

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

Re:)	COMPLAINT
Pharmacist License of)	AND STATEMENT
ROBERT J. JENK)	OF CHARGES
License No. 13754)	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 Robert J. Jenk, 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 February 14, 1973, by examination.
3. Respondent was also licensed to practice pharmacy in the state of Colorado (license number 9860) in 1973.
4. Respondent currently resides at 401 Thistle Place, Longmont, Colorado 80501.

5. Respondent's license to practice pharmacy in Iowa is inactive. It is current until June 30, 1994.

6. On July 20, 1993, the Board received certified copies of a Stipulation and Final Agency Order, titled In the Matter of Disciplinary Proceedings Regarding the License to Practice Pharmacy in the State of Colorado of Robert J. Jenk, R.Ph., Case No. RG-PH-DLGLK, from the Colorado State Board of Pharmacy. The Stipulation and Final Agency Order, dated April 10, 1992, provides, in part, the following:

IT IS HEREBY STIPULATED by and between the Colorado State Board of Pharmacy (the "Board") and Robert J. Jenk, R.Ph. (the "Respondent"), that a Final Agency Order ("FAO") enter between them as follows:...

3. Respondent admits as follows:

a. Respondent pled guilty to a single misdemeanor...on October 31, 1991,...for failure to keep pharmacy records as required for controlled substances...

b. By failing to keep such records he violated the lawful rules and regulations of the Board, or state, or federal laws pertaining to drugs...

c. Until approximately July, 1991, and for several years before, Respondent engaged in the excessive use of alcohol. In July, 1991, he joined Alcoholics Anonymous and has remained abstinent to date.

....

FINAL AGENCY ACTION:

7. Respondent's license to practice pharmacy shall be suspended for 90 days. The Respondent shall actively serve 15 days of the suspension from March 4 through March 18, 1992, the remaining days to be held in abeyance pending successful completion of the probation described below.

8. Respondent shall be additionally placed on probation for a period of four (4) years, commencing on the date the active suspension has been completed...

7. As evidenced in the Stipulation and Final Agency Order of the Colorado State Board of Pharmacy, Respondent's license to practice pharmacy in Colorado was disciplined effective April 10, 1992.

8. A copy of the Colorado Board's Stipulation and Final Agency Order is attached hereto as Exhibit 1 and is incorporated by reference into the Complaint and Statement of Charges and Notice of Hearing as if fully set forth herein.

9. Respondent failed to report to the Board that disciplinary action had been taken by the Colorado State Board of Pharmacy against his Colorado pharmacist license number 9860.

10. Respondent is guilty of violations of 1993 Iowa Code sections 155A.12(1), 155A.12(8), 155A.12(10) by virtue of the allegations contained in paragraphs 6, 7, 8, and 9.

1993 Iowa Code section 155A.12 provides, in part, the following:

...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 their chapter or any rules of the board adopted under their 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.

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 Robert J. Jenk appear before the Iowa Board of Pharmacy Examiners on Tuesday, January 11, 1994, at 3:00 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 Robert J. Jenk on February 14, 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 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 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

Proceeding No. RG PH DLGLK

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS REGARDING THE
LICENSE TO PRACTICE PHARMACY IN THE STATE OF COLORADO OF
ROBERT J. JENK, R.Ph., License No. 9860,

Respondent.

IT IS HEREBY STIPULATED by and between the Colorado
State Board of Pharmacy (the "Board") and Robert J. Jenk,
R.Ph. (the "Respondent"), that a Final Agency Order ("FAO")
enter between them as follows:

STIPULATION

1. The Board has jurisdiction over the person of Respondent and the subject matter of this stipulation.
2. Respondent has been licensed to practice pharmacy in the state of Colorado since 1973, License No. 9860. Prior to this proceeding, he has never been the subject of discipline by the Board.
3. Respondent admits as follows:
 - a. Respondent pled guilty to a single misdemeanor, pursuant to § 12-22-314(3), 5A C.R.S. (1991 Repl. Vol.), on October 31, 1991, in Boulder District Court, for failure to keep pharmacy records as required for controlled substances, contrary to § 12-22-314(1)(h), 5A C.R.S. (1991 Repl. Vol.).
 - b. By failing to keep such records he violated the lawful rules and regulations of the Board, or state, or federal laws pertaining to drugs, contrary to § 12-22-125(1)(c), 5A C.R.S. (1991 Repl. Vol.).
 - c. Until approximately July, 1991, and for several years before, Respondent engaged in the excessive use of alcohol. In July, 1991, he joined Alcoholics Anonymous and has remained abstinent to date.
4. The statutory authority of the Board is as follows:

12-22-125. Licenses or registrations may be denied, suspended, or revoked.

(1) The board may deny, suspend, or revoke any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:
....

(c) Has violated any of the provisions of this part 1, the lawful rules and regulations of the board, or any state or federal law pertaining to drugs.

12-22-314. Unlawful acts--licenses--penalties.

(1) Except as otherwise provided in this part 3, the following acts are unlawful:...

(h) The failure to keep records as required by this part 3;....

(3) Any person who violates paragraph (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m) of subsection (1) of this section or subsection (2) of this section or any other provision of this part 3 for which a penalty is not specified is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

5. It is the intent of the parties to merge all claims arising out of, relevant to, or in any way concerning the facts and circumstances herein, known and unknown, into this disposition and FAO.

6. By virtue of the facts recited in paragraph 3 above, Respondent admits, and the Board hereby finds, that Respondent has violated §§ 12-22-125(1)(c), 12-22-314(3), and 12-22-314(1)(h), 5A C.R.S. (1991 Repl. Vol.).

FINAL AGENCY ORDER

7. Respondent's license to practice pharmacy shall be suspended for 90 days. The Respondent shall actively serve 15 days of the suspension from March 4 through 18, 1992, the remaining days to be held in abeyance pending successful completion of the probation described below.

8. Respondent shall be additionally placed on probation for a period of four (4) years, commencing on the date the active suspension has been completed.

a. Credit towards the period of probation will be given only for the periods of time during which the Respondent is in compliance with the terms of this stipulation. Respondent acknowledges that his license is restricted by the terms of probation.

b. Terms of the probation follow:

(1) The probationary period shall be served only while Respondent is employed at least an average of 16 hours per week in any capacity for which a pharmacy license is statutorily required, under adequate supervision. Supervision at each place of employment must be provided by a licensed Colorado pharmacy manager in good standing, unless Respondent is appointed to that position himself, in which case, "adequate supervision" shall be assumed by Respondent's immediate supervisor. If Respondent is employed at the time of the effective date of this Stipulation, Respondent shall so notify the Board at that date.

(2) Respondent is required to notify the Board in writing within 72 hours after the commencement or termination of any pharmacy employment.

(3) Upon the effective date of this FAO or obtaining pharmacy employment, whichever later occurs, Respondent shall provide a copy of this Stipulation and FAO to his pharmacy manager of each place of employment.

(4) Within one month of the effective date of this FAO, each pharmacy manager shall submit a report directly to the Board, in writing, acknowledging that:

(a) This Stipulation and FAO was received from Respondent; and

(b) The manager will notify the Board within 72 hours of any suspected violations of this Stipulation and FAO and the Colorado Pharmacy Code, including, without limitation, any suspected substance or alcohol abuse.

(5) At the expense of Respondent, Respondent shall appoint a "probation monitor" who is approved by the Board to perform the duties described below. Respondent is required to provide the probation monitor with a copy of this Stipulation and FAO.

(a) During Respondent's probationary term, he shall attend and participate in Alcoholics Anonymous or other Board approved "twelve step" program meetings at least once per week. The probation monitor shall certify, by means of the reporting system described below, if Respondent

fails to perform this duty.

(b) During the probationary term, Respondent shall submit to unannounced, random urine screens as often as the probation monitor requires, at a reputable testing laboratory. The Respondent shall furnish written proof of legitimate prescriptions, if required, to his probation monitor. Positive results shall be reported immediately to the probation monitor. Unless the Board otherwise requires, the probation monitor shall report any urine sample test that is positive for alcohol or controlled substances/habit-forming substances which Respondent used without a current prescription within 72 hours after the probation monitor obtains said result.

(c) The probation monitor must agree in writing to submit written reports if the Respondent:

[1] Shows any evidence of any alcohol, drug, or other substance abuse;

[2] Shows any evidence that he is not in compliance with the terms and conditions of this Stipulation and FAO; or

[3] Is unable to practice pharmacy with reasonable skill and safety.

All such reports will be submitted within 72 hours of the probation monitor's conclusion of same.

(6) While on probation herein, Respondent shall abstain from the use of alcohol and from controlled substances, habit-forming drugs, or any drugs with the same or similar effects which are not appropriately prescribed for Respondent by a physician or dentist.

(7) At the effective date of this FAO, Respondent shall sign a medical information and records release form for the purpose of allowing the Board to obtain any medical information and records of Respondent relevant to and during the term of probation. Respondent further agrees that any revocation of the medical information and records release before completion of probation shall constitute a violation of this probation.

(8) During the period of probation, Respondent agrees to inform the Board of any new or additional treatment for alcohol or other substance abuse.

(9) In the event of permanent relocation to another state, Respondent shall notify the Board of the

change of address within 30 days of such permanent relocation and hereby gives consent to the Board to notify the board of pharmacy, or any equivalent regulatory agency, in any state to which Respondent relocates of the existence and terms of this Stipulation and FAO.

(10) Respondent shall substantially comply with all the provisions of this Stipulation and FAO, the Pharmacy Practice Act, and the rules and regulations of the Board during the probationary term.

(11) Throughout the period of probation, Respondent shall attend any meeting with the Board upon the Board's reasonable request and upon 30 days' notice if the Respondent resides in Colorado and 60 days' notice if outside Colorado.

(12) Respondent shall have two opportunities to take and pass the Board's "jurisprudence" examination. He agrees to take the examination initially on June 24, 1992. If he fails to pass it, he shall take and pass the following examination on the date administered by the Board. Failure to comply shall be deemed to be a violation of this Stipulation and FAO.

9. Upon proof of compliance herein, and no sooner than two years from the effective date herein, Respondent may apply for early termination of the probationary period. Any such request remains within the Board's sole discretion to grant or deny.

10. Respondent is aware of and understands the right to receive a formal notice of hearing and charges and to contest same at a formal disciplinary hearing, pursuant to § 12-22-125(1), 5A C.R.S. (1991 Repl. Vol.). He enters the Stipulation and FAO voluntarily and without coercion, with full understanding of its legal consequences. He waives those described rights and requests that this Stipulation and FAO be accepted by the Board with the same force and effect as an order entered as a result of a formal disciplinary proceeding. The parties further waive the right to appeal the FAO. He has consulted with counsel prior to his acceptance of the terms herein.

11. Respondent understands that if, during the pendency of this Stipulation and FAO, the Board has reasonable grounds to believe he is in violation of this Stipulation and FAO, the Board may impose the remaining days of suspension, after providing him an opportunity to provide written data and arguments to the contrary, which data shall be reviewed in good faith before imposition of the remaining penalty. The Board may also take such additional disciplinary steps as are available to it by law and after hearing, including sum-

mary suspension.

12. In the event this matter is referred to hearing for a violation of this Stipulation and FAO, this Stipulation and FAO shall be admissible as evidence.

13. In the event an Administrative Law Judge finds no violation of this Stipulation, after hearing, those charges shall be dismissed. Throughout such proceedings, and thereafter to term, this Stipulation and FAO shall remain operative and in full force and effect.

14. In the event this Stipulation and FAO does not become a FAO of the Board, it shall be void; and Respondent shall not be bound by any provisions hereof or admission herein.

15. This Stipulation and FAO shall become an order of the Board when accepted by the Board and signed by an authorized Board member or delegated representative, except for the earlier effective date provided in paragraph 7.

16. At the end of the probationary period, probation and this proceeding shall automatically terminate.

17. This Stipulation and FAO is a public record in the custody of the Board, subject to 42 C.F.R. Part 2 and 45 C.F.R. Part 60.

RESPONDENT

COLORADO STATE BOARD OF PHARMACY


ROBERT J. JENK, R.Ph.
401 Thistle Place
Longmont, CO 80501

By: 
1560 Broadway, Suite 1310
Denver, CO 80202

Dated: 3-18-92

Effective this 10th day of
April, 1992.

APPROVED AS TO FORM:

SHEILA H. MEER, P.C.

GALE A. NORTON
Attorney General


SHEILA H. MEER, No. 1508
Attorney for Respondent
1547 Gaylord Street, # 200
Denver, CO 80206 - 322-1547

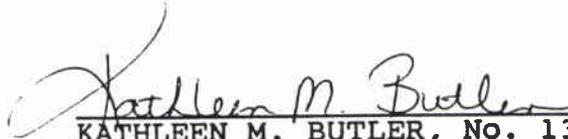
RAYMOND T. SLAUGHTER
Chief Deputy Attorney General

TIMOTHY M. TYMKOVICH
Solicitor General

Dated: 3/19/92

MERRILL SHIELDS
Deputy Attorney General

LINDA L. SIDERIUS
First Assistant Attorney General


KATHLEEN M. BUTLER, No. 13564*
Assistant Attorney General
Regulatory Law Section
Attorneys for Colorado State
Board of Pharmacy
110 - 16th Street, 10th Floor
Denver, CO 80203 - 620-4140
*Counsel of Record
AG Alpha No. RG PU DLGLK
AG File No. DRL9200798.BD

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

RECEIVED

MAR 21 1994

IOWA PHARMACY EXAMINERS

Re: Pharmacist License of : **STIPULATION**
ROBERT J. JENK : **AND**
License No. 13754 : **INFORMAL SETTLEMENT**
Respondent :

COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and Robert J. Jenk, R.Ph., (Respondent) and, pursuant to Iowa Code sections 17A.10 and 272C.3(4), enter into the following Stipulation and Informal Settlement of the contested case currently on file:

1. Respondent was issued a license to practice pharmacy in Iowa on February 14, 1973, by examination.

2. Respondent's license is inactive. It is current until June 30, 1994.

3. Respondent's current address is 401 Thistle Place, Longmont, Colorado 80501.

4. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on October 5, 1993.

5. The Board has jurisdiction of the parties and the subject matter.

6. Respondent does not contest the allegations set forth in the complaint and agrees that the Board may treat the allegations as true.

7. Respondent's license to practice pharmacy is placed on probation for two years. The probationary period to begin upon acceptance of the Stipulation and Informal Settlement by the Board.

8. During the probationary period, Respondent shall annually provide proof of compliance with all the terms and restrictions of probation imposed upon his Colorado pharmacist license by the Colorado State Board of Pharmacy.

9. Respondent shall not supervise any Iowa registered intern nor perform any of the duties of an Iowa preceptor during the probationary period.

10. Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.

11. During the probationary period, Respondent shall inform the Board in writing within ten (10) days of any change of home address, place of employment, employment status, home telephone number, or work telephone number.

12. This Stipulation and Informal Settlement is subject to approval of the Board. If the Board approves this Stipulation and Informal Settlement, it becomes the final disposition of this matter. If the Board fails to approve this Stipulation and Informal Settlement, it shall be of no force or effect to either party.

* * * * *

13. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 18th day of March, 1994.

Robert J. Jenk
ROBERT J. JENK
Respondent

Signed and sworn to before me this 16th day of March, 1994.

Anne J. Saxton
NOTARY PUBLIC IN AND FOR THE
STATE OF COLORADO

14. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 19 day of April, 1994.

Marian L. Roberts
MARIAN L. ROBERTS, Chairperson
Iowa Board of Pharmacy Examiners