

BEFORE THE IOWA BOARD OF PHARMACY

| | | |
|----------------------------------|---|-----------------------------|
| Re: |) | Case No. 2007-7 |
| Pharmacy License of |) | |
| HY-VEE DRUGSTORE PHARMACY |) | STATEMENT OF CHARGES |
| License No. 146 |) | |
| Respondent |) | |

COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Director for the Iowa Board of Pharmacy 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. Effective June 11, 2007, the Board renewed Respondent's general pharmacy license number 146, allowing Respondent to engage in the operation of a pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 7060 is current until December 31, 2007.
5. Respondent is currently operating a general pharmacy at 510 East Sixth Street, Muscatine, IA 50138 with William R. McLaughlin as the pharmacist in charge at all times material to this statement of charges.

A. THE CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged pursuant to Iowa Code § 155A.15(2)(c) (2007) and 657 Iowa Administrative Code § 36.1(4)(b) with a lack of professional competency 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– ILLEGAL DISTRIBUTION OF DRUGS

Respondent is charged pursuant to Iowa Code § 155A.15(2)(c) and (d), and Iowa Code § 124.401 (2007), and 657 Iowa Administrative Code § 36.1(4)(h), with distribution of drugs, including controlled substances, without legal authorization.

COUNT III – FAILURE TO MAINTAIN ADEQUATE CONTROLS

Respondent is charged pursuant to Iowa Code §§ 124.306, 124.402(1), 155A.15(2)(c) and (2)(i) (2007), and 657 Iowa Administrative Code § 6.7, with failing to maintain accurate control over and accountability for drugs, including controlled substances.

B. THE CIRCUMSTANCES

Circumstances supporting the above charges are set forth in 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 Director

On this 25 day of October 2007, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


PAUL ABRAMOWITZ, Chairperson
Iowa Board of Pharmacy
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 50319

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

| | | |
|----------------------------------|---|----------------------|
| Re: |) | Case No. 2007-7 |
| Pharmacy License of |) | |
| HY-VEE DRUGSTORE PHARMACY |) | STIPULATION |
| License No. 146 |) | AND |
| Respondent |) | CONSENT ORDER |

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2007), The Iowa Board of Pharmacy (hereinafter, the “Board”) and Hy-Vee Drugstore Pharmacy (hereinafter, “Respondent”) have agreed to settle a contested case currently on file with the Iowa Board of Pharmacy. The Statement of Charges filed against Respondent on October 25, 2007, and the licensee disciplinary proceeding shall be resolved without a hearing, as the Board and Respondent have agreed to the following Stipulation and Consent Order:

1. Respondent’s license to operate a pharmacy was renewed on June 11, 2007 as evidenced by Pharmacy License Number 146, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. General Pharmacy License Number 146 issued to and held by Respondent is current and in force until December 31, 2008.
3. The Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
4. A Statement of Charges was filed against Respondent October 25, 2007.
5. Respondent denies the allegations contained in the Statement of Charges, but in the interest of settlement has chosen not to contest the allegations. Respondent

acknowledges that the allegations set forth in the Statement of Charges, if proven in a contested case proceeding, would constitute grounds for the discipline described herein.

6. Respondent's license shall be placed on probation for three (3) years, upon the following conditions:

a. Within sixty (60) days after the date of the Board's approval of this Stipulation and Consent Order, Respondent will propose to the Board *typewritten*¹ pharmacy policies and procedures for the following: (1) receipt of prescription information by phone or fax, and verification efforts to be completed in connection with such prescriptions, (2) control and accountability of drugs, including controlled substances, and (3) maintenance of a perpetual inventory of controlled substances.

Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures.

b. During probation, the *Pharmacist in Charge* of Respondent shall file sworn quarterly reports with the Board attesting to Respondent's compliance with the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than December 5, March 5, June 5 and September 5 of each calendar year. Respondent's quarterly reports shall identify the current pharmacist in charge, all staff pharmacists, Respondent's *most recent efforts to implement the provisions of this Stipulation and Consent Order, by date*, and any further information deemed necessary by the Board from time to time.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent

1. For the purposes of this order, "*typewritten*" policies may be generated on computer word-processing equipment.

shall be assessed a civil penalty in the amount of \$3000. This civil penalty payment shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board. All civil penalty payments shall be deposited into the State of Iowa general fund.

8. Respondent agrees to maintain a perpetual inventory of all controlled substances.

9. Respondent agrees to obey all federal and state laws, rules, and regulations substantially related to the operation of pharmacy.

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 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.

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.

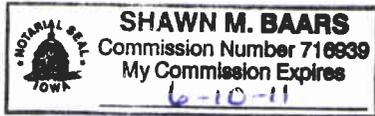
12. This proposed settlement is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

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

This Stipulation and Consent Order is voluntarily submitted by Hy-Vee Drugstore Pharmacy to the Iowa Board of Pharmacy for its consideration on this 3rd day of September 2008.

Edward B. Schulte
Hy-Vee Drugstore Pharmacy
Respondent
By Edward B. Schulte, R.Ph.
Pharmacist in Charge

Subscribed and sworn to before me by Edward Schulte, who has stated to me that he/she is the pharmacist in charge of Hy-Vee Drugstore Pharmacy and is authorized to sign this Stipulation and Consent Order on behalf of Hy-Vee Drugstore Pharmacy on this 3rd day of September 2008.



Shawn M Baars
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on this 7th day of October 2008.

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

cc: Scott M. Galenbeck
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

Edwin N. McIntosh
Dorsey & Whitney
801 Grand Avenue,
Des Moines, IA 50309

BEFORE THE BOARD OF PHARMACY STATE OF IOWA

IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST
HY-VEE DRUGSTORE PHARMACY 7060, RESPONDENT
2007-7

TERMINATION ORDER

DATE: October 8, 2011

1. On October 7, 2008, a Stipulation and Consent Order was issued by the Iowa Board of Pharmacy placing pharmacy license number 146, issued to Hy-Vee Drugstore Pharmacy 7060, on probation for a period of three years under certain terms and conditions.

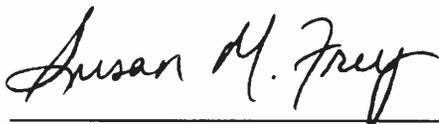
2. Respondent has successfully completed the probation as directed.

3. The Board directed that the probation placed upon the Respondent's license to practice pharmacy should be terminated.

IT IS HEREBY ORDERED:

That the probation placed upon the Respondent's license to practice pharmacy is terminated, and the license is returned to its full privileges free and clear of all restrictions.

IOWA BOARD OF PHARMACY



Susan M. Frey, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688