

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	}	EMERGENCY ORDER
PHILIP J. SMETHERS	}	AND
License No. 15084	}	COMPLAINT AND
Respondent	}	STATEMENT OF CHARGES

NOW on this 13th day of March, 1990, the Iowa Board of Pharmacy Examiners has reviewed the following evidence:

1. Respondent was issued a license to practice pharmacy in Iowa on July 1, 1977, by examination.

2. Respondent was employed as a staff pharmacist at various general (retail) and hospital pharmacies in Iowa from July 1, 1977, to January 19, 1990. He is currently unemployed.

3. Respondent has admitted to the Board that while practicing pharmacy during the period of July 1, 1977, through January 19, 1990, he excessively used drugs or chemicals on numerous occasions which impaired his ability to practice pharmacy with reasonable skill and safety. Respondent is currently undergoing drug treatment, but his prognosis is guarded. He has indicated a desire to resume the practice of pharmacy but admits that he may not yet be able to do so safely or with reasonable skill.

4. Respondent currently resides at 1015 East Sheridan, Des Moines, Iowa 50316.

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

6. This information, along with additional confidential information in the possession of the Board, indicates that Respondent would pose a threat to the public health and safety if he were allowed to continue to practice pharmacy in Iowa.

Based upon the above evidence, the Iowa Board of Pharmacy Examiners finds that the public health, safety, and welfare would be jeopardized if Philip J. Smethers were to be allowed to continue in the practice of pharmacy until a hearing can be conducted. Therefore, the Board finds that the public health, safety, and welfare makes emergency summary license suspension imperative, and so directs the Executive Secretary to issue such order.

IT IS HEREBY ORDERED, pursuant to the authority of Iowa Code section 17A.18(3), that the license of Philip J. Smethers to practice pharmacy in Iowa be temporarily suspended until such time as a hearing before the Board of Pharmacy Examiners can be conducted.

With this notice, the Board also directs the Executive Secretary of the Iowa Board of Pharmacy Examiners to file a Complaint and Statement of Charges against Respondent, who is a pharmacist licensed pursuant to Iowa Code Chapter 155A. In filing said Complaint and Statement of Charges, the secretary alleges that:

7. 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.

8. Respondent is guilty of violating 1989 Iowa Code section 155A.12(1) by virtue of the information contained in paragraph 3.

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.

9. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(d)(2) and 9.1(4)(m) by virtue of the information in paragraph 3.

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.

...

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

The Iowa Board of Pharmacy Examiners finds that paragraphs 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 section 155A.12(1) and 657 Iowa Administrative Code sections 9.1(4)(d)(2) and 9.1(4)(m).

IT IS HEREBY ORDERED that Philip J. Smethers appear before the Iowa Board of Pharmacy Examiners on May 8, 1990, 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 Philip J. Smethers on July 1, 1977, 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



Lloyd K. Jessen
Executive Secretary

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of :
PHILIP J. SMETHERS : STIPULATION
License No. 15084 :
Respondent :

WHEREAS, Philip J. Smethers, hereinafter referred to as the Licensee, has had certain allegations made against him by the Board of Pharmacy Examiners, hereinafter referred to as the Board, concerning his professional conduct as a pharmacist, and

WHEREAS, both the Licensee and the Board desire to arrive at a mutually agreeable informal settlement of this matter,

IT IS MUTUALLY AGREED AND STIPULATED as follows between the Licensee and the Board:

1. That the Board, through its representative Melba L. Scaglione, and the Licensee have entered into settlement discussions and have agreed upon a disposition of this matter.

2. That the Licensee desires to avoid the uncertainty and the expense of a trial and desires to consent to the disciplinary action to be taken by the Board as specified in paragraph 4, infra.

3. It is the purpose and intent of the parties hereto to waive all the provisions of Chapter 17A of the 1989 Code of Iowa as they relate to notice and hearing on the matter of revocation or suspension of Licensee's license to be a pharmacist, and to acknowledge that each are fully aware of their rights and procedures afforded them through Chapter 17A of the 1989 Code of Iowa and the rules of the Board of Pharmacy Examiners promulgated in accordance and pursuant thereto, particularly Section 17A.12 as it relates to contested cases and provides notice of hearing and records, and Section 17A.18 as it relates to the requirements concerning notice of the suspension and revocation of licenses.

4. It is the understanding of both the Licensee and the Board that they will enter into an Order and Consent to Order which will provide for the following:

a. License No. 15084 issued to Licensee is suspended for a period of one year with all but six

months stayed and with the six months served retroactive to March 16, 1990. Active suspension to end on September 16, 1990. Licensee must surrender all licenses and certificates. Such licenses and certificates will be returned upon completion of the suspension period.

b. During license suspension, Licensee shall not enter any pharmacy prescription area.

c. Licensee to be placed on probation for a period of five years. Such probation to begin on September 16, 1990, and end on September 16, 1995.

d. Licensee shall not use any controlled or prescription drug in any form unless prescribed for him by a licensed, treating physician. The licensee shall inform any treating physician of the terms of this Stipulation prior to accepting any medication.

e. Licensee shall submit to monthly random body fluid testing. Test results shall be submitted to the Board office monthly, with the first report due no later than April 30, 1990. Testing to be done by Licensee's provider of aftercare at Licensee's expense. Monthly testing shall be conducted and reports submitted for a period of one year beginning in April 1990 and ending in March 1991.

f. Licensee shall submit to random body fluid testing with test results to be submitted to the Board office on a quarterly basis beginning in April 1991 and ending in March 1992. Testing shall be done by Licensee's provider of aftercare at Licensee's expense.

g. Should Licensee's body fluid tests show evidence of unauthorized drugs, or should the reports required by paragraphs "e" and "f" not be submitted in a timely manner, the stayed suspension order will be revoked.

h. Licensee shall actively participate in an aftercare support program of his choosing (such as Alcoholics Anonymous and/or Narcotics Anonymous) for a period of two years beginning in April 1990 and ending in March 1992. Licensee shall submit monthly reports which identify the type of aftercare program attended and which describe his involvement.

i. Licensee shall not supervise any registered intern nor perform any of the duties of a preceptor during the probationary period.

j. Licensee shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.

k. Licensee shall notify all employers of this agreement while he is on probation.

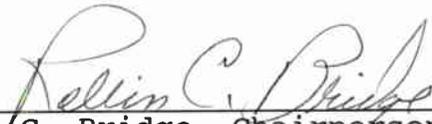
l. Licensee shall report his place of employment and home address to the Board annually beginning in April 1991 and ending in April 1995.

m. Should Licensee leave Iowa to reside or practice outside this state, he shall notify the Board in writing of the date of departure and return. Periods of residency or practice outside the state shall not apply to a reduction in the probationary period.

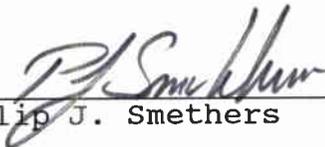
n. Should Licensee violate probation in any respect, the Board, after giving Licensee notice and an opportunity to be heard, may revoke probation. If a petition to revoke probation is filed against Licensee during probation, the Board shall have continuing jurisdiction until the matter is final and the period of probation shall be extended until the matter is final.

o. Upon successful completion of probation, Licensee's certificates will be fully restored.

THE ABOVE AND FOREGOING CONSTITUTE THE FULL AND COMPLETE STIPULATION AND AGREEMENT OF THE PARTIES HERETO.



Rollin C. Bridge, Chairperson
Iowa Board of Pharmacy Examiners



Philip J. Smethers

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

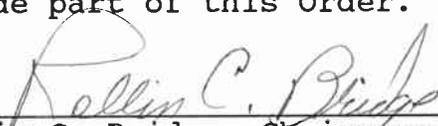
Re: Pharmacist License of : **ORDER**
PHILIP J. SMETHERS : **AND**
License No. 15084 : **CONSENT TO ORDER**
Respondent :

The Iowa Board of Pharmacy Examiners, having been advised of the allegations that Philip J. Smethers has conducted himself in a manner which could cause his license to practice pharmacy to be suspended, and the Board of Pharmacy Examiners through a Board Member and said Philip J. Smethers, having entered into a Stipulation representing their mutual informed consent as to the waiver of the provisions found in the Iowa Administrative Code appearing at Chapter 17A, particularly Section 17A.12 and Section 17A.18, Code of Iowa 1989, in regards to Notice and Hearing, the parties to this action agree to an informal settlement of this matter, namely that the license of Philip J. Smethers be disciplined according to the conditions attached hereto.

ORDER

IT IS THEREFORE ORDERED, subject to the consent of Philip J. Smethers to be contained herein to this Order that the license of Philip J. Smethers to practice pharmacy be disciplined according to the conditions outlined in the Stipulation attached hereto and made part of this Order.

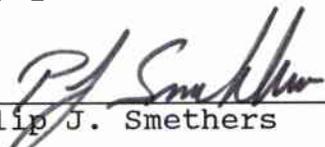
Date 4/10/90


Rollin C. Bridge, Chairperson
Iowa Board of Pharmacy Examiners

CONSENT TO ORDER

I, Philip J. Smethers, hereby consent to the Order set forth above, waive my right to a hearing in this matter, and thereby specifically waive a right to confrontation, cross-examination of witnesses, production of evidence, making of a record and judicial review.

Date 4-11-90


Philip J. Smethers

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of)	MODIFICATION
PHILIP J. SMETHERS)	OF
License No. 15084)	STIPULATION AND
Respondent)	ORDER

COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 13th day of October, 1992, and declares that:

1. On April 10, 1990, the Board issued a Stipulation and Order which included, in part, the following provision:

4. It is the understanding of both the Licensee and the Board that they will enter into an Order and Consent to Order which will provide for the following:...

c. Licensee to be placed on probation for a period of five years. Such probation to begin on September 16, 1990, and end on September 16, 1995.

2. The provision of the Stipulation and Order for Philip J. Smethers, as stated above, is now hereby modified to provide as follows:

4. It is the understanding of both the Licensee and the Board that they will enter into an Order and Consent to Order which will provide for the following:...

c. Licensee to be placed on probation for a period of two years and twenty-seven days. Such probation to begin on September 16, 1990, and end on October 13, 1992.

Dated this 13th day of October 1992.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen
Executive Secretary/Director



TERRY E. BRANSTAD, GOVERNOR

BOARD OF PHARMACY EXAMINERS
LLOYD K. JESSEN, EXECUTIVE SECRETARY/DIRECTOR

October 16, 1992

file
Philip J. Smethers
1015 E Sheridan Avenue
Des Moines, IA 50316

Dear Phil:

I am pleased to inform you that the Board has agreed to modify your disciplinary Stipulation by terminating your probation as of October 13, 1992. Enclosed please find a written Modification of your Stipulation. Your Iowa pharmacist license is now free and clear of any and all disciplinary restrictions. If you have any questions, please contact me.

Sincerely yours,

Lloyd K. Jessen
Executive Secretary/Director

LKJ:jh
Enc.

bcc: Shepley
Theis

File / Terry ✓