

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2011-13
Pharmacist License of)	
JOHN ELLIS)	STATEMENT OF CHARGES
License No. 21089,)	
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 10, 2009, the Board issued John Ellis ("Respondent"), after examination, a license to engage in the practice of pharmacy as evidenced by license number 21089, 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 1990 SE Greentree Drive, Waukee, Iowa 50263.
6. At all times material to this statement of charges, Respondent was employed as a pharmacist at Hy-Vee Pharmacy, 4815 Maple, Pleasant Hill, Iowa 50327.

A. CHARGE

COUNT I – LACK OF PROFESSIONAL COMPETENCY

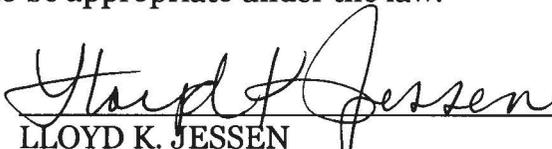
Respondent is charged under Iowa Code § 155A.12(1) (2011) and 657 Iowa Administrative Code § 36.1(4)(b) with lack of professional competency as demonstrated by Respondent's (a) substantial deviation from the standards of learning and skill ordinarily possessed and applied by other Iowa pharmacists, (b) 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.

B. CIRCUMSTANCES

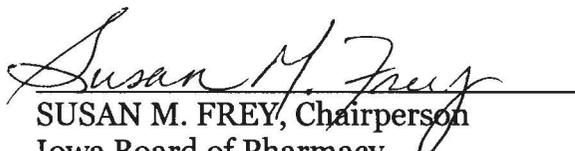
An investigation was commenced on February 11, 2011, which revealed the following:

1. At all times material to this Statement of Charges, Respondent was employed as a pharmacist at Hy-Vee Pharmacy, 4815 Maple, Pleasant Hill, Iowa 50327.
2. An electronic prescription for Lamictal, with no authority to substitute a generic, was received by the pharmacy. When the prescription was entered into Hy-Vee dispensing records by Respondent, the order for Lamictal was altered to allow use of a generic.
3. No drug utilization review (DUR) was performed by Respondent. The error was not caught, resulting in the generic medication being dispensed.
4. The patient experienced three seizures following use of the substitute medication.
5. Following this incident, the pharmacy initiated additional DUR procedures.

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

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BEFORE THE IOWA BOARD OF PHARMACY

Re:) Case No. 2011-13
Pharmacist License of)
JOHN ELLIS) **STIPULATION**
License No. 21089) **AND**
Respondent) **CONSENT ORDER**

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy (hereinafter, "Board") and John Ellis (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 10, 2009, after examination, as evidenced by Pharmacist License Number 21089 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, 2012. *2013 JE ← WRONG*
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 a pharmacist at Hy-Vee Pharmacy#1530, 4815 Maple, Pleasant Hill, Iowa 50327.
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 performance of drug utilization review and avoidance of dispensing errors. 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.

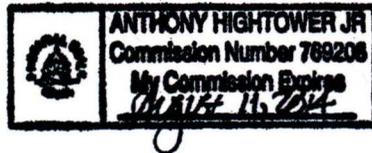
8. Respondent agrees to obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
9. Should Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend 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 3rd day of July 2012.

John Ellis

JOHN ELLIS, R.Ph.
Respondent

Subscribed and sworn to before me by John Ellis on this 3rd day of July 2012.



Anthony Hightower Jr
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
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