

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	}	COMPLAINT
JACK E. HUZL	}	AND
License No. 12687	}	STATEMENT
Respondent	}	OF CHARGES

COMES NOW, Norman C. Johnson, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 29th day of August, 1989, and files this Complaint and Statement of Charges against Jack E. Huzl, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Rollin C. Bridge, Chairperson; Melba L. Scaglione, Vice Chairperson; Donna J. Flower; Marian L. Roberts; John F. Rode; Alan M. Shepley; and Gale W. Stapp are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent was issued a license to practice pharmacy in Iowa on June 15, 1961, by examination.

3. Respondent is self-employed as a part-owner and the pharmacist in charge of the Union Family Pharmacy located at 2541 Central Avenue in Dubuque, Iowa 52001.

4. Respondent currently resides at Briarwood Drive, Route #1, Peosta, Iowa 52068.

5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1990.

6. On May 5, 1989, a consumer complaint was received at the Board office which alleged that Respondent had committed a dispensing error while filling a prescription for Morphine Solution for a cancer patient on April 14, 1989. That complaint was referred to Pharmacy Investigator E. Ray Shelden for investigation.

7. On June 17, 1989, the Board received an investigative report from Pharmacy Investigator E. Ray Shelden which indicates the following:

a. On April 13, 1989, Joseph M. Weresch, M.D., issued a prescription for 1000ml of Morphine Solution 10mg/5ml for a cancer patient.

b. On April 14, 1989, that prescription was taken to the Union Family Pharmacy located at 2541 Central Avenue in Dubuque, Iowa, by the patient's spouse, where it was filled by

Respondent who assigned it prescription number 404943.

c. Respondent compounded an oral, liquid product extemporaneously by using 32 MS Contin 60mg controlled release tablets which were crushed into a powder and mixed with simple syrup, water, and a suspending agent to form a suspension (total volume 1,920ml). This product was labeled as MS Contin Syrup 10mg/5ml and two bottles containing 960ml each were dispensed to the patient's spouse on April 14, 1989.

d. After returning home with the bottles and examining them, the patient's spouse became alarmed by the appearance of the liquid product which contained flocculent matter that was adhered to the inside wall of each bottle and also found floating in the liquid. The patient's spouse then contacted Respondent who advised her that the preparation was alright to use. The patient took the preparation as directed for a short time until deciding to discontinue it after he experienced adverse effects.

e. On April 20, 1989, Thomas C. Lally, M.D., issued a prescription for 200ml of Morphine Sulfate Elixir 10mg/5ml for a patient.

f. On April 20, 1989, that prescription was taken to the Union Family Pharmacy located at 2541 Central Avenue in Dubuque, Iowa, where it was filled by Respondent who assigned it prescription number 405304.

g. Respondent compounded an oral, liquid product extemporaneously by using three MS Contin 60mg controlled release tablets which were crushed into a powder and mixed with simple syrup, water, and a suspending agent to form a suspension (total volume 180ml). This product was labeled as MS Contin Syrup 10mg/5ml and was dispensed to the patient.

h. As prepared and dispensed by Respondent, prescription number 405304 contained a morphine concentration of only 5mg/5ml rather than the 10mg/5ml concentration which had been prescribed.

8. MS Contin is a controlled release oral morphine formulation. The manufacturer of MS Contin recommends that "adjustment in dose should NOT be attempted by breaking or crushing the tablets. MS Contin tablets are intended to be swallowed whole."

Morphine Oral Solutions 10mg/5ml are available commercially as are Morphine Sulfate Soluble Tablets which are often appropriately used in extemporaneous compounding.

9. Respondent is guilty of violations of 1989 Iowa Code sections 155A.12(1) and 155A.28 by virtue of the allegations in paragraphs 6, 7, and 8.

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.

Iowa Code section 155A.28 provides the following:

The label of any drug or device sold and dispensed on the prescription of a practitioner shall be in compliance with rules adopted by the board.

10. Respondent is guilty of violations of 657 Iowa Administrative Code sections 8.14(1)(g), 9.1(4)(b), and 9.1(4)(c) by virtue of the allegations in paragraphs 6, 7, and 8.

657 Iowa Administrative Code section 8.14 provides, in part, the following:

1. The label affixed to or on the dispensing container of any prescription dispensed by a pharmacy pursuant to a prescription drug order shall bear the following:...

g. Unless otherwise directed by the prescriber, the label shall bear the brand name, or if there is no brand name, the generic name of the drug dispensed, the [correct] strength of the drug, and the quantity dispensed.

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:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the pharmacist's practice.

(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.

(3) A failure by a pharmacist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average pharmacist in the state of Iowa acting under 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.

The Iowa Board of Pharmacy Examiners finds that paragraphs 9 and 10 constitute grounds for which Respondent's license to practice pharmacy in Iowa can be suspended or revoked.

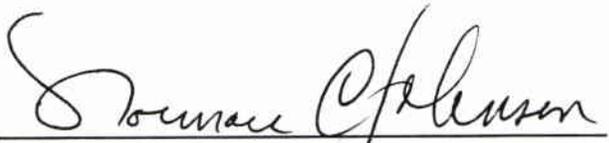
WHEREFORE, the undersigned charges that Respondent has violated 1989 Iowa Code sections 155A.12(1) and 155A.28 and 657 Iowa Administrative Code sections 8.14(1)(g), 9.1(4)(b), and 9.1(4)(c).

IT IS HEREBY ORDERED that Jack E. Huzl appear before the Iowa Board of Pharmacy Examiners on October 10, 1989, at 11:00 o'clock a.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 Jack E. Huzl on June 15, 1961, 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. The failure of Respondent to appear could result in the permanent suspension or revocation of his license. Information regarding the hearing may be obtained from Thomas D. McGrane, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319.

IOWA BOARD OF PHARMACY EXAMINERS


Norman C. Johnson
Executive Secretary

OCT 27 1989

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

IOWA PHARMACY EXAMINERS

In the Matter of	:	
JACK E. HUZL	:	STIPULATION
Pharmacist	:	
License No. 12687	:	

WHEREAS, Jack E. Huzl, hereinafter referred to as the Licensee, has had certain allegations made against him by the Board of Pharmacy Examiners, hereinafter referred to as the Board, concerning his professional conduct as a pharmacist, and

WHEREAS, the Licensee admits to the allegations made against him, and

WHEREAS, both the Licensee and the Board desire to arrive at a mutually agreeable informal settlement of this matter,

IT IS MUTUALLY AGREED AND STIPULATED as follows between the Licensee and the Board:

1. That the Board, through its representative Alan M. Shepley, and the Licensee have entered into settlement discussions and have agreed upon a disposition of this matter.

2. That the Licensee desires to avoid the uncertainty and the expense of a trial and desires to consent to the disciplinary action to be taken by the Board as specified in paragraph 4, infra.

3. It is the purpose and intent of the parties hereto to waive all the provisions of Chapter 17A of the 1989 Code of Iowa as they relate to notice and hearing on the matter of revocation or suspension of Licensee's license to be a pharmacist, and to acknowledge that each are fully aware of their rights and procedures afforded them through Chapter 17A of the 1989 Code of Iowa and the rules of the Board of Pharmacy Examiners promulgated in accordance and pursuant thereto, particularly Section 17A.12 as it relates to contested cases and provides notice of hearing and records, and Section 17A.18 as it relates to the requirements concerning notice of the suspension and revocation of licenses.

4. It is the understanding of both the Licensee and the Board that they will enter into an Order and Consent to Order which will provide for the following:

Certificate No. 12687, issued to Licensee, is suspended for a period of 30 days. However, the suspension is stayed and Licensee is placed on probation for a period of one year upon the following terms and conditions:

a. Licensee shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.

b. Licensee shall report to the Board of its designee quarterly. Said report shall be either in person or in writing, as directed. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the final report is made.

c. Licensee shall provide evidence of efforts to maintain skill and knowledge as a pharmacist and shall provide to the Board a written report describing the use of controlled-release products in extemporaneous compounding. Said report shall be completed within 90 days of the date of this Order.

d. Licensee shall notify all present and prospective employers of the decision in the case and the terms, conditions, and restrictions imposed on Licensee by said decision. Within 30 days of the effective date of this decision, and within 15 days of Licensee undertaking new employment, Licensee shall cause his/her employer to report to the Board in writing acknowledging the employer has read the decision in this case.

e. Licensee shall not supervise any registered intern and shall not perform any duties of a preceptor.

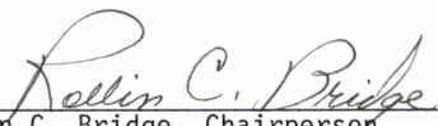
f. Should Licensee leave Iowa to reside or practice outside this state, Licensee must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

g. Should Licensee violate probation in any respect, the Board, after giving Licensee notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against Licensee during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

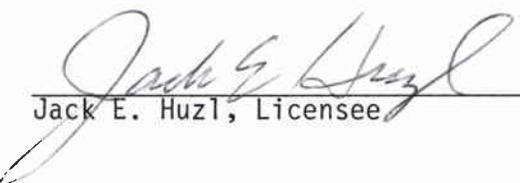
h. Upon successful completion of probation, Licensee's certificate will be fully restored.

i. The suspension period shall begin on October 5, 1989, with probation continuing until October 4, 1990.

THE ABOVE AND FOREGOING CONSTITUTE THE FULL AND COMPLETE STIPULATION AND AGREEMENT OF THE PARTIES HERETO.



Rollin C. Bridge, Chairperson
Iowa Board of Pharmacy Examiners



Jack E. Huzl, Licensee

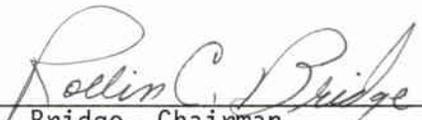
BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

In the Matter of Pharmacist :
JACK E. HUZL : ORDER AND CONSENT TO ORDER
:

The Iowa Board of Pharmacy Examiners, having been advised of the allegations that Jack E. Huzl has conducted himself in a manner which could cause his license to practice pharmacy to be suspended or revoked, and the Board of Pharmacy Examiners through a Board Member and said Jack E. Huzl, having entered into a Stipulation representing their mutual informed consent as to the waiver of the provisions found in the Iowa Administrative Code appearing at Chapter 17A, particularly Section 17A.12 and Section 17A.18, Code of Iowa 1989, in regards to Notice and Hearing, the parties to this action agree to an informal settlement of this matter, namely that the license of Jack E. Huzl to practice pharmacy in Iowa will be suspended according to the conditions attached hereto.

ORDER

IT IS THEREFORE ORDERED, subject to Jack E. Huzl's consent to be contained herein to this Order, that the License of Jack E. Huzl to practice pharmacy in Iowa be suspended according to the conditions outlined in the Stipulation attached hereto and made part of this Order.

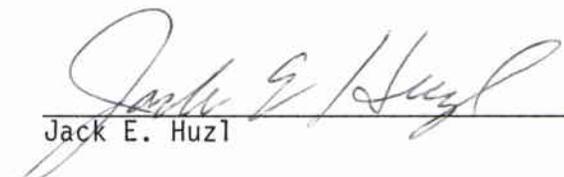


Rollin C. Bridge, Chairman
Iowa Board of Pharmacy Examiners

Date 10/21/89

CONSENT TO ORDER

I, Jack E. Huzl, hereby consent to the Order set forth above, waive my right to a hearing in this matter, and thereby specifically waive a right to confrontation, cross-examination of witnesses, production of evidence, making of a record and judicial review.



Jack E. Huzl

Date 10-25-89

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

Re:)
Pharmacist License of)
JACK E. HUZL) **STATEMENT OF CHARGES**
License No. 12687)
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. On June 15, 1961, the Board issued Respondent, Jack E. Huzl, a license to engage in the practice of pharmacy by examination as evidenced by license number 12687, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 12687 is current and active until June 30, 2000.
5. Respondent's current address is 723 Thornwood Drive, Dubuque, Iowa 52003.
6. Respondent is currently employed as a pharmacist at Union Family Pharmacy, 2541 Central Avenue, Dubuque, Iowa 52001, 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) (1999) and 657 Iowa Administrative Code §§ 8.18, 36.1(4)(b)(4) with failing to obtain and record patient information, including the patient's age or date of birth, known drug allergies, drug reactions, idiosyncrasies, chronic conditions or disease states, and the identity of any other drugs currently being used by the patient .

COUNT II

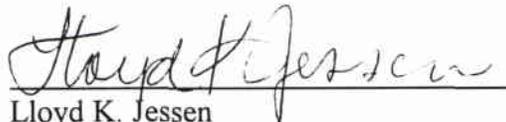
The Respondent is charged under Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code §§ 8.18, 36.1(4)(b)(4) with failing to provide adequate patient counseling as

specified in rule 657 Iowa Administrative Code § 8.20.

THE CIRCUMSTANCES

1. On June 16, 1999, as part of a shopper survey conducted by the Board, the Respondent was presented with new prescription drug orders by a prospective patient.
2. The Respondent asked the patient for information relating to his allergies, his date of birth, his insurance, and other demographic information, but did not ask him about any other for other prescription or over the counter drugs he was taking.
3. When the patient picked up the new prescriptions he was not adequately verbally counseled by a pharmacist, and the written materials he was provided did not advise the patient that the pharmacist may be contacted for consultation in person at the pharmacy by toll-free number or a collect telephone call.

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 16th day of July, 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:)	
Pharmacist License of)	
JACK E. HUZL)	STIPULATION
License No. 12687)	AND
Respondent)	CONSENT ORDER
)	

COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Jack E. Huzl, 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 July 16, 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 fifteenth day of June, 1961, by examination as evidenced by Pharmacist License Number 12687, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 12687, issued to and held by Respondent is active and current until June 30, 2000.
3. Respondent is currently employed as a pharmacist at Union Family Pharmacy,

2541 Central Avenue, Dubuque, Iowa 52001, and has been employed as such during all times relevant to this case.

4. A Statement of Charges was filed against Respondent on July 16, 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 six (6) months, 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) obtaining, recording, and maintaining patient information, (b) patient counseling, and (c) prospective drug use review. The typewritten policies and procedures 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 (1)

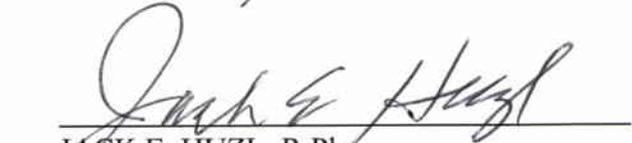
patient counseling and (2) prospective drug use review. The education shall be *not less than* three hours in length on patient counseling and *not less than* three hours in length on prospective drug use review. The education shall be pre-approved by the Board. Documentation of satisfactory completion 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. 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.
 - 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, and any further information deemed necessary by the Board from time to time.
8. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
9. 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. 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.

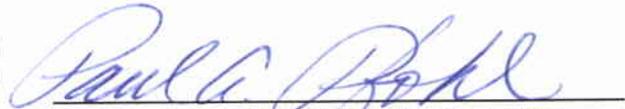
15. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 16 day of August, 1999.



JACK E. HUZL, R.Ph.
Respondent

Subscribed and sworn to before me by Jack E. Huzl on this 16 day of August, 1999.





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 15th day of Sept., 1999.



ARLAN D. VAN NORMAN, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Shauna Russell Shields
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319