

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of	}	
<b>DENIS LEE JOHANNES</b>	}	<b>COMPLAINT</b>
License No. 15874	}	<b>AND</b>
Respondent	}	<b>STATEMENT</b>
		<b>OF CHARGES</b>

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COMES NOW, Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 25th day of July, 1990, and files this Complaint and Statement of Charges against Denis Lee Johannes, 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 April 14, 1981, by examination.

3. Respondent was issued a license to practice pharmacy in Arizona (license number 7951) in 1983 by reciprocity.

4. Respondent currently resides at 2721 East Elm Street in Phoenix, Arizona 85016.

5. Respondent is currently employed as a pharmacist at Revco Drug, Inc. (Store Number 2455) at 6631 West Peoria in Glendale, Arizona 85301.

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

7. On February 22, 1990, Respondent contacted the Board by telephone to report that disciplinary action had been taken by the Arizona State Board of Pharmacy against his Arizona pharmacist license number 7951.

8. On June 26, 1990, the Board received a copy of Board Order No. 90-02-H titled In the Matter of Denis Lee Johannes from the Arizona State Board of Pharmacy. That Board Order provides, in part, the following:

FINDINGS OF FACT

1. Denis Lee Johannes worked as a pharmacist for Walgreens at 3402 West Camelback, Phoenix, Arizona.

2. Walgreens conducted a formal audit of the pharmacy records at the pharmacy at 3402 West Camelback when it discovered a large amount of generic equivalent Fiorinal #3 [a schedule III controlled substance] had been ordered.

3. The Walgreens audit discovered that Mr. Johannes had created fraudulent prescription records and diverted the controlled substances from these fraudulent orders for his own personal use during the period from January 3, 1987 to July 10, 1989. Pursuant to this finding, Mr. Johannes was terminated from the Walgreen Company on July 14, 1989.

4. This matter was reported to the Arizona State Board of Pharmacy. The prescription records indicated that Dr. Douglas Traub of Rapid City, South Dakota, had prescribed the controlled substance analgesics for use by Mr. Johannes. The Pharmacy Board contacted Dr. Douglas Traub of Rapid City, South Dakota.

5. Dr. Traub indicated that he had not seen Mr. Johannes as a patient since 1985. Dr. Traub reviewed nine prescriptions which were filled at Walgreens Store No. 802 and dispensed to Mr. Johannes. Dr. Traub did not authorize these prescriptions. Dr. Traub also reviewed the refills of these prescriptions and indicated that he did not authorize these refills. The correspondence by Dr. Traub is attached and incorporated herein by reference.

[Board Order No. 90-02-H does not contain a paragraph 6]

7. The Board finds that Mr. Johannes dispensed prescription-only medication to himself without the authorization of a medical practitioner as set forth in the attached records.

8. The Board further finds that Mr. Johannes dispensed controlled substance medication to himself without a valid prescription order.

9. On January 19, 1990, Respondent's license to practice pharmacy in Arizona was suspended by the Arizona State Board of Pharmacy for three years beginning January 17, 1990, and ending January 17, 1993. The suspension was stayed on January 17, 1990, and Respondent was placed on probation beginning January 17, 1990, and ending January 17, 1998.

10. Respondent is guilty of violations of 1989 Iowa Code sections 155A.12(1), 155A.12(5), 155A.12(8), 155A.12(10),

155A.23(1)(a), and 155A.23(1)(c) and 1989 Iowa Code Supplement section 204.401(1)(c)(6) by virtue of the allegations in paragraph 8.

1989 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 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.

....

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.

1989 Iowa Code section 155A.23 provides, in part, the following:

A person shall not:

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.

....

c. Concealment of a material fact.

1989 Iowa Code Supplement section 204.401 provides, in part, the following:

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance, a counterfeit substance, or a simulated controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with the intent to manufacture or deliver a

controlled substance, a counterfeit substance, or a simulated controlled substance.

... c. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "C" felony, and in addition to the provisions of section 902.9, subsection 3, shall be punished by a fine of not less than one thousand dollars nor more than fifty thousand dollars:...

(6) Any other controlled substance, counterfeit substance, or simulated controlled substance classified in schedule I, II, or III.

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

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:...

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

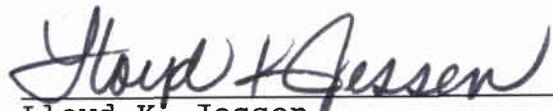
**WHEREFORE**, the undersigned charges that Respondent has violated 1989 Iowa Code sections 155A.12(1), 155A.12(5), 155A.12(8), 155A.12(10), 155A.23(1)(a), and 155A.23(1)(c); 1989 Iowa Code Supplement section 204.401(1)(c)(6); and 657 Iowa Administrative Code sections 9.1(4)(c), 9.1(4)(j), and 9.1(4)(u).

**IT IS HEREBY ORDERED** that Denis Lee Johannes appear before the Iowa Board of Pharmacy Examiners on October 9, 1990, at 10:00 o'clock a.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 Denis L. Johannes on April 14, 1981, 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. The failure of Respondent to appear could result in the permanent suspension or revocation of his license. Information regarding the hearing may be obtained from Thomas D. McGrane, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen  
Executive Secretary

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of :  
DENIS LEE JOHANNES : **STIPULATION**  
License No. 15874 :  
Respondent :

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**WHEREAS**, Denis Lee Johannes, 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 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 1989 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 1989 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. License No. 15874 issued to Licensee is suspended for a period of three years beginning, retroactively, as of January 17, 1990, and ending on

January 17, 1993. The suspension is stayed, effective retroactively, as of January 17, 1990.

b. Licensee to be placed on probation beginning, retroactively, as of January 17, 1990. Probation to end on January 17, 1998.

c. So long as Licensee resides and practices pharmacy in the state of Arizona, Licensee shall comply with all disciplinary terms of the Arizona State Board of Pharmacy Order No. 90-02-H dated January 19, 1990.

d. In the event that Licensee returns to the state of Iowa to practice pharmacy at any time between January 17, 1990, and January 17, 1998, Licensee shall, within ten days of returning to Iowa, notify the Board of that fact, report his new home address, report his place of employment, and comply with the following terms and conditions:

(1) Licensee shall actively participate in and seek assistance and support from the Pharmacists Aiding Pharmacists in Iowa (PAP'I) program until January 17, 1993.

(2) All license renewal fees and continuing pharmaceutical education requirements are due during the term of suspension and probation.

(3) Licensee shall not use any controlled or prescription drug in any form unless prescribed for him by a licensed, treating physician. The licensee shall inform any treating physician of the terms of this stipulation prior to accepting any medication.

(4) Licensee shall submit to monthly random body fluid testing. Test results shall be submitted to the Board office monthly. Testing to be done by Licensee's provider of aftercare at Licensee's expense. Monthly testing shall be conducted and reports submitted until January 31, 1993.

(5) Licensee shall submit to random body fluid testing with test results to be submitted to the Board office on a quarterly basis beginning February 1, 1993, and ending January 17, 1998. Testing shall be done by Licensee's provider of aftercare at Licensee's expense.

(6) Should Licensee's body fluid tests show evidence of unauthorized drugs, or should the reports required by paragraphs (4) and (5) not be submitted in a timely manner, the stayed suspension order will be revoked.

(7) Licensee shall not supervise any registered intern nor perform any of the duties of a preceptor during the probationary period.

(8) Licensee shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.

(9) Licensee shall notify all employers of this agreement while he is on probation.

(10) Should Licensee leave Iowa to reside or practice outside this state, he shall notify the Board in writing of the date of departure and return. Periods of residency or practice in another state other than Arizona shall not apply to a reduction in the probationary period.

(11) Should Licensee violate probation in any respect, the Board, after giving Licensee notice and an opportunity to be heard, may revoke probation. 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.

e. Upon successful completion of probation in either Arizona or Iowa, Licensee's certificates will be fully restored.

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

  
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Melba L. Scaglione, Chairperson  
Iowa Board of Pharmacy Examiners

  
\_\_\_\_\_  
Denis Lee Johannes

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of : **ORDER**  
**DENIS LEE JOHANNES** : **AND**  
License No. 15874 : **CONSENT TO ORDER**  
Respondent :

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The Iowa Board of Pharmacy Examiners, having been advised of the allegations that Denis Lee Johannes has conducted himself in a manner which could cause his license to practice pharmacy to be suspended, and the Board of Pharmacy Examiners and said Denis Lee Johannes, 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 1989, in regards to Notice and Hearing, the parties to this action agree to an informal settlement of this matter, namely that the license of Denis Lee Johannes be disciplined according to the conditions attached hereto.

**ORDER**

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

Date

Aug 14, 1990

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

**CONSENT TO ORDER**

I, Denis Lee Johannes, 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

9-5-90

Denis Lee Johannes  
Denis Lee Johannes