

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

|                                  |   |                             |
|----------------------------------|---|-----------------------------|
| Re:                              | ) | Case No. 2005-75            |
| Pharmacy License of              | ) |                             |
| <b>HY-VEE DRUGSTORE PHARMACY</b> | ) | <b>STATEMENT OF CHARGES</b> |
| License No. 693                  | ) |                             |
| 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 (2005).
3. Effective August 16, 2005, the Board renewed Respondent's general pharmacy license number 693, 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 693 is current until December 31, 2006.
5. Respondent is currently operating a general pharmacy at 214 South 25<sup>th</sup> Street, Fort Dodge, Iowa 50501 with Don Fredregill as the pharmacist in charge.

**A. THE CHARGES**

**COUNT I – LACK OF PROFESSIONAL COMPETENCY**

Respondent is charged under Iowa Code § 155A.15(2)(c) (2005) 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 – FAILURE TO MAINTAIN ADEQUATE RECORDS**

Respondent is charged with failing to maintain complete and adequate records of purchases, distribution and disposal of drugs listed in the controlled substances act in violation of Iowa Code §§ 155A.15(2)(c) and 155A.15(2)(h) (2005), and 657 Iowa Administrative Code § 36.1(4)(ac).

### COUNT III – FAILURE TO MAINTAIN ADEQUATE CONTROLS

Respondent is charged with failing to maintain accurate control over and accountability for drugs, including controlled substances, in violation of Iowa Code §§ 124.308(3), 124.402(1)(a), 155A.15(2)(c) and (2)(i) (2005), and 657 Iowa Administrative Code § 6.7.

#### B. THE CIRCUMSTANCES

On August 3, 2005 an investigation was commenced which revealed the following:

1. A routine inspection revealed shortages of schedule II controlled substances.
2. An audit of four controlled substances was done on August 1, 2005, which revealed shortages of Endocet 5/325mg (583 short), Oxycontin 10mg, 20mg and 40mg (467 short).
3. An audit of Schedule IV controlled substances also revealed significant discrepancies (Alprazolam 0.5mg, 344 long; Hydrocodone/APAP 7.5/500mg, 376 long; Lorazepam 1mg, 394 short).
4. The pharmacy maintained no policies and procedures regarding long term care facilities.
5. The Pharmacist-in-charge acknowledges record-keeping deficiencies and has supplied the Board with specific measures for improvement.

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 26 day of January 2006, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.

  
MICHAEL J. SEIFERT, Chairperson  
Iowa Board of Pharmacy Examiners  
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

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| Re:                              | ) | Case No. 2005-75     |
| Pharmacy License of              | ) |                      |
| <b>HY-VEE DRUGSTORE PHARMACY</b> | ) | <b>STIPULATION</b>   |
| License No. 693                  | ) | <b>AND</b>           |
| Respondent                       | ) | <b>CONSENT ORDER</b> |

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2005), The Iowa Board of Pharmacy Examiners (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 Examiners. The Statement of Charges filed against Respondent on January 26, 2006, 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 August 16, 2005 as evidenced by Pharmacy License Number 693, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. General Pharmacy License Number 693 issued to and held by Respondent is current and in force until December 31, 2006.
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 January 26, 2006.
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*<sup>1</sup> pharmacy policies and procedures for the following: (1) controlled substances record-keeping, including completion of the required biennial controlled substances inventory, (2) maintaining adequate supervision and control of controlled substances, (3) general pharmacy record-keeping and (4) operation of a long-term care pharmacy practice. 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.

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

c. Respondent will maintain perpetual inventories of all Schedule II and Schedule III controlled substances.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$2500. 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 obey all federal and state laws, rules, and regulations substantially related to the operation of pharmacy.

9. 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.

10. 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.

11. 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.

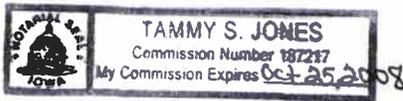
12. The Board's approval of this Stipulation and Consent Order shall constitute a

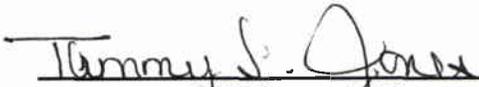
FINAL ORDER of the Board in a disciplinary action.

This Stipulation and Consent Order is voluntarily submitted by Hy-Vee Drugstore Pharmacy to the Iowa Board of Pharmacy Examiners for its consideration on this 8<sup>th</sup> day of August 2006.

  
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Hy-Vee Drugstore Pharmacy  
Respondent  
By Don Fredregill, R.Ph.  
Pharmacist In Charge

Subscribed and sworn to before me by Don Fredregill, 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 8<sup>th</sup> day of August 2006.



  
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NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on this 13 day of September 2006.

  
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MICHAEL J. SEIFERT  
Iowa Board of Pharmacy Examiners  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck  
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