

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	}	
JOHN M. LICHTY	}	COMPLAINT
License No. 15955	}	AND
Respondent	}	STATEMENT
	}	OF CHARGES
	}	AND
	}	NOTICE OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 7th day of March, 1991, and files this Complaint and Statement of Charges against John M. Lichty, 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 July 22, 1981, by examination.

3. Respondent is employed as the pharmacist-in-charge at the Floyd County Memorial Hospital, 11th & South Main, Charles City, Iowa 50616.

4. Respondent currently resides at Rural Route 2, Box 291, Charles City, Iowa 50616.

5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1991.

6. On March 5, 1991, Respondent admitted to Pharmacy Board Investigators Gary D. Ebeling and Dennis D. Dobesh that while practicing pharmacy at the Floyd County Memorial Hospital, he used, without prescriber authorization, indeterminate amounts of injectable schedule II controlled substances such as morphine sulfate and meperidine hydrochloride which he obtained from the Floyd County Memorial Hospital Pharmacy in Charles City and which impaired his ability to practice pharmacy with reasonable skill and safety. Pharmacy Investigators Ebeling and Dobesh received corroborating written statements from Respondent's employer and co-workers as well as other evidence which supported Respondent's admissions.

7. On March 6, 1991, Respondent entered a drug treatment program at Chemical Dependency Services of North Iowa in Mason City, Iowa.

8. Respondent is guilty of violations of 1991 Iowa Code sections 155A.12(1), 155A.12(5), 155A.23(1)(a), 204.308(1), 204.402(1)(a), and 204.403(1)(c) by virtue of the information and allegations contained in paragraph 6.

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 prescription 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.

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;...

9. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(d)(2), 9.1(4)(h), 9.1(4)(m), and 9.1(4)(u) by virtue of the information in paragraph 6.

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)...when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

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 8 and 9 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), 204.402(1)(a), 204.403(1)(c), and 657 Iowa Administrative Code sections 9.1(4)(d)(2), 9.1(4)(h), 9.1(4)(m), and 9.1(4)(u).

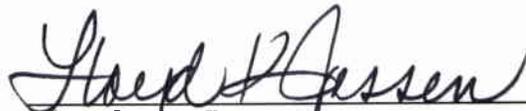
IT IS HEREBY ORDERED, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that John M. Lichty appear before the Iowa Board of Pharmacy Examiners on Monday, April 15, 1991, at 2:00 o'clock p.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills 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 John M. Lichty on July 22, 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. 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
JOHN M. LICHTY
License No. 15955
Respondent

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ORDER
ACCEPTING
SURRENDER OF LICENSE
TO PRACTICE PHARMACY

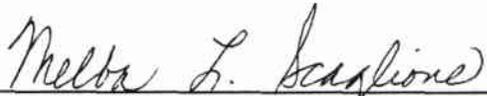
COMES NOW, Melba L. Scaglione, Chairperson of the Iowa Board of Pharmacy Examiners, on the 19th day of March, 1991, and declares that:

1. On March 5, 1991, Respondent executed a voluntary surrender of his pharmacist license number 15955 pursuant to 657 Iowa Administrative Code section 1.4. In so doing, Respondent waived his right to a formal hearing before the Iowa Board of Pharmacy Examiners.

2. On March 19, 1991, the Board reviewed Respondent's voluntary surrender and a Complaint and Statement of Charges which had been issued to Respondent on March 7, 1991. The Board then agreed to accept Respondent's voluntary surrender of his license to practice pharmacy.

WHEREFORE, it is hereby ordered that Respondent's voluntary surrender of his pharmacist license number 15955 is hereby accepted and, pursuant to 657 Iowa Administrative Code section 1.4, said surrender shall be considered a revocation of license with respect to any future request for reinstatement.

IOWA BOARD OF PHARMACY EXAMINERS



Melba L. Scaglione
Chairperson

VOLUNTARY SURRENDER OF
LICENSE TO PRACTICE PHARMACY

I, JOHN M. LICHTY, of Rural Route #2, Box 291, Charles City, Iowa, 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 15955, 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, John M. Lichty, and of a representative of the Iowa Board of Pharmacy Examiners being affixed to this voluntary surrender document.

I, JOHN M. LICHTY, 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 1987.
- (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, JOHN M. LICHTY, 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 1.3, 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 court proceedings as they apply to that revocation.
- (2) 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 which shall be docketed in the original case in which the license was revoked. All proceedings upon petition for reinstatement, including preliminary and ancillary matters, shall be subject to the same rules of procedure as other cases before the board.
- (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 no longer exists and that it will be in the public interest for the license 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 subrule 1.1(9).

I, JOHN M. LICHTY, 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.

3-5-91
Date of Signature

John M. Lichty
John M. Lichty

3/5/91
Date of Signature

Gary D. Ebeling
Gary D. Ebeling, Investigator,
Iowa Board of Pharmacy Examiners

Subscribed and sworn to before me this 5th day of March, 1991.

Margaret A. Follmer
Notary Public

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of :
JOHN M. LICHTY : REINSTATEMENT
License No. 15955 : ORDER
Respondent :

COMES NOW, Melba L. Scaglione, Chairperson of the Iowa Board of Pharmacy Examiners, on the 11th day of September, 1991, and declares that:

1. On March 7, 1991, the Iowa Board of Pharmacy Examiners issued a Complaint and Statement of Charges to Respondent.

2. On March 5, 1991, Respondent executed a voluntary surrender of his pharmacist license number 15955 pursuant to 657 Iowa Administrative Code section 1.4. His license surrender was accepted by the Board on March 19, 1991.

3. On April 15, 1991, Respondent appeared before the Board at an informal conference. At the conclusion of the conference, the Board agreed to allow Respondent to sit for all three components of the Board examination (the NABPLEX, the Federal Drug Law Examination, and the Iowa Drug Law Examination) in Iowa City on June 25-26, 1991.

WHEREAS Respondent was administered the NABPLEX, the Federal Drug Law Examination, and the Iowa Drug Law Examination on June 25-26, 1991, and received passing scores on all examinations, Respondent's pharmacist license number 15955 is now eligible for reinstatement.

WHEREFORE, it is hereby ordered that pharmacist license number 15955 issued to John M. Lichty on July 22, 1981, is now reinstated subject to the following terms and conditions:

(1) Pharmacist license number 15955 shall be restored to current, active status upon receipt from Respondent of a completed application for renewal of that license, proof of completion of at least 3.0 Continuing Education Units (CEU) (30 contact hours), and payment of the \$100 renewal fee.

restoration date: Sept. 20, 1991

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

(a) At the Board's discretion, Respondent shall submit to random body fluid testing with test results to be submitted to the Board office. Testing shall be done at Respondent's expense as directed by the Board and/or by Respondent's provider of aftercare.

(b) Respondent shall not be an owner of a pharmacy nor serve as the pharmacist in charge, manager, or assistant manager of a pharmacy.

(c) During the first six months of employment as a pharmacist following reinstatement, Respondent shall work only under the direct supervision of a licensed pharmacist.

(d) Respondent shall submit written reports quarterly to the Board which provide proof of continued participation in an aftercare program and/or Alcoholics Anonymous / Narcotics Anonymous, during the first five years of probation. Thereafter, Respondent shall report on his progress in writing every two years at the time of renewal.

(e) Respondent shall notify all present and prospective 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, Respondent shall cause each pharmacy employer to report to the Board in writing acknowledging that the pharmacy employer has read the Reinstatement Order in this case.

(f) Respondent shall report his place of employment and home address to the Board in writing quarterly during the first five years of probation.

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

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

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

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

(k) Respondent shall appear before the Board on Tuesday, March 3, 1992, as directed.

(3) Should Respondent 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 outside the state shall not apply to a reduction in the probationary period.

(4) Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation. If a 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.

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

IOWA BOARD OF PHARMACY EXAMINERS



Melba L. Scaglione
Chairperson

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of)	MODIFICATION
JOHN M. LICHTY)	OF
License No. 15955)	REINSTATEMENT
Respondent)	ORDER

COMES NOW, Melba L. Scaglione, Chairperson of the Iowa Board of Pharmacy Examiners, on the 2nd day of March, 1992, and declares that:

1. On September 11, 1991, the Board issued a Reinstatement Order for John M. Lichty which included, in part, the following condition:

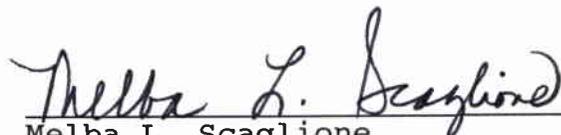
(2)(c) During the first six months of employment as a pharmacist following reinstatement, Respondent shall work only under the direct supervision of a licensed pharmacist.

2. The condition of the Reinstatement Order for John M. Lichty, as stated above, is now hereby modified to provide as follows:

(2)(c) During the first six months of employment as a pharmacist following reinstatement, Respondent shall submit written monthly progress reports to the Board which are co-signed by Respondent's employer. Such progress reports shall include the information specified in condition (2)(d). Upon completion of six months of employment as a pharmacist following reinstatement, Respondent shall report to the Board as specified in condition (2)(d).

Dated this 4th day of March 1992.

IOWA BOARD OF PHARMACY EXAMINERS



Melba L. Scaglione
Chairperson