

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

Re:)	COMPLAINT
Pharmacist License of)	AND STATEMENT
GERALD L. SANDERS)	OF CHARGES
License No. 16426)	AND
Respondent)	NOTICE
)	OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary-Director of the Iowa Board of Pharmacy Examiners, on the 5th day of October, 1993, and files this Complaint and Statement of Charges and Notice of Hearing against Gerald L. Sanders, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.
2. Respondent was issued a license to practice pharmacy in Iowa on March 13, 1984, by reciprocity.
3. Respondent was also licensed to practice pharmacy in the state of Michigan (license number 53-02-021136).
4. Respondent currently resides at 213 South Monroe, Blissfield, Michigan 49228.

5. Respondent's license to practice pharmacy in Iowa was current until June 30, 1985. It is now delinquent.

6. On September 21, 1992, the Board received certified copies of an Administrative Complaint, First Amended Administrative Complaint, Proposal for Decision, and Final Order titled In the Matter of Gerald L. Sanders, R.Ph. and Blissfield Community Pharmacy, Docket No. 91-0366, from the Michigan Board of Pharmacy.

a. The Administrative Complaint dated June 18, 1991, provides, in part, the following:

...10. On February 27, 1991, an informant of the Michigan State Police obtained from Respondents without any prescription 10 Percodan and 100 Tylenol #4. The informant paid \$100.00 to Respondents for the controlled substances.

11. On March 7, 1991, the same informant of the Michigan State Police obtained from Respondents without any prescription 100 Tylenol #4, 100 Valium, and 10 Percodan. The informant paid \$180.00 to Respondents for the controlled substances.

12. On March 14, 1991, the same informant of the Michigan State Police obtained from Respondents without any prescription 108 Tylenol #4 and 10 Percocet. The informant paid Respondents \$100.00 for the controlled substances.

13. On March 21, 1991, the same informant of the Michigan State Police obtained from Respondents without any prescription 200 Tylenol #4 and 10 Percodan. The informant paid Respondents \$180.00 for the controlled substances.

14. On April 18, 1991, the same informant of the Michigan State Police obtained from Respondents without any prescription 100 Tylenol #4 and 5 Percodan. The

informant paid Respondents \$100.00 for the controlled substances.

15. On April 19, 1991, Respondents entered into an agreement with Detective Mraz to purchase from Respondents, without any prescription, 200 Percodan and Percocet for \$400.00. Respondent Pharmacist said he would sell to Mraz 200 pills which would include a mixture of Percodan and Percocet. Respondents then provided to Detective Mraz, without any prescription, 19 Percodan and 180 Percocet. Respondents were paid \$400.00 for the controlled substances.

16. On April 25, 1991, Detective Mraz purchased from Respondents, without any prescription, 100 Tylenol #4 and 10 Percocet. Respondents were paid \$120.00 for the controlled substances.

17. On May 9, 1991, Detective Mraz purchased from Respondents, without any prescription, 100 Tylenol #4 and 20 Percocet. Respondents were paid \$120.00 for the controlled substances.

18. On May 23, 1991, Detective Mraz purchased from Respondents, without any prescription, 200 of the generic equivalent to Tylenol #4 and 393 Tylenol #3, 100 Tylenol #4, and 6 Vicodin. Respondents were paid \$500.00 for the controlled substances.

b. The Proposal for Decision dated January 9, 1992, provides, in part, the following:

...There were a number of instances of selling controlled substances such as Percodan and Tylenol [with Codeine] for substantial amounts of money and there was not a legitimate prescription for the drugs, in fact there was no prescription...licensees in this case were involved in the diversion of drugs. I believe the conduct to be substantial and gross and I would think that the Board should order a revocation of his license.

c. The Final Order dated March 31, 1992, provides, in part, the following:

...IT IS HEREBY ORDERED that Respondent's pharmacist's controlled substance license and license to practice pharmacy shall be and hereby are revoked...IT IS FURTHER ORDERED that...Respondents shall be and hereby are assessed a fine in the total amount of...\$15,000.00...

7. As evidenced in the Final Order of the Michigan Board of Pharmacy, Respondent's license to practice pharmacy in Michigan was revoked effective March 31, 1992.

8. A copy of the Michigan Board's Final Order is attached hereto as Exhibit 1 and is incorporated by reference into this Complaint and Statement of Charges and Notice of Hearing as if fully set forth herein.

9. Respondent failed to report to the Board that disciplinary action had been taken by the Michigan Board of Pharmacy against his Michigan pharmacist license number 53-02-021136.

10. Respondent is guilty of violations of 1993 Iowa Code sections 155A.12(1), 155A.12(5), 155A.12(8), 155A.12(10) by virtue of the allegations contained in paragraphs 6, 7, 8, and 9.

1993 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.

11. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(j), 9.1(4)(k), and 9.1(4)(u) by virtue of the allegations contained in paragraphs 6, 7, 8, and 9.

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:...

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.

....

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

....

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 10 and 11 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 1993 Iowa Code sections 155A.12(1), 155A.12(5), 155A.12(8), and 155A.12(10) and 657 Iowa Administrative Code sections 9.1(4)(j), 9.1(4)(k), 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 Gerald L. Sanders appear before the Iowa Board of Pharmacy Examiners on Tuesday, January 11, 1994, 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 Gerald L. Sanders on March 13, 1984, 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 Theresa O'Connell Weeg, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-6858). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS

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

Lloyd K. Jessen
Executive Secretary/Director

STATE OF MICHIGAN
DEPARTMENT OF COMMERCE
BOARD OF PHARMACY

Iowa Board of Pharmacy Examiners

Exhibit 1

In the Matter of
GERALD L. SANDERS, R.PH.

and

BLISSFIELD COMMUNITY PHARMACY

Docket No. 91-0366

FINAL ORDER

WHEREAS, the Attorney General, on June 18, 1991, filed an administrative complaint with the Board of Pharmacy, hereafter Board, charging Gerald L. Sanders, R.Ph., and Blissfield Community Pharmacy, hereafter Respondents, with having acted in violation of sections 7311(1)(d), 16221(a), (b)(i), and (c)(iv), and 17768 of the Public Health Code, 1978 PA 368, as amended; and

WHEREAS, an administrative hearing on the aforesaid complaint was held before a administrative law judge who, on January 9, 1992, entered a Default Judgment in the hearing transcript, which serves as his Proposal For Decision, a copy of which is attached hereto; and

WHEREAS, the Board, having read the administrative record, considered the within matter at a regularly scheduled

meeting held in Lansing, Michigan, on March 4, 1992, and at said meeting approved the administrative law judge's rulings and adopted said administrative law judge's findings of fact and conclusions of law; now, therefore

IT IS HEREBY ORDERED that Respondent pharmacist's controlled substance license and license to practice pharmacy shall be and hereby are REVOKED for a violation of section 7311(1)(d), 16221(a), (b)(i), and (c)(iv), and 17768 of the Public Health Code, supra.

IT IS FURTHER ORDERED that Respondent pharmacy's controlled substance license and pharmacy license shall be and hereby are REVOKED for a violation of section 7311(1)(d), 16221(a), (b)(i), and (c)(iv), and 17768 of the Public Health Code, supra.

IT IS FURTHER ORDERED that for the aforesaid violations of 16221(a), (b)(i), and (c)(iv) of the Public Health Code, supra, Respondents shall be and hereby are assessed a fine in the total amount of fifteen thousand dollars and no cents (\$15,000.00), said fine to be paid by check, payable to the State of Michigan, not later than one (1) year from the effective date of this order.

IT IS FURTHER ORDERED that the timely payment of any fine as herein required shall be Respondents' responsibility, and the failure to pay said fine within the time limitations herein provided shall be deemed a violation of an order of the Board.

IT IS FURTHER ORDERED that the aforesaid payment shall be mailed to the Board, c/o Compliance Section, Office of Legal Services, Bureau of Occupational and Professional Regulation, Department of Commerce, P. O. Box 30185, Lansing, MI 48909.

IT IS FURTHER ORDERED that the sanctions herein imposed shall run concurrently, commencing on the effective date of this order.

IT IS FURTHER ORDERED that the Order summarily suspending Respondent pharmacist's controlled substance license and license to practice pharmacy in the State of Michigan and Respondent pharmacy's controlled substance license and pharmacy license, filed on June 19, 1992, shall be and hereby is dissolved on the effective date of this order.

IT IS FURTHER ORDERED that reinstatement of a license which has been revoked is not automatic and, in the event Respondents apply for reinstatement of the revoked licenses, application for reinstatement shall be in accordance with 1980 AACRS R 338.986. Further, Respondent pharmacist shall supply to the Board, pursuant to section 16247 of the Public Health Code, supra, clear and convincing evidence that Respondent pharmacist is of good moral character, is mentally and physically able to practice the profession with reasonable skill and safety, and that it is in the public interest for Respondent pharmacist to resume practice.

IT IS FURTHER ORDERED that this order shall be effective on the date signed by the Board's Chairperson or authorized representative as set forth below.

Signed this 31st day of MARCH, 1992.

MICHIGAN BOARD OF PHARMACY

By Herman Fishman
Herman Fishman
Licensing Executive

This is the last and final page of a Final Order in the matter of Gerald L. Sanders, R.Ph., and Blissfield Community Pharmacy, Docket No. 91-0366, before the Michigan Board of Pharmacy, consisting of four (4) pages, this page included.

V O L U N T A R Y S U R R E N D E R O F
L I C E N S E T O P R A C T I C E P H A R M A C Y

I, Gerald L. Sanders, of 213 South Monroe, Blissfield, Michigan, of my own free will and without any mental reservation and not as a result of any inducement, promise, or threat on the part of anyone, do hereby voluntarily surrender my license to practice pharmacy in the State of Iowa, number 16426, to the Iowa Board of Pharmacy Examiners, for an indefinite period of time. This surrender of license shall become effective upon the signature of the licensee, Gerald L. Sanders, and the acceptance of this voluntary surrender document by the Iowa Board of Pharmacy Examiners.

I, Gerald L. Sanders, of my own free will and without any mental reservation and not as the result of any inducement, promise, or threat given or made by any representative, officer, or employee of the Iowa Board of Pharmacy Examiners, or of any other state official, do hereby further acknowledge that by voluntarily signing this surrender statement that I am knowingly and willingly giving up the exercise of the following legal rights:

- (1) My right to a formal hearing before the Iowa Board of Pharmacy Examiners on the matter of my continued licensure pursuant to Chapter 155A, Code of Iowa 1993.
- (2) My right to be represented by an attorney in preparation for and during such formal hearing before the Iowa Board of Pharmacy Examiners.
- (3) My right to submit evidence and to have witnesses called on my own behalf at such formal hearing.
- (4) My right to be represented by an attorney in this matter at this time.

I, Gerald L. Sanders, do hereby acknowledge that pursuant to 657 Iowa Administrative Code section 1.4, a license to practice pharmacy which has been voluntarily surrendered shall be considered a revocation of license with respect to a request for reinstatement, which will be handled under the terms established by 657 Iowa Administrative Code section 9.23, which provides as follows:

Any person whose license to practice pharmacy...has been revoked...must meet the following eligibility requirements:

1. Must have satisfied all the terms of the order of revocation or suspension or court proceedings as they apply to that revocation or suspension. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license or permit was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the board's order or the date of voluntary surrender.

2. A person whose license to practice pharmacy was revoked must successfully pass NABPLEX or an equivalent examination as determined by NABP, the Federal Drug Law Examination (FDLE), and the Iowa Drug Law Examination.
3. All proceedings for reinstatement shall be initiated by the respondent who shall file with the board an application for reinstatement of the license. Such application shall be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board. The board and the respondent may informally settle the issue of reinstatement. The respondent may choose to have an informal reinstatement conference before the board, as provided in rule 657-9.24(17A,147,155A,204B,258A).
4. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license or permit to be reinstated. The burden of proof to establish such facts shall be on the respondent.
5. An order for reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law and must be based upon the affirmative vote of a quorum of the board. This order shall be available to the public as provided in 657-Chapter 14.

I, Gerald L. Sanders, hereby further acknowledge that I shall not engage in any of the practices or aspects thereof of the practice of pharmacy in the State of Iowa for which such a license is required.

Feb. 21. 1994

Date of Signature

Gerald L. Sanders

Gerald L. Sanders

Subscribed and sworn to before me this 21st day of February, 1994.

Fran C. Poley

Notary Public in and for the
State of Michigan

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of :
GERALD L. SANDERS : **STIPULATION AND**
License No. 16426 : **INFORMAL SETTLEMENT**
Respondent :

COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and Gerald L. Sanders, R.Ph., (Respondent) and, pursuant to Iowa Code sections 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 March 13, 1984, by reciprocity.

2. Respondent's pharmacist license was current until June 30, 1985. It is now delinquent.

3. Respondent's current address is 213 South Monroe, Blissfield, Michigan 49228.

4. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on October 5, 1993.

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. Upon approval of this Stipulation and Informal Settlement, Respondent's Iowa pharmacist license will be revoked. An application for license reinstatement may not be made until one year has elapsed from the date that this

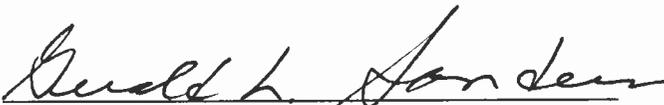


William D. Smith

informal settlement is accepted by the Board.

8. 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.

9. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 21st day of February, 1994.


GERALD L. SANDERS
Respondent

Signed and sworn to before me this 21st day of February, 1994.


NOTARY PUBLIC IN AND FOR THE
STATE OF MICHIGAN

10. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 15th day of March, 1994.


MARIAN L. ROBERTS, Chairperson
Iowa Board of Pharmacy Examiners