

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

Re:)	Case No. 2001-16526
Pharmacist License of)	
MELANIE P. BIENEMANN)	STATEMENT OF CHARGES
License No. 16526)	
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 October 24, 1984, the Board issued Respondent, Melanie P. Bienemann, a license to engage in the practice of pharmacy by examination as evidenced by license number 16526, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 16526 is current and active until June 30, 2002.
5. Respondent's current address is 2702 Irving Avenue, Iowa City, Iowa 52246.
6. Respondent is currently employed as the pharmacist in charge at Medicap Pharmacy, 423 Tenth Avenue, Coralville, IA 52241 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(1) (2001) and 657 Iowa Administrative Code §§ 22.13, 22.19, 36.1(4)(b)(4) with professional incompetency, including failure to conform to the minimal standard or acceptable and prevailing practice of pharmacy in the State of Iowa and failure to properly supervise interns and technicians working under the Respondent's supervision.

COUNT II

The Respondent is charged under Iowa Code §§ 155A.12(1) and 657 Iowa Administrative Code §§ 36.1(4)(u), 20.11, and 20.12 with failure to create and maintain proper documentation of the compounding of prescription medications.

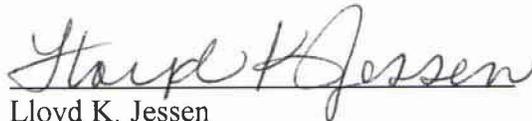
COUNT III

The Respondent is charged under Iowa Code §§ 155A.12(1) (2001) and 657 Iowa Administrative Code §§ 8.20 & 36.1(4)(u) with failure to provide adequate patient counseling.

THE CIRCUMSTANCES

1. On or about June 15, 2001, the Board received information regarding a dispensing error on a prescription that the Respondent was responsible for dispensing.
2. Upon investigation of the complaint referred to in paragraph 1, the Board investigator discovered that the Respondent dispensed clonidine liquid to patient John Doe instead of the Klonopin liquid that was prescribed.
3. The liquid suspension was incorrectly compounded by technicians and/or interns working under the Respondent's supervision without proper supervision.
4. There are no records available regarding the compounding of the incorrectly dispensed medication.
5. The Klonopin prescription was a new prescription for John Doe, but the prescription was not marked in accordance with the pharmacy's policies to indicate that the prescription required patient counseling.
6. Proper patient counseling would likely have resulted in detection of the dispensing error.

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 10 day of October, 2001, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.



Matthew C. Osterhaus, 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. 2001-16526
Pharmacist License of)	
MELANIE P. BIENEMANN)	STIPULATION
License No. 16526)	AND
Respondent)	CONSENT ORDER
)	

COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Melanie P. Bienemann, 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 Respondent on October 10, 2001, 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 October 24, 1984, by examination as evidenced by Pharmacist License Number 16526, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 16526, issued to and held by the Respondent is active and current until June 30, 2002.

3. The Respondent is currently employed as the pharmacist in charge at Medicap Pharmacy, 423 Tenth Avenue, Coralville, IA 52241 and has been employed as such during all times relevant to this case.
4. A Statement of Charges was filed against the Respondent on October 10, 2001.
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. The Respondent's license shall be placed on probation for two (2) years, 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 will provide her *typewritten* policies and procedures for the following: (a) patient counseling and (b) compounding prescription medications. The typewritten policies and procedures shall relate to Respondent's practice of pharmacy in her current work setting. 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.
 - b. Within six (6) months 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 patient

counseling. The education shall be *not less than* four and one-half (4 ½) hours in length and shall 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.

- c. Within six (6) months 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 compounding prescription medications. The education shall be *not less than* four (4) hours in length and shall 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. Within six (6) months of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall visit and observe the compounding operations of another compounding retail pharmacy. As part of the observation, the Respondent shall review the other pharmacy's compounding policies, practice, systems, and its record-keeping. At the conclusion of the visit, the Respondent shall report to the Board regarding when the visit took place, the materials she reviewed, and a short summary of what she learned during the observation. The Respondent shall also

incorporate any useful information, practices, or systems she learns during this observation session into her policies and procedures on compounding prescription medications.

- e. During probation, the 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, the Respondent shall report to the Board or its designee quarterly. Said report shall be in writing. The reports shall be submitted to the Board by February 15, 2002, May 15, 2002, September 5, 2002, December 5, 2002, March 5, 2003, June 5, 2003, September 5, 2003, and December 5, 2003 while the Respondent remains on probation. The report shall include the Respondent's place of employment; current address; any dispensing errors that reach a patient that the Respondent identifies or otherwise becomes aware of through information received from consumers, health care professionals, or others; the number of compounded prescriptions the Respondent dispensed during the quarter; the Respondent's progress in addressing compounding practices and record keeping in her practice; and any further information deemed necessary by the Board from time to time.
- g. The Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.

8. In the event the Respondent completes the requirements set forth in subparagraphs

7(a), (b), (c), and (d) above, and submits evidence of her satisfactory completion of these requirements to the Board by May 15, 2002 and has complied with the reporting requirements set forth in subparagraph 7(f), then the Respondent's probationary period shall end on June 1, 2002. The Board hereby authorizes its Executive Secretary/Director to review any evidence submitted by the Respondent in accordance with this paragraph and to issue an Order terminating the probationary period on behalf of the Board if the Executive Secretary/Director determines that the Respondent has satisfactorily completed the requirements set forth above.

9. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
10. During the probationary period, the Respondent shall notify all present employers and prospective employers (no later than at the time of an interview), including the pharmacist-in-charge, 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, the Respondent shall cause her pharmacy employer and the pharmacist-in-charge that she 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.
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.

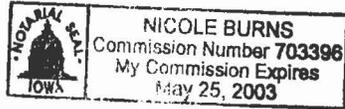
12. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, the Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent 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 Respondent to the Board for its consideration on the 17th day of January, 2002.



Melanie P. Bienemann, R.Ph.
Respondent

Subscribed and sworn to before me by Melanie P. Bienemann on this 17th day of January, 2002.



Nicole Burns
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 24 day of Jan., 2002.

Matthew C. Osterhaus
MATTHEW C. OSTERHAUS, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

APPROVED AS TO FORM:

Thomas G. Crabb
Thomas G. Crabb – Attorney for Respondent

Shauna Russell Shields
Shauna Russell Shields – Attorney for State

cc: Thomas G. Crabb
505 5th Avenue
Suite 630
Des Moines, Iowa 50309

ATTORNEY FOR RESPONDENT

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

ATTORNEY FOR STATE



STATE OF IOWA

THOMAS J. VILSACK
GOVERNOR
SALLY J. PEDERSON
LT. GOVERNOR

BOARD OF PHARMACY EXAMINERS
LLOYD K. JESSEN, RPh, JD, EXECUTIVE DIRECTOR

July 22, 2002

THOMAS G CRABB
505 5 AVE
DES MOINES IA 50309-8000

Dear Mr. Crabb:

Melanie Bienemann has satisfactorily complied with all requirements of her Stipulation and Consent Order. Her probation has been terminated effective June 1, 2002.

ORDER TERMINATING PROBATIONARY PERIOD

Effective June 1, 2002, the Iowa Board of Pharmacy Examiners modifies the terms of Melanie Bienemann's Stipulation and Consent Order, pursuant to paragraph 8 of the Stipulation and Consent Order dated January 24, 2002, by terminating the probationary period on June 1, 2002. As a result, Iowa pharmacist license # 16526 is now fully restored and in good standing.

If you have any questions concerning this action, please contact me. Thank you.

Sincerely yours,

A handwritten signature in cursive script that reads "Lloyd K. Jessen".

Lloyd K. Jessen
Executive Secretary/Director

LKJ/dj