

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

Re:)	Case No. 2004-71
Pharmacy License of)	
HY-VEE DRUGTOWN PHARMACY 2)	STATEMENT OF CHARGES
License No. 363)	
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 December 15, 2004, the Board renewed Respondent's general pharmacy license number 363 with Craig Winder as pharmacist in charge, 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 363 is current until December 31, 2005.
5. Respondent is currently operating a general pharmacy at 2200 West Kimberly Road, Davenport, Iowa 52806, with Craig Winder as the pharmacist in charge.

A. THE CHARGE

COUNT I – INADEQUATE SECURITY

Respondent is charged under Iowa Code §§ 124.308, 124.402, 155A.15(2)(i) (2005) and 657 Iowa Administrative Code §§ 6.2, 6.7, 10.15 and 36.1(4)(u) with a failure to establish adequate security and effective controls against diversion of prescription drugs, including controlled substances.

B. THE CIRCUMSTANCES

On August 27, 2004 an investigation was commenced which revealed the following:

1. After receiving information regarding possible drug diversion by an employee, Respondent-pharmacy developed a log to monitor the movement of the controlled substances most likely to be diverted.
2. On July 30, 2004 a bottle containing 100 Hydrocodone tablets was discovered to be missing.
3. On August 3, 2004, an employee of the pharmacy, technician Benjamin Hahn, was confronted with the loss of controlled substances, at which time Hahn acknowledged diversion of controlled substances from Respondent. Hahn estimated that he had diverted approximately 2000 doses of Hydrocodone tablets.
4. Respondent-pharmacy performed a count of Hydrocodone products after discharge of Hahn from employment. The count revealed a total of 1884 Hydrocodone tablets missing.

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 15 day of February 2005, 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

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

Re:)	Case No. 2004-71
Pharmacy License of)	
HY-VEE PHARMACY 2)	STIPULATION
License No. 363)	AND
Respondent)	CONSENT ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2005), The Iowa Board of Pharmacy Examiners (hereinafter, the “Board”) and Hy-Vee Pharmacy 2 (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 February 15, 2005, 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 December 15, 2004 as evidenced by Pharmacy License Number 363, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. General Pharmacy License Number 363 issued to and held by Respondent is current and in force until December 31, 2005.
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 February 15, 2005.
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 two (2) 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* pharmacy policies and procedures for the following: (1) limitations on technician activity within the pharmacy, (2) instruction of all pharmacy personnel, including technicians, regarding appropriate technician activity within a pharmacy, (3) security and monitoring of controlled substances inventory and (4) establishment of a perpetual inventory for all schedule 2 and schedule 3 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, 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

shall be assessed a civil penalty in the amount of \$1500. 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 Pharmacy 2 to the Iowa Board of Pharmacy Examiners for its consideration on this 23 day of November 2005.

Hy-Vee Pharmacy 2
Respondent
By Craig Winder, R.Ph.
Pharmacist In Charge

Subscribed and sworn to before me by Craig Winder who has stated to me that he/she is the pharmacist in charge of Hy-Vee Pharmacy 2 and is authorized to sign this Stipulation and Consent Order on behalf of Hy-Vee Pharmacy 2 on this 23 day of November 2005.



Heather A. Campbell

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 26 day of January 2005.6

Michael J. Seifert

MICHAEL J. SEIFERT
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