

BEFORE THE IOWA BOARD OF PHARMACY EXAMINERS

IN THE MATTER OF THE)
PHARMACY LICENSE OF NISHNA DRUG CO.,)
PHARMACY LICENSE #302,) CONSENT AGREEMENT
ALLEN L. PLACEK, OWNER)

The Iowa Board of Pharmacy Examiners and Allen L. Placek, owner of Nishna Drug Co. in Carson, Iowa, Pharmacy License No. 302, hereby stipulate and agree, pursuant to § 17A.10, Code of Iowa, 1981:

That Allen L. Placek is owner of Nishna Drug Co., Carson, Iowa, wherein is operated a pharmacy under Iowa Board of Pharmacy Examiners License No. 302.

That the Iowa Board of Pharmacy Examiners is charged with enforcement of the Iowa pharmacy laws, including pharmacy business licenses; § 155.10.

That Allen L. Placek will voluntarily surrender the pharmacy license of Nishna Drug Co., License No. 302, to the Iowa Board of Pharmacy Examiners and will discontinue the operation of a pharmacy in his place of business.

That there is reason for the Board and Mr. Placek to believe, and they do believe that the Board is in possession of information which, if proved, would justify disciplinary action to the extent of revocation of the pharmacy license for the business owned by Mr. Placek.

That Mr. Placek does not admit any violations of the pharmacy law on his part or attributable to his pharmacy business, but does acknowledge that there is evidence by which a violation or violations of the Iowa Pharmacy Law, Chapter 155, Code of Iowa, 1981, in particular § 155.13 and

Chapter 204, could be proved which would be sufficient for disciplinary action, including revocation of the Pharmacy license.

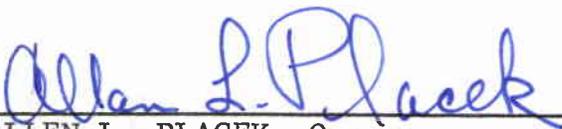
That the Board and Mr. Placek by this agreement ratify previous actions taken by themselves and by the other in regard to prescription drugs of Nishna Drug Co.

That by this agreement and pursuant to § 17A.10, Allen L. Placek, as owner of Nishna Drug Co., waives any right to notice and hearing as provided by § 155.14, Chapter 17A, the Iowa Administrative Procedure Act or any other Iowa statute or rule.

That the Board will not proceed with other disciplinary actions based on activities or circumstances giving rise to this action, and will make no recommendations for action to other administrative or enforcement agencies.

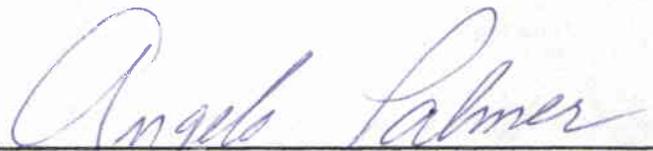
That this consent agreement is public information pursuant to Chapter 68A and as part of the decision of action taken, and will be provided to pharmacy licensing agencies in other states.

That this agreement is entered by both parties voluntarily, with full knowledge and understanding of the content and consequences; and after consultation with counsel.



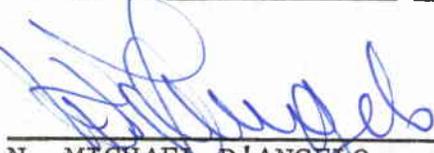
ALLEN L. PLACEK, Owner
Nishna Drug Co.
Carson, Iowa

Signed 6-8, 1982



ANGELO PALMER
Chairman, Iowa Board of
Pharmacy Examiners
For the Board

Signed July 13, 1982



N. MICHAEL D'ANGELO
Attorney for Allen L. Placek
and Nishna Drug Co.

Signed June 8, 1982

STATE OF IOWA
IOWA BOARD OF PHARMACY EXAMINERS

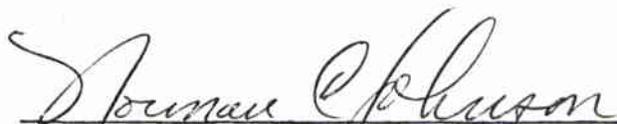
In Re: Allan L. Placek : Rehearing Request

The Board of Pharmacy Examiners in official meeting held on Monday, June 23, 1980 has reviewed the petition of Allan L. Placek for a rehearing on the decision of the hearing officer, Thomas J. McSweeney, dated May 19, 1980.

The Board, in open meeting, has reviewed the aforementioned application for rehearing along with information provided by N. Michael D'Angelo, attorney for Allan L. Placek. The information provided by Mr. D'Angelo consisted of a letter dated June 20, 1980 which was forwarded at the request of the secretary of the Board for the purpose of clarifying certain statements in the petition for rehearing.

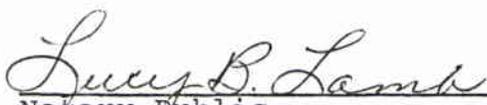
In addition, the Board was made aware of the fact that a petition signed by 124 residents of the Carson-Macedonia community was in existence and would be personally delivered to the offices of the Board on June 24, 1980 by Mr. D'Angelo. Said petition was executed asking the Board to reconsider the decision to suspend Allan L. Placek's license until May 12, 1982 and listing reasons why such a reconsideration should be made.

The Board of Pharmacy Examiners, after reviewing all information presented to them have voted unanimously to deny the request for rehearing.



Norman C. Johnson
Executive Secretary

Subscribed and sworn to before me, a Notary Public, by Norman C. Johnson, acting for the Board, this 27th day of June, 1980.



Lucy B. Lamb
Notary Public

RECEIVED

JUL 9 1980

IOWA PHARMACY EXAMINERS

IN THE IOWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY

AT AVOCA

* * *

ALLAN L. PLACEK,

*

Petitioner,

*

VS.

*

IOWA BOARD OF PHARMACY EXAMINERS,

*

NOTICE OF FILING OF
PETITION FOR JUDICIAL
REVIEW

Respondent.

*

* * * * *

TO: NORMAN JOHNSON, SECRETARY
IOWA BOARD OF PHARMACY EXAMINERS
217 Jewett Building
Des Moines, Iowa 50319

THOMAS J. MILLER, ATTORNEY GENERAL
% Thomas D. McGrane, Assistant Attorney General
Iowa Department of Justice
Hoover State Office Building
Des Moines, Iowa 50319

YOU, AND EACH OF YOU are hereby notified that Allan L. Placek, Petitioner in the above entitled matter has filed a Petition for Judicial Review of the decision of the hearing officer, Thomas J. McSweeney, dated May 19, 1980 and Rehearing Decision of the Iowa Board of Pharmacy Examiners which was filed June 27, 1980. Said Petition for Judicial Review was filed in Pottawattamie County District Court at Avoca, Iowa on July 7th, 1980 and a file stamped copy of said Petition is attached hereto, and by this reference incorporated herein as though fully set out. You should govern yourselves accordingly.

Dated this 8th day of July, 1980.

HOGZETT & D'ANGELO

By


N. Michael D'Angelo
100 Linden Street
Oakland, Iowa 51560
ATTORNEY FOR PETITIONER
ALLAN L. PLACEK

IN THE IOWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY

AT AVOCA

* * *

ALLAN L. PLACEK,

*

Petitioner,

*

NO.

9679

FILED

* o'clock

VS.

IOWA BOARD OF PHARMACY EXAMINERS,

JUL * 7 1980

PETITION FOR JUDICIAL REVIEW

Respondent.

Clerk of District Court
Pottawattamie County, Iowa

* * * * *

COMES NOW, Allan L. Placek, pursuant to the provisions of Section 17A.19(2), The Code of Iowa, 1979 and for his Petition for Judicial Review, states:

1. This is a Petition to review the Decision of the Hearing Officer which was filed May 19, 1980, and the Rehearing Decision of the Iowa Board of Pharmacy Examiners which was filed June 27, 1980. True copies of which decision and order are hereto annexed, made a part hereof, and marked Exhibits "A" and "B" respectively.

Petitioner's present Petition is for a review of the aforesaid determination and order, and is based on, and is in accordance with the terms of the Iowa Administrative Procedure Act. The grounds on which relief is sought are:

A. There is no sufficient evidence in the record made to support the hearing officer's finding that Allan L. Placek's license to practice pharmacy be suspended until May 12, 1982.

B. That the evidence upon which the hearing officer relied and which was approved and adopted by the Iowa Board of Pharmacy Examiners was insufficient to sustain the agency's burden of proof.

2. Said purported suspension order is capricious, unreasonable, arbitrary, and without legal or factual cause or justification and void

for the following reasons:

- A. Said Order is based wholly on conjecture, surmise, and suspicion and has no support either in fact or in the evidence considered by Respondent as the basis for the said order.
- B. That if any other testimony, evidence, or proof was heard or considered by Respondent's members, such proof was received secretly and in illegal sessions of Respondent's members in the absence of Petitioner.
- C. That there was not any legal or probative evidence before Respondent to support the purported charges against the Petitioner, and said order is based solely on surmise, conjecture, and suspicion, without any proof of facts to support it.

WHEREFORE, Petitioner prays that this Court judicially review all of the evidence submitted to the Iowa Board of Pharmacy Examiners in this cause, examine the findings of fact and the conclusions of law rendered on said findings. That after final hearing hereof, said order of suspension be declared illegal and void, and respondent be perpetually enjoined from attempting to enforce or effectuate said order against petitioner; and for such further orders and relief as may be just and proper herein.



N. Michael D'Angelo
HOGZETT & D'ANGELO
100 Linden Street
Oakland, Iowa 51560
Telephone (712) 482-6454

ATTORNEY FOR PETITIONER

IN THE IOWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY

AT AVOCA

FILED

o'clock

DEC 3 1980

ALLAN L. PLACEK,)
)
 Petitioner,)
)
 vs.)
)
 IOWA BOARD OF PHARMACY)
 EXAMINERS,)
)
 Respondent.)

NO. 9679

Clerk of District Court
Pottawattamie County, Iowa

ORDER AFFIRMING AGENCY ACTION.

This matter came on for hearing on October 22, 1980 on
 Petition for Judicial Review of Respondent's action in suspending
 Petitioner's license to practice pharmacy until May 12, 1982.

Petitioner appeared by his Attorney, N. Michael D'Angelo,
 and the Respondent by Thomas D. McGrane, Assistant Attorney
 General of Iowa.

By agreement of counsel the matter was submitted on the
 record as filed.

This Court has carefully reviewed the entire record herein
 and FINDS:

That the evidence established and it was admitted that
 Petitioner was convicted of a felony in Federal Court for his
 failure to maintain proper records relative to controlled sub-
 stances. By plea bargain two other counts of serious violations
 were dismissed in exchange for a plea of guilty to the one count
 in the indictment. The Petitioner was given a two-year suspended
 sentence and fined Five Thousand Dollars (\$5,000.00).

An examination of the transcript of the hearing of May 13,
 1980 clearly reveals sufficient evidence to support the findings
 and decision of the Board.

*N. M. D'Angelo
 P. M. Grane*

12.03

3.2-1103

The hearing officer and Board were not required to accept as a verity the excuses and explanations offered at the hearing by this Petitioner -- in fact, one accepting such improbable statements would probably also believe in the tooth fairy.

Clearly if this man is as abysmally ignorant of the requirements for practicing pharmacy as he professes to be, he constitutes a menace to society and the Board had a duty to suspend his license.

THIS COURT FINDS no impropriety on the part of the hearing officer or the Board of Pharmacy Examiners and specifically FINDS that there was sufficient probative evidence to support their decisions and action.

IT IS THEREFORE ORDERED AND ADJUDGED:

That the decision of the hearing officer filed May 19, 1980, and the rehearing decision of the Iowa Board of Pharmacy Examiners filed June 27, 1980, ARE AFFIRMED.

Costs herein are taxed against the Petitioner.

Dated this 24 day of November, 1980.

By the Court:


E. F. Hanson,
Judge of the 4th Judicial District of Iowa.

MAY 5 1980

DEFENDANT

ALLAN L. PLACEK

IOWA PHARMACY EXAMINERS

DOCKET NO.

Cr. 79-125

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (5/75)

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH DAY YEAR APRIL 4, 1980

COUNSEL

WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel. WITH COUNSEL N. Michael D'Angelo and Richard C. Turner (Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea, NOLO CONTENDERE, NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of NOT GUILTY. Defendant is discharged. GUILTY.

Defendant has been convicted as charged of the offense(s) of violation of Title 21, United States Code, Sections 843(a)(4)(A) and 843(c), as charged in count 2 of the Superseding Indictment filed herein.

1041W30 349710703 10 107A9084

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of two (2) years and that he be fined the sum of Five Thousand Dollars (\$5,000.00). IT IS FURTHER ADJUDGED that the sentence of imprisonment be suspended and the defendant is placed on probation for a period of two (2) years.

Defendant shall pay said fine at the rate of \$500.00 per month commencing on the 1st day of May, 1980 and the 1st day of each month thereafter until said fine is paid in full.

No costs.

Pursuant to plea agreement, counts 1 and 3 are hereby dismissed.

SPECIAL CONDITIONS OF PROBATION

A TRUE COPY ATTEST: 5/2/80

James R. Rosenbaum CLERK BY Louis D. Harren DEPUTY CLERK

FILED

APR - 4 1980

CLERK, U.S. DISTRICT COURT. SOUTHERN DISTRICT OF IOWA

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY U.S. District Judge

Harold O. Jeter

April 4, 1980

U.S. Magistrate

70 C.J. 101

Date

RECEIVED

MAR 14 1983

IOWA PHARMACY EXAMINER

from Neb Board

BEFORE THE DIRECTOR OF HEALTH
OF THE
DEPARTMENT OF HEALTH
OF THE
STATE OF NEBRASKA

RECEIVED

MAR 14 1983

BUREAU OF EXAMINING BOARDS
LINCOLN, NEBRASKA

LINCOLN, LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA ex rel.)
PAUL L. DOUGLAS, Attorney General,)
Plaintiff,)
v.)
ALLAN LLOYD PLACEK,)
Defendant.)

RP-82-2
FINDINGS, CONCLUSIONS
AND ORDER OF REVOCATION

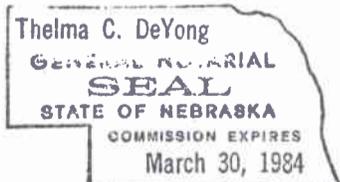
FINDINGS, CONCLUSIONS AND ORDER OF REVOCATION OF THE
DIRECTOR OF HEALTH OF THE DEPARTMENT OF HEALTH OF THE
STATE OF NEBRASKA IN THE MATTER OF THE REVOCATION OF THE
LICENSE OF ALLAN LLOYD PLACEK, R.P., NUMBERED 7077, TO
PRACTICE THE PROFESSION OF PHARMACY IN THE STATE OF NEBRASKA

STATE OF NEBRASKA)
COUNTY OF Lancaster) ss

This is to certify that this is a true and correct copy of the original record on
file in the office of the Bureau of Examining Boards, State of Nebraska Department of
Health, Lincoln, Nebraska.

Leland C. Lucke
Leland C. Lucke, Director
Bureau of Examining Boards

Subscribed in my presence and sworn to before me this 11th day of March, 1983.



Thelma C. DeYong
Notary Public

BEFORE THE DIRECTOR OF HEALTH
OF THE
DEPARTMENT OF HEALTH
OF THE
STATE OF NEBRASKA

LINCOLN, LANCASTER COUNTY, NEBRASKA

IN THE MATTER OF THE REVOCATION OF THE LICENSE OF ALLAN
LLOYD PLACEK, R.P., NUMBERED 7077, TO PRACTICE THE PROFESSION
OF PHARMACY IN THE STATE OF NEBRASKA, RP-82-2

FINDINGS, CONCLUSIONS AND ORDER OF REVOCATION OF THE DIRECTOR
OF HEALTH OF THE DEPARTMENT OF HEALTH OF THE STATE OF NEBRASKA

The matter of the Petition for Disciplinary Action by Paul L. Douglas, the Attorney General of the State of Nebraska, against the license of Allan Lloyd Placek, R.P., being numbered 7077, to practice the profession of pharmacy in the State of Nebraska did not come on for hearing since the licensee waived his right to a hearing before the Director of Health. The licensee and the Attorney General of the State of Nebraska entered into a stipulation in which the licensee admitted the allegations of fact in the Petition for Disciplinary Action filed by the Attorney General in this matter and in which the licensee entered his voluntary appearance. The licensee and the Attorney General stipulated that this case be submitted to the Director of Health of the Department of Health of the State of Nebraska on a statement of facts consisting of the allegations of fact contained in the Petition for Disciplinary Action filed by the Attorney General in this case and that no hearing be held on the matter.

Now, based upon such evidence, the Director of Health of the Department of Health of the State of Nebraska makes the following findings, conclusions, and order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the Department of Health on its own motion asked the Attorney General of the State of Nebraska to institute appropriate disciplinary proceedings against the license of Allan Lloyd Placek, R.P.
2. That, on or about October 25, 1982, the Attorney General of the State of Nebraska drafted a Petition for Disciplinary Action against the license of Allan Lloyd Placek, R.P., to practice the profession of pharmacy in the State of Nebraska. That said Petition for Disciplinary Action was duly filed in the Office of the Director of the Bureau of Examining Boards of the Department of Health on October 26, 1982, and was then duly presented to the Director of Health of the Department of Health of the State of Nebraska on October 26, 1982. That the Director of Health of the Department of Health of the State of Nebraska thereafter, on October 29, 1982, issued a Notice of Hearing informing Allan Lloyd Placek that: (1) a Petition for Disciplinary Action had been filed against him before the Director of Health of the Department of Health of the State of Nebraska by the State of Nebraska on the relation of Paul L. Douglas, Attorney General; (2) the Director of Health had set the matter for hearing before him in Conference Room A, third floor of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, on the 23rd day of November, 1982, at the hour of 9:30 a.m.; and (3) he, the licensee, would have the opportunity to be present at such time and place with such witnesses and such evidence as he might choose to present in answer to the charges of the petition, and that he had the right to be represented by legal counsel at the hearing.
3. That a copy of said Notice of Hearing, with a copy of said Petition for Disciplinary Action attached thereto and made a part of the Notice of Hearing, was personally served upon Allan Lloyd Placek by a Deputy Sheriff of Pottawattamie County, Iowa, on November 12, 1982, in Carson, Iowa.
4. That Allan Lloyd Placek, R.P., the licensee, and Paul L. Douglas, the Attorney General of the State of Nebraska, entered into a stipulation on or about November 22, 1982, in which Allan Lloyd Placek, R.P., admitted the allegations of fact in the Petition for Disciplinary Action filed by the Attorney General and in which Allan Lloyd Placek, R.P., entered his voluntary appearance. That Allan Lloyd Placek, R.P., the licensee, and Paul L. Douglas, the Attorney General of the State of Nebraska, on or about November 22, 1982, stipulated that this case be submitted to the Director of Health of the Department of Health of the State of Nebraska on a statement of facts consisting of the allegations of fact contained in the Petition for Disciplinary Action filed by the Attorney General in this case and that no hearing be held on the matter. That the document containing this stipulation and entitled Admission of Facts and Stipulation to Submit Case on Those Facts in this matter, accompanied by the licensee's Voluntary Appearance, attached thereto as Exhibit A and incorporated therein by reference, was duly presented to and filed with the Director of Health of the Department of Health of the State of Nebraska on November 24, 1982. That no hearing was held on this matter since the licensee waived his right to a hearing before the Director of Health.
5. That Allan Lloyd Placek is the holder of Registered Pharmacist License Number 7077, issued by the Department of Health of the State of Nebraska on July 8, 1954, and that such license is currently in force.

6. That Allan Lloyd Placek, while registered as a pharmacist in the State of Nebraska, was licensed by reciprocity as registered pharmacist number 12331 in the State of Iowa from September 9, 1957 to May 19, 1980. That Allan Lloyd Placek, while so licensed as a registered pharmacist, was issued pharmacy establishment license number 302 by the State of Iowa to operate Nishna Drug Company in Carson, Iowa, as the pharmacist-owner. That such drug store was issued controlled substance registration number 1104260.

7. That, on or about May 19, 1980, after a hearing on May 13, 1980, at which Allan Lloyd Placek was present with counsel, the Iowa Board of Pharmacy Examiners suspended Allan Lloyd Placek's license to practice as a registered pharmacist in the State of Iowa until May 12, 1982. That the Iowa Board of Pharmacy Examiners also revoked the Iowa Uniform Controlled Substance Act Registration issued in the name of Nishna Drug Company, number 1104260, and placed under seal all controlled substances owned or controlled by such registrant. That the hearing officer specifically found as grounds for said action that Allan Lloyd Placek had ordered 265,000 dosage units of phentermine but had failed to keep adequate records of them and that Allan Lloyd Placek had been convicted of a felony related to his profession, the practice of pharmacy, under a federal law relating to any controlled substance.

8. That phentermine is a Schedule IV Controlled Substance under federal law as provided in 21 U.S.C. § 812 and 21 C.F.R. § 1308.14(e).

9. That phentermine is a Schedule IV Controlled Substance in the State of Nebraska as defined in section 28-405, Revised Statutes Supplement, 1982.

10. That the action of the Iowa Board of Pharmacy Examiners suspending the license of Allan Lloyd Placek to practice as a registered pharmacist was affirmed by the Iowa District Court for Pottawattamie County in Placek v. Iowa Board of Pharmacy Examiners, Case No. 9679, by an order filed December 3, 1980.

11. That in order to gain reinstatement of his license to practice as a registered pharmacist in the State of Iowa after it was suspended as set out in FINDING NUMBER SEVEN, Allan Lloyd Placek must successfully pass an examination administered by the Iowa Board of Pharmacy Examiners on statutes and regulations governing the profession of pharmacy.

12. That the license of Allan Lloyd Placek to practice as a registered pharmacist in the State of Iowa has not yet been reinstated.

13. That, on or about July 13, 1982, Allan Lloyd Placek and the Iowa Board of Pharmacy Examiners entered into a consent agreement whereby Allan Lloyd Placek voluntarily surrendered the pharmacy establishment license of Nishna Drug Company and agreed to discontinue the operation of a pharmacy in his place of business.

14. That the action by the Iowa Board of Pharmacy Examiners referred to in FINDINGS NUMBER SEVEN, ELEVEN and THIRTEEN is disciplinary action taken by another state against Allan Lloyd Placek by procedures consistent with sections 71-149 et seq., Reissue Revised Statutes of Nebraska, 1943, against his license to practice as a registered pharmacist, based upon acts by Allan Lloyd Placek similar to acts described in section 71-147(1), (4), (13) and (14), Reissue Revised Statutes of Nebraska, 1943.

15. That section 71-102, Reissue Revised Statutes of Nebraska, 1943, of the UNIFORM LICENSING LAW states in part that "No person shall engage in the practice of . . . pharmacy . . . unless such person shall have obtained from the Department of Health a license for that purpose."

16. That section 71-147, Reissue Revised Statutes of Nebraska, 1943, part of the UNIFORM LICENSING LAW, states in part that "A license to practice a profession may be denied, refused renewal, limited, revoked, suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant or licensee is guilty of any of the following acts or offenses: (1) Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license; . . . (4) conviction of a felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a felony under state law, and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession; . . . (9) the denial, refusal of renewal, limitation, suspension, revocation or the taking of other disciplinary measures in accordance with section 71-155 against such individual by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant or licensee similar to acts described in this section, a certified copy of the record of denial, refusal of renewal, limitation, suspension, revocation or the taking of other disciplinary measures against it of the state or jurisdiction taking such action being conclusive evidence thereof; . . . (13) distribution of intoxicating liquors or controlled substances or drugs for any other than lawful purposes; (14) willful or repeated violations of this act or the rules and regulations of the Department of Health relating to the licensee's profession, sanitation, quarantine, or school inspection".

17. That the actions of Allan Lloyd Placek, R.P., outlined and described in FINDINGS NUMBER SIX through FOURTEEN, inclusive, constitute the suspension of the license of Allan Lloyd Placek to practice as a registered pharmacist in the State of Iowa based upon acts by the licensee similar to prohibited acts described in section 71-147(1), (4), (13) and (14), R.R.S. 1943, and constitute due cause pursuant to section 71-147(9), R.R.S. 1943, for the taking of disciplinary action against the license of Allan Lloyd Placek, R.P., to practice as a registered pharmacist in the State of Nebraska.

18. That, between February, 1978, and June, 1979, Allan Lloyd Placek ordered 265,000 dosage units of phentermine but failed to keep accurate records.

19. That 21 U.S.C. § 843 (a)(4)(A) makes it unlawful for any person knowingly and intentionally to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made kept, or filed under federal statutory sections including 21 U.S.C. §§ 801-904.

20. That 21. U.S.C. § 827 requires registrants to make complete and accurate records of all stocks of controlled substances and of each substance received, sold, delivered or otherwise disposed of by him.

21. That phentermine is a Schedule IV Controlled Substance under federal law as provided in 21 U.S.C. § 812 and 21 C.F.R. § 1308.14(e).

22. That on or about April 4, 1980, Allan Lloyd Placek appeared with counsel in the United States District Court for the Southern District of Iowa, and pled guilty in the case of

United States v. Allan L. Placek, CR 79-125, to a charge of violation of 21 U.S.C. §§843(a)(4)(A) and 843(c) as charged in count two of the indictment filed in that case. That, pursuant to a plea agreement, counts one and three were dismissed. That Allen Lloyd Placek was on the same date sentenced to two years' imprisonment and fined five thousand dollars [\$5,000.00]. That the sentence of imprisonment was suspended and Allan Lloyd Placek was placed on probation for a period of two years.

23. That section 71-147, Reissue Revised Statutes of Nebraska, 1943, a part of the UNIFORM LICENSING LAW, states in part that "A license to practice a profession may be denied, refused renewal, limited, revoked, suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant or licensee is guilty of any of the following acts or offenses: ... (4) conviction of a felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a felony under state law, and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession". That the meaning of the term "conviction" in section 71-147(4), R.R.S. 1943, pursuant to the provisions of section 71-161.01, R.R.S. 1943, means a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof and includes instances in which the imposition of or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

24. That the conviction of Allan Lloyd Placek referred to in FINDING NUMBER TWENTY-TWO is a conviction under federal law which, if committed within the State of Nebraska, would have constituted a felony under section 28-418(1)(d), Reissue Revised Statutes of Nebraska, 1943, and which has a rational connection with the licensee's fitness and capacity to practice the profession of pharmacy in the State of Nebraska. That such conviction adversely affects that fitness or capacity.

25. That the actions of Allan Lloyd Placek, R.P., outlined and described in FINDINGS NUMBER EIGHTEEN through TWENTY-TWO, inclusive, constitute due cause, pursuant to section 71-147(4), Reissue Revised Statutes of Nebraska, 1943, for the taking of disciplinary action against the license of Allan Lloyd Placek, R.P., to practice as a registered pharmacist in the State of Nebraska.

ORDER OF REVOCATION

ALLAN LLOYD PLACEK, R.P., licensed to practice pharmacy in the State of Nebraska since July 8, 1954, and holder of Registered Pharmacist License Number 7077, has been convicted of a federal crime which, if committed within the State of Nebraska, would have constituted a felony under section 28-418(1)(d), Reissue Revised Statutes of Nebraska, 1943, and which has a rational connection with the licensee's fitness and capacity to practice the profession of pharmacy in the State of Nebraska, and further which adversely affects that fitness or capacity. As a result of that conviction, the Iowa Board of Pharmacy Examiners has suspended the license of ALLAN LLOYD PLACEK, R.P., to practice as a registered pharmacist within the State of Iowa.

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of ALLAN LLOYD PLACEK, numbered 7077, issued by the Department of Health of the State of Nebraska to engage in the practice of the profession of pharmacy within the State of Nebraska is hereby revoked as of this date.

Dated this 3 day of February, 1983.



Henry D. Smith, M.D., M.P.H.
Director of Health
DEPARTMENT OF HEALTH
STATE OF NEBRASKA