

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	}	EMERGENCY ORDER
CAROLYN L. THOMAN	}	AND
License No. 17518	}	COMPLAINT AND
Respondent	}	STATEMENT OF CHARGES
	}	AND
	}	NOTICE OF HEARING

NOW on this 24th day of March 1992, the Iowa Board of Pharmacy Examiners has reviewed the following evidence:

1. Respondent was issued a license to practice pharmacy in Iowa on September 26, 1990, by reciprocity.

2. Respondent is the pharmacist in charge of Medicap Pharmacy located at 2110 Park Avenue in Muscatine, Iowa.

3. On March 2, 1992, the Board received a complaint from a consumer who alleged that Respondent appeared to lack the knowledge or ability to practice pharmacy competently.

4. On March 24, 1992, the Board received reports from Pharmacy Investigator E. Ray Shelden and Board Member Alan M. Shepley which allege the following:

a. A routine inspection of the Medicap Pharmacy, 2110 Park Avenue, Muscatine, Iowa, on March 23, 1992, by Investigator Shelden revealed numerous, serious deficiencies.

b. A controlled substance accountability audit at the Medicap Pharmacy, 2110 Park Avenue, Muscatine, Iowa, revealed significant discrepancies.

c. Respondent is unable to correct deficiencies with the pharmacy computer system at the Medicap Pharmacy, 2110 Park Avenue, Muscatine, Iowa.

d. Upon the personal observation of Investigator Shelden and Board Member Shepley, Respondent appears to be unable to practice pharmacy competently.

5. Respondent currently resides at 229 1/2 Second Street, Muscatine, Iowa 52761.

6. Respondent's license to practice pharmacy in Iowa is current until June 30, 1992.

7. The information contained in paragraphs 3 and 4, together with other investigative information in the possession of the Board, indicates that Respondent would pose a threat to the public health and safety if she 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 Carolyn L. Thoman 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/Director to issue such order.

IT IS HEREBY ORDERED, pursuant to the authority of Iowa Code section 17A.18(3), that the license of Carolyn L. Thoman 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/Director 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/director alleges that:

8. Melba L. Scaglione, Chairperson; Alan M. Shepley, Vice Chairperson; Rollin C. Bridge; Donna J. Flower; Phyllis A. Olson; Marian L. Roberts; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

9. Respondent is guilty of violations of 1991 Iowa Code sections 155A.12(1) and 155A.12(4) by virtue of the allegations in paragraphs 3 and 4.

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.

....
4. Failed to keep and maintain records required by this chapter or failed to keep and maintain complete and accurate records of purchases and disposal of drugs listed in the controlled substances Act.

10. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(b), 9.1(4)(j), 9.1(4)(m), and 9.1(4)(u) by virtue of the allegations in paragraphs 3 and 4.

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:...

b. Professional incompetency. Professional incompetency includes but is not limited to:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the pharmacist's practice.

(2) A substantial deviation by a pharmacist from the standards of learning or skill ordinarily possessed and applied by other pharmacists in the state of Iowa acting in the same or similar circumstances.

(3) A failure by a pharmacist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average pharmacist in the state of Iowa acting under the same or similar circumstances.

(4) A willful or repeated departure from, or the failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa.

....
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.

....
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) and 155A.12(4) and 657 Iowa Administrative Code sections 9.1(4)(b), 9.1(4)(j), 9.1(4)(m), and 9.1(4)(u).

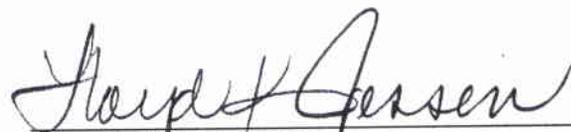
IT IS HEREBY ORDERED, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that Carolyn L. Thoman appear before the Iowa Board of Pharmacy Examiners on Tuesday, April 28, 1992, at 3:30 p.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, 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 Carolyn L. Thoman on September 26, 1990, 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 her 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 her 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


Lloyd K. Jessen
Executive Secretary/Director

6. Respondent may apply for reinstatement upon a showing of satisfaction of the terms of paragraph 9 and 10 of this Informal Settlement.

7. Until Respondent's license is reinstated, she shall report to the Board in writing once every six (6) months, beginning on January 4, 1993, and each six (6) months thereafter, stating her current status, including progress in substance abuse rehabilitation and compliance with applicable federal and state drug laws and criminal laws.

8. Respondent shall take and successfully pass the Federal Drug Law Exam (FDLE) and the National Association of Board of Pharmacy Licensing Examination (NABPLEX), each with scores of 75, and the Iowa Drug Law Exam (IDLE) with a score of 75 percent. Respondent shall be permitted to sit for the exams during and after January, 1993.

9. Upon Respondent's application for reinstatement, the Respondent shall be scheduled for a formal or informal reinstatement conference with the Board or the Board's designee. Upon showing satisfaction of the above terms for reinstatement, additional license conditions may be imposed or proposed by the Board for inclusion in a reinstatement order or supplemental informal settlement.

10. 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.

11. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 27th day of July, 1992.

Carolyn L. Thoman
CAROLYN L. THOMAN
Respondent

Signed and sworn to before me this 27th day of July, 1992.



Maurine A. Braddock
NOTARY PUBLIC IN AND FOR THE
STATE OF Iowa

Approved as to form:

Maurine A. Braddock
MAURINE BRADDOCK
P.O. Box 3010
Iowa City, Iowa 52244

ATTORNEY FOR RESPONDENT

Lynette A. F. Donner
LYNETTE A. F. DONNER
Assistant Attorney General
Second Floor, Hoover Bldg.
Des Moines, Iowa 50319

ATTORNEY FOR THE
STATE INTEREST

12. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 29 day of July, 1992.

Marian L. Roberts
MARIAN L. ROBERTS, Vice-chairperson
Iowa Board of Pharmacy Examiners