

**BEFORE THE BOARD OF EXAMINERS FOR  
NURSING HOME ADMINISTRATORS**

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	)	
IN THE MATTER OF:	)	CASE NO. 03-005
	)	
Kenneth Opp,	)	
License No. 270-01162	)	
	)	
	)	<b>STATEMENT OF CHARGES</b>
Respondent.	)	

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TO THE ABOVE-NAMED RESPONDENT:

The Iowa Board Examiners for Nursing Home Administrators has jurisdiction over this matter pursuant to Iowa Code chapters 17A, 155, and 272C (2001) and (2003).

Licenses issued by the Board are subject to the laws of the state of Iowa and to the administrative rules of the Board.

Respondent Kenneth Opp, Nursing Home Administrator, was at all times during the following events licensed to practice as a nursing home administrator in the state of Iowa. Respondent was issued license number 270-01162 on November 12, 1981, as recorded in the permanent records in the office of the Board. Respondent's license to practice as a nursing home administrator is current until December 31, 2003.

Respondent's current address as reported to the Board is 4120 Lexington Plaza, #12, West Des Moines, Iowa, 50266.

**COUNT I**

Respondent is charged with violating Iowa Code sections 155.18(3), 155.18(5) and 272C.10(3) and the Board's administrative rules found at 645 Iowa Administrative Code sections 144.1(3), 144.1(5) and 144.1(7) by being convicted of a felony related to the profession or occupation; by engaging in unethical conduct and practices harmful or detrimental to the public; by knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of nursing home administration; and by willful or repeated violations of any statute or rule pertaining to a nursing home.

### **CIRCUMSTANCES**

1. In 2001 and 2002 Respondent was employed as the administrator of the Abbey Center, a health care facility providing nursing level of care pursuant to Iowa Code chapter 135C located in Des Moines, Iowa. Respondent was terminated from his position as administrator on or about November 5, 2002.
2. As the administrator, Respondent was responsible for the day to day operation of the facility and for ensuring that the facility was operated in compliance with all state and federal laws and regulations governing the facility.
3. The Respondent's specific duties as the administrator also included the safekeeping and management of facility accounts and funds, for which the administrator functions as a fiduciary. Examples of funds for which the administrator functions as a fiduciary include facility bank accounts, facility lines of credit, facility accounts receivable, and general operating funds intended for facility operation and resident care, treatment and services.
4. The Respondent was also responsible for ensuring that the residents were

maintained at their highest practicable level and that the facility was managed so as to achieve maximum efficiencies and outcomes with the funds and resources entrusted to the administrator by the facility owner.

5. In 2001 and 2002 and while employed as a nursing home administrator, the Respondent repeatedly misappropriated and embezzled funds owned by the facility and converted the funds to his own use.

6. The funds which the Respondent converted to his own use totaled approximately \$400,000.00 and were funds owned by the facility for which Respondent functioned as a fiduciary. Specifically, the funds the Respondent converted to his own use were operating funds intended to fund the operation of the facility, including the services, care, treatment and procedures necessary to serve and maintain the patients of the health care facility.

7. The Respondent's conduct in repeatedly misappropriating and embezzling funds from the health care facility at which he was the administrator resulted in felony convictions for: First Degree Theft; First Degree Fraudulent Practice; and Income Tax Evasion.

8. The Respondent's criminal convictions relate to the practice of nursing home administration.

9. The Respondent's repeated actions in misappropriating and embezzling facility operating funds constitutes unethical conduct, practices harmful and detrimental to the public, and theft.

10. The Respondent has engaged in conduct providing the board with

jurisdiction to take disciplinary action pursuant to the statutory and regulatory provisions cited above.

### **FINDING OF PROBABLE CAUSE**

On October 2, 2003, the Iowa Board of Examiners for Nursing Home Administrators found probable cause to file this Statement of Charges and to order that a hearing be set in this case.

**This Statement of Charges was approved by the board on October 2, 2003.**