

**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:)
Pharmacist-Intern)
Registration of)
KY QUOC PHAM) **STATEMENT OF CHARGES**
Reg. No. 0819)
Respondent)

COMES NOW, the Complainant, Lindy A. Pearson, and states:

1. She is the Chief Investigator for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in her official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (1997).
3. On April 1, 1996, Ky Quoc Pham, the Respondent, was issued pharmacist-intern registration number 0819 by the Board to engage in the activities of a pharmacist-intern, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent currently resides at 1200 Franklin Street, Pella, Iowa 50219.
5. Respondent is currently employed as a pharmacist-intern at Osco Drug #495, 1345 East University, Des Moines, Iowa 50316.

COUNT I

The Respondent is charged under Iowa Code § 155A.6 (1997) and 657 Iowa Administrative Code §§ 4.6 with falsifying an affidavit of internship training.

THE CIRCUMSTANCES

1. The Respondent submitted an affidavit of internship training to the Board on March 10, 1997. The affidavit indicated that Respondent had completed 500 hours of pharmacy internship training at the University of Iowa Hospitals and Clinics in Iowa City, Iowa, between May 13, 1996, and August 26, 1996. It was apparent that the affidavit had been altered. The Respondent's pharmacist preceptor, who had signed the affidavit, reviewed the affidavit at the request of the Board and verified that it had been altered after she signed it on November 1, 1996.

2. An investigation was conducted by Board Investigator E. Ray Shelden. Investigator Shelden has filed a report with the Board which indicates the following:

a. The Respondent worked at the University of Iowa Hospitals and Clinics and completed 500 hours of internship training as a pharmacy intern on the following dates: (1) from December 18, 1994, to January 14, 1995; (2) from May 14, 1995, to August 19, 1995; and (3) from December 17, 1995, to January 14, 1996. An affidavit of internship training was completed for this time period by Respondent's pharmacist preceptor.

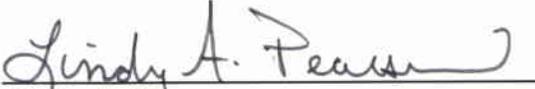
b. The Respondent did not become registered with the Board as a pharmacist-intern until April 1, 1996.

c. Board rule 657 I.A.C. § 4.6(3) provides that "Credit will not be given for internship experience obtained *prior* to registration as a pharmacist-intern" (emphasis added).

d. The affidavit of internship training submitted to the Board by the Respondent on March 10, 1997, was altered by the Respondent to indicate that he had completed 500 hours of pharmacy internship training at the University of Iowa Hospitals and Clinics between May 13, 1996, and August 26, 1996, following his registration as a pharmacist-intern with the Board on April 1, 1996.

e. On April 25, 1997, the Respondent admitted to Investigator Shelden that he had falsified the affidavit of internship training which he submitted to the Board on March 10, 1997.

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it may deem to be appropriate under the law.


Lindy A. Pearson
Chief Investigator

On this 15th day of July, 1997, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Phyllis A. Olson, Chairperson
Iowa Board of Pharmacy Examiners
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Linny Emrich
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

RE:)	DIA NO: 97PHB-001
PHARMACIST-INTERN)	
REGISTRATION OF:)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
KY QUOC PHAM)	DECISION AND ORDER
REG. NO. 0819)	
Respondent)	

TO: KY QUOC PHAM

On July 15, 1997, the Iowa Board of Pharmacy Examiners (Board) found probable cause to file a Statement of Charges against Ky Quoc Pham (Respondent) and to order a hearing. The Statement of Charges alleged that the Respondent falsified an affidavit of internship training, in violation of Iowa Code section 155A.6(1997) and 657 Iowa Administrative Code section 4.6.

A Notice of Hearing was issued which scheduled a hearing for September 10, 1997 at 3:00 p.m. On September 10, 1997, a hearing was held before the Board. The following Board members were present: Phyllis A. Olson, R.Ph., Chairperson; Katherine A. Linder, R.Ph.; Phyllis A. Miller, R.Ph.; Matthew C. Osterhaus, R.Ph.; and Arlan D. Van Norman, R.Ph. The Respondent appeared and was not represented by counsel. Linny Emrich, Assistant Attorney General, appeared for the state of Iowa. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided. The hearing was closed to the public, at the request of the Respondent, pursuant to Iowa Code Section 272C.6(1)(1997). The state's motion to amend the Statement of Charges under Count I, to add references to Iowa Code sections 147.55(3) and 155A.23(2), was granted.

After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The administrative law judge was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with the Board's deliberations.

THE RECORD

The record includes the Statement of Charges, Notice of Hearing, the testimony of the witnesses; and the following exhibits:

State Exhibit A: Application For Certification as a Preceptor in Pharmacy, filed 2/23/96; Respondent's Certificate of Eligibility

- State Exhibit B: Application For Registration Intern In Pharmacy, filed 2/23/96
- State Exhibit C: Affidavit of Internship Training
- State Exhibit D: Written statement of Maria Chong
- State Exhibit E: Transcript of interview of Respondent on 4/24/97

FINDINGS OF FACT

1. On April 1, 1996, the Respondent was issued pharmacist-intern registration number 0819 by the Board to engage in the activities of a pharmacist-intern, subject to the laws of the State of Iowa and the rules of the Board. (State Exhibit B)

2. The Respondent submitted an affidavit of internship training to the Board on March 10, 1997. The affidavit indicated that Respondent had completed 500 hours of pharmacy internship training at the University of Iowa Hospitals and Clinics in Iowa City, Iowa, between May 13, 1996 and August 26, 1996. (Testimony of Respondent; State Exhibit C)

3. It was apparent that the affidavit had been altered. Several entries have been covered with "white-out," and other entries had been made. (State Exhibit C)

4. The Board contacted the Respondent's pharmacist-preceptor, whose signature appears on the affidavit. The preceptor reviewed the affidavit at the request of the Board and verified that it had been altered after she signed it on November 1, 1996. (Testimony of Maria Chong; State Exhibit C)

5. The Board's investigator interviewed the Respondent on April 24, 1997, and he admitted that he altered the dates on the affidavit. (Testimony of Respondent; State Exhibit E)

6. In fact, the Respondent worked at the University of Iowa Hospitals and Clinics as a pharmacy intern on the following dates:

- a) December 18, 1994 to January 14, 1995
- b) May 14, 1995 to August 19, 1995
- c) December 17, 1995 to January 14, 1996

(Testimony of Maria Chong; Respondent; State Exhibit D)

7. When the Respondent gave the affidavit of internship training to his preceptor for her signature, he had filled it out with the wrong dates. The preceptor checked her records for the correct dates, crossed out the dates supplied by the Respondent, and filled

in the correct dates as listed above. (Testimony of Maria Chong; Respondent; State Exhibit C)

8. The Respondent then learned, after speaking to a classmate, that he was required to register as an intern before accumulating internship hours. Since he had not registered as an intern until April 1, 1996, which was after he completed the hours at the University Hospitals, the Respondent realized that his 500 hours of employment at the University of Iowa Hospital and Clinics would not count as internship hours. By this time, the Respondent had quit his job at the University of Iowa Hospitals and was afraid he would not be able to find another internship due to the amount of competition for such positions in Iowa City. (Testimony of Respondent)

9. The Respondent decided to alter the affidavit and change the dates of the internship hours to May 13, 1996 to August 26, 1996. (Testimony of Respondent)

10. The Respondent testified that he knows that falsifying the affidavit was "very wrong." He testified that he was depressed and wasn't "thinking right," and he just panicked and did a "stupid thing." The Respondent stated that he was deeply sorry and promised that if he was given a second chance, it would never happen again. (Testimony of Respondent)

11. The Respondent finished 500 hours of internship training this past summer at Osco Drug #495 in Des Moines, Iowa. The Respondent commuted daily to this job. The Respondent's preceptor testified that the Respondent was a very good intern and was good with the customers. He served as translator for the store's many Vietnamese customers. The Respondent had good attendance. The preceptor had no questions about the Respondent's honesty or integrity. (Testimony of Greg O'Grady; Respondent)

CONCLUSIONS OF LAW

1. Iowa Code section 155A.6 (1997) provides, in relevant part:

155A.6 Internships-pharmacist-intern and pharmacy technician registration.

1. A program of pharmacist internships is established. Each internship is subject to approval by the board.

2. A person desiring to be a pharmacist-intern in this state shall apply to the board for registration. The application must be on a form prescribed by the board. A pharmacist-intern shall be registered during internship training and thereafter pursuant to rules adopted by the board.

3. The board shall establish standards for pharmacist-intern registration and may deny, suspend, or revoke a pharmacist-intern registration for failure to meet the standards or for any violation ...of this chapter or chapter ...147..., or any rule of the board.

2. 657 IAC 4.6 provides, in relevant part:

657-4.6(155A) Registration and reporting

4.6(1) Every person shall register before beginning the person's internship experience, whether or not for the purpose of fulfilling the requirements of rule 4.3.

...
4.6(3) Credit will not be given for internship experience obtained prior to registration as a pharmacist-intern.

3. Iowa Code section 155A.23(2) (1997) provides:

155A.23 Prohibited acts.

A person shall not:

...
2. Willfully make a false statement in any prescription, report, or record required by this chapter.

4. Iowa Code section 147.55(3) (1997) provides:

147.55 Grounds.

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

...
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

5. The preponderance of the evidence established that the Respondent violated Iowa Code sections 155A.6, 155A.23(2), 147.55(3) and 657 IAC 4.6, when he purposefully altered and falsified the dates of internship on his affidavit of internship training after it had been signed and notarized by his preceptor. The Respondent willfully falsified the affidavit with the intent of misleading the Board into believing that he had completed his internship after his registration as a pharmacist-intern, when in fact, the internship hours served under this preceptor had been served prior to his registration.

The Board considers the Respondent's alteration of the affidavit as an extremely serious matter. This was communicated to the Respondent during the disciplinary hearing. It is essential that pharmacists be honest in the practice of their profession.

However, the Board does not believe that the Respondent's violation is representative of his overall character. The Respondent appears to be truly sorry for his actions. While the Board is very concerned that the Respondent has not fully assumed his responsibility as a pharmacy student to be informed of his obligations and the statutes and regulations pertaining to pharmacy interns, it also appears that the Respondent has some language difficulties that may have contributed to this situation. For these reasons, the Board has decided to allow the Respondent a second chance.

ORDER

IT IS THEREFORE ORDERED, that the Respondent's registration as a pharmacist-intern shall be placed on probation, which will continue until his graduation from pharmacy school. The probation will be subject to the following terms and conditions:

- A) The Respondent shall report to the Board or its designee quarterly. The report shall be in writing. The report shall include the Respondent's place of employment, current address, and any other information deemed necessary by the Board from time to time.
- B) The Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy and the distribution of controlled substances. The Respondent shall obey all federal and state criminal laws.
- C) The Respondent shall notify all present and prospective pharmacy preceptors or employers of the decision in this case and the terms, conditions and restrictions imposed upon the Respondent by this decision. Within fifteen (15) days of Respondent undertaking new employment as an extern or intern, the Respondent shall cause his pharmacy employer to report to the Board in writing acknowledging that the employer has read this Order of the Board and understands it.
- D) Should Respondent violate probation in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may revoke probation and take additional disciplinary action. If a petition to revoke probation is filed against the 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.

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IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 9.27, that the Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive secretary/director of the Board shall bill the Respondent for any witness fees or transcript costs associated with this disciplinary hearing. The Respondent shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this 14th day of October, 1997.



Phyllis A. Olson
Chairperson
Iowa Board of Pharmacy Examiners

cc: Linny Emrich
Assistant Attorney General

Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act (Iowa Code chapter 17A), from the date of the board's decision.