

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of)	COMPLAINT
PAUL C. RAFFENSPERGER)	AND
License No. 12523)	STATEMENT
Respondent)	OF CHARGES
)	AND
)	NOTICE OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 8th day of March, 1991, and files this Complaint and Statement of Charges against Paul C. Raffensperger, 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 August 27, 1959, by examination.

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

4. Respondent was issued a license to practice pharmacy in Oregon (license number 4736).

5. Respondent currently resides at 2545 N.W. Pendleton Place in Corvallis, Oregon 97330.

6. On July 30, 1990, the Board received a copy of Notice of Proposed Disciplinary Action, Case No. 87-90, titled In the Matter of the Pharmacist License of Paul Raffensperger from the Oregon State Board of Pharmacy. That Notice provides, in part, the following:

1.

The Board of Pharmacy of the State of Oregon proposes to take disciplinary action against you because you violated the Oregon Pharmacy Act and the Board of Pharmacy rules as follows:

From January 1986 to January 1990 you took from your employer for your own personal use approximately 4,000 Ritalin tablets and approximately 2,400 Dexedrine tablets. This constitutes illegal use of drugs without

a practitioner's prescription and theft of drugs under circumstances demonstrably related to the practice of pharmacy in violation of OAR 855-19-055(2)(c) and (d). Violation of a Board rule is grounds for discipline under ORS 689.405(1)(h).

7. On July 30, 1990, the Board also received a copy of Order By Consent, Case No. 87-90, titled In the Matter of the Pharmacist License of Paul Raffensperger from the Oregon State Board of Pharmacy. That Order provided that on May 17, 1990, Respondent's license to practice pharmacy in Oregon was revoked. The revocation order was stayed, however, and Respondent was placed on probation for ten years.

8. Respondent failed to report to the Board the disciplinary action taken by the Oregon Board of Pharmacy against his Oregon pharmacist license (license number 4736).

9. Respondent is guilty of violations of 1991 Iowa Code sections 155A.12(1), 155A.12(5), 155A.12(8), 155A.12(10), 155A.23(1)(a), 204.308(1), 204.402(1)(a), and 204.403(1)(c) by virtue of the information and allegations contained in paragraphs 6, 7, and 8.

Iowa Code section 155A.12 provides, in part, the following:

...The board shall refuse to issue a pharmacist license for failure to meet the requirements of section 155A.8. 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.

Iowa Code section 204.308 provides, in part, the following:

1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner.

Iowa Code section 204.402(1) provides, in part, the following:

It is unlawful for any person:

a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 204.308;...

Iowa Code section 204.403(1) provides, in part, the following:

It is unlawful for any person knowingly or intentionally:...

c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;...

10. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(d)(2), 9.1(4)(h), 9.1(4)(k), 9.1(4)(m), and 9.1(4)(u) by virtue of the information in paragraphs 6, 7, and 8.

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)...when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

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.

...

h. Distribution of...drugs for other than lawful purposes. The distribution of drugs for other than lawful purposes includes but is not limited to the disposition of drugs in violation of Iowa Code chapters 155A, 203, 203A, and 204.

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

....
m. Inability to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment or chemical abuse.

...
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 9 and 10 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 1991 Iowa Code sections 155A.12(1), 155A.12(5), 155A.12(8), 155A.12(10), 155A.23(1)(a), 204.308(1), 204.402(1)(a), and 204.403(1)(c), and 657 Iowa Administrative Code sections 9.1(4)(d)(2), 9.1(4)(h), 9.1(4)(k), 9.1(4)(m), and 9.1(4)(u).

IT IS HEREBY ORDERED, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that Paul C. Raffensperger appear before the Iowa Board of Pharmacy Examiners on Wednesday, April 17, 1991, at 9:00 a.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

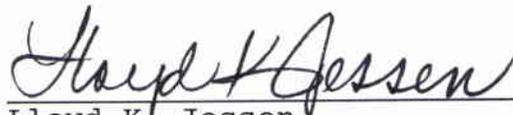
The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to suspend or revoke the license to practice pharmacy issued to Paul C. Raffensperger on August 27, 1959, and take whatever additional action that they deem necessary and appropriate.

Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of his own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision may be rendered. The failure of Respondent to appear could result in the permanent suspension or revocation of his license.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department of Inspections and Appeals. The office of the Attorney General is responsible for the public interest in these proceedings.

Information regarding the hearing may be obtained from Lynette A. F. Donner, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-8760). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS

A handwritten signature in cursive script, reading "Lloyd K. Jessen", written over a horizontal line.

Lloyd K. Jessen
Executive Secretary

BEFORE THE IOWA
BOARD OF PHARMACY EXAMINERS

RE: Pharmacist License of)	
PAUL C. RAFFENSPERGER)	STIPULATION AND
License No. 12523,)	INFORMAL SETTLEMENT
)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and Paul C. Raffensperger, R.Ph. (Respondent) and, pursuant to Iowa Code §§ 17A.10 and 258A.3(4), enter into the following Stipulation and Informal Settlement of the contested case currently on file:

1. Respondent was issued a license to practice pharmacy in Iowa on August 27, 1959, by examination.
2. Respondent's license expired on June 30, 1991.
3. Respondent is employed as a pharmacist by R.Ph. Staffing, Inc., of Portland, Oregon.
4. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on March 8, 1991.
5. The Board has jurisdiction of the parties and the subject matter.
6. Respondent does not contest the allegations set forth in the complaint and agrees that the Board may treat the allegations as true.
7. Respondent's license to practice pharmacy is revoked. The revocation order is stayed and the Respondent's license is placed on probation for a period of ten (10) years. The period of probation shall

begin retroactively as of May 17, 1990, upon approval of this Stipulation and Informal Settlement. During the probationary period the Respondent shall:

a. Participate in and complete a Board approved chemical dependency program or, if and when practicing and/or residing in the state of Oregon, shall comply with similar terms contained in the Order by Consent entered into by the Oregon State Board of Pharmacy and the Respondent in Oregon case number 87-90 on May 17, 1990.

b. Participate in Alcoholics Anonymous (A.A.) or Narcotics Anonymous (N.A.) two times a week for three years from the date of the Board order; shall submit proof of attendance to the Board office quarterly; and shall select a home base and a sponsor for A.A. or N.A. and provide that information to the Board.

c. Not use any alcohol and shall not use any controlled substances, unless duly prescribed by a practitioner.

d. Submit urine samples weekly to a physician approved by the Board with one of these samples randomly tested for alcohol and for controlled substances in all schedules each month for one year from the date of entry of the Board's order and shall have the laboratory results submitted to the Board office by the testing physician or, if and when practicing and/or residing in the state of Oregon, shall comply with similar terms contained in the Order by Consent entered into by the Oregon State Board of Pharmacy and the Respondent in Oregon case number 87-90 on May 17, 1990. Testing shall be done at the expense of the Respondent.

e. Shall, after the first year of probation, submit urine samples for urinalysis for alcohol and for controlled substances in all schedules at the expense of the Respondent when requested by the Board on a random basis and shall have the laboratory results submitted to the Board office by the testing physician or, if and when practicing and/or residing in the state of Oregon, shall comply with similar terms contained in the Order by Consent entered into by the Oregon State Board of Pharmacy and the Respondent in Oregon case number 87-90 on May 17, 1990.

f. Provide a quarterly report to the Board for the first three years of the probationary period and then annually for the duration of probation. This report shall be submitted to the Board or its designee in writing describing the Respondent's compliance with either the Iowa and/or Oregon Board's ordered probationary terms during the preceding reporting period and shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time.

g. Cooperate fully with the Board in order to afford the Board complete information regarding compliance with the terms and conditions of probation. This includes, but is not limited to, providing written authorization for disclosure of information and written waiver of confidentiality regarding all aspects of the Respondent's involvement in the remedial programs required under the Board's order.

h. Notify any pharmacy employer of the Board's disciplinary order by providing the employer with a copy of the Board's order and

having the employer acknowledge to the Board in writing that it has received a copy of the order or, if and when practicing and/or residing in the state of Oregon, shall comply with similar terms contained in the Order by Consent entered into by the Oregon State Board of Pharmacy and the Respondent in Oregon case number 87-90 on May 17, 1990.

i. Obey all federal and state laws and regulations substantially related to the practice of pharmacy.

j. Provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education as directed by the Board.

k. Not supervise any registered intern and shall not perform any of the duties of a preceptor.

8. Should Respondent reside or practice outside of either this State or the State of Oregon, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside of either this State or the State of Oregon shall not apply to reduction of the probationary period.

9. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the stayed revocation. If a petition to revoke probation is filed against 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.

10. Upon successful completion of probation, Respondent's certificate will be fully restored.

11. This Stipulation and Informal Settlement is subject to

approval of the Board. If the Board approves this Stipulation and Informal Settlement, it becomes the final disposition of this matter. If the Board fails to approve this Stipulation and Informal Settlement, it shall be of no force or effect to either party.

12. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 4th day of September.

Paul C. Raffensperger
PAUL C. RAFFENSBERGER
Respondent

Signed and sworn to before me this 4 day of September 1991.



Janet Kay Bier
NOTARY PUBLIC IN AND FOR THE
STATE OF OREGON

13. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 11th day of Sept, 1991.

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