

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

Re:	)	COMPLAINT
Pharmacist License of	)	AND STATEMENT
AUBREY D. GEORGE	)	OF CHARGES
License No. 11989	)	AND
Respondent	)	NOTICE
	)	OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary-Director of the Iowa Board of Pharmacy Examiners, on the 8th day of March, 1993, and files this Complaint and Statement of Charges and Notice of Hearing against Aubrey D. George, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Alan M. Shepley, Chairperson; Marian L. Roberts, Vice Chairperson; Donna J. Flower; Phyllis A. Miller; Phyllis A. Olson; Ronald B. Reiff; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.
2. Respondent was issued a license to practice pharmacy in Iowa on February 18, 1953, by examination.
3. Respondent currently resides at 303 Thomas, Sioux Rapids, Iowa 50585.
4. Respondent is currently self-employed as pharmacist in charge and owner of George's Drug Store, 121 Main Street, Sioux Rapids, Iowa 50585.

5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1994.

6. The Board has received an investigative report from Pharmacy Investigator Morrell A. Spencer dated August 26, 1992, and other investigative information which allege the following:

a. A complaint was received on July 13, 1992, from physician "J.K." who alleged that between May 26, 1992, and July 12, 1992, Respondent dispensed 700 tablets of Darvocet-N 100, a Schedule IV controlled substance, to patient "Jane Doe" without the physician's authorization.

b. A review of the patient medication record maintained at George's Drug Store for "Jane Doe" revealed the following dispensing by Respondent:

DRUGS DISPENSED TO "JANE DOE"

<u>YEAR</u>	<u># OF TABLETS OF DARVOCET-N 100</u>		<u># OF TABLETS OF HALCION 0.25mg</u>	
1986	1,200	(3.3 tablets/day)	-0-	(0.00 tablets/day)
1987	1,430	(3.9 tablets/day)	270	(0.74 tablets/day)
1988	1,662	(4.6 tablets/day)	570	(1.56 tablets/day)
1989	1,972	(5.4 tablets/day)	660	(1.80 tablets/day)
1990	2,800	(7.7 tablets/day)	660	(1.80 tablets/day)
1991	3,200	(8.8 tablets/day)	720	(1.97 tablets/day)
1992*	2,400	(12.4 tablets/day)	356	(1.80 tablets/day)

*from 1-1-92 to 7-12-92 (194 days)

c. On August 3, 1992, physician "J.K." and physician's assistant "J.R." told Pharmacy Investigator Morrell A. Spencer that they believed patient "Jane Doe" was prone to drug abuse; that they had advised her against taking any more Halcion on January 2, 1992; and that they had advised her against taking any more Darvocet-N 100 on May 28, 1992. (The medical clinic

located in Sioux Rapids, Iowa, which had been principally staffed by physician's assistant "J.R." was permanently closed on or about June 1, 1992.)

d. On August 4, 1992, physician "J.K." and physician's assistant "J.R." told Pharmacy Investigator Morrell A. Spencer that the following prescriptions and refills dispensed by Respondent at George's Drug Store to patient "Jane Doe" were not authorized:

<u>DATE DISPENSED</u>	<u>RX NUMBER</u>	<u>DRUG NAME AND STRENGTH</u>	<u>QTY OF DRUG</u>
04-03-92	41288	Darvocet-N 100	100
04-13-92	41288	Darvocet-N 100	100
04-23-92	41288	Darvocet-N 100	100
05-02-92	41288	Darvocet-N 100	100
05-11-92	41288	Darvocet-N 100	100
05-20-92	41288	Darvocet-N 100	100
05-26-92	41643	Darvocet-N 100	100
06-03-92	41643	Darvocet-N 100	100
06-10-92	41643	Darvocet-N 100	100
06-18-92	41643	Darvocet-N 100	100
06-24-92	41643	Darvocet-N 100	100
07-02-92	41643	Darvocet-N 100	100
07-12-92	41643	Darvocet-N 100	100
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11-11-91	39988	Halcion 0.25mg	60
12-14-91	39988	Halcion 0.25mg	60
01-21-92	39988	Halcion 0.25mg	56
02-17-92	39988	Halcion 0.25mg	60
03-26-92	39988	Halcion 0.25mg	60
05-11-92	39988	Halcion 0.25mg	60
06-10-92	41748	Halcion 0.25mg	60
07-07-92	41748	Halcion 0.25mg	60
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01-02-92	39872	Lodine 300mg	49
02-06-92	39872	Lodine 300mg	60
02-24-92	39872	Lodine 300mg	60
03-09-92	39872	Lodine 300mg	60
03-26-92	39872	Lodine 300mg	40
04-17-92	39872	Lodine 300mg	60
05-02-92	39872	Lodine 300mg	60
05-26-92	41644	Lodine 300mg	60
06-18-92	41644	Lodine 300mg	60
07-07-92	41644	Lodine 300mg	60
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06-06-92	41659	Esgic	20

e. An examination of prescription records maintained by Respondent at George's Drug Store revealed that the following

prescriptions for Darvocet-N 100 for "Jane Doe" were each refilled six times by Respondent: Rx # 41643, Rx # 39355, Rx # 38124, Rx # 33235, and Rx # 28749. Prescription # 29361 for Darvocet-N 100 was refilled eight times by Respondent.

f. Prescription # 41748 for "Jane Doe" for Halcion 0.25mg, a Schedule IV controlled substance, (which was not authorized by physician "J.K.") was handwritten by Respondent on June 10, 1992. Respondent falsely indicated on Rx # 41748 that the original prescription and five refills had been authorized.

g. Prescription # 41643 for "Jane Doe" for Darvocet-N 100, a Schedule IV controlled substance, (which was not authorized by physician "J.K.") was handwritten by Respondent on May 26, 1992. Respondent falsely indicated on Rx # 41643 that the original prescription and five refills had been authorized.

h. Prescription # 41644 for "Jane Doe" for Lodine 300mg (which was not authorized by physician "J.K.") was handwritten by Respondent on May 26, 1992. Respondent falsely indicated on Rx # 41644 that the original prescription and "prn" refills had been authorized.

i. Prescription # 41288 for "Jane Doe" for Darvocet-N 100, a Schedule IV controlled substance, (which was not authorized by physician "J.K.") was handwritten by Respondent on April 3, 1992. Respondent falsely indicated on Rx # 41288 that the original prescription and five refills had been authorized.

j. Prescription # 39988 for "Jane Doe" for Halcion 0.25mg, a Schedule IV controlled substance, (which was not authorized by physician "J.K.") was handwritten by Respondent on November 11, 1991. Respondent falsely indicated on Rx # 39988 that the original prescription and five refills had been authorized.

k. In a written statement dated September 3, 1992, physician's assistant "J.R." summarized the situation with patient "Jane Doe" and again stated that he had not authorized the prescriptions in question.

7. Respondent is guilty of violations of 1993 Iowa Code sections 124.308(3), 124.402(1)(a), 155A.12(1), 155A.12(2), 155A.12(5), 155A.23(2), and 155A.23(4) by virtue of the allegations contained in paragraph 6.

1993 Iowa Code section 124.308 provides, in part, the following:

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

1993 Iowa Code section 124.402 provides, in part, the following:

1. It is unlawful for any person:
a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 124.308.

1993 Iowa Code section 155A.12 provides, in part, the following:

...The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or

revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

1. Violated any provision of this chapter or any rules of the board adopted under this chapter.
2. Engaged in unethical conduct as that term is defined by rules of the board.

....

5. Violated any provision of the controlled substances Act or rules relating to that Act.

1993 Iowa Code section 155A.23 provides, in part, the following:

A person shall not:...

2. Willfully make a false statement in any prescription, report, or record required by this chapter.

....

4. Make or utter any false or forged prescription or written order.

8. Respondent is guilty of violations of 657 Iowa Administrative Code sections 8.5(1), 9.1(4)(b)(2), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(j), 9.1(4)(u), and 10.13(8) by virtue of the allegations contained in paragraph 6.

657 Iowa Administrative Code section 8.5 provides, in part, the following:

Unethical conduct or practice. The provisions of this section apply to licensed pharmacists and registered pharmacist-interns.

8.5(1) Misrepresentative deeds. A pharmacist shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an

accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

657 Iowa Administrative Code section 9.1(4) provides, in part, the following:

The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

b. Professional incompetency. Professional incompetency includes but is not limited to:...

(2) A substantial deviation by a pharmacist from the standards of learning or skill ordinarily possessed and applied by other pharmacists in the state of Iowa acting in the same or similar circumstances.

....

(4) A willful or repeated departure from, or the failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa.

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of pharmacy or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.

....

j. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy.

....
u. Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections 147.55, 155A.12 and 155A.15.

657 Iowa Administrative Code section 10.13 provides, in part, the following:

10.13(8) Refilling of prescriptions. No prescription for a controlled substance listed in Schedule III, IV, or V shall be filled or refilled more than six months after the date on which it was issued nor be refilled more than five times.

The Iowa Board of Pharmacy Examiners finds that paragraphs 7 and 8 constitute grounds for which Respondent's license to practice pharmacy in Iowa can be suspended or revoked.

WHEREFORE, the undersigned charges that Respondent has violated 1993 Iowa Code sections 124.308(3), 124.402(1)(a), 155A.12(1), 155A.12(2), 155A.12(5), 155A.23(2), and 155A.23(4) and 657 Iowa Administrative Code sections 8.5(1), 9.1(4)(b)(2), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(j), 9.1(4)(u), and 10.13(8).

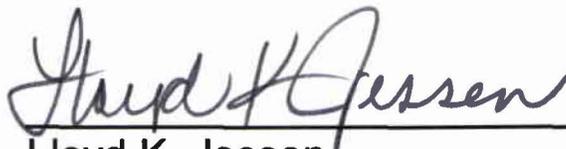
IT IS HEREBY ORDERED that Aubrey D. George appear before the Iowa Board of Pharmacy Examiners on Friday, April 9, 1993, at 2:00 p.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to suspend or revoke the license to practice pharmacy issued to Aubrey D. George on February 18, 1953, and take whatever additional action that they deem necessary and appropriate.

Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of his own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision may be rendered. The failure of Respondent to appear could result in the permanent suspension or revocation of his license.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department of Inspections and Appeals. The office of the Attorney General is responsible for the public interest in these proceedings. Information regarding the hearing may be obtained from Lynette A. F. Donner, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-8760). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen
Executive Secretary/Director

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	)	STIPULATION
AUBREY D. GEORGE	)	AND
License No. 11989	)	INFORMAL
Respondent	)	SETTLEMENT
)	

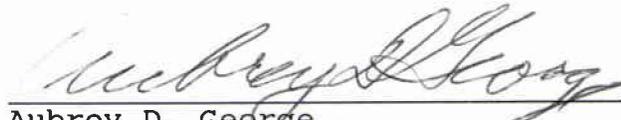
COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and Aubrey D. George (Respondent) and, pursuant to Iowa Code sections 17A.10 and 258A.3(4), enter into the following Stipulation of the contested case currently on file:

1. Respondent was issued a license to practice pharmacy in Iowa on February 18, 1953, by examination.
2. Respondent's license is current until June 30, 1994.
3. Respondent's current address is 303 Thomas, Sioux Rapids, Iowa 50585.
4. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on March 8, 1993.
5. The Board has jurisdiction of the parties and the subject matter.
6. Respondent does not contest the allegations set forth in the complaint. The Respondent agrees that the Board may treat the allegations as true for the purpose of this Informal Settlement.

7. Respondent agrees to accept a citation and warning concerning the dispensing of controlled substances without proper authorization and documentation.

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

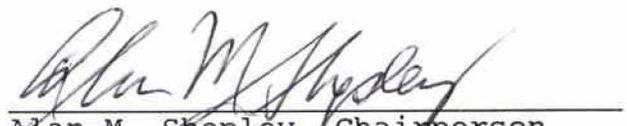
9. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 9th day of April, 1993.


Aubrey D. George
Respondent

Signed and sworn to before me this 9th day of April, 1993.


NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

10. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 9th day of April, 1993.


Alan M. Shepley, Chairperson
Iowa Board of Pharmacy Examiners