

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of LISA A. KINSER License No. 16910 Respondent	} } } } } }	EMERGENCY ORDER AND COMPLAINT AND STATEMENT OF CHARGES AND NOTICE OF HEARING
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NOW on this 3rd day of January 1992, the Iowa Board of Pharmacy Examiners has reviewed the following evidence:

1. Respondent was issued a license to practice pharmacy in Iowa on July 24, 1987, by examination.

2. Respondent is currently employed as a pharmacist at Mercy Hospital, West Central Park at Marquette, Davenport, Iowa.

3. On January 3, 1992, the Board received information from Pharmacy Investigator E. Ray Sheldon which alleges that the Respondent obtained, without authorization, approximately 50 pints of Tussionex Suspension from the Mercy Hospital Pharmacy in Davenport, Iowa, sometime between January 1, 1991, and January 1, 1992, for her own use. Investigator Sheldon also alleges that Respondent withdrew an unspecified amount of Tussionex Suspension from a stock bottle kept at the Medical Pavilion Pharmacy in Davenport and then adulterated the remaining contents of the stock bottle by adding carboxymethylcellulose in an attempt to conceal the withdrawal of Tussionex Suspension. In addition, it is alleged that Respondent's employer and co-workers at Mercy Hospital Pharmacy in Davenport have recently observed a noticeable deterioration in Respondent's appearance and behavior at work.

4. The Board has also received information from the Iowa Division of Narcotics Enforcement, Department of Public Safety, 3817 West Locust Street, Davenport, Iowa, which indicates that on January 2, 1992, a search of Respondent's home revealed the presence of numerous controlled substances and non-controlled prescription drugs as well as numerous empty containers or empty bottles of controlled substances. The controlled substances found at Respondent's home included Hycomine, Lortab 5mg, Ritalin SA 20mg, Didrex 50mg, Ru-Tuss with Hydrocodone, Codiclear DH, Penntuss, Lonox, MS Contin, Tylenol with Codeine No. 3, and

Xanax. The empty bottles found at Respondent's home included approximately 57 Tussionex Suspension bottles. A copy of the description of items as recorded by the Division of Narcotics Enforcement on January 2, 1992, is attached hereto as Exhibit 1 and is incorporated by reference into this Emergency Order and Complaint and Statement of Charges as if fully set forth herein.

5. Respondent currently resides at 1519 West Hayes Street, Davenport, Iowa 52804.

6. Respondent's license to practice pharmacy in Iowa is current until June 30, 1993.

7. The information contained in paragraphs 3 and 4, together with other confidential information in the possession of the Board, indicates that Respondent would pose a threat to the public health and safety if she were allowed to continue to practice pharmacy in Iowa and thereby have access to controlled substances.

Based upon the above evidence, the Iowa Board of Pharmacy Examiners finds that the public health, safety, and welfare would be jeopardized if Lisa A. Kinser were to be allowed to continue in the practice of pharmacy until a hearing can be conducted. Therefore, the Board finds that the public health, safety, and welfare makes emergency summary license suspension imperative, and so directs the Executive Secretary/Director to issue such order.

IT IS HEREBY ORDERED, pursuant to the authority of Iowa Code section 17A.18(3), that the license of Lisa A. Kinser to practice pharmacy in Iowa be temporarily suspended until such time as a hearing before the Board of Pharmacy Examiners can be conducted.

With this notice, the Board also directs the Executive Secretary/Director of the Iowa Board of Pharmacy Examiners to file a Complaint and Statement of Charges against Respondent, who is a pharmacist licensed pursuant to Iowa Code Chapter 155A. In filing said Complaint and Statement of Charges, the secretary/director alleges that:

8. Melba L. Scaglione, Chairperson; Alan M. Shepley, Vice Chairperson; Rollin C. Bridge; Donna J. Flower; Phyllis A. Olson; Marian L. Roberts; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

9. Respondent is guilty of violations of 1989 Iowa Code sections 155A.12(1), 155A.12(5), 155A.23(1)(a), 204.308(1), 204.308(3), 204.402(1)(a), and 204.403(1)(c) by virtue of the allegations in paragraphs 3 and 4.

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 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 drug by:

a. Fraud, deceit, misrepresentation, or subterfuge....

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

1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner.

...

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;...

Iowa Code section 204.403(1) provides, in part, the following:

It is unlawful for any person knowingly or intentionally:...

c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;...

10. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(c), 9.1(4)(d), 9.1(4)(h), 9.1(4)(m), and 9.1(4)(u) by virtue of the allegations in paragraphs 3 and 4.

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.

d. Habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to:...

(2) The excessive use of drugs which may impair a pharmacist's ability to practice pharmacy with reasonable skill or safety.

....

h. Distribution of...drugs for other than lawful purposes. The distribution of drugs for other than lawful purposes includes but is not limited to the disposition of drugs in violation of Iowa Code chapters 155A, 203, 203A, and 204.

...

m. Inability to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment or chemical abuse.

...

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 1991 Iowa Code sections 155A.12(1), 155A.12(5), 155A.23(1)(a), 204.308(1), 204.308(3), 204.402(1)(a), and 204.403(1)(c), and 657 Iowa Administrative Code sections 9.1(4)(c), 9.1(4)(d), 9.1(4)(h), 9.1(4)(m), 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 Lisa A. Kinser appear before the Iowa Board of Pharmacy Examiners on Wednesday, January 15, 1992, at 10:30 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 Lisa A. Kinser on July 24, 1987, 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 her 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 her 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/Director

DIVISION OF NARCOTICS ENFORCEMENT

TO: (Name, Title, Address - including ZIP code - if applicable)

CASE NO.

Lisa Kiser
 1519 Hayes st
 Davenport

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PURPOSE FOR RECEIPT

Evidence

01/02/92

Date

DISTRICT OFFICE/PHONE NUMBER

Davenport DCI Office 346-6302

I hereby acknowledge receipt of the following described cash or other item(s), which was given into my custody by the above named individual.

AMOUNT or QUANTITY	DESCRIPTION OF ITEM(S)
9 tabs	Hydrocodone
several	Empty prescription bottles.
several	Loritabs 5mg tabs.
several	Naprosyn Syntex
several	Empty bottles of Tussionex
18	Ritalin SA 20mg.
several	motrin 800mg.
several	Didrex 50mg tabs
several	RuTuss w/ Hydrocodone.
several	PennTuss
58 tabs	Nondette tabs
tube	Benzae ACS
15	Bactrim tabs.
17	Inderal Tabs
22	Lonox tabs
tube	Anuso - I-He
one-ver	ver Tape

RECEIVED BY (Signature)

TITLE/DEPARTMENT

S/A Wright

S/A - ONE.

RECEIVED FROM (Signature)

WITNESSED BY (Signature)

Lisa Kiser

S/A Stepleton

DIVISION OF NARCOTICS ENFORCEMENT

TO: (Name, Title, Address - Including ZIP code - if applicable)

CASE NO.

continued

Page 2 of 2 Pages

PURPOSE FOR RECEIPT

continued

Date

DISTRICT OFFICE/PHONE NUMBER

continued.

I hereby acknowledge receipt of the following described cash or other item(s), which was given into my custody by the above named individual.

AMOUNT or QUANTITY	DESCRIPTION OF ITEM(S)
27	Amoxicillin Capsules.
58	Naldecron tabs.
17	m.s contin tabs.
1	tab tylenol III
39	tab gum (NP25)
1	5cc Ampule of Procaine Hydrochloride 2%
1 Box	Aromatic Ammonia (full).
2	Bottles of Furacin otc Nitrofurazone
3	Naprosyn
19	Duracef
19	Keflex cephalixin capsules.
2	Keflex cephalixin cap.
1	tube zovirax ointment 590 - 15 grams.
42	tabs xanax tabs
11	tabs Trisoralen
empty.	propoxyphene compound.
empty	NucoFed.

RECEIVED BY (Signature)

S/A Wright

TITLE/DEPARTMENT

S/A - ONE

RECEIVED FROM (Signature)

Ward

WITNESSED BY (Signature)

S/A Stepler

