

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	
Pharmacy License of)	Case No. 2010-1
FOOD BONANZA PHARMACY)	
License No. 634,)	STATEMENT OF CHARGES
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy and files this Statement of Charges solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (2009).
3. On December 22, 2008, the Board renewed general pharmacy license number 634 for Food Bonanza Pharmacy (hereinafter, "Respondent"), allowing Respondent to engage in the operation of a pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 634 was cancelled by Respondent effective November 25, 2009.
5. At all times material to this statement of charges, Respondent was currently operating a general pharmacy at 522 Hancock, Ottumwa, Iowa, with David Hall as the pharmacist in charge.

A. CHARGES

COUNT I – FAILURE TO GIVE NOTICE OF CLOSURE TO BOARD

Respondent is charged under Iowa Code §§ 155A.15(2)(c) and 155A.19(1)(a) (2009), and 657 Iowa Administrative Code § 8.35(7), with failing to give two weeks prior notice to the Board of Respondent's intention to close a pharmacy.

COUNT II – FAILURE TO GIVE NOTICE OF CLOSURE TO PATIENTS

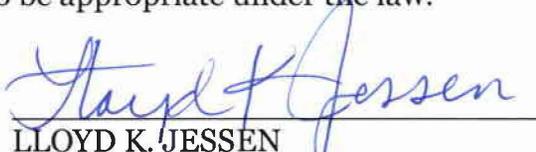
Respondent is charged under Iowa Code §§ 155A.15(2)(c) (2009), and 657 Iowa Administrative Code § 8.35(7)(b), with failing to give at least two weeks prior notice to patients of Respondent's intention to close a pharmacy.

B. CIRCUMSTANCES

On January 4, 2010 an investigation commenced which revealed the following:

1. At all times material to this statement of charges, Respondent operated a general pharmacy located at 522 Hancock, Ottumwa, Iowa.
2. On November 30, 2009, Respondent closed at 6:00 pm, transferring all patient and prescription records to a Hy-Vee Pharmacy located at 1025 N. Quincy in Ottumwa.
3. Notice was given to the Board six days prior to the closure. Pharmacy employees were told of the closure at 3:00 pm on the day of closure.
4. No prior notice of the closure was given to pharmacy patients. Filled prescriptions, which patients had not picked up by the time of closure, were sent to the Hy-Vee Pharmacy for pick up.
5. Respondent failed to inform its patients of their option to have their patient and prescription records transferred to a pharmacy other than Hy-Vee. Instead, all records were transferred to Hy-Vee without consulting pharmacy patients, and prior to any notice to pharmacy patients.

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 20 day of July 2010, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


VERNON H. BENJAMIN, 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 IOWA BOARD OF PHARMACY

Re:)	Case No. 20010-1
Pharmacy License of)	
FOOD BONANZA)	STIPULATION
License No. 634)	AND
Respondent)	CONSENT ORDER
)	

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Board of Pharmacy (hereinafter, the “Board”) and Food Bonanza Pharmacy (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’s license to operate a pharmacy in Iowa is evidenced by Pharmacy License Number 634, recorded in the permanent records of the Board.
2. The Board has jurisdiction over the parties and the subject matter of this disciplinary proceeding.
3. Pharmacy License Number 634 expired December 31, 2009.
4. A Statement of Charges was filed against Respondent July 21, 2010.
5. While Respondent disputes the allegations contained in the Statement of Charges, Respondent has chosen not to contest those allegations. Respondent acknowledges that the allegations of the Statement of Charges, if proven in a contested case proceeding, would constitute grounds for the discipline described herein.

6. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$25,000. The civil penalty payment shall be made by check, payable to the Treasurer of Iowa and mailed to the executive director of the Board within 10 days after Respondent's receipt of notice of the Board's approval of this Stipulation and Consent Order. All civil penalty payments shall be deposited into the State of Iowa general fund. Upon the Board's receipt of the civil penalty, this disciplinary proceeding shall be concluded without further order of the Board.

7. Should Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate further action to impose licensee discipline as authorized by Iowa Code chapters 272C and 155A (2009), and 657 Iowa Administrative Code § 36.1.

8. 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.

9. 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.

10. The State's counsel may present this Stipulation and Consent Order to the Board.

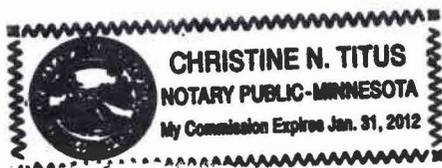
11. The Board's approval of this Stipulation and Consent Order shall constitute a

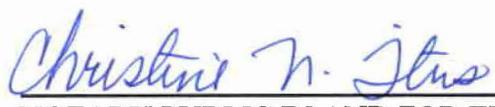
FINAL ORDER.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Iowa Board of Pharmacy for its consideration on this 9th day of November 2010.


FOOD BONANZA PHARMACY,
Respondent
By Kathleen M. Mahoney,
Executive Vice President,
General Counsel and Secretary,
Nash Finch Company

Subscribed and sworn to before me by Kathleen M. Mahoney, who has stated to me that he is authorized to sign this Stipulation and Consent Order on behalf of Food Bonanza Pharmacy on this 9th day of November 2010.




NOTARY PUBLIC IN AND FOR THE
STATE OF MINNESOTA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on this 24th day of November 2010.


VERNON H. BENJAMIN, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

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

Kathleen M. Mahoney
P.O. Box 355
Minneapolis, MN 55440-0355