

THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	:	
	:	
DENNIS JAY TOUSSAINT	:	COMPLAINT
Lic. No. 16819	:	AND
Respondent	:	STATEMENT OF CHARGES
	:	

COMES NOW, Norman C. Johnson, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 30th day of June, 1987, and files this Complaint and Statement of Charges against Dennis Jay Toussaint, a pharmacist licensed pursuant to Iowa Code chapter 155, and alleges that:

1. Rollin C. Bridge, Chairperson; Jerry M. Hartleip, Vice Chairperson; John M. Rode; Melba Scaglione; Alan M. Shepley; Gale W. Stapp; and Donna J. Flower are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent was issued a license to practice pharmacy in Iowa on November 18, 1986, by reciprocity. Respondent reciprocated from North Dakota, where he was issued license number 3872 to practice pharmacy in that state on February 1, 1980, by examination.

3. Respondent was employed as a clinical pharmacist by the Pharmacy Department of the University of Iowa Hospitals and Clinics of Iowa City, Iowa, beginning July 28, 1986.

4. Respondent currently resides at 1202 Oakwood Village in Coralville, Iowa.

5. An investigative report filed by Board Investigator E. Ray Shelden indicates that on May 28, 1987, the Respondent was arrested by the Coralville Police Department and charged with two counts of Prohibited Acts -- Obtaining a Controlled Substance by Forgery in violation of Iowa Code section 204.403(1)(c) and one count of Prohibited Acts -- Uttering a False or Altered Prescription in violation of Iowa Code sections 155.29(1)(b) and 155.29(4). See Coralville Police Department Criminal Investigation Case File No. 72577-87.

6. A supplemental report filed by Officer Barry Bedford of the Coralville Police Department reveals that on May 28, 1987, the Respondent admitted the following to Det. Sgt. Charles Durr of the University of Iowa

Campus Security: that he had altered the number of refills on a prescription for #15 Halcion 0.125 mg. issued by Dr. Palutsis and filled at the University of Iowa Hospital Pharmacy Department on October 13, 1986 (Rx #501714); that he had altered the number of refills from one to four on a prescription for #30 Tylenol with Codeine No. 3 issued by Dr. Merchant and filled at the K-Mart Pharmacy in Coralville on May 5, 1987 (Rx #35754); that he had forged a prescription for #18 Tylox under the name of Dr. Judiesch, which was filled at Peoples Drug in Coralville on February 13, 1987 (Rx #376895); and that he had forged a prescription for #18 Tylox under the name of Dr. Judiesch, which was filled at Medicap Pharmacy in Coralville on February 13, 1987 (Rx #65808). See Coralville Police Department Criminal Investigation Case File No. 72577-87.

7. An investigative report filed by Board Investigator E. Ray Shelden indicates that on May 29, 1987, the Respondent was charged by the Iowa City Police Department with one count of Obtaining Prescription Drugs by Forgery in violation of Iowa Code section 155.29(1)(b). See Iowa City Police Department Criminal Investigation Case File No. 709367-87.

8. A supplemental offense report filed by Officer T. D. Widmer of the Iowa City Police Department reveals that on May 29, 1987, the Respondent admitted to Officer Widmer that he had forged a prescription for #30 Tylenol with Codeine No. 3 under the name of Dr. Law, which was filled generically at the Towncrest Pharmacy in Iowa City on April 6, 1987 (Rx # unknown). See Iowa City Police Department Criminal Investigation Case File No. 709367-87.

9. An investigative report filed by Board Investigator E. Ray Shelden indicates that on June 8, 1987, the Respondent was charged by the Cedar Rapids Police Department with one count of Prohibited Acts -- Uttering a False or Altered Prescription in violation of Iowa Code section 155.29. See Cedar Rapids Police Department Criminal Investigation Case File No. 87009045.

10. A police incident report filed by Det. Sgt. James Noonan of the Cedar Rapids Police Department reveals that the Respondent altered the number of refills from zero to one on a prescription for #25 Tylenol with Codeine No. 3 issued by Dr. G. L. Schmit and filled at the C. R. Econofoods Pharmacy in Cedar Rapids on May 26, 1987 (Rx #34002414). See Cedar Rapids Police Department Criminal Investigation Case File No. 87009045.

11. Iowa Code section 204.403(1)(c) provides as follows:

It is unlawful for any person knowingly or intentionally to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

12. Iowa Code section 155.29(1)(b) provides as follows:

No person shall obtain or attempt to obtain a prescription drug or procure the administration of a prescription drug by forgery or alteration of a prescription or of any written order.

13. Iowa Code section 155.29(4) provides as follows:

No person shall make or utter any false or forged prescription or written order.

14. 620 Iowa Administrative Code section 10.1(4) provides, in part, as follows:

The board may impose any of the disciplinary sanctions set out in subrule 10.1(2), including civil penalties in an amount not to exceed \$1000.00, 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:

(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.

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.

The Iowa Board of Pharmacy Examiners finds that paragraphs 5 through 10, above, constitute grounds for which Respondent's license to practice pharmacy in Iowa can be suspended or revoked.

WHEREFORE, the undersigned charges that Respondent Dennis Jay Toussaint has violated sections 155.29(1)(b), 155.29(4), and 204.403(1)(c) of the Code of Iowa 1987, and sections 10.1(4)(b)(3), 10.1(4)(b)(4), 10.1(4)(d)(2), and 10.1(4)(j) of 620 Iowa Administrative Code.

IT IS HEREBY ORDERED that Dennis Jay Toussaint appear before the Iowa Board of Pharmacy Examiners on September 15, 1987, at 1:30 p.m. in second floor conference room "A," 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 Dennis Jay Toussaint on November 18, 1986, and take whatever additional action that they may deem necessary and appropriate.

Respondent may bring counsel to the hearing and cross-examine any witnesses and 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.

IOWA BOARD OF PHARMACY EXAMINERS

Norman C. Johnson
Executive Secretary

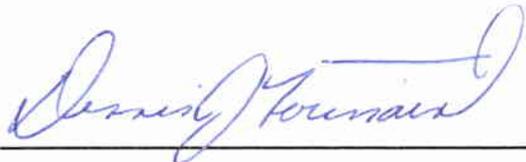
- a. The Licensee's license to practice pharmacy is suspended for three years beginning June 1, 1987. All but one year of the suspension is stayed on the provision that Licensee successfully pass the Federal Drug Law Exam (FDLE) prior to June 1, 1988. Should Licensee not pass the FDLE prior to June 1, 1988, his suspension will continue in effect until such time as he does pass FDLE. The FDLE will be offered by the Board on January 27, 1988.
- b. During the period of the Licensee's suspension, the Licensee is prohibited from having any involvement whatsoever in the practice of pharmacy.
- c. Upon completing the period of suspension and achieving a passing score on FDLE, the Licensee is placed on five years probation beginning no sooner than June 1, 1988.
- d. During the probationary period, the Licensee shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.
- e. During the period of probation, licensee shall:
 - (i) Submit quarterly reports in writing concerning Licensee's place of residence, place of employment, and progress in drug treatment programs. Such reports are to be submitted no later than the tenth of the first month of each quarter of probation.
 - (ii) Continue his involvement in a drug treatment program of his choice by attendance at aftercare meetings and ensure that his sponsor/counselor submits quarterly progress reports to the Board office. Such quarterly progress reports shall be submitted no later than the tenth of the first month of each quarter of probation.
 - (iii) Continue earning a minimum of thirty hours of continuing pharmacy education during each twenty-four month period. As continuing education credits are earned and accumulated, the Licensee shall submit proof of completion to the Board office. This proof shall be in the form of provider documentation. These documents may be submitted along with the quarterly reports required by section 4(e)(i) of this Stipulation.

- (iv) Submit to random body fluid testing as requested by the Board. Such testing is to be done at Licensee's expense.
- f. If during the probationary period the Licensee resumes the practice of pharmacy, the Licensee shall notify all employers and prospective employers of the terms, conditions, and restrictions imposed upon him by this agreement. Within 15 days of the date that the Licensee resumes employment in the practice of pharmacy, the Licensee shall cause his employer to submit a written report to the Board acknowledging that the employer has read the conditions of this agreement.
- g. Upon successful completion of the probationary period, the Licensee's license to practice pharmacy in Iowa will be fully restored.
- h. Should the Licensee violate any of the conditions of his probation, the Board, after giving the Licensee notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against the Licensee during his probationary period, the Board shall have continuing jurisdiction and the period of probation shall be extended until the matter is final. The Licensee retains all rights relating to judicial review of any revocation under this paragraph pursuant to Iowa Code Chapter 17A.

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



Dennis Jay Toussaint, Licensee

10/19/87

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

In the Matter of :
DENNIS J. TOUSSAINT, PHARMACIST : ORDER AND CONSENT TO ORDER
License No. 16819 :

The Iowa Board of Pharmacy Examiners, having been advised of the allegations and charges made against Dennis Jay Toussaint, which could cause action to be taken against his license, and Licensee, having entered into a Stipulation representing their mutual informed consent as to the waiver of provisions found in sections 17A.12 and 17A.18, Code of Iowa 1987, in regards to notice and hearing, the parties to this action agree to an informal settlement of the matter, namely that the license of Dennis Jay Toussaint be disciplined according to the conditions attached hereto.

ORDER

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

Date

10/2/87

Rollin C. Bridge
Rollin C. Bridge, Chairperson
Iowa Board of Pharmacy Examiners

CONSENT TO ORDER

I, Dennis Jay Toussaint, hereby consent to the Order set forth above, waive my right to a hearing on 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

October 19, 1987

Dennis Jay Toussaint
Dennis Jay Toussaint, Licensee