

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	}	
MARK GARCIA PRICE	}	COMPLAINT
License No. 16879	}	AND
Respondent	}	STATEMENT
		OF CHARGES

COMES NOW, Norman C. Johnson, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 28th day of August, 1989, and files this Complaint and Statement of Charges against Mark Garcia Price, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. 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.

2. Respondent was issued a license to practice pharmacy in Iowa on June 16, 1987, by reciprocity.

3. Respondent was also issued a license to practice pharmacy in Arizona on or about January 29, 1986 (license number 8477)

4. Respondent currently resides at 830 North Turquoise Street, Flagstaff, Arizona 86001.

5. Respondent's license to practice pharmacy in Iowa expired on June 30, 1988, and is now delinquent.

6. On July 31, 1989, the Board received information from the Arizona Board of Pharmacy which indicated the following: (1) on June 12, 1988, Respondent was arrested in Arizona for driving under the influence of drugs; (2) at the time of his arrest he was found to be in possession of 20 tablets of Carisoprodol 350mg, a prescription drug, and 27 tablets of Propacet-100, a schedule IV controlled substance, drugs which Respondent had dispensed to himself on June 12, 1988, allegedly pursuant to a prescription order dated June 8, 1988, but without labeling, while working as a relief pharmacist at the Community Hospital Medical Center in Phoenix, Arizona; (3) sometime before or after June 12, 1988, Respondent dispensed Seconal, a schedule II controlled substance, to himself without a valid prescription, while working as a relief pharmacist at Jones Pharmacy in Page, Arizona; and (4) on September 6, 1988, Respondent attempted

suicide by taking an overdose of Seconal, a schedule II controlled substance.

In addition, the information indicated that following a hearing before the Arizona Board of Pharmacy on or about January 18, 1989, Respondent's pharmacist license in Arizona was suspended for five years beginning on May 1, 1989, and ending on April 30, 1994, by order of the Arizona Board of Pharmacy dated March 21, 1989. That order provides that Respondent may petition the Arizona Board of Pharmacy for a stay of the suspension on or after May 1, 1991.

7. Respondent is guilty of violations of 1989 Iowa Code sections 155A.12(1), 155A.12(5), 155A.12(8), 155A.12(10), 155A.23(1)(a), 155A.23(1)(c), and 155A.28 by virtue of the allegations in paragraph 6.

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.

....

5. Violated any provision of the controlled substances Act or rules relating to that Act.

....

8. Violated the pharmacy or drug laws or rules of any other state of the United States while under the other state's jurisdiction.

....

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, 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 prescription drug by:

a. Fraud, deceit, misrepresentation, or subterfuge.

....

c. Concealment of a material fact.

Iowa Code section 155A.28 provides the following:

The label of any drug or device sold and dispensed on the prescription of a practitioner shall be in compliance with rules adopted by the board.

8. Respondent is guilty of violations of 1989 Iowa Acts, House File 780, Section 11(1)(c)(6), by virtue of the allegations in paragraph 6.

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.

9. Respondent is guilty of violations of 657 Iowa Administrative Code sections 8.14(1), 9.1(4)(c), 9.1(4)(d)(2), 9.1(4)(j), and 9.1(4)(u) by virtue of the allegations in paragraph 6.

657 Iowa Administrative Code section 8.14 provides, in part, the following:

1. The label affixed to or on the dispensing container of any prescription dispensed by a pharmacy pursuant to a prescription drug order shall bear the

following:

- a. Serial number (a unique identification number of the prescription);
- b. The name and address of the pharmacy;
- c. The name of the patient, or if such drug is prescribed for an animal, the species of the animal and the name of its owner;
- d. The name of the prescribing practitioner;
- e. The date the prescription is dispensed;
- f. The directions or instructions for use, including precautions to be observed;
- g. Unless otherwise directed by the prescriber, the label shall bear the brand name, or if there is no brand name, the generic name of the drug dispensed, the strength of the drug, and the quantity dispensed. Under no circumstances shall the label bear the name of any product other than the one dispensed.

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), 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:...

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.

d. Habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to:...

(2) The excessive use of drugs which may impair a pharmacist's ability to practice pharmacy with reasonable skill or safety.

....

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 misdemeanor, which statute or law relates to the practice of pharmacy.

....

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 7, 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), 155A.12(5), 155A.12(8), 155A.12(10), 155A.23(1)(a), 155A.23(1)(c), and 155A.28; 1989 Iowa Acts, House File 780, Section 11(1)(c)(6); and 657 Iowa Administrative Code sections 8.14(1), 9.1(4)(c), 9.1(4)(d)(2), 9.1(4)(j), and 9.1(4)(u).

IT IS HEREBY ORDERED that Mark Garcia Price appear before the Iowa Board of Pharmacy Examiners on October 11, 1989, at 10:00 o'clock 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 Mark Garcia Price on June 16, 1987, 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



Norman C. Johnson
Executive Secretary