

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	:	COMPLAINT
JERRY A. WILEY	:	AND
License No. 15582	:	STATEMENT OF CHARGES
Respondent	:	

COMES NOW, Norman C. Johnson, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 1st day of September, 1988, and files this Complaint and Statement of Charges against Jerry A. Wiley, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. 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.
2. Respondent was issued a license to practice pharmacy in Iowa on July 9, 1979, by examination.
3. Respondent is self-employed as the owner/pharmacist in charge of Wiley's Pharmacy located at 11 Allamakee Street in Waukon, Iowa.
4. Respondent currently resides at 301 Second Avenue N.W. in Waukon, Iowa.
5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1989.
6. An investigative report filed with the Board on August 4, 1988, by Board Investigator E. Ray Shelden revealed the following violations of law:
 - a. Between June 16, 1986, and April 4, 1988, Respondent created false prescriptions for patient Sandra Lee Noonan and dispensed approximately 3,086 capsules of Propoxyphene 65mg, a schedule IV controlled substance, without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., of Waukon, Iowa, had authorized the prescriptions and refills.
 - b. Between November 5, 1987, and July 9, 1988, Respondent created false prescriptions for patient Sandra Lee Noonan and dispensed approximately 326 tablets of Propoxyphene Napsylate with Acetaminophen (strength unknown), a schedule IV controlled substance, without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., had authorized the prescriptions and refills.

- c. Between July 21, 1986, and July 5, 1988, Respondent created false prescriptions for patient Sandra Lee Noonan and dispensed approximately 2,100ml of Tussend Syrup, a schedule III controlled substance, without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., had authorized the prescriptions and refills.
- d. Between December 5, 1986, and June 28, 1988, Respondent created false prescriptions for patient Sandra Lee Noonan and dispensed approximately 404 tablets of Halcion 0.125mg, a schedule IV controlled substance, without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., had authorized the prescriptions and refills.
- e. Between October 2, 1987, and November 6, 1987, Respondent created false prescriptions for patient Sandra Lee Noonan and dispensed approximately 128 tablets of Empirin with Codeine No. 3, a schedule III controlled substance, without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., had authorized the prescriptions and refills.
- f. Between December 3, 1987, and April 26, 1988, Respondent exceeded the refill limitations on prescription number 004442 for patient Michael Liddiard and dispensed approximately 1,000 capsules of Librax, a non-controlled prescription drug, without prescriber authorization.
- g. On June 15, 1987, Alden F. Wiley, M.D., issued a prescription for patient Sherri Neuhring for #50 Valium 5mg with directions to take one tablet prn. On June 15, 1987, Respondent filled this prescription by assigning it prescription number 004484 and dispensing #100 Valium 2mg with label directions to take only two tablets (4mg) as needed.
- h. Between February 12, 1988, and July 7, 1988, Respondent created false prescriptions for patient Sherri Neuhring and dispensed approximately 210 capsules of Ionamin 30mg, a schedule IV controlled substance, without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., had authorized the prescriptions and refills.
- i. Between August 6, 1987, and July 11, 1988, Respondent exceeded the refill limitations on prescription number 004315 and created additional false prescriptions for Propoxyphene Napsylate, a schedule IV controlled substance, for patient Carol Kiesau. During this time Respondent dispensed approximately 585 tablets of Propoxyphene Napsylate (strength unknown) without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., had authorized the prescriptions and refills.

- j. Between June 3, 1987, and May 26, 1988, Respondent created false prescriptions for patient Elaine Mooney and dispensed approximately 149 capsules of Ionamin 30mg, a schedule IV controlled substance, without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., had authorized the prescriptions and refills.
 - k. Between June 11, 1987, and July 23, 1988, Respondent created false prescriptions for patient Lucille Reese and dispensed approximately 603 tablets of Halcion 0.25mg and 10 tablets of Halcion 0.5mg, schedule IV controlled substances, without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., had authorized the prescriptions and refills.
 - l. Between May 11, 1987, and May 16, 1988, Respondent created false prescriptions for patient Viola Moon and dispensed approximately 240 tablets of Valium 5mg, a schedule IV controlled substance, without prescriber authorization. Respondent falsely indicated that Alden F. Wiley, M.D., had authorized the prescriptions and refills.
 - m. Failure by Respondent to account for a loss of 444 tablets of Diazepam 5mg, a schedule IV controlled substance, between May 5, 1987, and July 21, 1988 (13.5% of all Diazepam 5mg products for which Respondent was accountable).
7. Respondent is guilty of violations of 1987 Iowa Code sections 155A.12(1), 155A.12(5), 155A.15(2)(d), 155A.29, 204.308(3), 204.401(1), 204.402(1), and 204.403(1)(d) by virtue of the allegations in paragraph 6, subsections (a) through (m).

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.

Iowa Code section 155A.15(2) 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: ...

- d. Delivered without legal authorization prescription drugs or devices to a person...

Iowa Code section 155A.29 provides, in part, the following:

1. ...[A] prescription for any prescription drug or device which is not a controlled substance shall not be filled or refilled more than eighteen months after the date on which the prescription was issued and a prescription which is authorized to be refilled shall not be refilled more than eleven times.

Iowa Code section 204.308(3) provides, in part, the following:

...[A] controlled substance included in schedule III or IV, which is a prescription drug...shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

Iowa Code section 204.401(1) provides, in part, the following:

Except as authorized by this chapter, it is unlawful for any person to...deliver...a controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to... deliver... a controlled substance.

Any person who violates this subsection with respect to: ...

- b. Any...controlled substance classified in schedule... III, is guilty of a class "D" felony.
- c. A substance classified in schedule IV, is guilty of a serious misdemeanor.

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:

- ...
d. To furnish false or fraudulent material information in, or omit any material information from, any...document required to be kept or filed under this chapter, or any record required to be kept by this chapter;...

8. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(b), 9.1(4)(c), 10.11, and 10.13(8) by virtue of the allegations in paragraph 6, subsections (a) through (m).

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:...

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.

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of pharmacy or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.

657 Iowa Administrative Code section 10.11 provides, in part, the following:

All prescriptions for controlled substances shall be dated as of, and manually signed on, the day when issued and shall bear the full name and address and registration number of the practitioner.

657 Iowa Administrative Code section 10.13(8) provides, in part, the following:

Refilling of prescriptions. No prescription for a controlled substance listed in schedule III, IV or V shall be filled or refilled more than six months after the date on which it was issued nor be refilled more than five times.

The Iowa Board of Pharmacy Examiners finds that paragraphs 7 and 8 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 1987 Iowa Code sections 155A.12(1), 155A.12(5), 155A.15(2)(d), 155A.29, 204.308(3), 204.401(1), 204.402(1), and 204.403(1)(d) and 657 Iowa Administrative Code sections 9.1(4)(b), 9.1(4)(c), 10.11, and 10.13(8).

IT IS HEREBY ORDERED that Jerry A. Wiley appear before the Iowa Board of Pharmacy Examiners on October 11, 1988, at 2:00 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 Jerry A. Wiley on July 9, 1979, 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



Norman C. Johnson
Executive Secretary

VOLUNTARY SURRENDER OF
LICENSE TO PRACTICE PHARMACY

I, JERRY A. WILEY, of 301 Second Avenue N. W., Waukon, Iowa, 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 15582, to the Iowa Board of Pharmacy Exminers, for an indefinite period of time. This surrender of license shall become effective upon the signature of the licensee, Jerry A. Wiley, and of a representative of the Iowa Board of Pharmacy Examiners being affixed to this voluntary surrender document.

I, JERRY A. WILEY, 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 1987.
- (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, JERRY A. WILEY, 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 1.3, 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 court proceedings as they apply to that revocation.
- (2) 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 which shall be docketed in the original case in which the license was revoked. All proceedings upon petition for reinstatement, including preliminary and ancillary matters, shall be subject to the same rules of procedure as other cases before the board.
- (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 no longer exists and that it will be in the public interest for the license 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 subrule 1.1(9).

I, JERRY A. WILEY, 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.

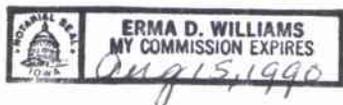
09/29/88
Date of Signature

Jerry Wiley
Jerry A. Wiley

9-29-88
Date of Signature

E. Ray Sheldon
E. Ray Sheldon, Investigator,
Iowa Board of Pharmacy Examiners

Subscribed and sworn to before me this 29th day of September, 1988.



Erma D. Williams
Notary Public

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	:	
JERRY A. WILEY	:	REINSTATEMENT
License No. 15582	:	ORDER
Respondent	:	

COMES NOW, Melba L. Scaglione, Chairperson of the Iowa Board of Pharmacy Examiners, on the 19th day of March, 1991, and declares that:

1. On September 1, 1988, the Iowa Board of Pharmacy Examiners issued a Complaint and Statement of Charges to Respondent.

2. On September 29, 1988, Respondent executed a voluntary surrender of his pharmacist license number 15582 pursuant to 657 Iowa Administrative Code section 1.4.

3. On November 14, 1989, Respondent appeared before the Board at an informal conference to request reinstatement of his license to practice pharmacy. At the conclusion of the conference, the Board set terms and conditions upon which Respondent's license would be reinstated. Included in those terms and conditions was the requirement that Respondent take and pass NABPLEX, the Federal Drug Law Examination (FDLE), and the Iowa Drug Law Examination (IDLE).

WHEREAS Respondent was administered NABPLEX, FDLE, and IDLE on June 26-27, 1990, and received passing scores on NABPLEX and IDLE, and whereas Respondent was administered FDLE on September 26, 1990, and received a passing score on FDLE, Respondent's pharmacist license number 15582 is now eligible for reinstatement.

WHEREFORE, it is hereby ordered that pharmacist license number 15582 issued to Jerry A. Wiley on July 9, 1979, is now reinstated subject to the following terms and conditions:

(1) Pharmacist license number 15582 shall be restored to current, active status upon receipt from Respondent of a completed application for renewal of that license, payment of the appropriate renewal fee, and proof of completion of 30 hours of pharmacy continuing education acquired between July 1, 1989, and June 30, 1991.

(2) Respondent shall be placed on probation for a period of ten years beginning on the date of restoration of his license. During the probationary period, Respondent shall comply with the following conditions:

'Restoration date: ^{April}~~July~~ 10, 1991

JA

(a) Respondent shall not be an owner, serve as the pharmacist in charge, manager, or assistant manager of a pharmacy. During the first year of probation, Respondent shall only practice pharmacy with another pharmacist present.

(b) During the first two years of probation, Respondent shall practice pharmacy no more than 30 hours per week, with a maximum of six hours per day. During the remainder of probation, Respondent shall practice pharmacy no more than 40 hours per week, with a maximum of eight hours per day.

(c) During the probationary period, Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.

(d) During the probationary period, Respondent shall report his place of employment, dates and hours of employment, and home address to the Board monthly. Reporting of dates and hours of employment shall be submitted by Respondent during the first two years of probation.

(e) During the probationary period, Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

(f) During the probationary period, Respondent shall notify all present and prospective pharmacy employers of the Reinstatement Order in this case, and the terms, conditions, and restrictions imposed on Respondent by said Reinstatement Order. Within 15 days of Respondent undertaking new employment, Respondent shall cause each pharmacy employer to report to the Board in writing acknowledging that the pharmacy employer has read the Reinstatement Order in this case and agrees to abide by the terms of the Reinstatement Order. Each employer shall submit to the Board, in writing, verification of the dates and hours of Respondent's employment and any other information which is relevant to determining whether or not Respondent has complied with the terms of his Reinstatement Order. Reporting of dates and hours of employment shall be submitted by each employer monthly during the first two years of Respondent's probation.

(g) During the probationary period, Respondent shall not supervise any registered intern nor perform any of the duties of a preceptor.

(h) Should Respondent 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.

(i) Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke

probation. 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.

(3) Upon successful completion of probation, Respondent's certificates will be fully restored.

IOWA BOARD OF PHARMACY EXAMINERS



Melba L. Scaglione
Chairperson

COUNT II

The Respondent is charged with unprofessional conduct in violation of 2003 Iowa Code §§ 155A.12(1) and 155A.12(2) and 657 Iowa Administrative Code § 8.11(8), 36.1(4)(c), and 36.1(4)(u).

THE CIRCUMSTANCES

1. A Complaint and Statement of Charges was issued to Respondent on September 1, 1988, which alleged that while operating his own pharmacy in Waukon, Iowa, between 1986 and 1988, he had created false prescriptions and dispensed numerous controlled substances to various patients without prescriber authorization. It was also alleged that he failed to provide accountability for certain controlled substances. The Board later became aware that Respondent had a long history of alcoholism and had been diagnosed in 1983 with schizoaffective disorder, including inappropriate sexual behaviors such as exhibitionism.
2. Respondent executed a voluntary surrender of his Iowa pharmacist license on September 29, 1988. The Board accepted his surrender of license on October 11, 1988.
3. At an informal reinstatement conference held on March 19, 1991, Respondent's Iowa pharmacist license was restored effective April 10, 1991, and was placed on probation with conditions for ten years, ending April 10, 2001.
4. On July 8, 1997, the Respondent allegedly engaged in inappropriate physical contact with a female co-worker at the Medicap Pharmacy in Charles City, Iowa, on or about July 3, 1997. The Respondent's employment as a pharmacist at Medicap was terminated following that incident.
5. In August 2003 the Respondent attended a concert with female co-workers from Big Creek Pharmacy. Respondent allegedly made inappropriate comments of a sexual nature to those co-workers after drinking alcohol excessively at the concert.
6. On August 18, 2004, while working as a pharmacist at Big Creek Pharmacy, the Respondent indicated to "Jane Doe" that he was attracted to her. He then engaged in indecent or obscene conduct by exposing himself to her in the pharmacy. The Respondent's employment as a pharmacist at Big Creek Pharmacy was terminated following that incident.

7. On August 27, 2004, the Respondent admitted to Board staff that he has been drinking alcohol excessively for some time and that he did expose himself to "Jane Doe" at Big Creek Pharmacy on August 18, 2004. He also indicated that he is seeking medical attention and counseling.

INFORMAL SETTLEMENT AGREEMENT

1. Respondent was issued a license to practice pharmacy in Iowa on July 9, 1979, by examination, as evidenced by Pharmacist License Number 15582, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. Iowa Pharmacist License Number 15582, issued to and held by Respondent is active and current until June 30, 2005.
3. Respondent is not currently employed as a pharmacist.
4. Respondent does not contest the allegations set forth in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, constitute grounds for discipline of his license to practice pharmacy in Iowa.
5. Upon the date of the Board's approval of this Combined Statement of Charges and Informal Settlement, Respondent's license to practice pharmacy shall be suspended indefinitely. During the period of suspension, the Respondent shall not be employed by a pharmacy in any capacity, including as a technician or clerk.
6. In order to petition the Board for termination of his license suspension, the Respondent must first submit to comprehensive physical and psychiatric inpatient treatment, including treatment for his psychosexual disorder and alcoholism/substance abuse, to be performed by Professional Recovery Network, 1220 Dewey Avenue, Wauwatosa, Wisconsin. Upon receipt of a written report from the Professional Recovery Network physician which certifies to the Board that problems for which the Respondent was treated or which became apparent during the course of treatment no longer limit or affect his ability to engage in the professional and ethical practice of pharmacy and that Respondent is ready to return to the practice of pharmacy, the Respondent may petition the Board for termination of his license suspension.
7. If Respondent petitions for termination of his license suspension – and if such petition is granted following a formal reinstatement conference before the board – Respondent's license shall be placed on indefinite probation. Probation shall continue until such time that the Board agrees it is appropriate to terminate it. During Respondent's suspension and probationary periods, Respondent shall abide by the following terms and conditions, and any other terms or conditions which the Board may impose following the formal reinstatement conference:

- a. Respondent shall not consume alcohol.
- b. Respondent shall not use any controlled substance or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for Respondent by a licensed, treating physician or other qualified treating health care provider who is trained in substance abuse issues and is aware of Respondent's history of alcoholism. The Respondent shall fully inform any treating physician or other treating health care provider of his medical history, including his history of alcoholism.
- c. Respondent shall not possess any controlled substance, except medications prescribed in accordance with the preceding paragraph.
- d. Upon demand by an agent of the Board, Respondent shall provide specimens for analysis, including hair and witnessed blood or urine specimens. All costs relating to specimen analysis shall be paid by Respondent. Specimens shall be used for alcohol and drug screening and to verify Respondent's compliance with this Combined Statement of Charges and Informal Settlement and with any therapy ordered by Respondent's physician or treatment provider.
- e. Respondent shall comply with all treatment recommendations of his treatment program and his physician and/or counselor, including aftercare recommendations and participation in support groups, if applicable. The treatment program or physician/counselor shall submit quarterly reports to the Board documenting Respondent's compliance with the treatment program.
- f. Respondent shall file written, sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Combined Statement of Charges and Informal Settlement. The reports shall be filed not later than March 5, June 5 September 5 and December 5 of each year of Respondent's probation. The quarterly reports shall include Respondent's current place of employment, home address, home telephone number or work telephone number, and any further information deemed necessary by the Board from time to time.
- g. Respondent shall attend aftercare meetings and Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings as recommended by Respondent's physician or treatment-provider. Respondent shall attend

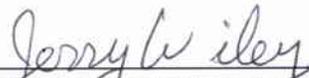
to each quarterly report, referred to in subparagraph (f) above, statements signed or initialed by another person in attendance at the AA and NA meetings, attesting to Respondent's attendance and continuing participation. Each statement shall include the time, date, and location of the meetings attended.

- h. Respondent shall make personal appearances before the Board or a Board committee upon request. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.
 - i. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.
 - j. Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.
 - k. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
 - l. Respondent shall not own or manage a pharmacy, nor serve as the pharmacist in charge of a pharmacy. For the first year of Respondent's probationary period, Respondent shall only work in a pharmacy when another pharmacist is present and on duty.
 - m. Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program, under the direct support of a pharmacist advocate.
 - n. During probation, Respondent shall inform the Board in writing within ten (10) days of any change of home address, employment status, place of employment, home telephone number or work telephone number.
 - o. Respondent shall notify all prospective pharmacy or pharmacy-related employers of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. Within fifteen (15) days of undertaking new employment as a pharmacist or in a pharmacy-related business, Respondent shall cause his employer to report to the Board in writing, acknowledging that the employer has read this document and understands it
8. Respondent agrees to release all his past, present, and future medical records to the Board, including all medical records pertaining to treatment for mental conditions and for alcohol and substance abuse, and agrees to allow the free flow of information

between the Board and Respondent's physician(s) and treatment-provider(s) and to ensure that the Board receives all necessary information if further evaluation or treatment of Respondent is requested or required. This release of medical records, including records pertaining to treatment for mental health and alcohol/substance abuse, shall be effective beginning on the date of Board approval of this Combined Statement of Charges and Informal Settlement.

9. Should the Respondent violate or fail to comply with any of the terms or conditions of this Combined Statement of Charges and Informal Settlement, the Board may initiate action to revoke or further suspend the Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.
10. This Combined Statement of Charges and Informal Settlement is the resolution of a contested case. By entering into this Combined Statement of Charges and Informal Settlement, the Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Combined Statement of Charges and Informal Settlement.
11. This proposed informal settlement is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either party. If the Board approves this Combined Statement of Charges and Informal Settlement, it shall be the full and final resolution of this matter.
12. This Combined Statement of Charges and Informal Settlement is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 and shall become a part of the permanent record of Respondent.
13. The Board's approval of this Combined Statement of Charges and Informal Settlement shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

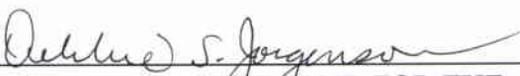
14. This Combined Statement of Charges and Informal Settlement is voluntarily submitted by Respondent to the Board for its consideration on the 30 day of August 2004.



JERRY A. WILEY, R.Ph.
Respondent

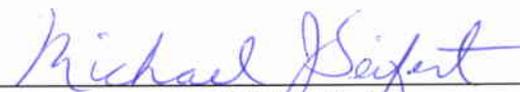
Subscribed and sworn to before me by JERRY A. WILEY on this 30 day of August 2004.





NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

15. This Combined Statement of Charges and Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 31 day of August 2004.



MICHAEL J. SEIFERT, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

BEFORE THE IOWA BOARD OF PHARMACY

RE:)	DIA NO: 10PHB015
Pharmacist License of)	
JERRY A. WILEY)	FINDINGS OF FACT,
License No. 15582)	CONCLUSIONS OF LAW,
Respondent)	DECISION AND ORDER

On June 1, 2010, a hearing was held before the Iowa Board of Pharmacy (Board) on the Application for Reinstatement filed by Jerry A. Wiley (Respondent). The following members of the Board presided at the hearing: Vernon Benjamin, Chairperson; Susan Frey; Edward Maier; DeeAnn Wedemeyer Oleson; Mark Anliker; Ann Diehl; and Margaret Whitworth. Respondent appeared and was self-represented. Assistant Attorney General Scott Galenbeck represented the state. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2009), and was recorded by a certified court reporter. After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The administrative law judge was instructed to prepare the written decision, in conformance with the Board's deliberations.

THE RECORD

The record includes the Notice of Hearing; testimony of the witnesses; State Exhibit 1 (Combined Statement of Charges and Informal Settlement, 8/31/04) and Respondent Exhibits A-E.

FINDINGS OF FACT

1. On July 9, 1979, the Board issued Respondent license number 15582 to engage in the practice of pharmacy, subject to the laws of the state of Iowa and the rules of the Board. (State Exhibit 1)
2. On September 1, 1988, Respondent was charged with creating false prescriptions, dispensing controlled substances to various patients without prescriber authorization, and failing to account for certain controlled substances. The Board later became aware that Respondent had a long history of alcoholism and had been diagnosed with schizoaffective disorder. The Board accepted the voluntary surrender of Respondent's

pharmacist license on October 11, 1988. Respondent's pharmacist license was later reinstated, effective April 10, 1991, and placed on probation for ten years. (State Exhibit 1)

3. On August 18, 2004, Respondent's employment was terminated after he exposed himself to "Jane Doe" at work. On August 27, 2004, Respondent admitted that he had been drinking alcohol excessively for some time and further admitted that he exposed himself to "Jane Doe." Respondent sought medical attention and counseling. Respondent agreed to an indefinite suspension of his pharmacist license, which took effect on August 31, 2004. (State Exhibit 1; Testimony of Respondent)

4. Respondent has been employed driving a delivery route for the same company for more than three years. Respondent has disclosed his addictions and his progress in recovery to his employer. Respondent's employer reports that he has performed his work duties in a satisfactory and professional manner. (Testimony of Respondent; Respondent Exhibit A)

5. Respondent has been abstinent from alcohol since August 2004. He initially attended 90 Alcoholics Anonymous (AA) meetings in 90 days. Since that time he has attended AA meetings on a regular weekly basis. Respondent has submitted verification of his regular attendance at AA meetings since October 2008. Respondent also submitted verification of his regular attendance at a weekly Caduceus meeting for addicted professionals. (Testimony of Respondent; Respondent Exhibits C, D)

6. From approximately April 2006 until October 2007, Respondent was in therapy with Dr. Nicholas Tormey for his sexual addiction,. In October 2007, Respondent was referred to Teresa Smith, LISW, for ongoing therapy. Ms. Smith specializes in treating sexual offenders and has been seeing Respondent for individual therapy on a monthly basis. She believes that Respondent has made outstanding progress in remaining sober and in remaining compliant with the terms of his treatment. Respondent has passed two successive polygraph examinations (on October 18, 2009 and April 7, 2009), which indicate that he has not viewed pornography, has not exposed himself to anyone, and has not violated any of the tenets of his therapy. Respondent has also been attending Sex Addicts Anonymous (SSA) meetings on a regular weekly basis for the past year and has obtained a sponsor in that group. Respondent submitted verification of his attendance at SSA meetings. (Testimony of Respondent; Teresa Smith; JJ; Respondent Exhibit E)

Ms. Smith testified that a "safety plan" and a "desperate measures" or emergency plan are hallmarks of sexual offender treatment. In her opinion, Respondent's safety plan must include his continued attendance at structured support meetings (AA and SSA), his ongoing participation in therapy, and occasional polygraph examinations. If Respondent returns to pharmacy practice, he will need an appropriate emergency plan that specifies what he must do if he reaches a point where he feels he is about to reoffend. (Testimony of Teresa Smith)

7. Respondent has completed a substantial number of continuing education credits in pharmacy practice in the past year. (Testimony of Respondent; Respondent Exhibit B)

CONCLUSIONS OF LAW

657 Iowa Administrative Code 36.13 provides, in relevant part:

657-36.13(17A,124B,147,155A,272C) Reinstatement. Any person whose license to practice pharmacy . . . has been revoked or suspended shall meet the following eligibility requirements for reinstatement:

36.13(1) Prerequisites. The individual shall satisfy all 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 or conditions upon which reinstatement might occur, or if the license...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

36.13(2) Pharmacist license revoked or surrendered-examinations required. A person whose license to practice pharmacy was revoked or voluntarily surrendered must successfully pass the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination as determined by NABP and the Multistate Pharmacy Jurisprudence Examination (MPJE), Iowa Edition.

36.13(3) Proceedings. The respondent shall initiate all proceedings for reinstatement by filing with the board an application for reinstatement of the license . . . Such application shall be docketed in the original case in

which the license, registration, or permit 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

36.13(4) *Burden of Proof.* An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the . . . suspension no longer exists and that it will be in the public interest for the license . . . to be reinstated. The burden of proof to establish such facts shall be on the respondent.

36.13(5) *Order.* An order for reinstatement shall be based upon a decision that incorporates findings of fact 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.

Respondent's license has been suspended for nearly six years. He has taken all of the necessary steps to address his addictions and has made excellent progress in his recovery. Respondent has maintained a substantial period of abstinence from both alcohol and inappropriate sexual behavior. He has an excellent support system that includes his wife, his children, his parents, recovery support group members, and his therapist. Respondent has taken full responsibility for his prior violations and has shown substantial insight into his addictions and his risk factors for relapse. Upon reviewing the record of the hearing, the Board is satisfied that Respondent is prepared to resume the practice pharmacy in Iowa, consistent with the public interest, so long as he fully satisfies the requirements and restrictions established in this Order.

DECISION AND ORDER

IT IS THEREFORE ORDERED that to reinstate pharmacist license number 15582, Respondent Jerry A. Wiley must first comply with the following requirements:

- A. File a reinstatement application and pay the applicable license fee; and
- B. Establish an emergency plan with his therapist and submit the plan to the Board for its review and approval.

Upon compliance with these conditions, Respondent's pharmacist license no. 15582 shall be REINSTATED and shall immediately be placed on INDEFINITE PROBATION.

IT IS FURTHER ORDERED that Respondent's probation will be subject to the following terms and conditions:

A. For the first six months of practice as a pharmacist, Respondent must restrict his work hours to sixteen (16) hours a week and must only work when there is another pharmacist on duty with him. After the first six months of pharmacy practice, Respondent may ask the Board to increase the number of hours that he is allowed to work.

B. While he is restricted to working sixteen (16) hours a week, Respondent shall file written, sworn monthly reports with the Board attesting to his compliance with all the terms and conditions of his probation. The reports shall be filed no later than the 5th day of each month. After Respondent's work hours are increased, he shall file quarterly written reports no later than March 5, June 5, September 5 and December 5 of each year of his probation. The monthly and quarterly reports shall include Respondent's current place of employment, home address, home telephone number or work telephone number, verification of meeting attendance and compliance with treatment, and any further information deemed necessary by the Board from time to time.

C. Respondent shall continue in therapy at the frequency recommended by his therapist unless he is discharged from treatment and his therapist has provided a written discharge summary to the Board. Respondent shall comply with all treatment recommendations made by his therapist or any other treatment provider. Respondent shall ensure that his therapist provides the Board with written monthly reports concerning his compliance and progress in treatment no later than the 5th day of the month during the time that Respondent is working no more than sixteen (16) hours a week. When Respondent's work hours increase, his therapist must file quarterly written reports no later than March 5, June 5, September 5 and December 5 of each year of Respondent's probation. However, Respondent's therapist shall promptly notify the Board of any issue affecting Respondent's job performance and shall inform the Board of the steps taken to address/remedy the issue.

D. Respondent shall not consume alcohol.

E. Respondent shall not use any controlled substances or prescription drug

in any form unless the controlled substance or prescription drug has been authorized and prescribed for him by a licensed, treating physician or other qualified health care provider who is trained in substance abuse issues and is aware of Respondent's history of alcoholism. Respondent shall fully inform any treating physician or other treating health care provider of his medical history, including his history of alcoholism.

F. Respondent shall not possess any controlled substance, except medications prescribed in accordance with the preceding paragraph.

G. Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN).

H. Respondent shall attend structured support group meetings, including Alcoholics Anonymous (AA) and Sexual Addicts Anonymous (SAA) on a regular weekly basis as recommended by his therapist or any other treatment provider. Respondent shall maintain statements signed or initialed by another person in attendance at the meetings, attesting to his attendance and continuing participation. Each statement shall include the time, date, and location of the meetings attended. Respondent shall attach these attendance records to each of his monthly or quarterly reports to the Board.

I. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.

J. Respondent shall not own or manage a pharmacy, nor serve as the pharmacist in charge of a pharmacy.

K. Respondent shall notify all prospective pharmacy or pharmacy-related employers, including any pharmacist-in-charge, of the terms, conditions, and restrictions imposed on Respondent by this Reinstatement Order. Notification shall be made no later than the time of interview. Within fifteen (15) days of undertaking new employment as a pharmacist or in a pharmacy-related business, Respondent shall cause his employer to report to the Board in writing, acknowledging that the employer has read this document and understands it.

L. During probation, Respondent shall inform the Board in writing within ten (10) days of any change of home address, employment status, place of employment, home telephone number or work telephone number.

M. Respondent shall make personal appearances before the Board or a Board committee upon request. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.

N. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.

O. Should Respondent violate or fail to comply with any of the terms or conditions of probation, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.

Dated this 20th day of July, 2010.



Vernon Benjamin, Chairperson
Iowa Board of Pharmacy

cc: Scott Galenbeck, Assistant Attorney General

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.