

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

Re:) Pharmacist License of) ERNEST E. HOOPER) License No. 17344) Respondent)	Case No. <u>99-17344</u> STATEMENT OF CHARGES
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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. On January 24, 1990, the Board issued Respondent, Ernest E. Hooper, a license to engage in the practice of pharmacy by reciprocity as evidenced by license number 17344, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 17344 is current and active until June 30, 2001.
5. Respondent's current address is P.O. Box 1706, Davenport, Iowa 52809.
6. Respondent is currently employed as a pharmacist in charge at Eagle Pharmacy 005, 405 East Locust St., Davenport, Iowa 52803, and has been employed as such during all times relevant to this statement of charges.

COUNT I

The Respondent is charged under Iowa Code §§ 155A.12(1), 155A.27, 155A.32(3) (1999) and 657 Iowa Administrative Code §§ 6.2(1)(i) & (k), 6.8, 8.4(3), 8.15(2) & 36.1(4) and 21 CFR 1304.11 & 1306.22(b)(3) with inadequate record keeping, including but not limited to failure to maintain controlled substances records in a readily retrievable manner.

COUNT II

The Respondent is charged under Iowa Code §§ 124.308(3), 124.402(1)(a), 124.403 (1)(c), 155A.15(2)(c), 155A.15(2)(d), and 155A.12(1) (1999) and 657 Iowa Administrative Code §§ 6.2(1)(i) & (j), 6.7, 6.8, 36.1(4)(u) with failing to maintain accurate control over and

accountability for drugs, including controlled substances.

COUNT III

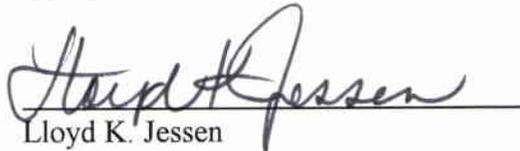
The Respondent is charged under Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code § 36.1(4)(b)(4) with professional incompetency, including repeated departure from, or failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the State of Iowa.

THE CIRCUMSTANCES

1. On or about August 6, 1999, a Board inspector was notified of concerns regarding possible record keeping problems at the pharmacy where the Respondent served as the pharmacist in charge.
2. An inspection and investigation of the of the pharmacy where Respondent serves as the pharmacist in charge revealed multiple problems with the Respondent's controlled substances record keeping. These problems included, but were not limited to:
 - a. the controlled substances records at Respondent's pharmacy were not readily retrievable;
 - b. when making inventories of controlled drugs, the Respondent failed to record all of the controlled drugs on hand and did not note whether the inventory was taken at the open or close of business;
 - c. failure to maintain records of Schedule II controlled substances separately from other records;
 - d. failure to maintain a nonprescription registry book for Schedule V controlled substances; and
 - e. failure to properly date, initial and file Copy 3 of DEA order form 222; and
 - f. failure to document refill information on Schedule III and IV controlled substances.
3. An inspection and investigation of the pharmacy where Respondent serves as the pharmacist in charge revealed additional problems with record keeping for non-controlled substances, including but not limited to:

- a. failure to document all requirements for a prescription;
 - b. failure to document the name of the manufacturer or the NDC of the actual product dispensed when exercising drug product selection;
 - c. failure to record the actual date of receipt on suppliers' invoices;
 - d. failure to maintain a permanent log of the initials or identification codes which will identify each dispensing pharmacist by name; and
 - f. failure to maintain a log of all licensed pharmacist who have worked at the pharmacy and are not regularly employed.
4. The inspection and investigation of the pharmacy where Respondent serves as the pharmacist in charge revealed shortcomings in the maintenance of control and accountability over drugs, including controlled substances. These shortcomings include, but are not limited to:
- a. failure to store all prescriptions drugs within the prescription department; and
 - b. the discovery by a board investigator of a shortage in several controlled substances.
5. The inspection and investigation of the pharmacy where Respondent serves as the pharmacist in charge revealed that the Respondent made multiple dispensing errors while employed as a pharmacist at the pharmacy where he serves as the pharmacist in charge.

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 13 day of Oct., 1999, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.



Arlan D. VanNorman, Chairperson
Iowa Board of Pharmacy Examiners
1209 East Court Avenue
Des Moines, Iowa 50319

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. 99-17344
Pharmacist License of)	
ERNEST E. HOOPER)	STIPULATION
License No. 17344)	AND
Respondent)	CONSENT ORDER
)	

COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Ernest E. Hooper, R.Ph. (“Respondent”) and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (1999), 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 Respondent on October 13, 1999, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That Respondent was issued a license to practice pharmacy in Iowa on the 24th day of January, 1990, by reciprocity as evidenced by Pharmacist License Number 17334, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 17334, issued to and held by Respondent is active and current until June 30, 2001.

3. Respondent is currently employed as the pharmacist in charge at Eagle Pharmacy 005, 405 East Locust St., Davenport, Iowa 52803.
4. A Statement of Charges was filed against Respondent on October 13, 1999.
5. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
6. This Stipulation and Consent Order is entered into in order to resolve disputed claims and constitutes no admission on the part of the Respondent.
7. 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 his *typewritten* policies and procedures for the following: (a) ensuring adequate record keeping for drugs, including but not limited to controlled substances record-keeping; (b) maintaining accountability and control of drugs, including controlled substances; and (c) documenting, resolving, and preventing medication dispensing errors in the practice of pharmacy. The policy and procedure for dispensing errors shall include a written protocol which describes the procedure for Respondent to follow when a dispensing error occurs. The policy and procedure for dispensing errors shall also require that all records of Respondent's dispensing errors be consistently and periodically evaluated by the Respondent as part of a cycle of

continuous quality improvement. Each of the typewritten policies and procedures required above shall relate to Respondent's practice of pharmacy in his current work setting. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures whenever engaging in the practice of pharmacy.

- b. Within six (6) months of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall complete continuing pharmacy education (CPE) or other formal, structured education in controlled substances record-keeping and maintaining accountability for controlled substances. The education shall be *not less than* six (6) hours in length and shall be pre-approved by the Board. Documentation of satisfactory completion of the education shall be submitted to the Board. This education is in addition to the thirty (30) hours of continuing pharmacy education required every two years for license renewal.
- c. Within 45 days of the Board's approval of this Order, Respondent shall seek counseling from a mental health professional or other qualified person to address issues related to stress-management. Respondent's treatment provider and/or counselor shall be pre-approved by the Board. Respondent shall comply with all treatment recommendations of his treatment program and his counselor or treatment provider. The treatment provider or counselor shall submit quarterly reports to the Board documenting the Respondent's compliance with the treatment program. Respondent agrees

to release all medical records relating to this treatment to the Board, including all mental health records pertaining to treatment for stress management issues, and agrees to allow the free flow of information between the Board and Respondent's treatment provider(s) and to ensure that the Board receives all necessary information if further evaluation or treatment of Respondent is requested or required. This release of medical records, including mental health records pertaining to treatment for stress management issues, is effective for three years from the date of the Board's approval of this Stipulation and Consent Order.

- d. During probation, Respondent shall report to the Board or its designee quarterly. Said report shall be in writing. The report shall include the Respondent's place of employment, current address, the Respondent's progress in addressing the issues that led to the charges against his license, Respondent's progress in the stress management counseling required under this Stipulation and Consent Order, and any further information deemed necessary by the Board from time to time.
- e. During Respondent's probation, he shall report all dispensing errors to the Board within 30 days of learning of the dispensing errors.
- f. During Respondent's probation, he shall appear informally before a committee of the Board or the full Board for the purpose of reviewing his performance as a pharmacist during his probationary period. Respondent shall be given reasonable notice of the date, time, and place for the

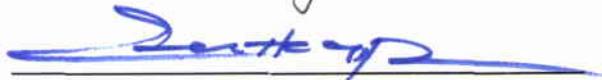
appearances. Any such appearance shall be subject to the waiver provisions of 657 Iowa Administrative Code § 35.9.

- g. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
 - h. Respondent may appear before the Board to request removal of the probation after two (2) years of probation have been successfully completed.
 - i. During probation, Respondent shall inform the Board in writing within ten (10) days of any change of home address, place of employment, home telephone number, or work telephone number.
8. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
9. During the probationary term, Respondent shall notify all present employers and prospective employers (no later than at the time of an interview), including the pharmacist-in-charge, of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. Within thirty (30) days after approval of this Stipulation and Consent Order by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his pharmacy employer and the pharmacist-in-charge that he works under to report to the Board in writing acknowledging that the employer and the pharmacist-in-charge have read this document and understand it.
10. Should 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 pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.1.

11. 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.
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 Respondent to the Board for its consideration on the 4th day of January, 2000


Ernest E. Hooper, R.Ph.
Respondent

Subscribed and sworn to before me by Ernest E. Hooper on this 4th day of January, 2000.


NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

