

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

Re:)
Pharmacy License of)
BENJAMIN APOTHECARY)
AND FLORALS) **STATEMENT OF CHARGES**
License No. 73)
Respondent)

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

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners 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 (1997).
3. On May 21, 1998, the Board issued Respondent general pharmacy license number 73 with Gary W. Bernabe as pharmacist in charge, allowing Respondent to engage in the operation of pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 73 is current until December 31, 1998.
5. Respondent is currently operating a general pharmacy at 110 North Poplar, West Branch, Iowa 52358, with Gary W. Bernabe as the pharmacist in charge.

COUNT I

The Respondent is charged with making a dispensing error in violation of 1997 Iowa Code § 155A.15(2)(c) and 657 Iowa Administrative Code section 9.1(4)(b) when he dispensed Slo-Bid® 75mg to a patient who should have received Slo-Bid® 125mg.

COUNT II

The Respondent is charged with making a dispensing error in violation of 1997 Iowa Code § 155A.15(2)(c) and 657 Iowa Administrative Code section 9.1(4)(b) when he dispensed Ativan® 0.5mg to a patient who should have received Ativan® 0.25mg.

COUNT III

The Respondent is charged under Iowa Code Sections 155A.15(2)(c) and 155A.31 (1995) and 657 Iowa Administrative Code Sections 6.3, 8.5(4), 9.1(4)(b)(4), 9.1(4)(j), and 9.1(4)(u) with failing to maintain a current pharmacy library.

COUNT IV

The Respondent is charged under Iowa Code Section 155A.15(2)(c) and 657 Iowa Administrative Code Sections 6.2(1), 8.9(4)(b), 9.1(4)(b)(4), 9.1(4)(j), and 9.1(4)(u) with failing to have written policies and procedures for the unit dose dispensing system.

COUNT V

The Respondent is charged under Iowa Code § 155A.15(2)(c) and 657 Iowa Administrative Code § 10.18 with failing to take a complete controlled substance inventory at the time Gary W. Bernabe became pharmacist in charge.

COUNT VI

The Respondent is charged under Iowa Code § 155A.27 with failing to maintain complete Schedule II prescription records.

THE CIRCUMSTANCES

The Board has investigated a complaint which alleges that Gary W. Bernabe made a dispensing error when filling a prescription for Slo-Bid® 125mg for patient "A" and again when filling a prescription for Ativan® 0.25mg for patient "B". The results of the investigation indicate that Gary W. Bernabe did not properly check the prescriptions before they were dispensed to the patients. In addition, Respondent did not obtain the 1998 *Iowa Pharmacy Law and Information Manual*, did not have written policies and procedures for its unit dose dispensing system, did not take a complete controlled substance inventory on the date that Gary W. Bernabe became the pharmacist in charge, and did not provide required information on all Schedule II prescriptions.

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 Secretary/Director

On this 16th day of September, 1998, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.



Arlan D. VanNorman, Chairperson
Iowa Board of Pharmacy Examiners
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Linny Emrich
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

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

Re:	}	
Pharmacy License of	}	
BENJAMIN APOTHECARY	}	STIPULATION
AND FLORALS	}	AND
License No. 73	}	CONSENT ORDER
Respondent	}	

On this 24th day of November, 1998, the Iowa Board of Pharmacy Examiners and Benjamin Apothecary and Florals of West Branch, Iowa, each hereby agree with the other and stipulate as follows:

The licensee disciplinary hearing pending before the Iowa Board of Pharmacy Examiners, on the allegations specified in the Statement of Charges filed against Respondent on September 16, 1998, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That Respondent's license to operate a pharmacy was issued on the 21st day of May, 1998, as evidenced by General Pharmacy License Number 73, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That General Pharmacy License Number 73 issued to and currently held by Respondent is current and in full force until December 31, 1998.
3. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
4. A Statement of Charges was filed against Respondent on September 16, 1998.

5. This Stipulation and Consent Order is entered into in order to resolve a disputed claim and constitutes no admission on the part of Respondent.

SECTION I

THEREFORE, IT IS HEREBY AGREED that Iowa General Pharmacy License Number 73 issued to Respondent is placed on probation for three (3) years. During the probationary period the Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy and the distribution of controlled substances and comply with the provisions of Section II.

SECTION II

1. Within thirty (30) days of the date of this Order, the Respondent shall pay a civil penalty of \$500.00 by delivering a check made payable to the Treasurer of the State of Iowa to the Executive Secretary/Director of the Board. The check shall be deposited into the general fund of the State of Iowa.

2. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent will provide its written policies and procedures for the following: (a) obtaining, recording, and maintaining patient information; (b) patient counseling; (c) prospective drug use review; (d) refilling prescriptions; (e) documenting, resolving, and preventing medication dispensing errors; (f) establishing, implementing, and following a written policy and procedure for dispensing medications in a unit dose dispensing system; (g) taking and maintaining a complete and accurate controlled substance inventory; (h) maintaining complete Schedule II prescription records; and (i) maintaining a pharmacy reference library. Following

review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures.

3. The Respondent shall comply with all of the requirements contained in 657 Iowa Administrative Code chapter 6, "General Pharmacy Licenses," which became effective on November 12, 1997.

4. Respondent shall submit to random unannounced visits or inspections by the Board or agents of the Board to verify compliance with this Stipulation and Consent Order.

5. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a).

6. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and impose additional disciplinary sanctions, including the revocation of Respondent's license to operate a pharmacy. 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.

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

8. This Stipulation and Consent Order is subject to approval of a majority of the full Board. If the Board fails to approve this Stipulation and Consent Order, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

9. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 17 day of November, 1998.

Gary W. Bernabe
Benjamin Apothecary and Florals
Gary W. Bernabe, R.Ph.,
Pharmacist in charge,
Respondent

Subscribed and Sworn to before me on this 17th day of November, 1998.

Linda L. Pickering
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

10. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 24 day of November, 1998.

Arlan D. Van Norman
ARLAN D. VAN NORMAN, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Linny Emrich
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319