

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of	}	<b>EMERGENCY ORDER</b>
<b>MARY JO MACDONALD</b>	}	AND
License No. 16995	}	COMPLAINT AND
Respondent	}	STATEMENT OF CHARGES

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**NOW** on this 25th day of January 1990, the Iowa Board of Pharmacy Examiners has reviewed the following evidence:

1. Respondent was issued a license to practice pharmacy in Iowa on January 27, 1988, by reciprocity.

2. Respondent is currently employed as a staff pharmacist at the pharmacy department of the University of Iowa Hospitals and Clinics located at 500 Newton Road in Iowa City, Iowa 52242.

3. The Board has received an investigative report dated January 19, 1990, from Pharmacy Investigator E. Ray Shelden. That report indicates the following:

a. Respondent was actively employed in the pharmacy department of the University of Iowa Hospitals and Clinics from about November 30, 1987, until January 18, 1990.

b. On January 16, 1990, the pharmacy department of the University of Iowa Hospitals and Clinics discovered that 11 tablets of Fiorinal, a schedule III controlled substance, and four tablets of Tylenol with Codeine No. 3, a schedule III controlled substance, were missing from its inpatient drug cabinet.

c. On January 18, 1990, Respondent was arrested by the University of Iowa Patrol Division and charged with the following:

**CHARGE 1:** That on the 10th day of January 1990 Mary Jo MacDonald entered the inpatient drug cabinet located in the pharmacy department at the University of Iowa Hospitals and Clinics and unlawfully removed an unspecified number of Phenobarbital tablets, a schedule IV controlled substance, for her own personal use in violation of Iowa Code section 155A.23, a criminal offense classified as an aggravated misdemeanor.

CHARGE 2: That on the 15th day of January 1990 Mary Jo MacDonald entered the inpatient drug cabinet located in the pharmacy department at the University of Iowa Hospitals and Clinics and unlawfully removed an unspecified number of Tylenol with Codeine No. 3 tablets, a schedule III controlled substance, for her own personal use in violation of Iowa Code section 155A.23, a criminal offense classified as a class "C" felony.

CHARGE 3: That on the 15th day of January 1990 Mary Jo MacDonald entered the inpatient drug cabinet located in the pharmacy department at the University of Iowa Hospitals and Clinics and unlawfully removed an unspecified number of Fiorinal tablets, a schedule III controlled substance, for her own personal use in violation of Iowa Code section 155A.23, a criminal offense classified as a class "C" felony.

CHARGE 4: That on the 16th day of January 1990 Mary Jo MacDonald entered the inpatient drug cabinet located in the pharmacy department at the University of Iowa Hospitals and Clinics and unlawfully removed an unspecified number of Fiorinal tablets, a schedule III controlled substance, for her own personal use in violation of Iowa Code section 155A.23, a criminal offense classified as a class "C" felony.

d. On January 18, 1990, Respondent admitted to the four incidents cited in Charges 1 through 4, above, to Sgt. Mary Jo Lessmeier of the University of Iowa Campus Security.

4. The Board has also received copies of various documents filed in the Iowa District Court in and for Johnson County, Iowa, titled In the Matter of: Mary Jo MacDonald, Alleged to be Seriously Mentally Impaired, Clerk's Case No. 2258. These documents indicate that Respondent was involuntarily committed to St. Lukes Hospital in Cedar Rapids, Iowa, by court order on January 19, 1990, following a finding by the court that "there is probable cause to believe [R]espondent is seriously mentally impaired and is likely to injure...herself or others if allowed to remain at liberty."

5. Respondent currently resides at 2304 MacBride Drive, Iowa City, Iowa 52246.

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

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 Mary Jo MacDonald 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 to issue such order.

**IT IS HEREBY ORDERED**, pursuant to the authority of Iowa Code section 17A.18(3), that the license of Mary Jo MacDonald 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 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 alleges that:

8. Rollin C. Bridge, Chairperson; Melba L. Scaglione, Vice Chairperson; Donna J. Flower; Marian L. Roberts; John F. Rode; Alan M. Shepley; and Gale W. Stapp 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(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:

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 1989 Iowa Acts, House File 780, Section 11(1)(c)(6) and 11(1)(d) by virtue of the allegations in paragraphs 3 and 4.

1989 Iowa Acts, House File 780, Section 11 provides, in part, the following:

Section 204.401, subsections 1 and 2, [Iowa] Code 1989, are amended by striking the subsections and inserting in lieu thereof 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.

d. Violations of this subsection, with respect to any other controlled substances, counterfeit substances, or simulated controlled substances classified in schedule IV or V is an aggravated misdemeanor...

11. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(h) and 9.1(4)(m) 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)...when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

h. Distribution of...drugs for other than lawful purposes.

...

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

The Iowa Board of Pharmacy Examiners finds that paragraphs 9, 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 1989 Iowa Code sections 155A.12(1), 155A.12(5), 155A.23(1)(a), 204.308(3), 204.402(1)(a), and 204.403(1)(c); 1989 Iowa Acts, House File 780, Section 11(1)(c)(6) and 11(1)(d); and 657 Iowa Administrative Code sections 9.1(4)(h) and 9.1(4)(m).

**IT IS HEREBY ORDERED** that Mary Jo MacDonald appear before the Iowa Board of Pharmacy Examiners on March 7, 1990, 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 Mary Jo MacDonald on January 27, 1988, 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. The failure of Respondent to appear could result in the permanent suspension or

revocation of her 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 : **ORDER**  
**MARY JO MACDONALD** : **AND**  
License No. 16995 : **CONSENT TO ORDER**  
Respondent :

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The Iowa Board of Pharmacy Examiners, having been advised of the allegations that Mary Jo MacDonald has conducted herself in a manner which could cause her license to practice pharmacy to be suspended, and the Board of Pharmacy Examiners through a Board Member and said Mary Jo MacDonald, 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 Mary Jo MacDonald be disciplined according to the conditions attached hereto.

**ORDER**

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

Date May 18, 1990 Melba L. Scaglione, Chairperson  
Melba L. Scaglione, Chairperson  
Iowa Board of Pharmacy Examiners

**CONSENT TO ORDER**

I, Mary Jo MacDonald, 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 June 6, 1990 Mary Jo MacDonald  
Mary Jo MacDonald

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IOWA PHARMACY EXAMINERS

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of :  
MARY JO MACDONALD : **STIPULATION**  
License No. 16995 :  
Respondent :

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**WHEREAS**, Mary Jo MacDonald, hereinafter referred to as the Licensee, has had certain allegations made against her by the Board of Pharmacy Examiners, hereinafter referred to as the Board, concerning her 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, through its representative Alan M. Shepley, 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. 16995 issued to Licensee is suspended for a period of three years with all but one

year stayed and with the one year served retroactive to January 25, 1990. After January 25, 1991, Licensee must appear before the Board to request a lifting of the suspension. Licensee must surrender all licenses and certificates. Such licenses and certificates will be returned upon completion of the suspension period.

b. During license suspension, Licensee shall not enter any pharmacy prescription area or manage, administer, or engage in any pharmacy-related service.

c. During license suspension, Licensee shall undergo psychotherapy counseling, with quarterly reports submitted to the Board, and file an initial report within 30 days of the signing of this Stipulation and the accompanying Order and Consent to Order.

d. During license suspension, Licensee shall submit to random body fluid testing to be performed monthly for a period of six months. Testing shall be done by Licensee's provider of aftercare at Licensee's expense, with the results being sent to the Board. An initial report shall be filed with the Board within 30 days of the signing of this Stipulation and the accompanying Order and Consent to Order.

e. During license suspension, Licensee shall not use any controlled or prescription drug in any form unless prescribed for her by a licensed, treating physician. The Licensee shall notify the Board, in writing, of any controlled or prescription medication which is prescribed for her.

f. Licensee to be placed on probation for a period of five years. Such probation to begin on January 26, 1991, and end on January 26, 1996.

g. During the probationary period, Licensee shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.

h. During the probationary period, Licensee shall report her place of employment and home address to the Board quarterly beginning in February 1991 and ending in January 1996.

i. During the probationary period, Licensee shall submit to peer review as deemed necessary by the Board.

j. During the probationary period, Licensee shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

k. During the probationary period, Licensee shall notify all present and prospective pharmacy employers of the Stipulation, Order, and Consent to Order in this case, and the terms, conditions, and restrictions imposed on Licensee by said Stipulation, Order, and Consent to Order. Within 30 days of the effective date of this Stipulation, Order, and Consent to Order and within 15 days of Licensee undertaking new employment, Licensee shall cause her pharmacy employer to report to the Board in writing acknowledging that the pharmacy employer has read the Stipulation, Order, and Consent to Order in this case.

l. During the probationary period, Licensee shall submit to random body fluid testing with test results to be submitted to the Board office on a quarterly basis beginning in February 1991 and ending in January 1996. Testing shall be done by Licensee's provider of aftercare at Licensee's expense.

m. Should Licensee's body fluid tests show evidence of unauthorized drugs, or should the reports required by paragraphs "d" and "l" not be submitted in a timely manner, the stayed suspension order will be revoked.

n. During the probationary period, Licensee shall not supervise any registered intern nor perform any of the duties of a preceptor.

o. Should Licensee leave Iowa to reside or practice outside this state, she 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.

p. 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.

q. Upon successful completion of probation, Licensee's certificates will be fully restored.

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

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

Mary Jo MacDonald  
Mary Jo MacDonald