

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

Re:	)	COMPLAINT
Pharmacist License of	)	AND STATEMENT
THOMAS L. KELEHER	)	OF CHARGES
License No. 13241	)	AND
Respondent	)	NOTICE
	)	OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary-Director of the Iowa Board of Pharmacy Examiners, on the 21st day of February, 1994, and files this Complaint and Statement of Charges and Notice of Hearing against Thomas L. Keleher, 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 September 7, 1966, by examination.
3. Respondent's mailing address is Box 111, Glenwood, Iowa 51534. Respondent currently resides at 3858 Cass Street in Omaha, Nebraska.

4. Respondent is part owner of Keleher Pharmacy, Inc., 402 First Street, Glenwood, Iowa 51534.

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

6. On or about March 26, 1993, Respondent was arrested and charged with unlawful possession of a machinegun and illegal distribution of controlled substances. The Information filed in the U.S. District Court for the Southern District of Iowa included the following:

THE UNITED STATES ATTORNEY CHARGES:

COUNT I

On or about March 26, 1993, in the Southern District of Iowa, the defendant THOMAS LEE KELEHER did knowingly and unlawfully possess a machinegun, to wit: a Lewis 30.06 caliber machinegun.

This is a violation of Title 18, United States Code, Section 922(o)(1).

THE UNITED STATES FURTHER CHARGES:

COUNT II

From on or about February 15, 1991, to and including March 26, 1993, in the Southern District of Iowa, the defendant THOMAS LEE KELEHER, did knowingly and intentionally distribute and dispense Phendimetrazine Tartrate, Zydone and Anexsia, Schedule III controlled substances and Phentermine and Restoril, Schedule IV controlled substances.

This is a violation of Title 21, United States Code, Section 841(a)(1).

7. On May 27, 1993, Respondent entered a guilty plea in the U.S. District Court for the Southern District of Iowa. The Plea Agreement provided, in part, the following:

1. Defendant will waive indictment by the grand jury and plead guilty to a two-count Information charging him with one violation of 18 U.S.C. § 922(o) and one violation of 21 U.S.C. § 841(a)(1).

....

12. Defendant understands that his criminal conduct and plea of guilty in this case may have civil and administrative ramifications from which defendant is not protected by virtue of this plea agreement.

13. The parties agree that the Stipulation of Facts attached hereto and by this reference incorporated herein as Exhibit "A" furnishes a factual basis for this plea and should be used by the court in determining the appropriate sentence.

....

EXHIBIT A STIPULATION OF FACTS

1. At all times material, Thomas Lee Keleher (hereinafter "Keleher") was a resident of Omaha, Nebraska.

2. At all times material, Keleher was a registered pharmacist, holding a license issued by the Iowa Board of Pharmacy Examiners. At all times material, Keleher was part owner of the Keleher Pharmacy located at 402 First Street, Glenwood, Iowa. Keleher Pharmacy is a licensed retail pharmacy and has been issued a license by the Iowa Board of Pharmacy Examiners. Keleher Pharmacy is also registered under provisions of the Controlled Substances Act, 21 U.S.C. § 823 et. seq. as a retail pharmacy and has a registration number with the United States Department of Justice Drug Enforcement Administration (DEA).

3. Keleher also holds a Federal Firearm License issued by the United States Department of the Treasury Bureau of Alcohol, Tobacco and Firearms (BATF). On his BATF license he lists his place of business for firearms sales as Keleher Pharmacy, Glenwood, Iowa. Such license does not permit him to make, possess or transfer machineguns...or firearm silencers...unless they are

registered with BATF and transferred according to BATF regulations.

4. Keleher previously applied for and was granted permission by BATF to possess these machineguns:

Japanese, Model 99, 7.7 caliber (which was registered to Keleher by BATF on the representation by Keleher that it was inoperable)

German, Model MP40, 9mm

Keleher has never applied or obtained permission from BATF to make, possess or transfer firearm silencers.

5. During the period August 1, 1992, to March 26, 1993, Keleher possessed the following machineguns that were not registered with BATF:

Sten gun

Inland Model M-2 .30 caliber machinegun

Lewis 30.06 caliber machinegun

Chauchat machinegun

All four machine guns were offered for sale to BATF agents who were acting in an undercover capacity. Agents purchased the Sten gun from Keleher on October 15, 1992, for \$500 and the M-2 on Decemer 17, 1992, for \$800. On the date of his arrest, Keleher was negotiating to sell the undercover agents the Lewis and the Chauchat machineguns for a total price of \$30,000.

6. On or about March 26, 1993, BATF agents also seized the following firearms from Keleher which he claims are not machineguns within the meaning of the statute and which BATF has reason to believe fit the definition of machineguns.

Japanese Model 99, 7.7 caliber

AR-10

....

7. During the period August 1, 1992, to March 26, 1993, Keleher possessed two firearm silencers. One was made from an empty two liter 7-Up bottle. The second was made from a length of pipe and was fitted so that a KG-99 barrel could be connected to the silencer.

8. While dealing with BATF agents who were acting in their undercover capacity, Keleher gave the agents the following controlled substances which Keleher took from his pharmacy and from his home in Omaha. The BATF agents did not solicit the drugs nor did they have a prescription to lawfully obtain such substances:

a. On October 15, 1992, he [Keleher] gave the agents 34½ (35mg) Phendimetrazine Tartrate tablets. Phendimetrazine Tartrate is a Schedule III controlled substance.

b. On December 17, 1992, Keleher gave the agents 10 (37½ mg) Phentermine tablets. Phentermine is a Schedule IV controlled substance.

c. On March 25, 1993, Keleher gave the agents 22 (37½ mg) Phentermine tablets. Phentermine is a Schedule IV controlled substance.

9. During the period February 15, 1991, through December 26, 1992, Keleher knowingly and willfully distributed Schedule III and IV controlled substances to...[K.W.] and...[T.W.] without authorization from a physician. The government contends all the prescriptions in attachment 1 were distributed by Keleher without authorizations from a physician. Keleher admits all the prescriptions in attachment 1 that do not have a check mark next to the date were knowingly and willfully distributed by him without authorization from a physician. Both parties reserve the right to put on evidence relative to those prescriptions with a check mark next to the date at the time of sentencing.

The parties agree anexasia and zydone are Schedule III controlled substances. Restoril is a Schedule IV controlled substance.

10. At all times material Keleher knew that possession of unregistered machineguns and firearm silencers was against the law.

11. At all times material Keleher knew that distribution of controlled substances without valid medical authorization wa against the law and he knew that the distributions detailed in paragraphs 8 and 9 above were against the law.

....

ATTACHMENT I
KELEHER PHARMACY

<u>DATE FILLED</u>	<u>RX #</u>	<u>DRUG</u>	<u>QTY</u>	<u>PATIENT</u>
02-15-91	182262	Zydone	100	KW
02-15-91	182265	Prelu-2	30	TW
03-20-91	182485	Prelu-2	30	TW

DATE FILLED	RX #	DRUG	QTY	PATIENT
03-20-91	182262	Zydone	100	KW
03-27-91	182544	Restoril	30	KW
√05-11-91	182766	Prelu-2	30	TW
05-11-91	182785	Zydone	100	KW
06-13-91	182960	Prelu-2	30	TW
06-17-91	182978	Anexsia	100	KW
07-01-91	183052	Darvocet-N 100	50	TW
07-12-91	183108	Darvocet-N 100	50	TW
√07-12-91	183109	Anexsia	100	KW
07-29-91	183186	Darvocet-N 100	50	TW
√07-29-91	183187	Anexsia	100	KW
08-10-91	183251	Darvocet-N 100	50	TW
08-16-91	183277	Anexsia	100	KW
08-21-91	183302	Zydone	30	TW
09-01-91	183277	Anexsia	100	KW
09-11-91	183421	Darvocet-N 100	50	TW
09-21-91	183472	Zydone	30	TW
09-21-91	183473	Anexsia	100	KW
10-05-91	183569	Zydone	30	TW
10-05-91	183568	Anexsia	100	KW
10-12-91	183607	Zydone	30	TW
10-19-91	183649	Restoril	30	KW
10-19-91	183648	Zydone	30	TW
10-21-91	183649	Zydone	30	KW
√10-22-91	183647	Anexsia	100	KW
12-02-91	183874	Anexsia	100	KW
11-04-91	183707	Anexsia	100	KW
11-09-91	183755	Zydone	30	TW
11-18-91	183795	Anexsia	100	KW
11-25-91	183755	Zydone	30	TW
12-02-91	183875	Restoril	30	KW
12-06-91	183912	Zydone	30	TW
12-13-91	183912	Zydone	30	TW
12-16-91	184007	Anexsia	100	KW
12-24-91	184066	Zydone	30	TW
12-29-91	184066	Zydone	30	TW
√01-02-92	184111	Anexsia	100	KW
01-10-92	184168	Zydone	30	TW
√01-17-92	184215	Prelu-2	30	TW
01-17-92	184211	Anexsia	100	KW
01-17-92	184212	Restoril	30	KW
01-20-92	184168	Zydone	30	TW
02-01-92	184307	Zydone	30	TW
√02-03-92	184314	Anexsia	100	KW
√02-17-92	184314	Anexsia	100	KW
02-21-92	184307	Zydone	30	TW
02-23-92	184423	Prelu-2	30	TW
02-29-92	184475	Zydone	30	TW
02-29-92	184474	Restoril	30	KW

DATE FILLED	RX #	DRUG	QTY	PATIENT
√03-05-92	184314	Anexsia	100	KW
03-11-92	184536	Zydone	30	TW
03-16-92	184570	Zydone	30	TW
√03-18-92	184314	Anexsia	100	KW
03-27-92	184640	Restoril	30	KW
04-01-92	184314	Anexsia	100	KW
04-07-92	184717	Zydone	30	TW
04-15-92	184314	Anexsia	100	KW
04-15-92	184749	Zydone	30	TW
√04-16-92	184757	Prelu-2	30	TW
04-21-92	184778	Zydone	30	TW
04-27-92	184808	Zydone	30	TW
04-27-92	184807	Restoril	30	KW
√05-01-92	184852	Anexsia	100	KW
05-05-92	184885	Zydone	30	TW
05-12-92	184926	Zydone	30	TW
√05-18-92	184852	Anexsia	100	KW
05-18-92	184952	Zydone	30	TW
05-24-92	184985	Zydone	30	TW
05-26-92	184995	Restoril	30	KW
05-30-92	185023	Zydone	30	TW
√06-02-92	184852	Anexsia	100	KW
06-04-92	185056	Zydone	30	TW
06-15-92	185092	Zydone	30	TW
√06-16-92	184852	Anexsia	100	KW
06-27-92	185161	Zydone	30	TW
06-28-92	185162	Prelu-2	30	TW
√07-02-92	184852	Anexsia	100	KW
07-08-92	185220	Restoril	30	KW
07-13-92	185247	Zydone	30	TW
√07-16-92	184852	Anexsia	100	KW
07-27-92	185312	Zydone	30	TW
08-03-92	185358	Anexsia	100	KW
08-07-92	185392	Restoril	30	KW
08-08-92	185398	Zydone	30	TW
08-15-92	185428	Zydone	30	TW
08-17-92	185358	Anexsia	100	KW
08-25-92	185467	Zydone	30	TW
08-31-92	185498	Zydone	30	TW
09-01-92	185358	Anexsia	100	KW
09-08-92	185535	Zydone	30	TW
√09-08-92	185534	Prelu-2	30	TW
09-14-92	185569	Zydone	30	TW
09-17-92	185358	Anexsia	100	KW
09-22-92	185623	Zydone	30	TW
10-01-92	185358	Anexsia	100	KW
10-10-92	185736	Zydone	30	TW
10-10-92	185738	Restoril	30	KW
10-16-92	185358	Anexsia	100	KW

DATE FILLED	RX #	DRUG	QTY	PATIENT
10-21-92	185809	Zydone	30	TW
10-30-92	185862	Prelu-2	30	TW
10-30-92	185466	Anexsia	100	KW
11-05-92	185900	Zydone	30	TW
√11-14-92	185466	Anexsia	100	KW
11-21-92	185738	Restoril	30	KW
11-21-92	186011	Zydone	30	TW
√12-01-92	185466	Anexsia	100	KW
12-05-92	186086	Zydone	30	TW
12-14-92	186130	Anexsia	100	KW
12-26-92	186130	Anexsia	100	KW

8. On January 26, 1994, in the U.S. District Court for the Southern District of Iowa, Respondent was sentenced to 18 months in prison. He was ordered to begin serving his prison term on February 28, 1994. Respondent was also fined \$5,000 and ordered to serve three years on supervised release after his prison term.

9. Respondent is guilty of violations of 1993 Iowa Code sections 124.308(3), 124.401(1)(c)(6), 124.402(1)(a), 147.55(2), 147.55(3), 155A.12(1), 155A.12(2), 155A.12(3), 155A.12(4), 155A.12(5), 155A.12(9), 155A.23(2), and 155A.23(4) by virtue of the allegations contained in paragraphs 6, 7, and 8.

1993 Iowa Code section 124.308 provides, in part, the following:

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after

the date thereof or be refilled more than five times, unless renewed by the practitioner.

1993 Iowa Code section 124.401 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.

1993 Iowa Code section 124.402 provides, in part, the following:

1. It is unlawful for any person:
a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 124.308.

1993 Iowa Code section 147.55 provides, in part, the following:

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:...

2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

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 this chapter or any rules of the board adopted under this chapter.
2. Engaged in unethical conduct as that term is defined by rules of the board.
3. Violated any of the provisions for licensee discipline set forth in section 147.55.
4. Failed to keep and maintain records required by this chapter or failed to keep and maintain complete and accurate records of purchases and disposal of drugs listed in the controlled substances Act.
5. Violated any provision of the controlled substances Act or rules relating to that Act.

....

9. Been convicted of an offense or subjected to a penalty or fine for violation of chapter 147, 124, 126, or the Federal Food, Drug and Cosmetic Act. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section.

1993 Iowa Code section 155A.23 provides, in part, the following:

A person shall not:...

2. Willfully make a false statement in any prescription, report, or record required by this chapter.

....

4. Make or utter any false or forged prescription or written order.

10. Respondent is guilty of violations of 657 Iowa Administrative Code sections 8.5(1), 9.1(4)(b)(2), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(e), 9.1(4)(i), 9.1(4)(j), and 9.1(4)(u) by virtue of the allegations contained in paragraphs 6, 7, and 8.

657 Iowa Administrative Code section 8.5 provides, in part, the following:

Unethical conduct or practice. The provisions of this section apply to licensed pharmacists and registered pharmacist-interns.

8.5(1) Misrepresentative deeds. A pharmacist shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

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:...

b. Professional incompetency. Professional incompetency includes but is not limited to:...

(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.

....

(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.

....

e. Conviction of a felony. A copy of the record of conviction or a plea of guilty shall be conclusive evidence.

....

i. Willful or repeated violations of the provisions of Iowa Code chapter 147. Willful or repeated violations of this Act include but are not limited to a pharmacist intentionally or repeatedly violating a lawful rule or regulations promulgated by the board of

pharmacy examiners or the state department of health or violating the provisions of Title VII (Public Health) or Title VIII (Practice Acts), Code of Iowa, as amended.

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 disciplined.

WHEREFORE, the undersigned charges that Respondent has violated 1993 Iowa Code sections 124.308(3), 124.401(1)(c)(6), 124.402(1)(a), 147.55(2), 147.55(3), 155A.12(1), 155A.12(2), 155A.12(3), 155A.12(4), 155A.12(5), 155A.12(9), 155A.23(2), and 155A.23(4) and 657 Iowa Administrative Code sections 8.5(1), 9.1(4)(b)(2), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(e), 9.1(4)(i), 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 Thomas L. Keleher appear before the Iowa Board of Pharmacy Examiners on Wednesday, April 20, 1994, at 10:00 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 discipline the license to

practice pharmacy issued to Thomas L. Keleher on September 7, 1966, 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 disciplinary action, including 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 representing 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



Lloyd K. Jessen
Executive Secretary/Director

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

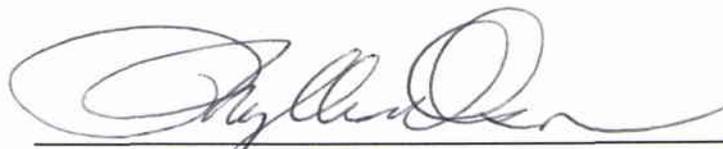
Re:)	
Pharmacist License of	)	ORDER
THOMAS L. KELEHER	)	ACCEPTING
License No. 13241	)	SURRENDER OF LICENSE
Respondent	)	TO PRACTICE PHARMACY

COMES NOW, Phyllis A. Olson, Vice Chairperson of the Iowa Board of Pharmacy Examiners, on the 15th day of March, 1994, and declares that:

1. On February 21, 1994, the Board issued a Complaint and Statement of Charges and Notice of Hearing to the Respondent.
2. On February 24, 1994, Respondent executed a voluntary surrender of his pharmacist license number 13241 pursuant to 657 Iowa Administrative Code § 9.25. In so doing, Respondent waived his right to a formal hearing before the Iowa Board of Pharmacy Examiners.
3. On March 15, 1994, the Board reviewed Respondent's voluntary surrender of his license to practice pharmacy and agreed to accept it.

WHEREFORE, it is hereby ordered that Respondent's voluntary surrender of his Iowa pharmacist license number 13241 is hereby accepted and, pursuant to 657 Iowa Administrative Code § 9.25, said surrender shall be considered a revocation of license with respect to any future request for reinstatement.

IOWA BOARD OF PHARMACY EXAMINERS



Phyllis A. Olson, Vice Chairperson

V O L U N T A R Y S U R R E N D E R O F
L I C E N S E T O P R A C T I C E P H A R M A C Y

I, Thomas L. Kelher, of 3858 Cass Street, Omaha, Nebraska, of my own free will and without any mental reservation and not as a result of any inducement, promise, or threat on the part of anyone, do hereby voluntarily surrender my license to practice pharmacy in the State of Iowa, number 13241, to the Iowa Board of Pharmacy Examiners, for an indefinite period of time. This surrender of license shall become effective upon the signature of the licensee, Thomas L. Keleher, and of a representative of the Iowa Board of Pharmacy Examiners being affixed to this voluntary surrender document.

I, Thomas L. Keleher, of my own free will and without any mental reservation and not as the result of any inducement, promise, or threat given or made by any representative, officer, or employee of the Iowa Board of Pharmacy Examiners, or of any other state official, do hereby further acknowledge that by voluntarily signing this surrender statement that I am knowingly and willingly giving up the exercise of the following legal rights:

- (1) My right to a formal hearing before the Iowa Board of Pharmacy Examiners on the matter of my continued licensure pursuant to Chapter 155A, Code of Iowa 1993.
- (2) My right to be represented by an attorney in preparation for and during such formal hearing before the Iowa Board of Pharmacy Examiners.
- (3) My right to submit evidence and to have witnesses called on my own behalf at such formal hearing.
- (4) My right to be represented by an attorney in this matter at this time.

I, Thomas L. Keleher, do hereby acknowledge that pursuant to 657 Iowa Administrative Code section 1.4, a license to practice pharmacy which has been voluntarily surrendered shall be considered a revocation of license with respect to a request for reinstatement, which will be handled under the terms established by 657 Iowa Administrative Code section 9.23, which provides as follows:

Any person whose license to practice pharmacy...has been revoked...must meet the following eligibility requirements:

1. Must have satisfied all the terms of the order of revocation or suspension or court proceedings as they apply to that revocation or suspension. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license or permit was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the board's order or the date of voluntary surrender.

2. A person whose license to practice pharmacy was revoked must successfully pass NABPLEX or an equivalent examination as determined by NABP, the Federal Drug Law Examination (FDLE), and the Iowa Drug Law Examination.
3. All proceedings for reinstatement shall be initiated by the respondent who shall file with the board an application for reinstatement of the license. Such application shall be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board. The board and the respondent may informally settle the issue of reinstatement. The respondent may choose to have an informal reinstatement conference before the board, as provided in rule 657-9.24(17A,147,155A,204B,258A).
4. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license or permit to be reinstated. The burden of proof to establish such facts shall be on the respondent.
5. An order for reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law and must be based upon the affirmative vote of a quorum of the board. This order shall be available to the public as provided in 657-Chapter 14.

I, Thomas L. Keleher, hereby further acknowledge that I shall not engage in any of the practices or aspects thereof of the practice of pharmacy in the State of Iowa for which such a license is required.

2-24-94
Date of Signature

Thomas L. Keleher
Thomas L. Keleher

Subscribed and sworn to before me this 24th day of Feb., 1994.

Linda S. Pickering
Notary Public

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

Re: Pharmacist License of	}	
THOMAS L. KELEHER	}	REINSTATEMENT
License No. 13241	}	ORDER
Respondent	}	

COMES NOW, Phyllis A. Olson, Chairperson of the Iowa Board of Pharmacy Examiners, on the 7th day of May, 1996, and declares that:

1. On February 21, 1994, the Iowa Board of Pharmacy Examiners issued a Complaint and Statement of Charges and Notice of Hearing to Respondent.

2. On February 24, 1994, Respondent executed a voluntary surrender of his Iowa pharmacist license number 13241 pursuant to 657 Iowa Administrative Code § 9.25. In so doing, Respondent waived his right to a formal hearing before the Iowa Board of Pharmacy Examiners. On March 15, 1994, the Board reviewed Respondent's voluntary surrender of his license to practice pharmacy and agreed to accept it.

3. On May 7, 1996, the Respondent appeared in person before the Board at an informal reinstatement conference. At the conclusion of the conference, the Board agreed to reinstate Respondent's Iowa pharmacist license.

WHEREFORE, it is hereby ordered that pharmacist license number 13241 issued to Thomas L. Keleher on September 7, 1966, shall be reinstated subject to the following:

(1) Pharmacist license number 13241 shall be fully restored to current, active status upon receipt of the following:

(a) An official notification that Respondent has achieved passing scores on all components of the board licensure examination (NABPLEX, FDLE, and IDLE);

(b) A completed application from Respondent for renewal of his license including proof of completion of at least 6.0 Continuing Pharmacy Education Units (CEUs) (60 contact hours) obtained between July 1, 1992, and June 30, 1996;

(c) Proof of completion of a minimum of 1,000 hours of pharmacy internship.

(d) A complete written report of the findings and conclusions of a medical and psychiatric evaluation of Respondent by a board-approved medical practitioner at Respondent's own expense.

Continuing education shall be ACPE-approved and shall include at least 30 contact hours in drug therapy courses and at least two courses in OBRA'90 requirements. Respondent shall pay a \$100 renewal fee as well as all applicable examination and registration fees. Respondent shall not sit for the board licensure examination before January 28-29, 1997. Respondent's physical and mental evaluation shall be completed on or after January 2, 1997.

The pharmacy internship experience may be obtained in either Iowa or Nebraska. Before obtaining pharmacy internship hours in Iowa, Respondent shall register with the Board as a pharmacist-intern. Any pharmacy internship hours obtained in Iowa shall be completed only under the supervision and control of a designated preceptor who holds a current and active Iowa pharmacist license. Pharmacy internship hours obtained by Respondent in the state of Nebraska shall comply with the requirements of the Nebraska Board of Examiners in Pharmacy, if any.

(2) Respondent's license shall be placed on probation for five (5) years beginning on the date of restoration of his license. During the five-year probationary period, Respondent shall comply with the following conditions:

(a) Respondent shall not be an owner of a pharmacy nor serve as the pharmacist in charge of a pharmacy.

(b) Respondent shall notify all present and prospective Iowa pharmacy employers of the Reinstatement Order in this case, and the terms, conditions, and restrictions imposed on Respondent by said Reinstatement Order. Within 15 days of Respondent undertaking new employment in an Iowa-licensed pharmacy, Respondent shall cause each pharmacy employer to report to the Board in writing acknowledging that the pharmacy employer has read and understands the Reinstatement Order in this case.

(c) Respondent shall report his place of employment, home address, work telephone number, and home telephone number to the Board in writing quarterly.

(d) Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

(e) Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy and the distribution of controlled substances.

(f) Respondent shall not supervise any registered pharmacist-intern nor perform any of the duties of a preceptor.

(g) Respondent shall undergo appropriate continuing medical care and/or psychiatric care for any physical or mental condition as required. If continuing medical care and/or psychiatric care is necessary, written progress reports from Respondent's physician shall be provided to the Board on a periodic basis.

(3) Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation. If a statement of charges or petition to revoke probation is filed against Respondent 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.

(4) Upon successful completion of probation, Respondent's certificates will be fully restored.

IOWA BOARD OF PHARMACY EXAMINERS

A handwritten signature in black ink, appearing to read 'Phyllis A. Olson', written over a horizontal line.

Phyllis A. Olson, R.Ph., Board Chairperson

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

.....

IN THE MATTER OF THE DISCIPLINARY ACTION
AGAINST
THOMAS L. KELEHER, RESPONDENT

IOWA PHARMACIST LICENSE # 13241

.....

TERMINATION ORDER

.....

NOW ON July 11, 2000, BE IT REMEMBERED:

1. That on May 7, 1996, a Reinstatement Order was issued by the Iowa Board of Pharmacy Examiners which set forth the conditions upon which Respondent's Iowa pharmacist license could be reinstated.
2. That on July 10, 1998, Respondent's license was restored to current, active status and was placed on probation for five years under certain terms and conditions.
3. That on July 11, 2000, Respondent appeared before the Board to request termination of his probation.
4. That on July 11, 2000, the Board considered the Respondent's request and voted to authorize the termination of the probation placed upon his license to practice pharmacy:

IT IS HEREBY ORDERED:

That the probation placed upon the Respondent's license to practice pharmacy in Iowa is terminated and the license is returned to its full privileges free and clear of all restrictions.



Matthew C. Osterhaus
Board Chairperson
IOWA BOARD OF PHARMACY EXAMINERS
RiverPoint Business Park
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688