

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of <b>JAMES D. PALMER</b> License No. 13542 Respondent	} } } }	<b>COMPLAINT AND STATEMENT OF CHARGES</b>
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**COMES NOW**, Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 12th day of July, 1990, and files this Complaint and Statement of Charges against James D. Palmer, 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 December 11, 1968, by examination.

3. Respondent was employed as the pharmacist in charge of Medicap Pharmacy located at 2030 Sixth Street S.W. in Cedar Rapids, Iowa 52404, from approximately September 11, 1989, until approximately February 26, 1990.

4. Respondent currently resides at 3505 Heatheridge Drive N.E. in Cedar Rapids, Iowa 52402.

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

6. On March 29, 1990, a complaint was received at the Board office which alleged that Respondent had violated Board rules by obtaining and selling confidential patient information belonging to the Medicap Pharmacy located at 2030 Sixth Street S.W. in Cedar Rapids, Iowa. The complaint was referred to Pharmacy Investigator E. Ray Shelden for investigation.

7. On April 9, 1990, the Board received an investigative report from Investigator Shelden. His report alleges the following:

a. Respondent admits that sometime prior to March 1, 1990, while employed as the pharmacist in charge of Medicap Pharmacy located at 2030 Sixth Street S.W. in Cedar Rapids, Iowa, he obtained, without

authorization, the names and telephone numbers of 56 patients from prescription records kept at the pharmacy.

b. Respondent also admits that he sold this information to another pharmacy and was paid \$100.00 by that pharmacy on March 3, 1990.

c. Respondent further admits that he contacted some of the patients by telephone in an effort to solicit prescription business for the pharmacy which had purchased the information.

8. Respondent is guilty of violations of 1989 Iowa Code sections 155A.12(1) and 155A.12(2) by virtue of the allegations in paragraph 7.

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

9. Respondent is guilty of violations of 657 Iowa Administrative Code sections 8.5(5), 8.5(6), 8.16(2), 9.1(4)(b)(4), 9.1(4)(c), and 9.1(4)(u) by virtue of the allegations in paragraph 7.

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

5. It is unethical for a practitioner of the profession of pharmacy to serve in a pharmacy which is not operated in conformance with law, or which engages in any practice which if engaged in by a pharmacist would be unethical conduct.

6. It is unethical to disregard the confidential and personal nature of the pharmacist's professional records; except where the best interest of the patient requires or the law demands, the pharmacist should not disclose such information to anyone without proper patient authorization.

657 Iowa Administrative Code section 8.16 provides, in part, the following:

2. Information in the patient medication record shall be deemed to be confidential and may be released to other than the patient or prescribers only on written release of the patient.

657 Iowa Administrative Code section 9.1 provides, in part, the following:

4. 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:...

(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.

....

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 1989 Iowa Code sections 155A.12(1) and 155A.12(2) and 657 Iowa Administrative Code sections 8.5(5), 8.5(6), 8.16(2), 9.1(4)(b)(4), 9.1(4)(c), and 9.1(4)(u).

**IT IS HEREBY ORDERED** that James D. Palmer appear before the Iowa Board of Pharmacy Examiners on Wednesday, August 15, 1990, 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 suspend or revoke the license to practice pharmacy issued to James D. Palmer on December 11, 1968, 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. The failure of Respondent to appear could result in the permanent suspension or revocation of his 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

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BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

IOWA PHARMACY EXAMINERS

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Re: Pharmacist License of :  
    **JAMES D. PALMER** :                   **STIPULATION**  
    License No. 13542 :  
    Respondent :

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**WHEREAS**, James D. Palmer, hereinafter referred to as the Licensee, has had certain allegations made against him by the Board of Pharmacy Examiners, hereinafter referred to as the Board, concerning his 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. 13542 issued to Licensee is suspended for a period of thirty (30) days with all of the suspension stayed.

b. Licensee to be placed on probation for a period of ninety (90) days beginning on the date that Licensee accepts and signs this Stipulation agreement and the accompanying Order and Consent to Order.

c. Within thirty (30) days of the date that Licensee accepts and signs this Stipulation agreement and the accompanying Order and Consent to Order, Licensee shall remit a \$250.00 civil penalty to the Board office.

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

e. At the end of the probationary period, Licensee shall report his place of employment and home address in writing to the Board. Should the report not be made as directed, the period of probation shall be extended until such time as the report is made.

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

g. 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 his 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.

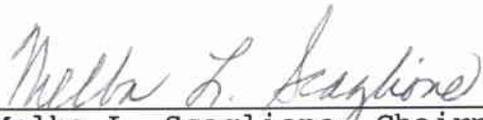
h. During the probationary period, Licensee shall not supervise any registered intern nor perform any of the duties of a preceptor.

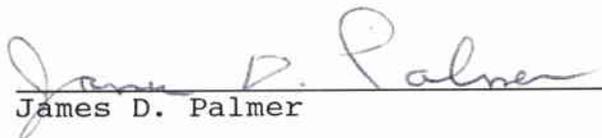
i. Should Licensee leave Iowa to reside or practice outside this state, he shall notify the Board in writing of the date of departure and return. Periods of residency or practice outside the state shall not apply to a reduction in the probationary period.

j. 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.

k. 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.**

  
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Melba L. Scaglione, Chairperson  
Iowa Board of Pharmacy Examiners

  
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James D. Palmer

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of : **ORDER**  
**JAMES D. PALMER** : **AND**  
License No. 13542 : **CONSENT TO ORDER**  
Respondent :

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The Iowa Board of Pharmacy Examiners, having been advised of the allegations that James D. Palmer has conducted himself in a manner which could cause his license to practice pharmacy to be suspended, and the Board of Pharmacy Examiners through a Board Member and said James D. Palmer, 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 James D. Palmer be disciplined according to the conditions attached hereto.

**ORDER**

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

Date

Aug. 30, 1990

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

**CONSENT TO ORDER**

I, James D. Palmer, 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

9-5-90

James D. Palmer  
James D. Palmer