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BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

IOWA PHARMACY EXAMINERS

Re:) Case No. 2002-15397
Pharmacist License of)
FRED BERNEKING) **STATEMENT OF CHARGES**
License No. 15397)
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 (2001).
3. On February 2, 1979, the Board issued Respondent, Fred Berneking, a license to engage in the practice of pharmacy by examination as evidenced by license number 15397, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 15397 is current and active until June 30, 2002.
5. Respondent's current address is 417 Loma St., Waterloo, 50701.
6. Respondent is currently employed as the pharmacist in charge NuCara Pharmacy #3 and #4, 209 E. San Marnan, Suite 100, Waterloo, Iowa 50702 and has been employed as such during all times relevant to this statement of charges.

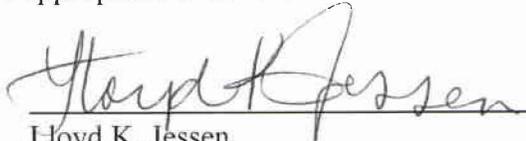
COUNT I

The Respondent is charged under Iowa Code §§ 155A.12 (2001) and 657 Iowa Administrative Code §§ 22.19 and 36.3(4)(b)(3) with failing to exercise in a substantial respect that degree of care which is ordinarily exercised by the average pharmacist in the state of Iowa acting under the same or similar circumstances.

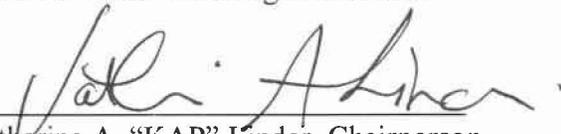
THE CIRCUMSTANCES

1. On or about March 4, 2002, the Board received a complaint about a dispensing error that occurred at NuCara Pharmacy #4, where the Respondent works as the sole pharmacist and the pharmacist in charge.
2. Patient #1 had a prescription for Thyrolar ½ grain filled at the Respondent's pharmacy.
3. The Respondent dispensed the Thyrolar prescription to Patient #1 in one bottle.
4. After taking pills from the bottle for approximately three weeks, Patient #1 ultimately realized that the bottle contained two separate colored tablets.
5. When Patient #1 called the Respondent's pharmacy to inquire about the different colors of the tablets, a technician working under the Respondent's supervision spoke with her and merely told her that the different colors were probably due to batch differences.
6. Neither the Respondent nor any technician followed up with Patient #1 to ask her to bring the pills in to the pharmacy to make sure that there was not a dispensing error or to follow up with Patient #1 or her prescriber to ensure that she received appropriate medical attention to address the dispensing error.
7. Patient #1 herself determined that some of the pills in the bottle dispensed to her were Thyrolar ½ grain and others were Thyrolar 1 grain.
8. When Patient #1 went to the Respondent's pharmacy to discuss the error further after she determined that some of the pills dispensed to her were the incorrect strength, the Respondent still did not follow up with her to ensure that she was receive proper medical attention in light of the fact that she may have taken an incorrect dosage of the medication.
9. Patient #1 indicated that she experienced some side effects that may have been associated to taking the incorrect strength of the medication.

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 18 day of June, 2002, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Katherine A. "KAP" Linder, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Shauna Russell Shields
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

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

Re:)	Case No. 2002-15397
Pharmacist License of)	
FRED BERNEKING)	STIPULATION
License No. 15397)	AND
Respondent)	CONSENT ORDER
)	

COME NOW the Iowa Board of Pharmacy Examiners ("the Board") and Fred Berneking, R.Ph. ("Respondent") and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2001), enter into the following Stipulation and Consent Order settling the contested case currently on file.

The licensee disciplinary hearing pending before the Iowa Board of Pharmacy Examiners, on the allegations specified in the Statement of Charges filed against the Respondent on June 18, 2002, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That the Respondent was issued a license to practice pharmacy in Iowa on February 2, 1979, by examination as evidenced by Pharmacist License Number 15397, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 15397, issued to and held by the Respondent is active and current until June 30, 2004.
3. The Respondent is currently employed as the pharmacist in charge at NuCara

Pharmacy #3 and #4, 209 E. San Marnan, Suite 100, Waterloo, Iowa 50702, and has been employed as such during all times relevant to this case.

4. A Statement of Charges was filed against the Respondent on June 18, 2002.
5. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
6. This Stipulation and Consent Order is entered into in order to resolve disputed claims and constitutes no admission on the part of the Respondent.
7. Respondent agrees to accept a citation and warning for the alleged violation set forth in the Statement of Charges.
8. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent will provide his *typewritten* policies and procedures (a) for verifying prescriptions filled by technicians and (b) for handling dispensing errors brought to the attention of the pharmacy, including errors brought to the attention of the pharmacy technicians. The Respondent's policies and procedures for verifying prescriptions filled by technicians shall address the Respondent's process for checking the NDC number of every prescription that he verifies. The typewritten policies and procedures shall relate to Respondent's practice of pharmacy in his current work setting as the pharmacist in charge. 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. In the event the Respondent becomes the pharmacist in charge at another pharmacy, the Respondent agrees to implement similar policies

and procedures. Respondent further acknowledges and understands that supervising pharmacy technicians working under pharmacist is the responsibility of the pharmacist.

9. 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 § 272C.3(2)(a).
10. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
11. Should the Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend the Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.1.
12. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, the 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.
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 party. If the Board approves this Stipulation and Consent Order, it shall be the full

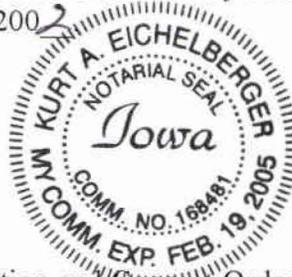
and final resolution of this matter.

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

15. This Stipulation and Consent Order is voluntarily submitted by the Respondent to the Board for its consideration on the 23rd day of July, 2002.

Frederick M. Berneking
Fred Berneking, R.Ph.
Respondent

Subscribed and sworn to before me by Fred Berneking on this 23 day of July, 2002



Kurt A. Eichelberger
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

16. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 6th day of Aug., 2002.

Katherine A. Linder
KATHERINE A. LINDER, Chairperson
Iowa Board of Pharmacy Examiners
400 S'W Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Shauna Russell Shields
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319