avenue S.E. in LeMars, Iowa 51031.

6. On October 10, 1990, the Board received an investigative report from Pharmacy Investigator Morrell A. Spencer. That report alleges the following:

a. On February 19, 1990, Horst G. Blume, M.D., issued a written prescription for #100 Tylenol with Codeine #4, a schedule III controlled substance, for an adult male patient with instructions to take one tablet three times daily. The prescription authorized five refills and contained a notation that the prescription was "due 2-28-90." This prescription was filled at Family Pharmacy in LeMars and was assigned prescription number 444406. Respondent exceeded the prescriber's

directions by filling the prescription with the generic product (#100 APAP with Codeine 300/60, a schedule III controlled substance) on February 21, 1990 (seven days prior to the "due" date). Respondent later exceeded the prescriber's directions again by dispensing refills of prescription number 444406 with the generic product (#100 APAP with Codeine 300/60, a schedule III controlled substance) on February 28, 1990; March 17, 1990; and March 23, 1990.

b. On March 27, 1990, Horst G. Blume, M.D., issued another written prescription for #40 Tylenol with Codeine #4, a schedule III controlled substance, for the same adult male patient with instructions to take one tablet three times daily as needed for pain. The prescription did not authorize any refills. It was filled at Family Pharmacy in LeMars on March 30, 1990, and was assigned prescription number 446722. Respondent dispensed refills of #40 tablets of the generic product (APAP with Codeine 300/60, a schedule III controlled substance) without prescriber authorization on the following dates: April 7, 1990; April 8, 1990; April 10, 1990; and April 18, 1990.

7. Respondent is guilty of violations of 1991 Iowa Code sections 155A.12(1), 155A.12(5), 204.308(3), and 204.402(1)(a) by virtue of the information and allegations contained in paragraph 6.

1991 Iowa Code section 155A.12 provides, in part, the following:

...The board shall refuse to issue a pharmacist license for failure to meet the requirements of section 155A.8. 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.

...

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

Iowa Code section 204.308 provides, in part, the following:

3. ...[A] controlled substance included in schedule III or IV, which is a prescription drug... shall not be dispensed without a written or oral prescription of a practitioner.

Iowa Code section 204.402(1) provides, in part, the following:

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;...

8. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(b), 9.1(4)(c), 9.1(4)(j), and 9.1(4)(u) by virtue of the information and allegations contained in paragraph 6.

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

4. 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:

(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 Iowa Code sections 147.55, 155A.12 and 155A.15.

The Iowa Board of Pharmacy Examiners finds that paragraphs 7 and 8 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 1991 Iowa Code sections 155A.12(1), 155A.12(5), 204.308(1), and 204.402(1)(a) and 657 Iowa Administrative Code sections 9.1(4)(b), 9.1(4)(c), 9.1(4)(j), 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 Jim N. Hopkins appear before the Iowa Board of Pharmacy Examiners on Tuesday, April 16, 1991, 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 Jim N. Hopkins on June 27, 1961, 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 his 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 his 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 Lynette A. F. Donner, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-8760). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen
Executive Secretary

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of :
JIM N. HOPKINS : **STIPULATION**
License No. 12710 :
Respondent :

WHEREAS, Jim N. Hopkins, 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, through its representative Marian L. Roberts, and the Licensee 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 trial 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 1991 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 1991 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:

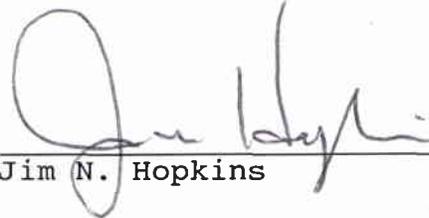
a. Licensee is warned to dispense controlled substances in conformance with state and federal controlled substance law and to fill and refill prescriptions for controlled substances only as authorized by the prescriber.

b. Within thirty (30) days of the date that Licensee accepts and signs this Stipulation agreement and the accompanying Order and Consent to Order, Licensee shall remit a \$500.00 civil penalty to the Board office.

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



Melba L. Scaglione, Chairperson
Iowa Board of Pharmacy Examiners



Jim N. Hopkins

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of : **ORDER**
JIM N. HOPKINS : **AND**
License No. 12710 : **CONSENT TO ORDER**
Respondent :

The Iowa Board of Pharmacy Examiners, having been advised of the allegations that Jim N. Hopkins has conducted himself in a manner which could cause his license to practice pharmacy to be suspended, and the Board of Pharmacy Examiners through a Board Member and said Jim N. Hopkins, having entered into a Stipulation representing their mutual informed consent as to the waiver of the provisions found in the Iowa Administrative Code appearing at Chapter 17A, particularly Section 17A.12 and Section 17A.18, Code of Iowa 1991, in regards to Notice and Hearing, the parties to this action agree to an informal settlement of this matter, namely that the license of Jim N. Hopkins be disciplined according to the conditions attached hereto.

ORDER

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

Date May 13, 1991

Melba L. Scaglione
Melba L. Scaglione, Chairperson
Iowa Board of Pharmacy Examiners

CONSENT TO ORDER

I, Jim N. Hopkins, 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.

Date May 17, 1991

Jim N. Hopkins
Jim N. Hopkins