

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2011-89
Pharmacist License of)	
DIANA L. BURNETT)	STATEMENT OF CHARGES
License No. 19182,)	
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter, "Board") 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 (2011).
3. On July 6, 1999, the Board issued Diana L. Burnett ("Respondent"), after examination, a license to engage in the practice of pharmacy as evidenced by license number 19182, 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, 2013.
5. Respondent's address of record is 2226 E 46th Street, Davenport, Iowa 52807.
6. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at Hy-Vee Pharmacy #1, 3019 Rockingham Road, Davenport, Iowa 52802.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.12(1) (2011) and 657 Iowa Administrative Code § 36.1(4)(b) with lack of professional competency as demonstrated by Respondent's (a) substantial deviation from the standards of learning and skill ordinarily possessed and applied by other Iowa pharmacists, (b) failure to exercise in a substantial respect that degree of care which is ordinarily exercised by an Iowa pharmacist and (c) willful and repeated departure from, and a failure to conform to, the minimal standard and acceptable and prevailing practice of pharmacy in the state of Iowa.

COUNT II -- FAILURE TO PROVIDE COUNSELING

Respondent is charged under Iowa Code § 155A.12(1) (2011), and 657 Iowa Administrative Code §§ 6.14(1) and 36.1(4)(w), with failing to provide counseling to patients and engaging in business practices intended to circumvent requirements for patient counseling.

B. CIRCUMSTANCES

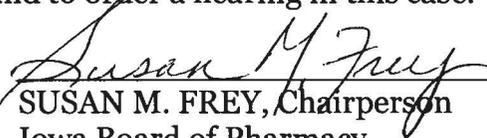
An investigation was commenced on June 7, 2011, which revealed the following:

1. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at Hy-Vee Pharmacy #1, 3019 Rockingham Road, Davenport, Iowa 52802.
2. During a "shopper survey" conducted by the Board, Respondent was presented with two new prescriptions for drugs. The prescription medications have a potentially dangerous drug interaction.
3. At the time Respondent received the prescriptions, the interaction was recognized by a pharmacist who refused to fill both scripts without talking with the shopper's physician. The shopper chose to have only one prescription filled.
4. When the one medication was dispensed, no counseling was provided to the shopper.

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 7th day of March 2012, 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, Chairperson
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 50319

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2011-89
Pharmacist License of)	
DIANA L. BURNETT)	STIPULATION
License No. 19182)	AND
Respondent)	CONSENT ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy (hereinafter, "Board") and Diana L. Burnett (hereinafter, "Respondent"), enter into the following Stipulation and Consent Order settling a licensee disciplinary proceeding currently pending before the Board.

Allegations contained in a Statement of Charges 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 6, 1999, after examination, as evidenced by Pharmacist License Number 19182 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, 2013.
3. The Board has jurisdiction over the parties and jurisdiction over the subject matter of these proceedings.
4. Respondent was, at all times material to this Statement of Charges, employed as the pharmacist in charge at Hy-Vee Pharmacy#1, 3019 Rockingham Road, Davenport, Iowa 52802.
5. A Statement of Charges was filed against Respondent by the Board on March 7, 2012. Respondent denies the allegations contained in the Statement of

Charges, but has chosen not to contest the allegations and acknowledges that, if proven in a contested case proceeding, the allegations would constitute grounds for the discipline described herein.

6. Upon the Board's approval of this Stipulation and Consent Order, Respondent's Iowa pharmacist license shall be placed on probation for a term of two (2) years. Probation is granted under the following conditions, which Respondent agrees to follow:

a. Within three (3) months after the date of the Board's approval of this Stipulation and Consent Order, Respondent shall complete not less than two (2) hours of formal, structured continuing pharmacy education ("CPE") which shall be pre-approved by the Board. The CPE shall be focused on compliance with Iowa law, including patient counseling requirements. Upon completion of the two 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.

b. Respondent shall file sworn quarterly reports with the Board attesting to Respondent's compliance with the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than December 5, March 5, June 5 and September 5 of each calendar year and *shall include a description of Respondent's most recent efforts to comply with this Stipulation and Consent Order.*

c. 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.

d. 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 during the probationary period, Respondent shall cause her pharmacy employer, and any pharmacist-in-charge 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. It shall be Respondent's responsibility to assure that these reports are provided to the Board.

e. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing his performance as a pharmacist during Respondent's probationary period. Respondent shall be given reasonable notice of the date, time, and place for the appearances.

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

7. 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, by check 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.

8. Respondent agrees to obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
9. Should 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 Respondent's Iowa license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2011), and 657 Iowa Administrative Code § 36.1.
10. 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.
11. The State's legal counsel may present this Stipulation and Consent Order to the Board.
12. This Stipulation and Consent Order 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.
13. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 12th day of July 2012.

Diana L. Burnett, RPh
DIANA L. BURNETT, R.Ph.
Respondent

Subscribed and sworn to before me by Diana L. Burnett on this 12th day of
July 2012.



Mary Kothenbeutel
NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the
29th day of August 2012.

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

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

Edwin N. McIntosh
Dorsey & Whitney
801 Grand Avenue,
Des Moines, IA 50309

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BEFORE THE BOARD OF PHARMACY STATE OF IOWA

**IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST
DIANA L. BURNETT, R.Ph., RESPONDENT**

2011-89

TERMINATION ORDER

DATE: August 28, 2014

1. On August 29, 2012, a Stipulation and Consent Order was issued by the Iowa Board of Pharmacy placing the license to practice pharmacy, number 19182 issued to Diana L. Burnett on July 6, 1999, on probation for a period of two years 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



Edward L. Maier, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688