

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

In the Matter of the Complaint	:	
	:	
and Statement of Charges Against	:	COMPLAINT AND
	:	
Gary D. Cottingham, Pharmacist	:	STATEMENT OF CHARGES
Respondent	:	

COMES NOW, Norman C. Johnson, executive secretary of the Iowa Board of Pharmacy Examiners, on the 10th day of February 1986, and files this Complaint and Statement of Charges against Gary D. Cottingham, a pharmacist licensed pursuant to Iowa Code Chapter 155, and alleges:

1. That John F. Rode, chairperson; Margo L. Underwood, vice chairperson; Rollin C. Bridge; Jerry M. Hartleip; Melba L. Scaglione; Alan M. Shepley; and Gale W. Stapp are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. That Respondent is a resident of Pella, Iowa, and was issued license number 13616 to practice pharmacy in the State of Iowa on September 9, 1969.

3. That Respondent's license to practice pharmacy is current until June 30, 1986.

4. That an audit of the records of Ideal Pharmacy was conducted on August 13, 1985, by Holger Christensen, Morrell Spencer and Charles Vandenburg, who are duly authorized agents of the Board.

5. That three separate audits were conducted.

6. That Audit B comprised six Schedule II controlled substances, and covered the time period May 2, 1985, to August 13, 1985.

7. That Audit C comprised ten Schedule III and IV controlled substances and covered a time period of May 2, 1985 to August 13, 1985.

8. That Audit D comprised nine Schedule III and V controlled substances and covered the period of May 2, 1985, to August 13, 1985.

9. That Audit B shows complete accountability for those drugs.

10. That the results of Audit C revealed the following:

a. Shortages of 424 doses of Chlordiazepoxide 10mg capsules, a Schedule IV controlled substance.

b. Shortages of 517 doses of Propoxyphene Napsylate 100mg with Acetaminophen 650mg tablets, a Schedule IV controlled substance.

- c. A shortage of 576 doses of Butalbital 50mg caffeine 40mg and aspirin 325mg tablets and capsules, a Schedule IV controlled substance.
 - d. A shortage of 165 doses of Glutethamide 500mg tablets, a Schedule III controlled substance.
 - e. A shortage of 133 doses of Restoril 15mg capsules, a Schedule IV controlled substance.
 - f. A shortage of 552 doses of Acetaminophen with Codeine 30mg tablets, a Schedule III controlled substance.
 - g. A shortage of 73 doses of Valium 5mg tablets, a Schedule IV controlled substance.
 - h. A shortage of 259 doses of Xanax 1mg tablets, a Schedule IV controlled substance.
11. That the results of Audit D revealed the following:
- a. A shortage of 420cc of Pseudoephedrine Hydrochloride 30mg, Codeine Phosphate 10mg and Chlorpheniramine Maleate 2mg per 5cc, a Schedule V controlled substance.
 - b. A shortage of 1845cc of Codeine Phosphate 10mg, Organidin 30mg, Chlorpheniramine Maleate 2mg per 5cc, a Schedule V controlled substance.
 - c. An overage of 500cc of Promethazine Hydrochloride 5mg, Phenylephrine Hydrochloride 5mg, Fluid Extract Ipecac 0.17 minums, Potassium Guaiacolsulfonate 44mg, Citric Acid 60mg, Sodium Citrate 197mg, and Codeine Phosphate 10mg per 5cc, a Schedule V controlled substance.
 - d. A shortage of 190cc of Promethazine Hydrochloride 5mg, Fluid Extract of Ipecac 0.17 minums, Potassium Guaiacolsulfonate 44mg, Citric Acid 60mg, Sodium Citrate 197mg and Codeine Phosphate 5mg per 5cc, a Schedule V controlled substance.
12. That Respondent dispensed 60 doses of the Schedule II controlled substance Nembutal 100mg capsules to patient William Grootveld on June 14, 1985, without a valid signed prescription and not for an emergency purpose.
13. That Respondent dispensed 60 doses of Darvocet N 100 tablets to patient Nellie Dingeman on Ideal Pharmacy Prescription number 167595, issued by Stewart F. Kanis, M.D., on May 2, 1985, when the prescriber only authorized the dispensing of 20 doses.

14. That Respondent dispensed 210 doses of the Schedule III controlled substance Tylenol #3 tablets to patient Frances Van Gorp on Ideal Pharmacy prescription number 166441, issued by Steven C. VanderWall, M.D., on January 14, 1985, when the prescriber only authorized the dispensing of 30 doses.

15. That Respondent dispensed 350 doses of the Schedule IV controlled substance Fiorinal capsules to patient Beatrice Mick on Ideal Pharmacy prescription number 166763, issued by an unidentified University of Iowa physician on February 5, 1984, when the prescriber only authorized the dispensing of 200 doses; also, that the initial dispensing of the prescription on February 13, 1985, was more than six months after its date of issue on February 5, 1984.

16. That Respondent failed to keep accurate records of the receipt and disposition of controlled substances in the possession of Ideal Pharmacy.

17. That Respondent sold four-ounce bottles of Schedule V cough preparations with full knowledge that the purchases were not for legitimate medical purposes.

18. That Respondent sold four-ounce bottles of Schedule V cough preparations with full knowledge that prior sales of those preparations had been made within the previous 48 hours.

19. That Respondent is guilty of violations of Iowa Code Sections 155.13(3) and (8); 155.30; 204.306; 204.308(4); 204.401(1)"d" and Iowa Administrative Code (IAC) Rules §620--8.11, 8.13(1) thru (5); 8.13(9) and 8.13(15) by virtue of the allegations in paragraphs 10 thru 18.

Section 155.13(3) and (8) read as follows:

"...The board shall have the authority to deny, suspend or revoke a license in any case where it finds that there has been a substantial failure to comply with the provisions of this chapter or the regulations promulgated hereunder, or the violation thereof, and in addition, the board shall have the power to deny, suspend or revoke a license, when the applicant or licensee, or any employee, providing the offense is committed on licensed premises or is in the conduct of the business licensed, is guilty of any of the following facts or offenses:...

3. Distributing on the premises of...drugs for any other than lawful purposes.

8. Violations of the provisions of this chapter."

Section 155.30 reads as follows:

"...any person who violates a provision of Section 155.29 or who

sells, gives away or administers to another person any prescription drug shall be guilty of a public offense...."

Section 204.306 reads as follows:

"Records of registrants. Persons registered to manufacture, distribute, dispense, or administer controlled substances under this chapter shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and with such additional rules as may be issued by the board...."

Federal regulations in this regard can be found in Code of Federal Regulations (CFR) Title 21. Pertinent parts of those regulations are 1304.03, 1304.04 and 1304.11.

Part 1304.03 reads, in part, as follows:

"Persons required to keep records and file reports.

(a) Each registrant shall maintain the records and inventories and shall file the reports required by this part, except as exempted by this section...."

Part 1304.04 reads, in part, as follows:

"Maintenance of records and inventories.

(a) Every inventory and other records required to be kept under this Part shall be kept by the registrant and be available, for at least 2 years from the date of such inventory or records, for inspection and copying by authorized employees of the Administration...."

Part 1304.11 reads, in part, as follows:

"General requirements for inventories.

(a) Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken...."

Section 204.308(4) reads as follows:

"A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose."

Section 204.401(1)"d" reads as follows:

"...It is unlawful for any person to...deliver...a controlled substance...any person who violates this subsection with respect to...(d) a substance classified in schedule V, is guilty of a simple misdemeanor...."

Board rule §620--8.11 reads, in part, as follows:

"8.11(204) Manner of issuance of prescriptions. All prescriptions for controlled substances shall be dated as of, and manually signed on, the day when issued and shall bear the full name and address and registration number of the practitioner. A practitioner must manually sign a prescription in the same manner as he would sign a check or legal document. Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by those regulations...."

Board subrule 8.13(1) thru (5) reads as follows:

"8.13(204) Controlled substances listed in schedule II--requirement of prescription. In the case of an emergency situation, as defined by 8.13(5), a pharmacist may dispense a controlled substance listed in schedule II upon receiving oral authorization of a prescribing individual practitioner, provided that:

(1) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period (dispensing beyond the emergency period must be pursuant to a written prescription manually signed by the prescribing individual practitioner);

(2) The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required except for the signature of the prescribing individual practitioner;

(3) If the prescribing individual practitioner is not known to the pharmacist, he must make a reasonable effort to determine that the oral authorization came from a registered individual practitioner, which must include a callback to the prescribing individual practitioner using his phone number as listed in the telephone directory or other good faith efforts to insure his identity; and

(4) Within seventy-two hours after authorizing an emergency oral prescription, the prescribing individual practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements, the prescription shall have written on its face "Authorization for Emergency Dispensing," and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail it must be postmarked within the seventy-two-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist

shall notify the board if the prescribing individual fails to deliver a written prescription to him, failure of the pharmacist to do so shall void the authority conferred by this subrule to dispense without a written prescription of a prescribing individual practitioner.

(5) Emergency situations. For the purposes of authorizing an oral prescription of a controlled substance listed in schedule II of the Uniform Controlled Substances Act (Ch. 204 of the Code) the term "emergency situation" means those situations in which the prescribing practitioner determines:

a. That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user;

b. That no appropriate alternative treatment is available, including administration of a drug which is not a controlled substance under schedule II of chapter 204;

c. That it is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance, prior to the dispensing.

Board subrule §620--8.13(9) reads as follows:

"Refilling of prescriptions. No prescription for a controlled substance listed in schedule III or IV shall be filled or refilled more than six months after the date on which such prescription was issued and no such prescription authorized to be refilled may be refilled more than five times. Each refilling of a prescription shall be entered on the back of the prescription or on another appropriate uniformly maintained readily retrievable record, such as medication records, which indicate the date, quantity, and name of dispensing pharmacist for each prescription initialed, and dated by the pharmacist as of the date of dispensing, and shall state the amount dispensed. If the pharmacist merely initials and dates the back of the prescription he shall be deemed to have dispensed a refill for the full face amount of the prescription. Additional quantities of controlled substances listed in schedule III or IV may only be authorized by a prescribing practitioner through issuance of a new prescription as provided herein which shall be a new and separate prescription."

Board subrule §620--8.13(15) reads as follows:

"8.13(15) Dispensing without prescription. A controlled substance listed in Schedule V...may be dispensed by a pharmacist without a prescription to a purchaser at retail, provided that:

a. Such dispensing is made only by a pharmacist and not by a non-pharmacist employee even if under the direct supervision of a pharmacist except as specifically provided by other rules of the board.

b. Not more than 120cc. (4 ounces) of any such controlled substance may be distributed at retail to the same purchaser in any given forty-eight-hour period.

c. The purchaser is at least eighteen years of age.

d. The pharmacist requires every purchaser of a controlled substance under this rule not known to him to furnish suitable identification (including proof of age where appropriate).

e. A bound record book for dispensing of controlled substances (other than by prescription) is maintained by the pharmacist, which book shall contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase and the name or initials of the pharmacist who dispensed the substance to the purchaser.

f. A prescription is not required for distribution or dispensing of the substance pursuant to any other federal, state or local law."

20. That Respondent is guilty of a violation of Board Rule §620--10.1(4) "b" (3) and (4) "h," "j" and "u" by virtue of the allegations in paragraph 19.

Rule 10.1(4) reads as follows:

"10.1(4) The board may impose any of the disciplinary sanctions set out in subrule 10.1(2), including civil penalties in an amount not to exceed \$1000.00, when the board determines that the licensee or registrant is guilty of the following acts or offenses:

b. Professional incompetency. Professional incompetency includes but is not limited to:

(3) A failure by a pharmacist 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.

(4) A willful or repeated departure from, or the failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa.

h. Distribution of intoxicating liquors or drugs for other than lawful purposes includes but is not limited to the disposition of drugs in violation of chapters 155, 203, 203A and 204 of The Code.

j. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy.

u. Violating any of the grounds for revocation or suspension of a license listed in section...155.13 of The Code."

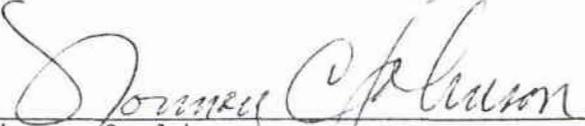
21. That paragraphs 19 and 20 constitute grounds for which Respondent's license to practice pharmacy in the state of Iowa can be suspended or revoked.

WHEREFORE, the undersigned charges that Gary D. Cottingham has violated Section 155.13(3); 155.13(8); 155.30; 204.306; 204.308(4); 204.401(1)"d" Code of Iowa, and Board Rule §620--8.11; 8.13(1) thru (5); 8.13(9); 8.13(15); 10.1(4)"b"(3) and (4), "h", "j" and "u" of the Iowa Administrative Code.

IT IS HEREBY ORDERED that Gary D. Cottingham appear before the Iowa Board of Pharmacy Examiners on March 12, 1986, at 2:00 p.m. in the Board Conference Room, 1209 E. Court, Des Moines, Iowa.

The undersigned further asks that upon final hearing, the Board enter its Findings of Fact and Decision to suspend or revoke the license to practice pharmacy issued to Gary D. Cottingham on the 9th day of September 1969, or take whatever additional steps they deem necessary.

IOWA BOARD OF PHARMACY EXAMINERS


Norman C. Johnson
Executive Secretary

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

In the Matter of :
GARY D. COTTINGTON, Pharmacist : STIPULATION
License No. 13616 :

WHEREAS, Gary D. Cottingham, hereinafter referred to as the Licensee, has had certain allegations made against him by the Board of Pharmacy Examiners, hereinafter referred to as the Board, concerning his professional conduct as a pharmacist, and

WHEREAS, the Licensee admits to the allegations made against him, and

WHEREAS, both the Licensee and the Board desire to arrive at a mutually agreeable informal settlement of this matter,

IT IS MUTUALLY AGREED AND STIPULATED as follows between the Licensee and the Board:

1. That the Board by and through its member, Melba L. Scaglione, and the Licensee, have entered into settlement discussions and have agreed upon a disposition of this matter.
2. That the Licensee desires to avoid the uncertainty and the expense of a trial and desires to consent to the disciplinary action to be taken by the Board as specified in paragraph 4, *infra*.
3. It is the purpose and intent of the parties hereto to waive all the provisions of Chapter 17A of the 1985 Code of Iowa as they relate to notice and hearing on the matter of revocation or suspension of Licensee's license to be a pharmacist, and to acknowledge that each are fully aware of their rights and procedures afforded them through Chapter 17A of the 1985 Code of Iowa and the rules of the Board of Pharmacy Examiners promulgated in accordance and pursuant thereto, particularly Section 17A.12 as it relates to contested cases and provides notice of hearing and records, and Section 17A.18, as it relates to the requirements concerning notice of the suspension and revocation of licenses.
4. It is the understanding of both the Licensee and the Board that they will enter into an Order and Consent to Order which will provide the following:
 - a. License #13616 issued to Licensee is suspended for a period of twelve (12) months effective March 12, 1986, with the suspension stayed.

- b. Licensee to be placed on probation for two (2) years beginning March 12, 1987, and ending March 12, 1989.
- c. Licensee shall pay a fine of five hundred dollars (\$500). Payment shall be made within thirty (30) days of the signing of this order with the check made payable to the State of Iowa.
- d. Licensee shall not supervise any registered intern nor perform any of the duties of a preceptor during the period of stayed suspension and probation.
- e. Licensee shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.
- f. Should Licensee leave Iowa to reside or practice outside this state, he shall notify the Board in writing of the date of departure and return. Periods of residency or practice outside the state shall not apply to a reduction in the probationary period.
- g. Licensee shall report in writing no later than the 10th of each month his residency and employment status during the stayed suspension and probationary period.
- h. Licensee shall prepare a policy and procedures manual for the operation of Ideal Pharmacy. Such manual shall include, but not be limited to, the following:
 - 1. Procedures for the handling of Schedule II through V controlled substances;
 - 2. Removal and disposal of outdated drugs.

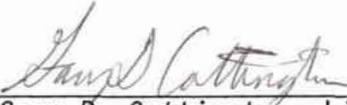
A copy of this manual shall be forwarded to the Board office within 30 days of the signing of this Order.

- i. Licensee shall make no sales of Schedule V drugs without a prescription during the period of stayed suspension and probation.
- j. Should Licensee violate probation in any respect, the Board, after giving Licensee notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against Licensee during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

THE ABOVE AND FOREGOING CONSTITUTE THE FULL AND COMPLETE STIPULATION AND AGREEMENT OF THE PARTIES HERETO.



John F. Rode, Chairman
Iowa Board of Pharmacy Examiners



Gary D. Cottingham, Licensee

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

In the Matter of Pharmacist :
GARY D. COTTINGTON : ORDER AND CONSENT TO ORDER
License #13616 :

The Iowa Board of Pharmacy Examiners, having been advised of the allegations that Gary D. Cottingham has conducted himself in a manner which could cause his license to practice pharmacy to be suspended, and the Board of Pharmacy Examiners through a Board Member and said Gary D. Cottingham, having entered into a Stipulation representing their mutual informed consent as to the waiver of the provisions found in the Iowa Administrative Code appearing at Chapter 17A, particularly Section 17A.12 and Section 17A.18, Code of Iowa 1985, in regards to Notice and Hearing, the parties to this action agree to an informal settlement of this matter, namely that the license of Gary D. Cottingham be disciplined according to the conditions attached hereto.

ORDER

IT IS THEREFORE ORDERED, subject to the consent of Gary D. Cottingham to be contained herein to this Order that the license of Gary D. Cottingham to practice pharmacy be disciplined according to the conditions outlined in the Stipulation attached hereto and made part of this Order.

Date 3-20-86



John F. Rode, Chairperson
Iowa Board of Pharmacy Examiners

~~CONSENT TO ORDER~~

I, Gary D. Cottingham, hereby consent to the Order set forth above, waive my right to a hearing in this matter, and thereby specifically waive a right to confrontation, cross-examination of witnesses, production of evidence, making of a record and judicial review.

Date 4-10-86



Gary D. Cottingham

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

Re:	)	Case No. 2001-13616
Pharmacist License of)	
GARY D. COTTINGTON	)	STATEMENT OF CHARGES
License No. 13616)	
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 August 4, 1969, the Board issued Respondent, Gary D. Cottingham, a license to engage in the practice of pharmacy by examination as evidenced by license number 13616, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 13616 is current and active until June 30, 2002.
5. Respondent's current address is 1167 228th Avenue, Pella, Iowa 50219-7830.
6. Upon information and belief, the Respondent is not currently employed as a pharmacist. The Respondent was employed as the pharmacist in charge at the Walmart Pharmacy in Pella, Iowa, at times relevant to this statement of charges.

COUNT I

The Respondent is charged with unlawful possession of prescription drugs in violation of Iowa Code § 155A.21 (2001) and 657 Iowa Administrative Code §§ 36.1(4)(h), 36.1(4)(j), and 36.1(4)(u).

COUNT II

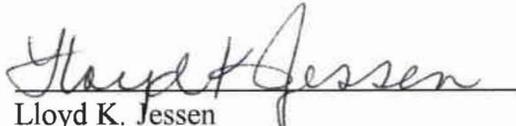
The Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of chemical abuse in violation of Iowa Code § 155A.12(1) (2001) and 657

Iowa Administrative Code §§ 36.1(4)(d), 36.1(4)(j), 36.1(4)(m), and 36.1(4)(u).

THE CIRCUMSTANCES

1. On or about July 9, 2001, the Board received information regarding apparent thefts of hydrocodone products at the pharmacy where the Respondent was employed as the pharmacist in charge.
2. On or about July 17, 2001, the Board received information that the Respondent had been arrested and terminated from his position as a pharmacist for diverting hydrocodone from the pharmacy where the Respondent worked as a pharmacist. Hydrocodone is a controlled substance.
3. The Respondent has admitted that he diverted hydrocodone from his employer for his own use.
4. The results of a comprehensive psychological evaluation including, substance abuse evaluation, diagnosed the Respondent with opiate dependence.

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 Oct., 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:) Pharmacist License of) GARY D. COTTINGTON) License No. 13616) Respondent)	Case No. 2001-13616 STIPULATION AND CONSENT ORDER
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COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Gary D. Cottingham, 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 Respondent was issued a license to practice pharmacy in Iowa on August 4, 1969, by examination as evidenced by Pharmacist License Number 13616, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 13616, issued to and held by Respondent is active and current until June 30, 2002.
3. The Respondent is not currently employed as a pharmacist.

4. A Statement of Charges was filed against 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. Upon the date of the Board's approval of this Stipulation and Consent Order, the Respondent's license shall be placed on probation for a period of five (5) year(s), under the following terms and conditions:
 - a. The Respondent shall not consume alcohol.
 - b. The Respondent shall not use any controlled substance or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for Respondent by a licensed, treating physician or other qualified treating health care provider. The Respondent shall inform any treating physician or other treating health care provider of his medical history, including his history of chemical dependency.
 - c. The Respondent shall provide witnessed blood or urine specimens on demand by an agent of the Board. The specimens shall be used for alcohol and drug screening and to verify the Respondent's compliance with any drug therapy ordered by the Respondent's physician, all costs of which shall be paid by the Respondent.
 - d. The Respondent shall comply with all treatment recommendations of his treatment program and his physician and/or counselor. The treatment

program or physician/counselor shall submit quarterly reports to the Board documenting the Respondent's compliance with the treatment program.

- e. The Respondent shall file written, sworn quarterly reports with the Board attesting his compliance with all the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than March 5, June 5, September 5, and December 5 of each year of the Respondent's probation. The quarterly reports shall include the Respondent's place of employment, current home address, home telephone number, or work telephone number, and any further information deemed necessary by the Board from time to time.
- f. The Respondent shall attend aftercare meetings and Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings as recommended by Respondent's physician or treatment provider. The Respondent shall append to each quarterly report referred to in subparagraph 7(e) above, statements signed or initialed by another person in attendance at the meetings attesting to the Respondent's attendance and continuing participation. The statement shall include the time, date, and location of the meetings attended.
- g. The Respondent shall make personal appearance before the Board or a Board committee upon request. The Respondent shall be given reasonable notice of the date, time, and location for such appearances. Any such

appearance shall be subject to the waiver provisions of 657 Iowa Administrative Code § 35.9.

- h. The Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy and the distribution of controlled substances.
- i. The Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.
- j. The Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
- k. The Respondent shall not serve as the pharmacist in charge of a pharmacy.
- l. The Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program under the direct support of a pharmacist advocate.
- m. 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.
- n. The Respondent agrees to release all his medical records to the Board, including all medical recordings pertaining to treatment for mental conditions and for alcohol and substance abuse, and agrees to allow the free flow of information between the Board and Respondent's physician(s) and treatment provider(s) and to ensure that the Board receives all necessary information if further evaluation or treatment of Respondent is

requested or required. This release of medical records, including records pertaining to treatment for alcohol and substance abuse, is effective for five (5) years from the date of the Board's approval of this Stipulation and Consent Order.

8. 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, Respondent shall cause his pharmacy employer and the pharmacist-in-charge that he 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.
9. 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.
10. 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.

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.

13. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 20th day of November, 2001.

Gary D. Cottington, R.Ph.

Gary D. Cottington, R.Ph.
Respondent

Subscribed and sworn to before me by Gary D. Cottington on this 20th day of November, 2001.

Wesley A. Chapin

NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

15. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 20 day of Dec., 2001.

Matthew C. Osterhaus

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
Office of the Attorney General
Hoover State Office Building
Des Moines, IA 50319

Wesley A. Chaplin
Kreykes Law Office
700 Main Street, Suite 201
Pella, IA 50219

BEFORE THE BOARD OF PHARMACY EXAMINERS STATE OF IOWA

**IN THE MATTER OF THE STIPULATION AND
CONSENT ORDER AGAINST
GARY D. COTTINGTON, R.Ph., RESPONDENT**

TERMINATION ORDER

DATE: December 20, 2006

1. On December 20, 2001, a Stipulation and Consent Order was entered into between Respondent and the Iowa Board of Pharmacy Examiners placing the license to practice pharmacy, number 13616 issued to Gary D. Cottingham on September 4, 1969, on probation for a period of five years under certain terms and conditions.

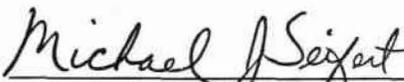
2. Respondent has successfully completed the probation as directed.

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 PHARAMCY EXAMINERS



Michael J. Seifer, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2011-145
Pharmacist License of)	
GARY D. COTTINGTON	)	STATEMENT OF CHARGES
License No. 13616,)	
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 September 4, 1969, the Board issued Gary D. Cottington ("Respondent"), after examination a license to engage in the practice of pharmacy as evidenced by license number 13616, 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, 2012.
5. Respondent's most recent address of record is 1167 Highway T-17, Pella, Iowa 50219.
6. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at Walgreens Pharmacy, Ottumwa.

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 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 – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

Respondent is charged with unlawful possession and use of prescription drugs in violation of Iowa Code §§ 155A.12(1), 155A.21 and 155A.23(11) (2011), and 657 Iowa Administrative Code §§ 36.1(4)(j) and 36.1(4)(u).

COUNT III – ILLEGAL DISTRIBUTION OF DRUGS

Respondent is charged with distribution of drugs for other than lawful purposes in violation of Iowa Code §§ 155A.12(1) and 155A.23(17) (2011), and 657 Iowa Administrative Code § 36.1(4)(h), specifically, diversion and distribution of drugs to himself in the absence of a prescription.

COUNT IV – VIOLATION OF CONTROLLED SUBSTANCES LAW

Respondent is charged with violating laws relating to controlled substances in violation of Iowa Code §§ 124.403(c) and 155A.12(5) (2011), and 657 Iowa Administrative Code §§ 36.1(4)(h) and 36.1(4)(j).

B. CIRCUMSTANCES

An investigation was commenced October 4, 2011, which revealed the following:

1. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at Walgreens Pharmacy, Ottumwa.
2. After a technician witnessed Respondent taking stock medications and placing them in his pocket, Walgreens confronted Respondent. Respondent admitted diverting small quantities of drugs, including one controlled substance, clonazepam. Respondent self-reported to the Board that he had stolen drugs from Walgreens.
3. An inventory audit by Walgreens confirmed that only minor quantities of drugs were taken by Respondent.
4. On December 22, 2011 Respondent pleaded guilty to (a) unlawful possession of prescription drugs, and (b) theft, 4th degree, both serious misdemeanors, in Wapello County District Court.

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 27th day of June 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: Theresa Weeg
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa

Cottington SOC 6-12.doc

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2011-145
Pharmacist License of)	
GARY COTTINGTON	)	SETTLEMENT AGREEMENT
License No. 13616	)	AND
	)	FINAL ORDER

Pursuant to Iowa Code ' ' 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Gary Cottington, Respondent, enter into the following Settlement Agreement and Final Order to settle a licensee disciplinary proceeding currently pending before the Board.

The 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 Pharmacist License No. 13616 on September 4, 1969, to practice pharmacy in Iowa on September 4, 1969.
2. Respondent=s Iowa Pharmacist License is active and current until June 30, 2014.
3. A Statement of Charges was filed against Respondent on June 27, 2012.
4. Respondent was at all times relevant to the Statement of Charges employed as the pharmacist in charge at Walgreens Pharmacy, Ottumwa.
5. The Board has jurisdiction over the parties and the subject matter of these proceedings.

6. Respondent has chosen not to contest the allegations in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.

7. On the date of the Board's approval of this Settlement Agreement and Final Order, Respondent's license shall be suspended indefinitely. Respondent may apply for reinstatement of his license under 657 Iowa Administrative Code 36.13 and 36.14. Respondent's license may be reinstated in the discretion of the Board, but only after Respondent:

- a. Obtains a complete physical and mental health evaluation, including a comprehensive substance abuse evaluation, from a Board-approved program.
- b. Delivers to the Board a written report from the Board-approved program with the outcome of the physical, mental health, and substance abuse evaluation which concludes Respondent is mentally and physically fit to practice pharmacy, and if so, under what restrictions. Any conclusion that the Respondent is fit to return to the practice of pharmacy will include an assessment of Respondent's ability to cope with the presence of controlled substances in the pharmacy setting.
- c. Permits the Board complete access to Respondent's medical records, including records of physical, mental health, and substance abuse evaluation and treatment.

- d. Submits a \$1500 civil penalty to the Board. This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board within ten (10) days of the Board's approval of this Stipulation and Consent Order. All civil penalty payments shall be deposited into the State of Iowa's general fund.
8. After Respondent provides the Board a written report from the Board-approved program, which concludes that Respondent is mentally and physically fit to practice pharmacy, Respondent may petition the Board under 657 Iowa Administrative Code 36.13 and 36.14 for (a) termination of the suspension of Respondent's license and (b) imposition of a period of probation.
9. In the event the Board determines that Respondent's license should be reinstated, Respondent's license to practice pharmacy shall be placed on probation for five (5) years, subject to terms which shall include, but are not limited to, the following:
 - a. Respondent agrees to fully comply with these terms of probation.
 - b. If, as a result of the physical, mental health, and substance abuse evaluation of Respondent, the Board-approved program recommends substance abuse or other treatment, Respondent shall comply with such recommendations. In the event Respondent is participating in a treatment program, Respondent's physician/treatment provider shall submit quarterly reports to the Board documenting Respondent's compliance with the treatment program.

- c. Respondent shall promptly provide copies of or access to all his medical records upon Board request, or sign all necessary releases for the Board to obtain that information.
- d. Respondent shall not possess or use any controlled substance or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for Respondent by a licensed, treating physician or other qualified treating health care provider. Respondent shall inform any treating physician or other treating health care provider of his medical history, including any history of chemical dependency.
- e. Respondent shall provide witnessed blood, hair or urine specimens on demand by the Board or its agents. The specimens shall be used for alcohol and drug screening, and to verify Respondent=s compliance with this Stipulation and Consent Order and any drug therapy ordered by Respondent=s physician or treatment provider. All costs related to the analysis of such specimens shall be paid by Respondent.
- f. Respondent shall provide a specimen to a healthcare provider specified by the Board within 24 hours after notice from the Board requesting that Respondent provide a specimen. That healthcare provider shall be located in reasonable proximity to Respondent. Respondent agrees to cooperate with the Board in establishing a specimen testing program through

FirstLab, and hereby consents to disclosure to the Board, by FirstLab or

any other testing facility, of all medical information, including test results, generated by Respondent's contact with the facility.

- g. Respondent shall submit quarterly reports to the Board. The report shall include Respondent's place of employment; current address; a narrative discussing Respondent's current compliance with the terms of this Settlement Agreement and Final Order; and any further information requested by the Board.
- h. Respondent shall notify all employers and prospective employers (no later than at the time of an employment interview), including any pharmacist-in-charge, of this Settlement Agreement and Final Order, including the terms, conditions and restrictions imposed on Respondent by this Order.
- i. Within thirty (30) days after approval of this Settlement Agreement and Final Order by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent is responsible for ensuring his pharmacy employer, and any pharmacist-in-charge he 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.
- j. During the first six (6) months of employment during probation, Respondent shall not work more than 20 hours per week. Following successful completion of six months of employment, Respondent may

- request permission from the Board to work additional hours per week.
- k. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
 - l. Upon the Board=s request, Respondent shall appear informally before the Board for the purpose of reviewing his performance as a pharmacist and compliance with his probation. Respondent shall be given reasonable notice of the date, time, and place for the appearances.
 - m. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.
 - n. Only the periods of time during which Respondent is actively practicing as a pharmacist in Iowa shall apply to the duration of the probation, unless otherwise approved by the Board.
 - o. 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.
 - p. If Respondent is found to be chemically dependent, Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program, under the direct support of a pharmacist advocate.
10. Should Respondent violate or fail to comply with any of the terms and conditions of this Settlement Agreement and Final Order, the Board may initiate action to revoke or suspend Respondent=s Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2011) and 657 IAC 36.

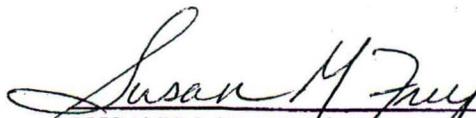
11. This Settlement Agreement and Final Order is the resolution of a contested case. By entering into this Settlement Agreement and Final Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Final Order.
12. The State's legal counsel may present this Settlement Agreement and Final Order to the Board.
13. This Settlement Agreement and Final 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 Settlement Agreement and Final Order, it shall be the full and final resolution of this matter.
14. The Board=s approval of this Settlement Agreement and Final Order shall constitute a FINAL ORDER of the Board.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 21 day of August 2012.



GARY D. COTTINGTON, R.Ph.
Respondent

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 4th day of September 2012.



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

cc: Theresa O=Connell Weeg

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

Wes Chaplin
914 Monroe St.
Pella, IA 50219

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE)	
REQUEST FOR REINSTATEMENT	)	CASE NO: 2011-145
OF PHARMACIST	)	DIA NO: 12PHB051
)	
GARY D. COTTINGTON	)	FINDINGS OF FACT,
License No. 13616	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

On November 8, 2012, a hearing was held before the Iowa Board of Pharmacy (Board) on the reinstatement application filed by Gary D. Cottington (Respondent). The following members of the Board presided at the hearing: Susan Frey, Chairperson; Edward Maier; Edward McKenna; James Miller; LaDonna Gratiias; and Margaret Whitworth. Respondent appeared and was self-represented. Assistant Attorney General Theresa O'Connell Weeg represented the state. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2011) and 657 IAC 36.13(3), and was recorded by a certified court reporter. After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The administrative law judge was instructed to prepare the written decision for Board approval, in conformance with the Board's deliberations.

THE RECORD

The record includes the Notice of Hearing; Respondent's testimony; and State Exhibits 1-13 (See Exhibit Index for description).

FINDINGS OF FACT

1. Respondent has been a licensed pharmacist in Iowa (license number 13616) since August 4, 1969. Respondent has a past history of license discipline based on improper dispensing and diversion of controlled substances from pharmacies where he worked as a pharmacist.

a) On February 10, 1986, the Board charged Respondent with violating a number of statutes and rules when he dispensed controlled substances without a valid prescription or in excess of the number authorized by prescription. Respondent was

also charged with failure to keep accurate records of his receipt and disposition of controlled substances. On April 10, 1986, Respondent consented to a Board Order that placed his pharmacy license on probation for a period of two years, subject to terms and conditions, and required him to pay a \$500 fine. (Exhibits 1, 2)

b) On October 10, 2001, the Board charged Respondent with unlawful possession of prescription drugs and inability to practice pharmacy with reasonable skill and safety by reason of substance abuse. These charges were based on Respondent's diversion of hydrocodone from the pharmacy where he was employed. Respondent admitted that he took the hydrocodone for his own use. On December 20, 2001, the Board approved a Stipulation and Consent Order that placed Respondent's pharmacy license on probation for a period of five years, subject to terms and conditions relating to substance abuse. Respondent successfully completed this five year probation on December 20, 2006. At his reinstatement hearing, Respondent testified that he has not used hydrocodone since 2001. (Exhibits 3-6; Respondent testimony)

2. On June 27, 2012, the Board charged Respondent with four counts relating to the unlawful possession, use, diversion, and distribution of prescription drugs and controlled substances. These charges were based on Respondent's diversion of small quantities of drugs, including one controlled substance, from the pharmacy where he was employed as the pharmacist in charge. (Exhibits 6, 7)

At hearing, Respondent testified that he had been experiencing several medical problems, including nausea, vomiting, anxiety, and sleep issues, due to job stress. Respondent admitted that he was self-medicating his nausea and vomiting with medications that he took from the pharmacy where he was employed. Respondent also admitted taking antibiotics for a tooth infection and a single Clonazepam from the pharmacy's stock. Respondent had a valid prescription for the Clonazepam, which is a benzodiazepine. He was being treated with the Clonazepam for anxiety and sleep issues. On the day that he took Clonazepam from the pharmacy, Respondent had forgotten his own medication at home. (Respondent testimony; Exhibit 6)

Respondent was charged with 4th Degree Theft based on this diversion of prescription medications. Respondent reports that he pled guilty, paid a fine and restitution, and received a two year suspended jail sentence. Respondent is currently on probation for this conviction. (Testimony of Respondent; Exhibit 6)

3. On September 4, 2012, the Board approved a Settlement Agreement and Final Order that resolved the June 27, 2012 Statement of Charges. Pursuant to the Settlement Agreement and Order, Respondent's pharmacist license was indefinitely suspended, effective immediately. The Settlement Agreement and Order further provided that the Board could reinstate Respondent's license, in its discretion, but only after Respondent:

- a. obtained a complete physical and mental health evaluation, including a comprehensive substance abuse evaluation, from a Board-approved program;
- b. delivered a written evaluation report from the program concluding that Respondent is fit to return to the practice of pharmacy and assessing his ability to cope with controlled substances in the pharmacy setting;
- c. permitted the Board complete access to his medical records, including records of physical, mental health, and substance abuse evaluation and treatment; and
- d. submitted a \$1500 civil penalty.

The Settlement Agreement and Order also provided that if Respondent's license was reinstated, it would be placed on probation for five years, subject to terms of probation. The Settlement Agreement and Order included a non-exclusive list of probation conditions that would be imposed if Respondent's license was reinstated. (Exhibits 6-8)

4. Respondent completed a Board-approved comprehensive evaluation at Hazelden from September 16-21, 2012. Hazelden provided the Board with a written evaluation report, which included the following clinical discharge recommendations for Respondent:

- Abstain from all intoxicants, including alcohol;
- Attend and participate in AA or NA meetings a minimum of 3 times weekly;
- Obtain and begin using a 12-step sponsor within two weeks from discharge;
- Complete Intensive Outpatient treatment program through Powell Chemical Dependency Center at Iowa Lutheran Hospital, followed by one year of continuing care group;

- Follow all recommendations of the Iowa Board of Pharmacy for further instructions on monitoring plan; and
- Actively participate in leisure and social activities with family and friends and other recovering alcoholics and addicts;

(Exhibit 11)

Hazelden also provided the following Back to Work Recommendations for Respondent:

- A return to work no sooner than September 24, 2012 at the discretion of the Board and for no more than 40 hours per week;
- No direct access to controlled substances in the workplace; and
- Work in a setting that allows for monitoring of his work by at least one other colleague.

These recommendations and restrictions were subject to approval and modification by the Board and were contingent upon Respondent's adherence and response to the continuing care recommendations. (Exhibit 12)

5. Respondent was admitted to the intensive outpatient treatment program at Powell Chemical Dependency Center on September 21, 2012 and completed the program on October 26, 2012. Respondent currently attends a weekly Caduces group for impaired professionals and an Older Adult AA group for ongoing support. Respondent is also attending additional AA meetings each week and has obtained a sponsor. Respondent has signed a contract with the IPRN (Impaired Pharmacy Professional and Technician Recovery Program). Respondent testified that he has not used Clonazepam or alcohol since his evaluation at Hazelden in September, 2012 and reports that he is no longer having problems with anxiety or sleeping. Respondent reports that he receives support from his wife, his pastor, his best friend, and his Caduces group. (Respondent testimony; Exhibit 13)

6. Respondent paid the \$1500 civil penalty on October 24, 2012. (Exhibit 10)

7. Prior to the suspension of his license on September 4, 2012, Respondent was working as a staff pharmacist for a locally owned pharmacy. This pharmacy has expressed interest in hiring Respondent if his license is reinstated. (Respondent testimony)

CONCLUSIONS OF LAW

657 Iowa Administrative Code 36.13 provides, in relevant part:

657-36.13(17A,124B,147,155A,272C) Reinstatement. Any person whose license to practice pharmacy...has been revoked or suspended shall meet the following eligibility requirements for reinstatement:

36.13(1) Prerequisites. The individual shall satisfy all terms of the order of revocation or suspension or court proceedings as they apply to that revocation or suspension. If the order of revocation or suspension did not establish terms or conditions upon which reinstatement might occur, or if the license...was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the board's order or the date of voluntary surrender.

...

36.13(3) Proceedings. The respondent shall initiate all proceedings for reinstatement by filing with the board an application for reinstatement of the license...Such application shall be docketed in the original case in which the license, registration, or permit was revoked, suspended, or relinquished. All proceedings upon petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board...

36.13(4) Burden of Proof. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license... to be reinstated. The burden of proof to establish such facts shall be on the respondent.

36.13(5) Order. An order for reinstatement shall be based upon a decision that incorporates findings of fact and conclusions of law and must be based upon the affirmative vote of a quorum of the board. This order shall be available to the public as provided in 657-Chapter 14.

A person seeking reinstatement must show that they have satisfied all of the terms of the order suspending or revoking the license. In addition, the person must present persuasive evidence that they have fully addressed the problems leading to the

suspension or revocation of their license and that it is in the public interest for the license to be reinstated.

The preponderance of the evidence in this record established that Respondent has fully complied with the requirements established in the Stipulation and Consent Order. Respondent completed a Board approved evaluation and the recommended intensive outpatient treatment. Respondent is active in a number of structured recovery support groups and appears to have a good support system for his recovery. Respondent has paid the civil penalty. The Board was persuaded that Respondent is currently capable of practicing pharmacy on a part-time basis in a competent and ethical manner, consistent with the public interest, so long as his practice is monitored and he fully complies with the terms and conditions of probation established in this Reinstatement Order.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the application for reinstatement filed by Respondent Gary D. Cottingham is hereby GRANTED. IT IS FURTHER ORDERED that pharmacist license no. 13616 shall immediately be placed on PROBATION for a term of five (5) years, subject to the following terms and conditions:

- A. Respondent shall promptly provide copies of or access to all his medical records upon Board request, or sign all necessary releases for the Board to obtain that information.
- B. Respondent shall abstain from alcohol and all other intoxicants.
- C. Respondent is prohibited from using any controlled substance in any form unless the Board has approved a request for an exception. Respondent may receive necessary emergency treatment with a controlled substance without prior approval, but he shall not practice pharmacy until he obtains Board approval for the controlled substance use. Respondent shall not use any prescription drug in any form unless the prescription drug has been authorized and prescribed for him by a licensed, treating physician or other qualified health care provider. Respondent shall inform any treating physician or other treating health care provider of his medical history, including his history of chemical dependency.

D. Respondent shall provide witnessed blood, hair, or urine specimens on demand by the Board or its agents. The specimens shall be used for alcohol and drug screening and to verify Respondent's compliance with this Reinstatement Order of the Board and with any drug therapy ordered by Respondent's physician or treatment provider. All costs related to the analysis of such specimens shall be paid by Respondent.

E. Respondent shall provide a specimen to a healthcare provider specified by the Board within 24 hours after notice from the Board requesting that Respondent provide a specimen. The healthcare provider shall be located in reasonable proximity to Respondent. Respondent shall cooperate with the Board in establishing a specimen testing program through FirstLab. Respondent shall sign all necessary releases to allow FirstLab or any other testing facility disclose his medical information and test results to the Board.

F. Respondent shall attend and participate in Alcoholics Anonymous (AA), Narcotics Anonymous (NA), or a similar structured support group meeting a minimum of three times a week and shall maintain documentation of his attendance. Respondent shall obtain an AA or NA sponsor and maintain a relationship with the sponsor.

G. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.

H. Respondent shall not own or manage a pharmacy, nor serve as the pharmacist in charge of a pharmacy.

I. During the first six (6) months of employment during probation, Respondent shall not work more than 20 hours per week. Following successful completion of six months of employment, Respondent may request permission from the Board to work additional hours per week.

J. When employed as a pharmacist, Respondent must have another pharmacist or pharmacy technician in good standing present with him in the pharmacy at all times. Respondent may not have a key to any pharmacy.

K. Respondent shall notify all employers and prospective employers (no later

than at the time of an employment interview), including any pharmacist-in-charge, of this Reinstatement Order, including the terms, conditions, and restrictions imposed on Respondent by this Order.

L. Within thirty (30) days after commencement of the probationary period and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent is responsible for ensuring that his pharmacy employer, and any pharmacist-in-charge that he works under, reports to the Board in writing, acknowledging that the pharmacy employer and pharmacist-in-charge have read this document and understand it.

M. Upon Board request, Respondent shall appear informally before the Board or a Board committee for the purpose of reviewing his performance as a pharmacist and compliance with his probation. Respondent shall be given reasonable notice of the date, time, and location for such appearances.

N. Respondent shall submit quarterly reports to the Board. The report shall include Respondent's place of employment, current address, a narrative discussing Respondent's compliance with the terms of this Reinstatement Order, documentation of Respondent's attendance at structured support group meetings, and any other information requested by the Board. The reports shall be filed no later than March 5, June 5, September 5, and December 5 of each year of Respondent's probation.

O. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.

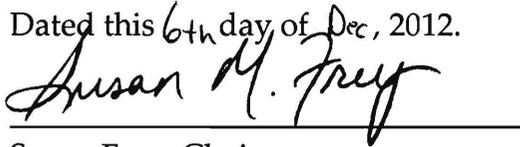
P. Only the periods of time during which Respondent is actively practicing as a pharmacist in Iowa shall apply to the duration of the probation, unless otherwise approved by the Board.

Q. 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.

R. Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program, under the direct support of a pharmacist advocate.

S. Should Respondent violate or fail to comply with any of the terms or conditions of probation, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.

Dated this 6th day of Dec, 2012.

A handwritten signature in cursive script, reading "Susan M. Frey", is written over a horizontal line.

Susan Frey, Chairperson
Iowa Board of Pharmacy

cc: Theresa Weeg, Assistant Attorney General

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.