

THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of :
 :
 JON J. PELKEY : COMPLAINT
 : AND
 License No. 14810 : STATEMENT OF CHARGES
 Respondent :

COMES NOW Norman C. Johnson, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 7th day of July, 1987, and files this Complaint and Statement of Charges against Jon J. Pelkey, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Rollin C. Bridge, Chairperson; Jerry M. Hartleip, Vice Chairperson; John M. Rode; Melba Scaglione; Alan M. Shepley; Gale W. Stapp; and Donna J. Flower are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent was issued license number 14810 to practice pharmacy in the State of Iowa on July 1, 1976, by examination.

3. Respondent's license to practice pharmacy in Iowa became delinquent on July 1, 1983, as a result of nonpayment of fees.

4. Respondent's license number 051-032538 to practice pharmacy in the State of Illinois was revoked by the Illinois Department of Registration and Education on January 22, 1987. Respondent failed to report this revocation to the Iowa Board of Pharmacy Examiners.

5. Respondent's Illinois pharmacist license was revoked after the Illinois State Board of Pharmacy found that the Respondent had been convicted of both felony theft and forgery, and that he had dispensed controlled substances (Fastin and Tepanil) without a prescription.

6. Respondent is guilty of violations of Iowa Code sections 155A.12(9), 155A.12(10), 155A.23(1)(b), and 155A.23(4) by virtue of the findings of fact, conclusions of law, and recommendation of the Illinois State Board of Pharmacy, and the order of the Illinois Department of Registration and Education, which found that Respondent had been convicted of a felony and had dispensed controlled substances without a prescription.

Iowa Code section 155A.12 provides in part as follows:

...The board [of pharmacy] 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:...

9. Been convicted of an offense or subjected to a penalty or fine for violation of chapter 147, 203, 203A, 204, or the Federal Food, Drug and Cosmetic Act. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section.

10. Had a license to practice pharmacy issued by another state canceled, revoked, or suspended for conduct substantially equivalent to conduct described in subsections 1 through 9. A certified copy of the record of the state taking action as set out above shall be conclusive evidence of the action taken by such state.

Iowa Code section 155A.23 provides in part as follows:

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:.....

b. Forgery or alteration of a prescription or of any written order.

....

4. Make or utter any false or forged prescription or written order.

7. Respondent is guilty of violations of Board Rules contained in 620 Iowa Administrative Code sections 10.1(4)(e), 10.1(4)(j), and 10.1(4)(k) by virtue of the findings of fact, conclusions of law, and recommendation of the Illinois State Board of Pharmacy, and the order of the Illinois Department of Registration and Education referred to in paragraph 6 above.

620 Iowa Administrative Code section 10.1(4) provides in part as follows:

The board may impose any of the disciplinary sanctions set out in subrule 10.1(2), including civil penalties in an amount not to exceed \$1000.00, when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

e. Conviction of a felony. A copy of the record of conviction or a plea of guilty shall be conclusive evidence.

....

j. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or a misdemeanor, which statute or law relates to the practice of pharmacy.

k. Failure to report a license revocation, suspension or other disciplinary action taken by another state, territory or country.

....

8. Paragraphs 6 and 7 above constitute grounds for which Respondent's license to practice pharmacy in Iowa can be suspended or revoked.

WHEREFORE, the undersigned charges that Jon J. Pelkey has violated sections 155A.12(9), 155A.12(10), 155A.23(1)(b), and 155A.23(4) of the Code of Iowa 1987, and sections 10.1(4)(e), 10.1(4)(j), and 10.1(4)(k) of 620 Iowa Administrative Code.

IT IS HEREBY ORDERED that Jon J. Pelkey appear before the Iowa Board of Pharmacy Examiners on September 16, 1987, at 10:00 a.m. in second floor conference room "A," 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 Jon J. Pelkey on July 1, 1976, and take whatever additional action that they deem necessary.

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.

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A handwritten signature in cursive script, appearing to read "Norman C. Johnson". The signature is written in dark ink and is positioned above a horizontal line.

Norman C. Johnson
Executive Secretary

BEFORE THE IOWA BOARD OF PHARMACY EXAMINERS

In the Matter of the Complaint)	
and Statement of Charges)	
Against:)	
Jon J. Pelkey)	Decision and Order
Respondent)	
License No. 14810)	

TO: Jon J. Pelkey:

A complaint and statement of charges was filed by the Executive Secretary of the Iowa Board of Pharmacy Examiners (hereinafter Board) on July 7, 1987, alleging that:

1. The respondent's license to practice pharmacy in Illinois was revoked by the Illinois Department of Registration and Education on January 22, 1987.
2. The respondent's Illinois license was revoked because the respondent had been convicted of felony theft and forgery, and because the respondent dispensed controlled substances without a prescription.
3. The respondent did not report the Illinois revocation to the Iowa Board.

The complaint alleged violations of Iowa Code sections 155A.12(9), 155A.12(10), 155A.23(1)(b), and 15A.23(4), and violations of 620 Iowa Administrative Code sections 10.1(4)(e), 10.1(4)(j), and 10.1(4)(k).

A hearing on the above complaint and statement of charges was held on October 13, 1987 at 10:00 a.m. in the Iowa Board's second floor conference room, Executive Hills West, 1209 East Court Avenue, Capitol Complex, Des Moines, Iowa 50319. Present were the Board and its counsel, Thomas D. McGrane, Assistant Attorney General. The respondent, Jon J. Pelkey, was not present nor was he represented by counsel. Present also were members of the staff of the Board and a court reporter. The undersigned hearing officer for the State of Iowa presided. The hearing was open to the public.

After hearing the testimony and examining the exhibits, the Board convened in closed session pursuant to Iowa Code §21.5(f)(1987) to deliberate. This hearing officer was instructed to prepare the Board's Decision and Order.

THE RECORD

The evidentiary record in this case consists of the Complaint and Statement of Charges, the recorded testimony of the witness, and the following exhibits:

Board Exhibit 1: Certified copies of the 20 Day Notice; Findings of Fact, Conclusions of Law and Recommendation to the Director; Notice of Order; Order; Notice of Preliminary Hearing; and Complaint received from the Illinois Department of Registration and Education on May 20, 1987.

Board Exhibit 2: Return receipt card showing delivery of the Iowa Complaint and Statement of Charges to Jon Pelkey on August 20, 1987.

FINDINGS OF FACT

1. The respondent, Jon J. Pelkey, is a pharmacist licensed under the State of Iowa and issued pharmacist's license number 14810. Mr. Pelkey's Iowa license is delinquent due to nonpayment of fees. (testimony of Norman C. Johnson; Official file).
2. Norman C. Johnson, executive secretary of the Iowa Board of Pharmacy Examiners, monitors disciplinary actions in other states to see if actions have been taken against pharmacists holding Iowa licenses. (testimony of Mr. Johnson).
3. As a result of that monitoring, Mr. Johnson found that disciplinary action against the respondent's license had been taken by the Illinois Department of Registration and Education. Mr. Johnson received a certified copy of the action taken by the Illinois Department. (testimony of Mr. Johnson; Board Exhibit 1).
4. The Illinois Department found that on September 17, 1984, the respondent was found guilty of forgery and felony theft. The Illinois Department further found that the respondent had unlawfully dispensed the controlled substance Fastin and unlawfully dispensed Tepanil tablets. The Illinois Department revoked the respondent's Illinois license on January 22, 1987. (Board Exhibit 1,; testimony of Mr. Johnson).
5. The respondent did not notify the Iowa Board of the disciplinary action taken by the Illinois Department (testimony of Mr. Johnson).

6. The respondent was legally served with notice of the Iowa Complaint and Statement of Charges and the hearing. He received such notice on August 20, 1987. The respondent did not appear at the hearing, nor was he represented by counsel. (Board Exhibit 2).

CONCLUSIONS OF LAW

The respondent, Jon J. Pelkey, was properly served with notice of hearing on August 20, 1987.

Iowa Code section 155A.12 provides that the Board may revoke a pharmacist's license if it finds that the licensee has done any of the following:

9. Been convicted of an offense or subjected to a penalty or fine for violation of chapter 147, 203, 203A, 204, or the Federal Food, Drug and Cosmetic Act. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section.

10. Had a license to practice pharmacy issued by another state canceled, revoked, or suspended for conduct substantially equivalent to conduct described in subsections 1 through 9. A certified copy of the record of the state taking action as set out above shall be conclusive evidence of the action taken by such state.

Substantial evidence was presented to establish that the respondent violated Iowa Code sections 155A.12(9) and (10)(1987).

Iowa Code section 155A.23 provides in part as follows:

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: . . .

- b. Forgery or alteration of a prescription or of any written order.

4. Make or utter any false or forged prescription or written order.

Substantial evidence was presented to establish that the respondent violated Iowa Code sections 155A.23(1)(b) and 155A.23(4)(1987).

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620 Iowa Administrative Code section 10.1(4) provides in part as follows:

The board may impose any of the disciplinary sanctions set out in subrule 10.1(2), including civil penalties in an amount not to exceed \$1000.00, when the board determines that the licensee or registrant is guilty of the following acts or offenses: . . .

e. Conviction of a felony. A copy of the record of conviction or a plea of guilty shall be conclusive evidence.

j. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or a misdemeanor, which statute or law relates to the practice of pharmacy.

k. Failure to report a license revocation, suspension or other disciplinary action taken by another state, territory or country.

Substantial evidence was presented to show that the respondent violated 620 Iowa Administrative Code sections 10.1(4)(e), 10.1(4)(j), and 10.1(4)(k).

Mr. Pelkey is therefore found to have violated the above Iowa Code sections and rules.

DECISION AND ORDER

It is hereby ORDERED that Iowa license number 14810 issued to the respondent Jon J. Pelkey, is revoked. It is further ORDERED that the respondent may not apply for reinstatement of this Iowa license for a period of ten (10) years from the date of this Order. It is further ORDERED that the respondent will immediately deliver Iowa Pharmacist's license number 14810 to the Iowa Board of Pharmacy Examiners, 1209 East Court, Des Moines, Iowa 50319.

This Decision and Order was prepared by me at the direction of the Iowa Board of Pharmacy Examiners on the 22nd day of October, 1987.


Amy Christensen Couch
Hearing Officer
Iowa Department of Inspections &
Appeals