

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

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Re: )  
Pharmacist License of )  
**GARY W. BERNABE** ) **STATEMENT OF CHARGES**  
License No. 14203 )  
Respondent )

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**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 July 1, 1973, Gary W. Bernabe, the Respondent, was issued license number 14203 by the Board to engage in the practice of pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 14203 is current and active until June 30, 2000.
5. Respondent's current address is 121 Cardiff Circle, Iowa City, Iowa 52246.
6. Respondent is currently employed as the pharmacist in charge of Benjamin Apothecary and Florals, 110 North Poplar, West Branch, Iowa 52358.

**COUNT I**

The Respondent is charged with making a dispensing error in violation of 1997 Iowa Code § 155A.12(1) 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.12(1) 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.12(1) 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 at Benjamin Apothecary and Florals.

### COUNT IV

The Respondent is charged under Iowa Code Section 155A.12(1) (1995) 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 used by Benjamin Apothecary and Florals.

### COUNT V

The Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code § 10.18 with failing to take a complete controlled substance inventory at Benjamin Apothecary and Florals at the time Respondent became pharmacist in charge of Benjamin Apothecary and Florals.

### COUNT VI

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

### THE CIRCUMSTANCES

The Board has investigated a complaint which alleges that Respondent 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 Respondent 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 his unit dose dispensing system, did not take a complete controlled substance inventory on the date he became the pharmacist in charge of Benjamin Apothecary and Florals, 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

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Re: Pharmacist License of  
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**STIPULATION  
AND  
CONSENT ORDER**

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On this 24 day of November, 1998, the Iowa Board of Pharmacy Examiners and Gary W. Bernabe, of 121 Cardiff Circle, Iowa City, 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 was issued a license to practice pharmacy in Iowa on the 1st day of July, 1973, by examination as evidenced by Pharmacist License Number 14203, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.

2. That Iowa Pharmacist License Number 14203 issued to Respondent is active and current until June 30, 2000.

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 disputed claims and constitutes no admission on the part of the Respondent.

6. Respondent's license shall be placed on probation until July 1, 2002, with the following conditions, beginning on the date this Stipulation and Consent Order is accepted by the Board:

a. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall submit to the Board, for its approval, a written policy and procedure for documenting, resolving, and preventing medication dispensing errors in the practice of pharmacy. The policy and procedure shall include a written protocol which describes the procedure for Respondent to follow when a dispensing error occurs. The policy and procedure shall also require that all records of Respondent's dispensing errors be consistently and periodically evaluated by the Respondent as part of a cycle of continuous quality improvement. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to this policy and procedure whenever engaging in the practice of pharmacy.

b. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent will provide his written policies and procedures for the following: (a) dispensing accuracy; (b) obtaining, recording, and maintaining patient information; (c) patient counseling; and (d) prospective drug use review. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures whenever engaging in the practice of pharmacy.

c. Within one (1) year of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall complete continuing pharmacy education (CPE) or other formal, structured education in drug therapy and patient counseling. The

education in drug therapy shall be *not less than* fifteen (15) hours in length and shall be pre-approved by the Board. The education in patient counseling shall be *not less than* fifteen (15) hours in length and shall also be pre-approved by the Board. Documentation of satisfactory completion of the education shall be submitted to the Board. This education is in addition to the thirty (30) hours of continuing pharmacy education required every two years for license renewal.

d. Respondent shall not be an owner of a pharmacy nor serve as the pharmacist in charge, manager, or assistant manager of a pharmacy during the first year of the probationary period. In addition, during the first three months of probation Respondent shall work with another pharmacist a minimum of ten (10) hours per week.

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

f. During probation, Respondent shall report to the board or its designee quarterly. Said report shall be in writing and shall be filed no later than March 5, June 5, September 5, and December 5 of each year during the probationary period. The report shall include the Respondent's place of employment, current address, and any further information deemed necessary by the board from time to time. Respondent's first quarterly report shall be filed with the Board no later than March 5, 1999.

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

7. Respondent shall report to the Board any judgment or settlement of a malpractice claim or action and any dispensing errors brought to his attention by consumers, health care professionals, or others within thirty (30) days of such occurrence.

8. Respondent shall appear informally before a committee of the Board or the full Board on March 2, 1999, or April 13, 1999, or as otherwise directed by the Board, for the purpose of reviewing his performance as a pharmacist during his probationary period.

9. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.

10. Respondent shall 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 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 to report to the Board in writing acknowledging that the employer has read this document and understands it.

11. This proposed settlement is subject to approval of a majority of the full Board. If the Board fails to approve this proposed settlement, 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.

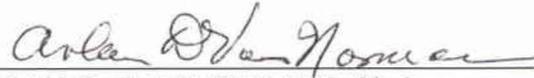
12. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 17 day of November, 1998.

  
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Gary W. Bernabe, R.Ph.  
Respondent

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

  
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NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

13. 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, Chairperson  
Iowa Board of Pharmacy Examiners  
Executive Hills West  
1209 East Court Avenue  
Des Moines, Iowa 50319