

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	}	EMERGENCY ORDER
CHERI R. YOUNG	}	AND
License No. 16223	}	COMPLAINT AND
Respondent	}	STATEMENT OF CHARGES
	}	AND
	}	NOTICE OF HEARING

NOW on this 19th day of December 1991, the Iowa Board of Pharmacy Examiners has reviewed the following evidence:

1. Respondent was issued a license to practice pharmacy in Iowa on January 12, 1983, by examination.

2. Respondent is currently employed as the pharmacist in charge of Reliable Drug #5202 located at 4116 Center Point Road N.E. in Cedar Rapids, Iowa 52402.

3. On December 18, 1991, the Board received a copy of a Complaint in the District Court of Iowa, Johnson County, titled State of Iowa v. Cheri Renee Young, Criminal Case No. 110349, in which Respondent has been charged with the following:

a. **CHARGE 1:** Cheri Renee Young is accused of the crime of operating while intoxicated...in that she did on or about the 23rd day of November, 1991,...operate a motor vehicle in this state while under the influence of alcohol or other drug or a combination of such substances.

b. **CHARGE 2:** Cheri Renee Young is accused of the crime of possession of a controlled substance, Schedule 2...in that she did on or about the 23rd day of November, 1991,...possess a Schedule 2 substance without a prescription.
To-wit: Cocaine.

c. **CHARGE 3:** Cheri Renee Young is accused of the crime of possession of a controlled substance, Schedule 1...in that she did on or about the 23rd day of November, 1991,...possess a Schedule 1 controlled substance without a prescription. To-wit: marijuana.

d. CHARGE 4: Cheri Renee Young is accused of the crime of possession of a controlled substance, Schedule 4...in that she did on or about the 23rd day of November, 1991,...possess a Schedule 4 controlled substance. To-wit: Xanax. The defendant did not have a prescription.

e. CHARGE 5: Cheri Renee Young is accused of the crime of possession of a controlled substance, Schedule 4...in that she did on or about the 23rd day of November, 1991,...possess a Schedule 4 substance without a prescription. To-wit: Phentermine hydrochloride.

4. The Board has also received information which indicates that Respondent was arrested in 1986 in Johnson County and charged with operating while intoxicated. Respondent later pled guilty to a reduced charge of public intoxication.

5. Respondent currently resides at 160 Heritage Drive, North Liberty, Iowa 52317.

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 confidential 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 and thereby have access to controlled substances.

Based upon the above evidence, the Iowa Board of Pharmacy Examiners finds that the public health, safety, and welfare would be jeopardized if Cheri R. Young 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 Cheri R. Young 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 1989 Iowa Code sections 155A.12(1), 155A.12(5), 155A.23(1)(a), 204.308(1), 204.308(3), 204.401(3), 204.402(1)(a), and 204.403(1)(c) 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.

...

5. Violated any provision of the controlled substances Act or rules relating to that Act.

Iowa Code section 155A.23 provides, in part, the following:

A person shall not:

1. Obtain or attempt to obtain a prescription drug or procure or attempt to procure the administration of a drug by:

a. Fraud, deceit, misrepresentation, or subterfuge....

Iowa Code section 204.308 provides, in part, the following:

1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner.

...

3. ...[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.

Iowa Code section 204.401 provides, in part, the following:

3. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless

such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a serious misdemeanor. If the controlled substance is marijuana, the punishment shall be by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. All or any part of a sentence imposed pursuant to this section may be suspended and the person placed on probation upon such terms and conditions as the court may impose including the active participation by such person in a drug treatment, rehabilitation or education program approved by the court.

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:...

c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;...

10. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(c), 9.1(4)(d), 9.1(4)(h), 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:...

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.

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:

(1) The inability of a pharmacist to practice pharmacy with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

(2) The excessive use of drugs which may impair a pharmacist's ability to practice pharmacy with reasonable skill or safety.

....

h. Distribution of...drugs for other than lawful purposes. The distribution of drugs for other than lawful purposes includes but is not limited to the disposition of drugs in violation of Iowa Code chapters 155A, 203, 203A, and 204.

...

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), 155A.12(5), 155A.23(1)(a), 204.308(1), 204.308(3), 204.401(3), 204.402(1)(a), and 204.403(1)(c), and 657 Iowa Administrative Code sections 9.1(4)(c), 9.1(4)(d), 9.1(4)(h), 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 Cheri R. Young appear before the Iowa Board of Pharmacy Examiners on Tuesday, January 14, 1992, at 2:00 p.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

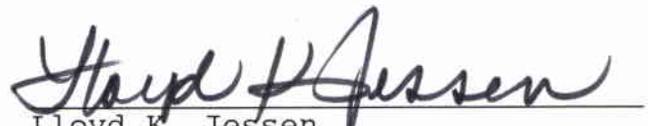
The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to suspend or revoke the license to practice pharmacy issued to Cheri R. Young on January 12, 1983, and take whatever additional action that they deem necessary and appropriate.

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.

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Lloyd K. Jessen
Executive Secretary/Director

6. Effective August 1, 1992, Respondent's license shall be placed on probation for a period of five (5) years. During the probationary period the Respondent shall:

a. Obey all federal and state laws and regulations substantially related to the practice of pharmacy.

b. Report to the Board or its designee quarterly. Said report shall be in person or in writing, as directed. The report shall include the Respondent's place of employment, current address, information and documentation regarding compliance with paragraph (c), and any further information deemed necessary by the Board from time to time.

c. Comply with after-care recommendations the MECCA treatment program, including any required attendance at Alcoholics Anonymous or Narcotics Anonymous.

d. Immediately submit to random biological fluid testing, at Respondent's cost, upon the request of the Board or its designee.

e. Provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.

f. Notify all present and prospective employers of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. Within thirty (30) days after the approval of this Stipulation and Informal Settlement, and within fifteen (15) days of Respondent undertaking new employment, Respondent shall cause her employer to report to the Board in writing acknowledging the employer has read this document.

g. Not supervise any registered intern and shall not perform any of the duties of a preceptor.

h. Not have any legal or beneficial interest in any business, firm, partnership, or corporation currently or hereafter licensed by the Board and shall not own any pharmacy.

7. As an additional term of probation, within thirty days after approval of this Stipulation and Informal Settlement by the Board, Respondent shall submit to the Board written specific and formal recommendations for after-care treatment from the MECCA program treatment center.

8. Should Respondent leave Iowa to reside or practice outside this State, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the State shall not apply to reduction of the probationary period.

9. Respondent shall take and successfully pass the Iowa Drug Law Exam (IDLE) with a score of 75 percent, and the Federal Drug Law Exam (FDLE) with a score of 75, within the first year of the probationary period. Respondent may take the exams a maximum of three (3) times each in the one year period. Failure to pass IDLE and FDLE within the one year period will be grounds to revoke probation and carry out the stayed suspension.

10. Respondent is assessed a civil penalty in the amount of \$1000, which shall be paid within thirty (30) days after approval of this Stipulation and Informal Settlement by the Board, by delivering a check made payable to the Treasurer of Iowa to the

Executive Secretary of the Board. The civil penalty shall be deposited into the general fund.

11. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the stayed suspension. 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.

12. Upon successful completion of probation, Respondent's certificate will be fully restored.

13. 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.

* * *

14. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 24 day of July 24, 1992.

Cheri R. Young

CHERI R. YOUNG
Respondent

Signed and sworn to before me this 24 day of July, 1992.



Steven R. Regenwether
NOTARY PUBLIC IN AND FOR THE
STATE OF Iowa

Approved as to form:

Steven R. Regenwether

STEVEN R. REGENWETHER
Phelan, Tucker, Boyle, Mullen,
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321 Market, P.O. Box 2150
Iowa City, Iowa 52244

ATTORNEY FOR RESPONDENT

Lynette A. F. Donner

LYNETTE A. F. DONNER
Assistant Attorney General
Iowa Department of Justice
Second Floor, Hoover Bldg.
Des Moines, Iowa 50319

ATTORNEY FOR THE
STATE INTEREST

15. 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