

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

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Re: )  
Pharmacy License of )  
**DELPERDANG PHARMACY** ) **STATEMENT OF CHARGES**  
License No. 134 )  
Respondent )

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**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 (1997).
3. On December 16, 1996, Delperdang Pharmacy, the Respondent, was issued a renewal of general pharmacy license number 134 by the Board to engage in the operation of pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 134 is current until December 31, 1997.
5. Respondent currently operates a general pharmacy at 1626 Morgan Street, Keokuk, Iowa 52632.
6. Douglas Delperdang was the pharmacist in charge of Delperdang Pharmacy during all times relevant to this statement of charges. He surrendered his license to practice pharmacy on October 8, 1997. The Board accepted the voluntary surrender on October 14, 1997.

**COUNT I**

The Respondent is charged under Iowa Code Sections 124.308, 155A.15(2)(c), 155A.15(2)(d), and 155A.12(3) (1997) and 657 Iowa Administrative Code Sections 8.5(1), 9.1(4)(b), 9.1(4)(h), 9.1(4)(j), and 9.1(4)(u) with dispensing prescription drugs, including controlled substances, without prescriber authorization.

## COUNT II

The Respondent is charged under Iowa Code §§ 124.306, 124.308(3), 124.402(1)(a), 124.403(1)(c), 155A.15(2)(c), 155A.15(2)(d), and 155A.15(2)(h) (1997) and 657 Iowa Administrative Code §§ 6.8, 9.1(4)(j), and 9.1(4)(u) with failing to provide accountability for controlled substances and with failing to maintain controlled substance records.

## COUNT III

The Respondent is charged under Iowa Code § 155A.15(2)(c) and 657 Iowa Administrative Code § 8.18 with failing to maintain complete and accurate patient records.

## COUNT IV

The Respondent is charged under Iowa Code § 155A.15(2)(c) and 657 Iowa Administrative Code § 8.19 with failing to conduct appropriate and effective prospective drug utilization review.

## COUNT V

The Respondent is charged under Iowa Code § 155A.15(2)(c) and 657 Iowa Administrative Code § 8.20 with failing to conduct appropriate and effective patient counseling.

## COUNT VI

The Respondent is charged under Iowa Code §§ 155A.15(2)(c) and 155A.32 (1997) and 657 Iowa Administrative Code §§ 8.15, 9.1(4)(j), and 9.1(4)(u) with failing to comply with the requirements for drug product selection.

## COUNT VII

The Respondent is charged under Iowa Code § 155A.15(2)(c) (1997) and 657 Iowa Administrative Code §§ 8.14, 9.1(4)(j), and 9.1(4)(u) with failing to provide complete labeling for dispensing containers of prescription medication dispensed pursuant to prescription drug orders.

### COUNT VIII

The Respondent is charged with failure to remove and quarantine outdated, misbranded, and mislabeled drugs from dispensing stock in violation of 1997 Iowa Code § 155A.15(2)(c) and 657 Iowa Administrative Code Section 6.7(4).

### COUNT IX

The Respondent is charged with maintaining misbranded prescription drugs in the prescription department in violation of 1997 Iowa Code § 126.3.

### COUNT X

The Respondent is charged with obtaining fees by fraud or misrepresentation in violation of 1997 Iowa Code § 155A.15(2)(c) and 657 Iowa Administrative Code Sections 8.5(1) and 9.1(4)(t).

### COUNT XI

The Respondent is charged under Iowa Code § 155A.15(2)(c) (1997) and 657 Iowa Administrative Code §§ 8.5(4), 9.1(4)(b), 9.1(4)(j), and 9.1(4)(u) with non-conformance with law.

### THE CIRCUMSTANCES

1. On August 11, 1997, the board received a complaint which alleged that Douglas Delperdang had repeatedly dispensed propoxyphene, a Schedule IV controlled substance, to a patient without prescriber authorization. As a result of dispensing the propoxyphene, the patient underwent treatment for chemical dependency.

2. An investigation and audit by board investigators revealed many serious infractions of Iowa pharmacy law and board administrative rules, including failure to keep and maintain controlled substance records, delivery of mislabeled/ misbranded/ adulterated prescription drugs, failure to conduct effective prospective drug utilization review, failure to conduct effective patient counseling, fraudulent billing of prescriptions, incomplete and inaccurate prescription records, and unlawful dispensing of prescription drugs.

3. An accountability audit of certain Schedule II controlled substances at Delperdang Pharmacy for the time period beginning October 5, 1995, and ending September 30, 1997, revealed the following shortages:

- (a) a shortage of 1,231 tablets of Demerol 100mg

- (b) a shortage of 206 tablets of Demerol 50mg
- (c) a shortage of 231 tablets of Methylphenidate 10mg
- (d) a shortage of 3,282 tablets of Oxycodone 5mg / APAP 325mg

4. An accountability audit of Hydrocodone 5mg / APAP 500mg, a Schedule III controlled substance, at Delperdang Pharmacy for the time period beginning September 16, 1997, and ending September 30, 1997, revealed a shortage of 456 tablets during the 14-day period.

5. On October 6, 1997, Douglas Delperdang admitted to the board's executive secretary/director that he had been routinely dispensing Schedule IV and V controlled substances without prescriber authorization to six different patients (five female patients, one male patient) for about the past two years.

6. On October 9, 1997, Douglas Delperdang was arrested and charged with three (3) counts of prohibited acts, all class "C" felonies, by the Keokuk Police Department, Keokuk, Iowa. The criminal charges resulted from a police investigation which involved false statements on prescriptions, illegal dispensing of controlled substances, and affixing false labels to a package or receptacle containing prescription drugs.

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 14th day of October, 1997, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.

  
Phyllis A. Olson, Chairperson  
Iowa Board of Pharmacy Examiners  
Executive Hills West  
1209 East Court Avenue  
Des Moines, Iowa 50319

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

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

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|----------------------------|---|----------------------------|
| Re:                        | } |                            |
| Pharmacy License of        | } |                            |
| <b>DELPERDANG PHARMACY</b> | } | <b>STIPULATION</b>         |
| License No. 134            | } | <b>AND</b>                 |
| Respondent                 | } | <b>INFORMAL SETTLEMENT</b> |
|                            | } |                            |

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On this 3rd day of February, 1998, the Iowa Board of Pharmacy Examiners and Delperdang Pharmacy of Keokuk, Iowa, each hereby agree with the other and stipulate as follows:

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 14, 1997, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Informal Settlement:

1. That Respondent's license to operate a pharmacy was modified on the 27th day of October, 1997, as evidenced by General Pharmacy License Number 134, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners. General Pharmacy License Number 134 expired on December 31, 1997.

2. The renewal of General Pharmacy License Number 134 issued to and held by Respondent is currently pending, subject to the approval of this Stipulation and Informal Settlement by both the Respondent and the Iowa Board of Pharmacy Examiners.

3. That 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 on October 14, 1997.

## SECTION I

THEREFORE, IT IS HEREBY AGREED that Iowa General Pharmacy License Number 134 issued to Respondent shall be renewed and shall be placed on indefinite probation with conditions. During the probationary period the Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy and the distribution of controlled substances and all federal and state criminal laws. Respondent shall also comply with the provisions of Section II.

## SECTION II

1. During the probationary period, Douglas Delperdang shall not, at any time, be allowed on the premises of the Delperdang Pharmacy nor be present in the Delperdang Pharmacy.

2. In addition, during the probationary period, Delperdang Pharmacy shall:

a. Dispense prescription drugs only upon receipt of the lawful order of an authorized prescribing practitioner.

b. Provide accurate accountability for all controlled substances received at, held by, dispensed from, and disposed of by the Delperdang Pharmacy.

c. Maintain complete and accurate patient records.

d. Conduct appropriate prospective drug utilization review.

e. Conduct appropriate patient counseling.

f. Comply with the requirements for drug product selection.

g. Provide complete labeling for dispensing containers of prescription medication dispensed pursuant to prescription drug orders.

h. Remove and quarantine outdated, misbranded, and mislabeled drugs from dispensing stock.

3. The Respondent shall operate the prescription department in a manner which will comply with all of the requirements contained in 657 Iowa Administrative Code chapter 6, "General Pharmacy Licenses," which became effective on November 12, 1997.

4. Respondent shall submit to random unannounced visits or inspections by the Board or agents of the Board to verify compliance with this Stipulation and Informal Settlement.

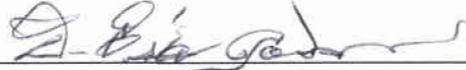
5. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a).

6. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and impose additional disciplinary sanctions, including the revocation of Respondent's license to operate a pharmacy. If a petition to revoke probation is filed against Respondent 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.

7. Upon successful completion of probation, Respondent's certificate will be fully restored.

8. This Stipulation and Informal Settlement is subject to approval of a majority of the full Board. If the Board fails to approve this Stipulation and Informal Settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Informal Settlement, it shall be the full and final resolution of this matter.

9. This Stipulation and Informal Settlement is voluntarily submitted by Respondent to the Board for its consideration on the 20<sup>th</sup> day of January, 1998.

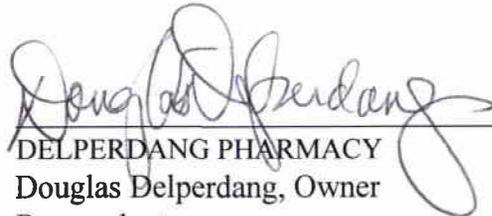


DELPERDANG PHARMACY  
David Eric Johnson, R.Ph.,  
Pharmacist in charge,  
Respondent

Subscribed and Sworn to before me on this 20<sup>th</sup> day of January, 1998.

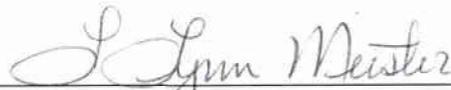


NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA



DELPERDANG PHARMACY  
Douglas Delperdang, Owner  
Respondent

Subscribed and Sworn to before me on this 20<sup>th</sup> day of January, 1998.



NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

10. This Stipulation and Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 3rd day of February, 1998.



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PHYLLIS A. OLSON, Chairperson  
Iowa Board of Pharmacy Examiners  
Executive Hills West  
1209 East Court Avenue  
Des Moines, Iowa 50319

cc: Linny Emrich  
Assistant Attorney General  
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