

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2006-119
Pharmacy License of)	
CARROLL APOTHECARY)	STATEMENT OF CHARGES
License No. 357)	
Respondent)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy 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 (2007).
3. Effective December 14, 2006, the Board renewed Respondent's general pharmacy license number 357, allowing Respondent to engage in the operation of a pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 357 is current until December 31, 2007.
5. Respondent is currently operating a general pharmacy at 707 North Main, Carroll, Iowa 51401, with Phil Markway as the pharmacist in charge at all times material to this statement of charges.

A. THE CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged pursuant to Iowa Code § 155A.15(2)(c) (2007) and 657 Iowa Administrative Code § 36.1(4)(b) with a lack of professional competency as demonstrated by willful and repeated departures 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 MAINTAIN RECORDS

Respondent is charged pursuant Iowa Code §§ 155A.15(2)(c) and (h), and 155A.23(12) (2007), and 657 Iowa Administrative Code §§ 10.34 and 36.1(4)(j), (u) and (ac), with failing to create and maintain complete and accurate records of its compounding activities.

COUNT III – VIOLATION OF PHARMACY COMPOUNDING RULES

The Respondent is charged pursuant to Iowa Code §§ 155A.15(2)(c) (2007), 657 Iowa Administrative Code chapter 20, and 657 Iowa Administrative Code §§ 8.30, 20.8, 20.10, 20.11, 20.12, 36.1(4)(j), and 36.1(4)(u) with failure to comply with Board rules for pharmacy compounding.

B. THE CIRCUMSTANCES

Circumstances supporting the above charges are set forth in Attachment A.

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 25 day of October 2007, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


PAUL ABRAMOWITZ, 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

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

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IOWA BOARD OF PHARMACY

Re:)	Case No. 2006-119
Pharmacy License of)	
CARROLL APOTHECARY)	STIPULATION
License No. 357)	AND
Respondent)	CONSENT ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2007), The Iowa Board of Pharmacy (hereinafter, the "Board") and Carroll Apothecary (hereinafter, "Respondent") have agreed to settle a contested case currently on file with the Iowa Board of Pharmacy. The Statement of Charges filed against Respondent on October 25, 2007 and the licensee disciplinary proceeding shall be resolved without a hearing, as the Board and Respondent have agreed to the following Stipulation and Consent Order:

1. Respondent's license to operate a pharmacy was renewed on December 3, 2007 as evidenced by Pharmacy License Number 357, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. General Pharmacy License Number 357 issued to and held by Respondent is current and in force until December 31, 2008.
3. 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 October 25, 2007.
5. Respondent does not contest the allegations set forth in the Statement of Charges

and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline described herein.

6. Respondent's license shall be placed on probation for five (5) years, upon the following conditions:

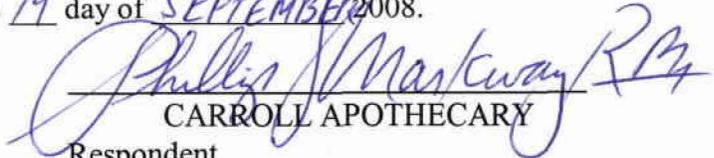
a. Within sixty (60) days after the date of the Board's approval of this Stipulation and Consent Order, Respondent will submit to the Board *typewritten*¹ pharmacy policies and procedures: (1) regarding Respondent's method for identifying Iowa Code and Iowa Administrative Code provisions applicable to its activities, (2) regarding Respondent's compounding activities, (3) regarding testing of compounded substances, and (4) regarding the appropriate response to circumstances which reveal that a compounded substance is contaminated, under-strength, or otherwise defective. Following review and approval by the Board, Respondent agrees to adopt, implement, and adhere to these policies and procedures.

b. During probation, the *Pharmacist in Charge* of 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. Respondent's quarterly reports shall identify the current pharmacist in charge, all staff pharmacists, Respondent's *most recent efforts to implement the provisions of this Stipulation and Consent Order, by date*, and any further information deemed necessary by the Board from time to time.

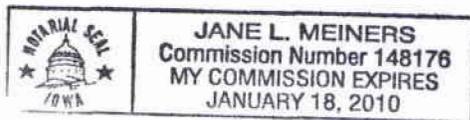
¹ For the purposes of this order, "*typewritten*" policies may be generated on computer word-processing equipment.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$1000. This civil penalty payment shall be made payable to the Treasurer of Iowa and promptly 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 operation 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 to operate a pharmacy or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2007), 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. 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.
12. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary action.

This Stipulation and Consent Order is voluntarily submitted by Carroll Apothecary to the Iowa Board of Pharmacy for its consideration on this 19 day of SEPTEMBER 2008.


CARROLL APOTHECARY
Respondent
By Phillip J. Markway, R.Ph.
Pharmacist in Charge

Subscribed and sworn to before me by Phil Markway, who has stated to me that he is the pharmacist in charge of Carroll Apothecary and is authorized to sign this Stipulation and Consent Order on behalf of Carroll Apothecary on this 19th day of September 2008.




NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on this 7th day of October 2008.


LEMAN OLSON, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319