

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

Re:)	Case No. 2000-288
Pharmacy License of)	
HELLING HEALTHCARE)	STATEMENT OF CHARGES
License No. 288)	
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 (1999).
3. Effective January 1, 2000, the Board renewed Respondent's general pharmacy license number 288 with Steven A. Helling 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. As of March 13, 2000, the Board renewed Respondent's general pharmacy license number 288 with Paul J. Cenkovich 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.
5. General pharmacy license number 288 is current until December 31, 2000.
6. Respondent is currently operating a general pharmacy at 1124 Avenue H, Fort Madison, Iowa 52627 with Paul J. Cenkovich as the pharmacist in charge.

COUNT I

The Respondent is charged under Iowa Code § 155A.15(2) (1999) with violating the rules of the Board when it violated 657 Iowa Administrative Code 6.8(1) (maintenance of controlled substance records); 6.8(2) (maintenance of Schedule II controlled substance records); 6.8(6) (proper dating, initialing and filing of DEA form 222); 6.8(8) (initialing and date of receipt on

controlled substances invoices); 8.14(1) (prescription label requirements); 8.15 (drug product selection records); 10.11 (manner of issuance of prescription); and 10.13 (emergency prescription).

THE CIRCUMSTANCES

1. The Board of Pharmacy Examiners conducted an investigation and controlled substance audit of the Respondent's pharmacy during approximately February and early March of 2000.
2. The investigation and controlled substance audit referred to in paragraph 1, above, revealed multiple problems with the Respondent's controlled substances record keeping and dispensing practices. These problems included, but were not limited to:
 - a. failure to maintain records of Schedule II controlled substances separately from other records;
 - b. failure to initial DEA form 222 for controlled substances;
 - c. failure to maintain controlled substance records in a manner to establish receipt and distribution of all controlled substances;
 - d. failure to record the date of receipt and responsible person on suppliers' invoices; and
 - e. failure to obtain the original signed prescriptions prior to dispensing controlled substances or, in the alternative, to follow proper procedures for dispensing controlled substances before receiving a signed prescription in an emergency situation, long-term care situation, or hospice situation;
 - f. failure to identify the correct prescriber on prescription labels;
 - g. failure to properly document drug product selection.

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 10th day of July, 2000, 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:)	Case No. 2000-288
Pharmacy License of)	
HELLING HEALTHCARE)	STIPULATION
License No. 288)	AND
Respondent)	CONSENT ORDER

COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Helling Healthcare Retail Pharmacy (“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 July 10, 2000, 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 288, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That General Pharmacy License Number 288 issued to and currently held by the Respondent is current and in force until December 31, 2001.
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 July 10, 2000.
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. Within three (3) months from the date of the Board's approval of this Stipulation and Consent Order, the Respondent's owner, Helling Healthcare P.C. shall complete one of the following options:
 - a. Helling Healthcare P.C. shall sell the pharmacy to an unrelated third party or liquidate or close the Respondent's pharmacy.
 - b. Steven A. Helling, shareholder in Helling Healthcare P.C. shall transfer any and all interest he has in the Respondent's pharmacy and Helling Healthcare P.C. to his spouse, Bernadette T. Helling, to another related person, or to an unrelated third party.

The Respondent shall report to the Board which one of the options it elects and when it has satisfied the requirements of this paragraph.

7. In the event the Respondent elects the option provided in subparagraph 6(a) above, the Respondent's pharmacy license shall be surrendered to the Iowa Board of Pharmacy Examiners at the time of the sale liquidation or closing of the pharmacy. The Respondent shall surrender the pharmacy license no later than three (3) months from the date of the Board's acceptance of this Stipulation and Consent Order. Any new owners of the pharmacy will be required to seek a new license from the Board.
8. In the event the Respondent elects the option provide in subparagraph 6(b), above,

and notwithstanding the provisions of 657 Iowa Administrative Code § 3.4(3), the Respondent's general pharmacy license number 765 shall survive the transfer of Steven A. Helling's interest in the pharmacy and the Helling Healthcare P.C. The terms and conditions of this Stipulation and Consent Order will continue to apply to pharmacy license number 765 after the transfer of Steven A. Helling's ownership interest.

9. The Respondent's license shall be placed on probation for three (3) 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 the following: (a) maintaining accountability for controlled substances, and (b) providing and maintaining effective security, controls, and procedures to guard against the theft and diversion of prescription drugs and controlled substances. These policies and procedures should include, at a minimum, keeping all controlled substances in a locked area within the prescription department and instituting a mechanism for a continuous inventory of controlled substances. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures whenever operating as a pharmacy.
 - b. The Respondent shall not permit Steven A. Helling to have access to the

prescription department at any time or under any circumstances.

- c. The Respondent shall submit to random unannounced visits or inspections by the Board or agents of the Board to verify compliance with this Stipulation and Consent Order.
- d. During probation, the 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 December 5, 2001, March 5, 2002, June 5, 2002, September 5, 2002, December 5, 2002, March 5, 2003, June 5, 2003, September 5, 2003, December 5, 2003, March 5, 2004, June 5, 2004, and September 5, 2004. The quarterly reports shall identify the current pharmacist in charge and all staff pharmacists, and shall include any losses or thefts of controlled substances, and any further information deemed necessary by the Board from time to time.
- e. The Respondent shall notify all pharmacist employees of its prescription department of the resolution of this case and the probationary terms, conditions, and restrictions imposed on the Respondent by this Stipulation and Consent Order. Within ten (10) days after the approval of this Stipulation and Consent Order or within ten (10) days of when a new pharmacist employee begins working in the Respondent's prescription department, the Respondent shall cause each of its pharmacist employees to report to the Board in writing acknowledging that the employee has read

this Stipulation and Consent Order and understands it.

- f. Representatives of the Respondent, including the pharmacist in charge, shall appear informally before a committee of the Board or the full Board upon the request of the Board, for the purpose of reviewing its performance during the probationary period. The Respondent shall be given reasonable notice of the date, time, and place for the appearances. Any such appearance shall be subject to the waiver provisions of 657 Iowa Administrative Code § 35.9.
10. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the operation of pharmacy.
11. 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.
12. 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.
13. 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.

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

- 15. This Stipulation and Consent Order is voluntarily submitted by the Respondent to the Board for its consideration on the 24 day of Sept., 2001.

Paul Cenkovich

Helling Healthcare
 By Paul J. Cenkovich, R.Ph.
 Pharmacist in charge,
 Respondent

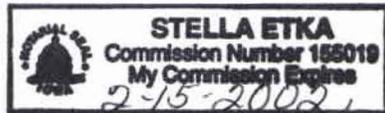
Steven A. Helling

Helling Healthcare
 By Steven A. Helling, R.Ph.
 Co-Owner

Bernadette T. Helling

Helling Healthcare
 By Bernadette T. Helling
 Co-Owner

Subscribed and sworn to before me by Paul J. Cenkovich, who has stated to me that he is the pharmacist in charge of Helling Healthcare and that he is authorized to sign this Stipulation and Consent Order on behalf of said Helling Healthcare on this 24 day of Sept., 2001.



Stella Etko

NOTARY PUBLIC IN AND FOR THE
 STATE OF IOWA

Subscribed and sworn to before me by Steven A. Helling and Bernadette T. Helling, who have stated to me that they are the co-owners of Helling Healthcare and that they are authorized to sign this Stipulation and Consent Order on behalf of said Helling Healthcare on this 24 day of Sept, 2001.



Stella ETKA
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

16. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 10 day of October, 2001.

Matthew C. Osterhaus
MATTHEW C. OSTERHAUS, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

APPROVED AS TO FORM:

Thomas G. Crabb
Thomas G. Crabb - Attorney for Respondent

Shauna Russell Shields
Shauna Russell Shields - Attorney for State

cc: Thomas G. Crabb
~~604 Locust Street~~ 505 5th Ave
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ATTORNEY FOR STATE