

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

Re:	)	Case No. 2006-126
Pharmacist License of	)	
<b>JOHN FORBES</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 15716,	)	
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 (2007).
3. On July 24, 1980, the Board issued Respondent, following examination, a license to engage in the practice of pharmacy as evidenced by license number 15716, 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, 2008.
5. Respondent's current address is 12816 Cardinal Lane, Urbandale, IA 50323.
6. Respondent was, at all times material, employed as the pharmacist-in-charge at Medicap Pharmacy, 7641 Douglas Avenue, Urbandale, IA 50322 and at Medicap Pharmacy Precision Compounding, 7611 Douglas Avenue, Suite 29, Urbandale, IA 50322.

**A. CHARGES**

**COUNT I – LACK OF PROFESSIONAL COMPETENCY**

Respondent is charged with a lack of professional competency, in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 36.1(4), as demonstrated by 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 – SUBVERTING A BOARD INVESTIGATION BY FALSE STATEMENTS**

Respondent is charged with subverting a Board investigation in violation of Iowa Code

§§ 155A.12(1) and 155A.23(13) (2007), and 657 Iowa Administrative Code § 36.1(4)(z) by, among other things, attempting to conceal – through false statements to the Board – the fact that prescription medications were being compounded exclusively by technicians in a pharmacy where Respondent served as pharmacist-in-charge.

#### COUNT III – IMPROPER DELEGATION OF PHARMACIST FUNCTIONS

Respondent is charged with the improper delegation, to supportive personnel, of pharmacist functions such as supervision and verification of appropriate compounding procedures and ingredients, in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 6.7(3).

#### COUNT IV – FAILURE TO DEVELOP AND IMPLEMENT POLICIES FOR TRAINING TECHNICIANS

Respondent is charged with failing to develop and implement policies for training and utilization of technicians in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 3.17.

#### COUNT V – FAILURE TO MAINTAIN RECORDS AND CONTROL OVER DRUGS

Respondent is charged with failing to maintain complete and adequate records of purchases and disposal of drugs listed in the controlled substances act in violation of Iowa Code §§ 155A.12 (4) and (5) (2007), and § 155A.23(12) (2007), and 657 Iowa Administrative Code § 36.1(4)(ac), and with failing to maintain accurate control over and accountability for drugs, including controlled substances, in violation of Iowa Code §§ 124.308(3), 124.402(1)(a), 155A.12(5) and 657 Iowa Administrative Code §§ 6.2, 6.7 and 36.1(4)(u).

#### COUNT VI – WILLFUL AND GROSS NEGLIGENCE

Respondent is charged with willful and gross negligence for failure to train technicians in the use of personal protective equipment and clothing, for the failure to provide protective equipment to technicians and for allowing untrained technicians to prepare, in the absence of supervision, prescription medications, all in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 36.1(4)(s).

#### COUNT VII– FAILURE TO ACT AS PHARMACIST IN CHARGE

The Respondent is charged with failing to perform the duties of a pharmacist in charge, including but not limited to the duty to assure the safe and lawful operation of a pharmacy, in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 6.2.

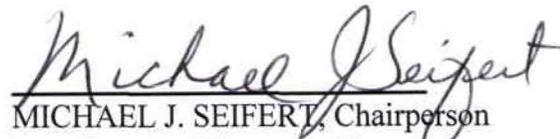
**B. CIRCUMSTANCES**

Circumstances supporting the charges are set forth on Attachment A.

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 <sup>16</sup>24 day of April 2007, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.

  
MICHAEL J. SEIFERT, Chairperson  
Iowa Board of Pharmacy Examiners  
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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PHARMACY

BEFORE THE BOARD OF  
OF THE STATE OF IOWA

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Re:

Pharmacist License of  
**JOHN FORBES,**  
License No. 15716,  
Respondent.

) Case No. 2006-126

)

) **STIPULATION**

) **AND**

) **CONSENT ORDER**

)

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2007), the Iowa Board of Pharmacy (hereinafter, "Board") and JOHN FORBES, R.Ph. (hereinafter, "Respondent"), enter into this Stipulation and Consent Order settling a pending contested case. The pending contested case is a licensee disciplinary proceeding before the Iowa Board of Pharmacy based on allegations specified in a Statement of Charges filed April 24, 2007. The Board and Respondent, who hereby agree that the contested case shall be resolved without proceeding to hearing, stipulate to the following:

1. Respondent was issued a license to practice pharmacy in Iowa on July 24, 1980, by examination, as evidenced by Pharmacist License Number 15716, which is recorded in the permanent records of the Iowa Board of Pharmacy.
2. Iowa Pharmacist License Number 15716, issued to and held by Respondent is active and current until June 30, 2008.
3. Respondent is currently employed as a pharmacist.
4. A Statement of Charges was filed against Respondent on April 24, 2007.
5. The Board has jurisdiction over Respondent and the subject matter herein.

6. Respondent denies the allegations set forth in the Statement of Charges, but enters into this Agreement voluntarily in order to resolve the Statement of Charges without the necessity of a hearing.
7. Upon the date of the Board's approval of this Stipulation and Consent Order, Respondent's license to practice pharmacy shall be placed on probation for two (2) years. During the probationary period, Respondent shall file written quarterly reports with the Board. During the probationary period, Respondent may not serve as a preceptor for pharmacy students or interns.
8. Upon the date of the Board's approval of this Stipulation and Consent Order, Respondent agrees to provide to the Board a written "Assurance of Regulatory Compliance" in which Respondent agrees to obey all federal and state laws and regulations related to the practice of pharmacy, including those regulations relating to extemporaneous pharmacy compounding; the training and utilization of pharmacy technicians; the maintenance of pharmacy records and control over drugs; and the duties of the pharmacist in charge.
9. Within 30 days of the date that this Stipulation and Consent Order is approved by the Board, Respondent shall submit to the Board, for its review and approval, written policies and procedures which address the following areas: (1) pharmacy compounding; (2) the training and utilization of pharmacy technicians; (3) the maintenance of pharmacy records and control over drugs; (4) controlled substance accountability; and (5) the duties of the pharmacist in charge.
10. If Respondent ceases to be self-employed during the probationary period or performs additional work as an employee pharmacist, Respondent shall notify all prospective

employers of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this Stipulation and Consent Order. The notification requirement contained in this paragraph shall only apply where Respondent's pharmacist license is or will be utilized in the course of his employment. Within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his employer to report to the Board in writing, acknowledging that the employer has read this Stipulation and Consent Order and understands it.

11. The Board and Respondent agree that the above-described two (2) year probationary period may be modified by the Board, upon Respondent's request, after presentation of evidence of Respondent's ongoing compliance with all regulations and statutes relating to the practice of pharmacy. In no event, however, shall Respondent's probationary period be less than one year.
12. 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 further suspend the Respondent's Iowa pharmacist license, or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2007), and 657 IAC 36.
13. 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.
14. 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.

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

This Stipulation and Consent Order is voluntarily submitted by Respondent to the

Board for its consideration on the 9 day of Nov 2007.

  
JOHN FORBES, R.Ph.  
Respondent

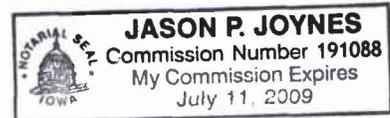
State of Iowa

County of Polk

Signed and sworn (or affirmed) before me

on 11-9-07,  
Date

by John Forbes,  
Name(s) of Person(s)



  
Signature of Notary Public

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 13 day of Nov. 2007.

  
PAUL ABRAMOWITZ,

Chairperson

Iowa Board of Pharmacy  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck, A.A.G.  
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