

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

Re:)	Case No. 2000-99
Pharmacy License of)	
FAMILY PHARMACY (JEWELL))	STATEMENT OF CHARGES
License No. 99)	
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. Effective January 1, 2001, the Board renewed Respondent general pharmacy license number 99 with Ann M. Marcalus as pharmacist in charge, allowing Respondent 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 99 is current until December 31, 2001.
5. Respondent is currently operating a general pharmacy at 633 Main Street, Jewell, Iowa 50130 with Ann M. Marcalus as the pharmacist in charge.

COUNT I

The Respondent is charged under Iowa Code § 155A.15(2)(c) (2001) and 657 Iowa Administrative Code §§ 6.2(1)(a) & (b), 8.20, and 36.1(4)(u) & (w) with failure to ensure that its pharmacists provide adequate patient counseling.

COUNT II

The Respondent is charged under Iowa Code § 155A.15(2) (2001) and 657 Iowa Administrative Code §§ 6.6(1) and 36.1(4)(u) with inadequate security of the prescription department and permitting access to the prescription department when a pharmacist is not on site.

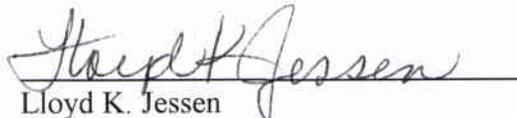
COUNT III

The Respondent is charged under Iowa Code § 155A.15(2) (2001) and 657 Iowa Administrative Code §§ 6.6(3) and 36.1(4)(u) with dispensing or distributing prescription medications to patients or others during the temporary absence of the pharmacist.

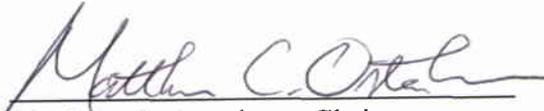
THE CIRCUMSTANCES

1. On or about June 12, 2001, the Board office received a complaint alleging that the pharmacist is only at the Respondent's pharmacy for a small portion of each day and that technicians are performing improper functions.
2. During the Board's investigation of the allegations referred to in Paragraph 1, a Board investigator discovered the following information:
 - (a) The technician employed by the Respondent's pharmacy regularly sells prescriptions to patients or others when the pharmacist is not present in the pharmacy.
 - (b) Patients do not receive counseling from a pharmacist on new prescriptions as required by the Board's rules when they pick up prescriptions in the pharmacist's absence.
 - (c) The prescription department is not secured in a way that prevents access to the prescription department when the pharmacist is absent.

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 October, 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:
Pharmacy License of
FAMILY PHARMACY (JEWELL)
License No. 99
Respondent.

Case No. 2000-99

NOTICE TO DEFEND

COMES NOW the Respondent through counsel and hereby gives notice of the Respondent's intent to defend against the statement of charges. In support of said Notice, Respondent states as follows:

1. On October 10, 2001, the Iowa Board of Pharmacy Examiners found probable cause to file a Statement of Charges and to order a hearing in this matter. The Board filed this Statement of Charges on October 31, 2001.
2. On November 12, 2001, Wandro, Lyons, Wagner & Baer entered their Appearance of Counsel.
3. Respondent files this Notice to Defend in lieu of an answer to the Statement of Charges. The Respondent will file a complete answer to the charges after fully investigating the charges alleged in the Statement of Charges and prior to a full hearing on the merits.

WHEREFORE, Respondent respectfully provides notice of the Respondent's intent to defend against the charges alleged in this matter.

Respectfully submitted,

Michelle M Casper

Steven P. Wandro PK0008439

Michelle M. Casper PK0015482

WANDRO, LYONS, WAGNER & BAER, P.C.

2501 Grand Avenue, Suite B

Des Moines, Iowa 50312

Telephone: 515/281-1475

Facsimile: 515/281-1474

Original filed.

Copy to:

Shauna Russell Shields
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at such attorney's address as disclosed by the pleadings of record herein on the 28 day of November, 2001.

By: U.S. Mail Facsimile
 Hand Delivered Overnight Courier
 Federal Express Other

Signature Suzette B. Carter

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

Re:)	Case No. 2000-99
Pharmacy License of)	
FAMILY PHARMACY (JEWELL))	STIPULATION
License No. 99)	AND
Respondent)	CONSENT ORDER

COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Family Pharmacy (Jewell) (“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 the 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 the Respondent’s license to operate a pharmacy was renewed effective January 1, 2001, as evidenced by Pharmacist License Number 99, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That General Pharmacy License Number 99 issued to and currently held by the Respondent is current and in force until December 31, 2002.
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 the Respondent on October 10, 2001.
5. This Stipulation and Consent Order is entered into in order to resolve disputed claims and constitutes no admission on the part of the Respondent.
6. The Respondent shall pay a civil penalty of \$200.00 within 30 days of the date of approval of this Stipulation and Consent Order by the Board. The Respondent shall deliver a check made payable to the Treasurer of the State of Iowa to the Executive Secretary/Director of the Board. The check shall be deposited into the general fund of the State of Iowa.
7. Respondent's license shall be placed on probation for two (2) years, with the following conditions, beginning on the date this Stipulation and Consent Order is accepted by the Board:
 - a. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent will provide its *typewritten* policies and procedures for operating the Respondent's pharmacy in a legal manner. Such policy and procedure shall include how the Respondent's pharmacy will ensure: (a) proper pharmacy security, (b) proper handling of the temporary absence of the pharmacist, (c) the proper utilization of registered pharmacy technicians, (d) that patient counseling is provided by a licensed pharmacist, and (e) that prospective drug use review is performed by a licensed pharmacist. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures whenever operating a pharmacy in the State of

Iowa.

- b. During probation, Respondent shall file sworn quarterly reports with the Board attesting to its compliance with all the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than March 5, 2003, June 5, 2003, September 5, 2003; December 5, 2003, March 5, 2004, June 5, 2004, September 5, 2004, and December 5, 2004. The quarterly reports shall identify the current pharmacist in charge and all staff pharmacists and any further information deemed necessary by the Board from time to time.
8. The Respondent may apply to the Board for modification of the provisions of Respondent's probation, including termination of the probation, after Respondent has successfully completed one year of probation. Respondent understands that the determination of whether to modify or terminate its probation will remain in the Board's discretion.
9. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the operation of a pharmacy.
10. 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 license to operate a pharmacy or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 Iowa Administrative Code § 36.1.
11. 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.

12. 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.
13. The Board's approval of this Stipulation and Consent Order shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

14. This Stipulation and Consent Order is voluntarily submitted by the Respondent to the Board for its consideration on the 29th day of November, 2002.

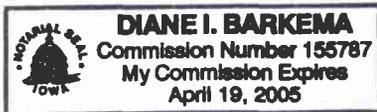
Ann M. Marcalus

Family Pharmacy (Jewell)
Ann M. Marcalus, R.Ph.
Pharmacist in charge,
Respondent

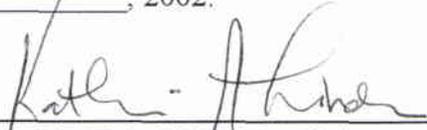
Subscribed and sworn to before me by Ann M. Marcalus, who has stated to me that he/she is the pharmacist in charge of Family Pharmacy (Jewell) and that he/she is authorized to sign this Stipulation and Consent Order on behalf of said Family Pharmacy (Jewell) on this 29 day of November, 2002.

Diane Barkema

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 4 day of Dec., 2002.

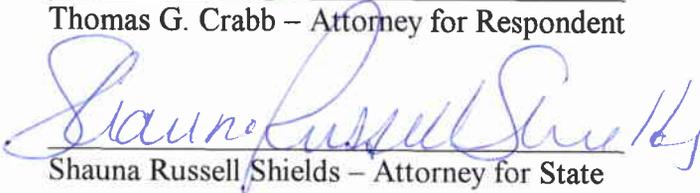


KATHERINE A. LINDER, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

APPROVED AS TO FORM:



Thomas G. Crabb – Attorney for Respondent



Shauna Russell Shields – Attorney for State

cc: Thomas G. Crabb
505 5th Avenue
Suite 630
Des Moines, Iowa 50309
ATTORNEY FOR RESPONDENT

Shauna Russell Shields
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319
ATTORNEY FOR STATE