

**BEFORE THE BOARD OF PHARMACY
FOR THE STATE OF IOWA**

Re:)	Case No. 2008-90
Pharmacist License of)	
DANIEL W. BARNES)	STATEMENT OF CHARGES
License No. 20031,)	
Respondent.)	

COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Director for the Iowa Board of Pharmacy and files this Statement of Charges solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (2009).
3. On July 2, 2004, the Board issued Daniel W. Barnes (hereinafter "Respondent"), by reciprocity a license to engage in the practice of pharmacy as evidenced by license number 20031 subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's pharmacist license is current and active until June 30, 2010.
5. Respondent's most recent address of record is 1410 East 6th Street, Ida Grove, Iowa 51445.
6. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at Horn Memorial Hospital, Ida Grove.

A. CHARGES

COUNT I – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

Respondent is charged with unlawful possession and use of prescription drugs in violation of Iowa Code §§ 155A.12(1), 155A.21, 155A.23(1) and 155A.23(11) (2009), and 657 Iowa Administrative Code §§ 36.1(4)(j) and 36.1(4)(u).

COUNT II – ILLEGAL DISTRIBUTION OF DRUGS

Respondent is charged with distribution of drugs for other than lawful purposes in violation of Iowa Code § 155A.12(1) and 155A.23(11) (2009), and 657 Iowa Administrative Code § 36.1(4)(h), specifically, diversion and distribution of drugs to himself.

COUNT III – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 36.1(4)(b) with a lack of professional competency as demonstrated by willful or repeated departures from, or the failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa.

COUNT IV – UNETHICAL CONDUCT

Respondent is charged under Iowa Code §§ 155A.12(1) and 155A.12(2) (2007), and 657 Iowa Administrative Code §§ 8.11(8) and 36.1(4)(u), with unethical conduct.

COUNT V – FAILURE TO MAINTAIN RECORDS AND CONTROL OVER DRUGS

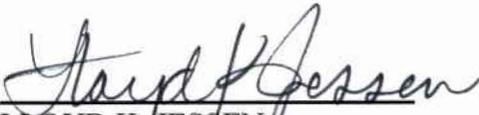
Respondent is charged under Iowa Code § 155A.15(4) (2009) and 657 Iowa Administrative Code § 36.1(4)(ac) with failing to maintain complete records, accurate control over and accountability for drugs, including controlled substances.

B. CIRCUMSTANCES

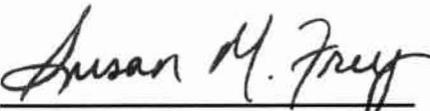
An investigation was commenced on or about September 3, 2008, which revealed the following:

1. At all times material to this Statement of Charges, Respondent worked as the pharmacist in charge at Horn Memorial Hospital, Ida Grove, Iowa.
2. Respondent acknowledged in a written statement that he took an albuterol inhaler from stock for his personal use. He claims that he then replaced the inhaler with one purchased, pursuant to a prescription, from Ida Grove Pharmacy.
3. Hospital records relating to disposal of unused medications, returned from nursing homes, are incomplete and do not reflect appropriate witnessing of the disposal of unused medications, including controlled substances.
4. Respondent exhibits mood swings at work resulting, in rude behavior, swearing, slamming doors, hitting his fist on a desk and other inappropriate actions, including hitting a technician on the back of the head (though the hitting was intended to be 'kidding') and unnecessary touching of a technician.

Wherefore, the Complainant prays that a hearing be held in this matter and that the Board take such action as it may deem to be appropriate under the law.


LLOYD K. JESSEN
Executive Director

On this 17 day of August 2009, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


SUSAN M. FREY, Vice Chair
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

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

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BEFORE THE IOWA BOARD OF PHARMACY

)	Case No. 2008-90
Re:)	
Pharmacist License of)	STIPULATION
DANIEL W. BARNES)	AND
License No. 20031)	CONSENT ORDER
Respondent)	

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Pharmacy Board (hereinafter, “Board”) and Daniel W. Barnes (hereinafter, “Respondent”), enter into the following Stipulation and Consent Order settling a licensee disciplinary proceeding currently pending before the Board.

Allegations specified in a Statement of Charges filed against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent was issued a license to practice pharmacy in Iowa on July 2, 2004, by reciprocity, as evidenced by Pharmacist License Number 20031, which is recorded in the permanent records of the Board.
2. The Iowa Pharmacist License issued to and held by Respondent is active and current until June 30, 2010.
3. Respondent was, at all times material to the Statement of Charges, employed as the pharmacist in charge at Horn Memorial Hospital, Ida Grove.
4. A Statement of Charges was filed against Respondent by the Board on August 17, 2007.
5. The Board has jurisdiction over the parties and jurisdiction over the subject matter of these proceedings.

6. 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, would constitute grounds for the discipline described herein.

7. On the date of the Board's approval of this Stipulation and Consent Order, Respondent's license to practice pharmacy shall be placed on probation on terms which shall include, but not be limited to, the following:

- a. Respondent agrees to comply with the terms of probation.
- b. The period of probation shall be one (1) year provided, however, that only those time periods during which Respondent is employed as a pharmacist shall count toward exhaustion of the probationary term.
- c. Within three (3) months after the date of the Board's approval of this Stipulation and Consent Order, Respondent shall complete not less than six (6) hours of formal, structured continuing pharmacy education ("CPE") which shall be pre-approved by the Board. The CPE shall include not less than two (2) hours focused on controlled substances record-keeping, security, accountability and disposal. The CPE shall also include not less than two (2) hours focused on pharmacy ethics and professional standards. Finally, the CPE shall include not less than two (2) hours focused on personal and professional boundaries, and appropriate workplace behavior. Upon completion of the 6 hours of CPE, documentation of satisfactory completion shall be promptly submitted to the Board. This CPE shall be in addition to – not in lieu of – the thirty (30) hours of continuing pharmacy education required every two years for license renewal.

d. Within three (3) months after the date of the Board's approval of this Stipulation and Consent Order, Respondent will submit to the Board *typewritten*¹ pharmacy policies and procedures for the following: (i) proper disposal of controlled substances, (ii) appropriate workplace behavior and steps that will be taken to avoid a hostile work environment, and (iii) distribution of prescription medications, record keeping, accountability and security. Following review and approval by the Board, Respondent agrees to adopt, implement, and adhere to these policies and procedures in his current employment setting and whenever engaging in the practice of pharmacy – unless specific policies and procedures adopted by her employer prevent such adherence.

e. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$250. This civil penalty shall be paid promptly after the Board's approval of this Stipulation and Consent Order, and shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board. All civil penalty payments shall be deposited into the State of Iowa general fund.

f. During probation, Respondent shall report to the Board or its designee quarterly, in writing. The report shall include Respondent's place of employment, current address, *Respondent's most recent efforts to implement the provisions of this Stipulation and Consent Order, by date*, and any further information deemed necessary by the Board from time to time.

¹ For the purposes of this order, "typewritten" policies may be generated on computer word-processing equipment.

- g. Respondent shall inform the Board, in writing, of any change of home address, place of employment, home telephone number, or work telephone number, within ten (10) days of such a change.
- h. Respondent shall notify all present employers and prospective employers (no later than at the time of an employment interview), including any pharmacist-in-charge, of the resolution of this case and the terms, conditions and restrictions imposed on Respondent by this Stipulation and Consent Order.
- i. Within thirty (30) days after approval of this Stipulation and Consent Order by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his pharmacy employer, and any pharmacist-in-charge he works under, to report to the Board in writing acknowledging that the employer and the pharmacist-in-charge have read this document and understand it.
- j. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing his performance as a pharmacist during his probationary period. Respondent shall be given reasonable notice of the date, time, and place for the appearances.
- k. Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
- l. Respondent shall not possess or 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.

m. Such other reasonable terms as the Board may wish to impose during the probationary period.

10. Should Respondent violate or fail to comply with any of the terms and conditions of this Stipulation and Consent Order, 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 (2009) and 657 IAC 36.

11. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent Order.

12. The State's legal counsel may present this Stipulation and Consent Order to the Board.

13. This proposed 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 the Board or Respondent. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

14. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary action.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 1st day of FEBRUARY 2010.

Daniel W. Barnes R.Ph.

DANIEL W. BARNES, R.Ph.
Respondent

Subscribed and sworn to before me by Daniel W. Barnes on this 1 day of February 2010.



Betty Nippert

NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Pharmacy Board on the 10th day of March 2010.

Vernon H. Benjamin

VERNON H. BENJAMIN, Chairperson
Iowa Pharmacy Board
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 BOARD OF PHARMACY STATE OF IOWA

**IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST
DANIEL W. BARNES, R.Ph., RESPONDENT**

TERMINATION ORDER

DATE: March 10, 2011

1. On March 10, 2010, a Stipulation and Consent Order was issued by the Iowa Board of Pharmacy placing the license to practice pharmacy, number 20031 issued to Daniel W. Barnes on July 2, 2004, on probation for a period of one year under certain terms and conditions.

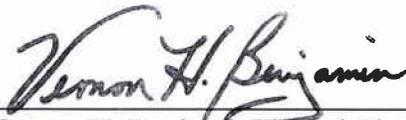
2. Respondent has successfully completed the probation as directed.

3. The Board directed that the probation placed upon the Respondent's license to practice pharmacy should be terminated.

IT IS HEREBY ORDERED:

That the probation placed upon the Respondent's license to practice pharmacy is terminated, and the license is returned to its full privileges free and clear of all restrictions.

IOWA BOARD OF PHARMACY



Vernon H. Benjamin, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688