

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

.....
IN THE MATTER OF THE DISCIPLINARY ACTION
AGAINST
GLEN H. MADSEN, RESPONDENT

IOWA PHARMACIST LICENSE # 13417
.....

ORDER DISMISSING STATEMENT OF CHARGES
.....

NOW ON APRIL 17, 2001, BE IT REMEMBERED:

1. That on November 16, 1999, the Board issued a Statement of Charges to Respondent, based on two instances in which a patient was not counseled on two prescriptions the patient received from the pharmacy where Respondent worked. The Statement of Charges alleged that Respondent was the pharmacist in charge at the pharmacy when both of the prescriptions were dispensed.
2. That Respondent's attorney has provided evidence to the Board that Respondent was not the pharmacist in charge at the pharmacy when both of the prescriptions were dispensed.
3. That due to this new evidence, there is not sufficient probable cause to support the charges against Respondent.
4. That on April 17, 2001, the Board considered the State's Motion to Dismiss and voted to authorize the dismissal of the Statement of Charges issued to Respondent on November 16, 1999.

IT IS HEREBY ORDERED:

That the Statement of Charges issued to Respondent Glen H. Madsen, Case No. 99-13417, on November 16, 1999, is hereby dismissed.



Matthew C. Osterhaus
Board Chairperson
IOWA BOARD OF PHARMACY EXAMINERS
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688

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

Re:	)	Case No. 99-13417
Pharmacist License of)	
GLEN H. MADSEN	)	STATE'S MOTION TO DISMISS
License No. 13417)	
Respondent)	

COMES NOW the State of Iowa, through Assistant Attorney General Shauna Russell Shields, and moves to dismiss the Statement of Charges pending against the Pharmacist License of Glen H. Madsen, license number 13417, on the following grounds:

1. The Board filed a Statement of Charges against Mr. Madsen on November 16, 1999, based on two instances in which a patient was not counseled on two prescriptions the patient received from the pharmacy where Mr. Madsen works. The Statement of Charges alleged that Mr. Madsen was the pharmacist in charge at the pharmacy when both of the prescriptions were dispensed.

2. Mr. Madsen's attorney has provided the undersigned with evidence that Mr. Madsen was not the pharmacist in charge at the pharmacy when both of the prescriptions were dispensed.

3. In light of this new evidence, there is not sufficient probable cause to support the charges against Mr. Madsen.

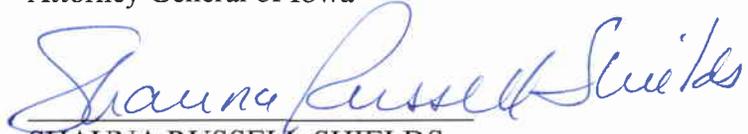
4. Because of this new evidence, the State seeks dismissal of the charges.

WHEREFORE, the State respectfully requests the Iowa Board of Pharmacy Examiners to dismiss the Statement of Charges filed against pharmacist Glen H. Madsen, Case No. 99-13417, on November 16, 1999.

Respectfully submitted,

THOMAS J. MILLER

Attorney General of Iowa



SHAUNA RUSSELL SHIELDS

CK0015433

Assistant Attorney General

Office of the Attorney General

Hoover State Office Building

Des Moines, Iowa 50319

Voice: 515-281-7175

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Date: 3/19/01

Copy to:

Edwin N. McIntosh
Dorsey & Whitney L.L.P.
801 Grand, Suite 3900
Des Moines, Iowa 50309

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties in the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa, on the 20th day

of March, 2001.

V. J. Jost

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

Re:	)	Case No. <u>99-13417</u>
Pharmacist License of)	
GLEN H. MADSEN	)	STATEMENT OF CHARGES
License No. 13417)	
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 January 30, 1968, the Board issued Respondent, Glen H. Madsen, a license to engage in the practice of pharmacy by examination as evidenced by license number 13417, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 13417 is current and active until June 30, 2001.
5. Respondent's current address is 2525 25th Avenue, Marion, Iowa 52302.
6. Respondent is currently employed as a pharmacist in charge at Drugtown pharmacy, 2790 Seventh Avenue, Marion, Iowa, 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 §§ 6.2(1)(a) & (b), 8.20, 36.1(4)(b)(4) with failure to ensure that pharmacists working under his supervision provide adequate patient counseling as specified in rule 657 Iowa Administrative Code § 8.20.

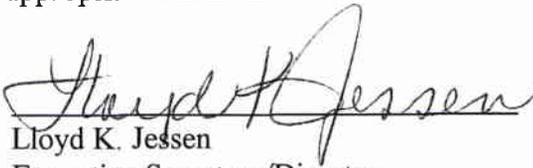
THE CIRCUMSTANCES

1. On or about August 31, 1999, the Board office received a complaint about two instances in which the patient believed the pharmacy where Respondent serves as pharmacist in charge had dispensed medications with the incorrect directions

and/or dosages.

2. An investigation into the complaint revealed that the dosages and directions provided to the complainant were not, in fact, incorrect; but that the dispensing pharmacists had not counseled the patient regarding the medications and their directions for use.
3. Proper patient counseling regarding the medications dispensed to the complainant would have prevented the patient's misunderstanding regarding the prescriptions that were dispensed to the patient.

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 Nov., 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 IOWA BOARD OF PHARMACY

Re:	)	Case No. 2006-123
Pharmacist License of)	
GLEN H. MADSEN,	)	STATEMENT OF CHARGES
License No. 13417,)	
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter referred to as the "Board") 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. On January 30, 1968, the Board issued Glen H. Madsen (hereinafter, "Respondent"), by examination, a license to engage in the practice of pharmacy in Iowa, as evidenced by license number 13417, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's Iowa pharmacist license was current and active at all times material to this statement of charges. Respondent's license expired June 30, 2007, and is now delinquent.
5. Respondent's current address is 2525 25th Avenue, Marion, Iowa 52302.
6. At all material times, Respondent was employed as a pharmacist at a Hy-Vee Drugstore, 2790 7th Avenue, Marion, Iowa 52302.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged with a lack of professional competency, in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 36.1(4)(b), 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 – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

Respondent is charged with unlawful possession and use of prescription drugs in violation of Iowa Code §§ 155A.12(1) and 155A.21 (2007), and 657 Iowa Administrative Code § 36.1(4)(j).

COUNT III – ILLEGAL DISTRIBUTION OF DRUGS

Respondent is charged with distribution of drugs for other than lawful purposes in violation of Iowa Code §§ 155A.12(1) and 155A.23(11) (2007) and 657 Iowa Administrative Code § 36.1(4)(h), specifically, diversion and distribution of drugs to himself in the absence of a prescription.

COUNT IV – INABILITY TO PRACTICE PHARMACY DUE TO CHEMICAL ABUSE

Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of habitual intoxication and chemical abuse in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code §§ 36.1(4)(d) and 36.1(4)(m).

COUNT V – VIOLATION OF PHARMACY LAWS AND FORGING PRESCRIPTIONS

Respondent is charged pursuant to Iowa Code §§ 155A.12(1), 155A.12(4), 155A.21, 155A.23(1)(b) and 155A.23(2) (2007), and 657 Iowa Administrative Code § 36.1(4)(i) and (ac), with violating state laws related to the distribution of prescription medications, maintenance of records relating to distribution of prescription medications, and with forging prescription records and information.

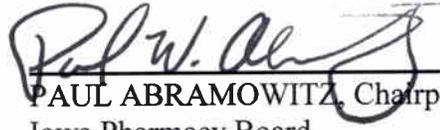
B. CIRCUMSTANCES

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 Pharmacy Board
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

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BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE
STATEMENT OF CHARGES AGAINST:

CASE NO. 2006-123
DIA NO. 07PHB022

GLEN H. MADSEN
License No. 13417

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER

RESPONDENT

On October 25, 2007, the Iowa Board of Pharmacy (Board) found probable cause to file a Statement of Charges and Notice of Hearing against Glen H. Madsen (Respondent), alleging the following violations:

- Count I: Lack of Professional Competency
- Count II: Unlawful Possession of Prescription Drugs
- Count III: Illegal Distribution of Drugs
- Count IV: Inability To Practice Pharmacy Due to Habitual Intoxication/Chemical Abuse
- Count V: Violation of Pharmacy Laws and Forging Prescriptions

The hearing was held on March 10, 2010 at 9:00 a.m. The following members of the Board presided at the hearing: Vernon Benjamin, Chairperson; Susan Frey; DeeAnn Wedemeyer Oleson; Edward L. Maier; and Mark Anliker. The hearing was closed to the public at Respondent's request, pursuant to Iowa Code section 272C.6(1). Respondent appeared and was represented by attorney Joseph Bertroche. Assistant Attorney General Scott Galenbeck represented the state. The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with its deliberations.

THE RECORD

The record includes the testimony of the witnesses, State Exhibits 1-5 (See Exhibit List for description), and Respondent Exhibits A and B.

FINDINGS OF FACT

1. The Board initially issued pharmacist license number 13417 to Respondent Glen H. Madsen on January 30, 1968. At all times material to the Statement of Charges, Respondent was employed by a pharmacy in Marion, Iowa (Hy-Vee), where he had worked for 32 years. (State Exhibits 1, 3; Respondent testimony).
2. On November 16, 2006, Respondent's employer notified the Board that Respondent had been terminated from his pharmacist position after he admitted to drinking alcoholic beverages while on the job. According to his employer's investigation, other employees had observed Respondent pour small bottles of alcohol into his pop and then drink it while at work. Employees also reported seeing Respondent take an Amoxicillin pill from a pharmacy bottle and consume it and fill out a prescription for himself without a doctor's order. Respondent admitted consuming alcohol at work and also admitted taking one Amoxicillin pill. Respondent provided a signed written statement for his employer in which he stated, "I have on a few occasions had an alcoholic drink in the pharmacy during work." Respondent claimed that his prescriptions had all been authorized by a health care provider. (Exhibit 4)
3. The Board's investigator interviewed and obtained written statements from the pharmacy's Store Director and Respondent.
 - a. According to the store director, a new assistant manager saw Respondent take the Amoxicillin tablet out of a pharmacy bottle and consume it on October 13, 2006. On October 24, 2006, another assistant manager reported that Respondent bought a mini-bottle of liquor with an hour left on his shift. The store director spoke to some pharmacy technicians who reported seeing Respondent drink Black Velvet liquor in his Diet Coke during his shift. The store director also found prescriptions, without physician signatures, that Respondent filled for himself. The prescriptions were for Restasis eye drops and Omeprazole (a Prilosec generic used for gastrointestinal reflux). The store director reviewed the error log but did not find any errors by Respondent during this timeframe.
 - b. Respondent reported that his workload and stress increased significantly during the months prior to the termination of his employment. When pharmacy technicians resigned they were not replaced, even though Respondent requested help. Respondent admitted drinking alcohol on two occasions just before he left

the building, which he described as the “wrong response to an over-stressed situation.”

(Exhibit 3; Respondent testimony)

4. After his termination, Respondent was hired for a full-time pharmacist position with Phillips Pharmacy, which has 11 stores. Respondent works as a pharmacist at several different stores but does not serve as a pharmacist in charge. Respondent has been in this position since 2006 without any reported problems. (Respondent, Chris Tuetken testimony)

5. At hearing, Respondent admitted that prior to his termination, he bought small (airplane size) bottles of Black Velvet liquor approximately 15-20 minutes before the pharmacy closed. Respondent further admitted that he drank the liquor mixed with Diet Coke on two occasions while he finished his paper work and ran reports. On one occasion Respondent told a co-worker “I’ve got to have a drink or I’m going to lose it.” Respondent testified that on the other occasions that he bought liquor he drank it in the store parking lot before driving home. Respondent estimated that this happened 2-3 times a week. Respondent testified that he was drinking because he was under so much stress, and he wanted to be able to be civil to his wife when he got home. (Respondent testimony)

6. Respondent admitted taking a single Amoxicillin tablet from a pharmacy bottle. Respondent reported that he had a “supply” of Amoxicillin at home from a previous doctor, which he had been taking for several days because he felt like he was coming down with a cold. On the day that Respondent took a single Amoxicillin tablet from the pharmacy’s supply he had forgotten to bring his Amoxicillin pill with him to work. Respondent did not present any evidence that he had a current valid prescription for Amoxicillin at that time. (Respondent testimony)

7. Respondent denies that he filled any prescriptions for himself that were not authorized by a physician or other licensed health care provider. Respondent reported that he was seeing an optometrist every three months for high ocular pressure. The optometrist told Respondent that he should use Restasis and told Respondent to fill out the prescription. Respondent entered a Restasis prescription on the pharmacy’s computer but did not create a hard copy for the pharmacy’s records. Respondent submitted a letter from his optometrist stating that he first prescribed Restasis for Respondent on April 22, 2004. (Respondent testimony; Exhibits A, B)

8. At the state's suggestion, Respondent went to Sedlacek Treatment Center for a chemical dependency intake assessment on May 14, 2009. According to the assessment report, Respondent admitted that he had been a daily drinker for twenty years. He reported that he consumed two drinks daily during the week but may have 3-4 mixed drinks on the weekend. Respondent also told the evaluator that someone had complained he was drinking on the job. Respondent further reported that for about six months he bought pocket size bottles of bourbon at the store right before leaving and drank it in the parking lot before he went home. The evaluator completed an Intake Assessment Report but did not make any recommendations for treatment. (Respondent testimony; Exhibit 5)

CONCLUSIONS OF LAW

Count I – Lack Of Professional Competency

Iowa Code §155A.12 (2007) authorizes the Board to discipline a pharmacist's license for any violation of Iowa Code chapter 155A or of the Board's rules.

657 IAC 36.1(4)(b) provides that the Board may impose any of the disciplinary sanctions set out in subrule 36.1(2) when it determines that a licensee is guilty of professional incompetency. Professional incompetency includes but is not limited to 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.

The preponderance of the evidence established that Respondent violated Iowa Code §155A.12(1)(2007) and 657 IAC 36.1(4)(b) by his repeated departures from and failure to conform to the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa. Consuming alcohol while working as a pharmacist clearly falls below minimum standards of practice, even if Respondent was only completing paper work and not actually dispensing prescriptions at the time he was consuming alcohol. Alcohol use while working impairs professional judgment and sets an incredibly poor example for other pharmacy personnel. It is also departure from the acceptable and prevailing practice of pharmacy for a pharmacist to take medication from his employer's stock bottle for personal use when the pharmacist does not have a current prescription for the medication and makes no record of dispensing it. Respondent did not claim to have a current prescription for Amoxicillin, and he did not document that he dispensed the Amoxicillin to himself.

The Board was unable to conclude that Respondent was not prescribed Restasis and Omeprazole by a licensed health care provider or that his handling of those prescriptions fell below minimum standards. Nevertheless, the Board believes that Respondent exercised poor judgment when he failed to document the provider's authorization and failed to maintain hard copies of the prescriptions.

Count II – Unlawful Possession Of Prescription Drugs

Iowa Code §155A.21(2007) provides, in relevant part, that it is a serious misdemeanor for a person to possess a drug limited to dispensation by prescription, unless the drug was so lawfully dispensed. 657 IAC 36.1(4) "j" provides that the Board may discipline a licensee for violating a statute or law of this state,...without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy or the distribution of controlled substances, prescription drugs, or nonprescription drugs.

The preponderance of the evidence established that Respondent violated Iowa Code §§155A.12(1), 155A.21 (2007) and 657 IAC 36.1(4)(j) when he possessed an Amoxicillin tablet that he had taken for his own use without proper authorization or documentation.

Count III-Illegal Distribution of Drugs

155A.23(11) prohibits persons from selling or transferring a drug or device to an unauthorized person. 657 IAC 36.1(4)"h" authorizes the Board to discipline a licensee for distributing a drug for other than lawful purposes. The preponderance of the evidence established that Respondent violated Iowa Code sections 155A.12(1), 155A.23(11)(2007) and 657 IAC 36.1(4)"h" when he dispensed the Amoxicillin tablet to himself without presenting a prescription and without documenting that the tablet was dispensed.

Count IV – Inability To Practice Due to Habitual Intoxication

Iowa Code section 155A.12(1)(2007) and 657 IAC 36.1(4)"d"(1) and 36.1(4)"m" authorize the Board to discipline a pharmacist for habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to, the inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

Any use of alcohol while working as a pharmacist is necessarily excessive use and is inconsistent with skillful and safe pharmacy practice. Nevertheless the Board was unable to conclude, by a preponderance of the evidence, that Respondent violated Iowa Code section 155A.12(1)(2007) and 657 IAC 36.1(4)"d"(1) by being habitually intoxicated or by excessively using alcohol on a continuing basis. The Board has elected to address Respondent's use of alcohol while working solely as a competency concern.

Count V – Violation of Pharmacy Laws and Forging Prescriptions

Iowa Code section 155A.12(4) authorizes the Board to discipline a licensee for failure to keep and maintain records required by Iowa Code chapter 155A. Iowa Code section 155A.23(1)(b) prohibits persons from forging or altering a written, electronic, or facsimile order. Iowa Code section 155A.23(2) prohibits persons from willfully making a false statement in any prescription, report, or record required by this chapter. 657 IAC 36.1(4)"i" and "ac" authorize discipline for willful or repeated violations of Iowa Code chapters 147 and 272C and for failing to create and maintain complete and accurate records as required by state or federal law, regulation or rule of the board. The preponderance of the evidence failed to establish that Respondent forged any prescriptions or made any false statements in prescriptions.

Sanction

The Board continues to have concerns about Respondent's consumption of alcohol while working as a pharmacist, which was a significant and repeated deviation from the minimum standard of care. Although Respondent presented a chemical dependency intake assessment that indicated he does not require treatment for his alcohol use, it is unclear from the report whether the evaluator realized that Respondent admitted to drinking alcohol while working. For this reason, the Board is requiring Respondent to obtain another chemical dependency evaluation as one condition of probation. Respondent will be required to obtain Board approval for the facility providing the evaluation, and the Board will provide the evaluator with a copy of this Decision and Order and the hearing exhibits to ensure that the evaluator has full and accurate information at the time of the evaluation.

DECISION AND ORDER

IT IS THEREFORE ORDERED that pharmacist license number 13417 issued to Respondent Glen Madsen is hereby placed on PROBATION for a period of two (2) years, subject to the following terms and conditions:

- A. Respondent shall obtain a chemical dependency assessment within ninety (90) days of the issuance of this Decision and Order at a Board approved facility. The Board will provide a copy of this Decision and Order and the Exhibits to the evaluator. Respondent shall fully comply with treatment recommendations, if any, made by the evaluator. If the evaluator concludes that Respondent has a chemical dependency problem, he will be required to sign a contract with the Iowa Pharmacist Recovery Network (IPRN).
- B. Respondent shall file written, sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of his probation. The reports shall be filed no later than March 5, June 5, September 5, and December 5 of each year of Respondent's probation. The quarterly reports shall include Respondent's current place of employment, home address, home telephone number or work telephone number, and any further information deemed necessary by the Board from time to time.
- C. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
- D. Respondent shall not own or manage a pharmacy, nor serve as the pharmacist in charge of a pharmacy.
- E. Respondent shall notify all current and any prospective pharmacy or pharmacy-related employers, including any pharmacists-in-charge, of the terms, conditions, and restrictions imposed on Respondent by this Decision and Order. Notification shall be made no later than the time of interview. Within fifteen (15) days of receipt of this Decision and Order or within fifteen days of undertaking new employment as a pharmacist or in a pharmacy-related business, Respondent shall cause his employer and all pharmacists-in-charge to report to the Board in writing, acknowledging that the employer has read this document and understands it.
- F. During probation, Respondent shall inform the Board in writing within ten (10) days of any change of home address, employment status, place of employment, home telephone number or work telephone number.

G. Respondent shall make personal appearances before the Board or a Board committee upon request. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.

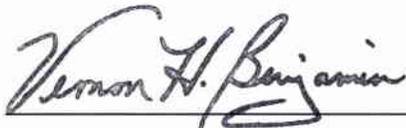
H. Respondent shall be responsible for all costs of compliance with this Decision and Order.

I. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.

J. Should Respondent violate or fail to comply with any of the terms or conditions of probation, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 36.18(2), that Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive director of the Board may bill Respondent for any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondent shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this 24th day of March, 2010.



Vernon Benjamin, Chairperson
Iowa Board of Pharmacy

cc: Scott Galenbeck, Assistant Attorney General
Joseph Bertroche, Respondent's Attorney

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2006-123
Pharmacist License of)	
GLEN H. MADSEN,	)	STATEMENT OF CHARGES
License No. 13417,)	
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter referred to as the "Board") 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 (2009).
3. On January 30, 1968, the Board issued Glen H. Madsen (hereinafter, "Respondent"), by examination, a license to engage in the practice of pharmacy in Iowa, as evidenced by license number 13417, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's Iowa pharmacist license was current and active at all times material to this statement of charges. Respondent's license was renewed on June 30, 2009 and is current until June 30, 2011.
5. Respondent's address of record is 2525 25th Avenue, Marion, Iowa 52302.
6. At all material times, Respondent has been employed as a pharmacist at Phillcare Pharmacy, 207 Second Avenue SE, Cedar Rapids, Iowa 52401.

A. CHARGE

COUNT I – FAILURE TO COMPLY WITH BOARD ORDER

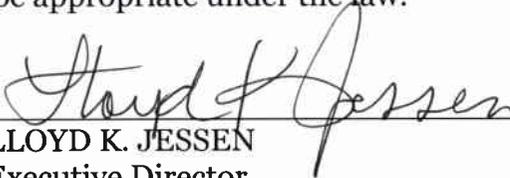
Respondent is charged under Iowa Code § 272C.3(2)(a) (2009) with a failure to comply with terms found in the Findings of Fact, Conclusions of Law, Decision and Order adopted by the Iowa Board of Pharmacy on March 24, 2010, which terms include the following directive to Respondent: "If the [chemical dependency evaluator] concludes that Respondent has a chemical dependency problem, he will be required to sign a contract with the Iowa Pharmacist Recovery Network (IPRN)."

B. CIRCUMSTANCES

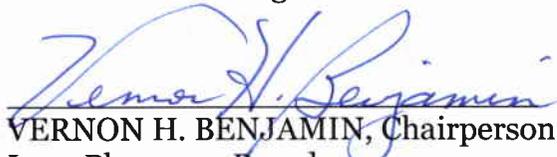
An investigation commenced on September 24, 2010 revealed the following:

1. The Findings of Fact, Conclusions of Law, Decision and Order adopted by the Iowa Board of Pharmacy on March 24, 2010, included the following directive to Respondent: "If the [chemical dependency evaluator] concludes that Respondent has a chemical dependency problem, he will be required to sign a contract with the Iowa Pharmacist Recovery Network (IPRN)."
2. On July 26, 2010, Respondent's substance abuse evaluator concluded: "After carefully reading all documents and talking with his wife it appears he meets criteria for alcohol abuse. Recommendations are for EOP, level 1, treatment."
3. Respondent has successfully completed EOP (Extended Outpatient Treatment), having been discharged on August 31, 2010.
4. Respondent has not signed and agreement with IPRN or otherwise participated in the IPRN program.

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 8th day of March 2011, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


VERNON H. BENJAMIN, Chairperson
Iowa Pharmacy Board
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

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE	)	CASE NO. 2006-123
STATEMENT OF CHARGES AGAINST	)	DIA NO. 11PHB009
)	
GLENN H. MADSEN	)	FINDING OF FACT,
License No. 13417	)	CONCLUSIONS OF LAW,
	)	DECISION AND ORDER
RESPONDENT)	

On March 8, 2011, the Iowa Board of Pharmacy (Board) found probable cause to file a Statement of Charges and Notice of Hearing against Glenn H. Madsen (Respondent), alleging that he violated Iowa Code section 272C.3(2)(a)(2009) by failing to comply with the terms of the Board's Findings of Fact, Conclusions of Law, Decision and Order, issued on March 24, 2010. The hearing was held on June 29, 2011 at 9:00 a.m. The following members of the Board presided at the hearing: Susan Frey, Chairperson; Edward Maier; Mark Anliker; James Miller; and LaDonna Gratiias. Respondent appeared and was represented by attorney Joseph Bertroche. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1). Assistant Attorney General Scott Galenbeck represented the state. The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with its deliberations.

THE RECORD

The record includes the testimony of Glenn Madsen, State Exhibits 1-5 (See Exhibit List for description), and Respondent Exhibit D.

FINDINGS OF FACT

1. On January 30, 1968, the Board issued Respondent Glenn H. Madsen license number 13417 to engage in the practice of pharmacy in the state of Iowa, subject to the statutes and rules of the Board. (State Exhibit 1)
2. On October 25, 2004, the Board filed a Statement of Charges charging Respondent with lack of professional competency, unlawful possession and distribution of prescription drugs, inability to practice pharmacy with reasonable skill and safety by reason of habitual intoxication and chemical abuse, and violating pharmacy laws

related to prescription medications. The charges were based, in part, on allegations that Respondent consumed alcohol while working as a pharmacist. Following a hearing, the Board found that Respondent's consumption of alcohol at work was a departure from acceptable and prevailing practice and constituted professional incompetency. The Board placed Respondent's license on probation for a period of two years, subject to a number of terms and conditions. The first condition of probation provided:

A. Respondent shall obtain a chemical dependency assessment within ninety (90) days of the issuance of this Decision and Order at a Board approved facility. The Board will provide a copy of this Decision and Order and the Exhibits to the evaluator. Respondent shall fully comply with treatment recommendations, if any, made by the evaluator. If the evaluator concludes that Respondent has a chemical dependency problem, he will be required to sign a contract with the Iowa Pharmacist Recovery Network (IPRN).

(State Exhibit 2)

3. In a letter dated September 16, 2010, St. Luke's Chemical Dependency Services notified the Board that it had evaluated Respondent on July 26, 2010. The letter stated that Respondent was recommended for Extended Outpatient Treatment, that he enrolled in St. Luke's Extended Outpatient Treatment Program on August 3, 2010 and completed the program, and that he was discharged with staff approval on August 31, 2010. (State Exhibit 3)

Board staff responded to St. Luke's in a letter dated September 24, 2011, and a copy was sent to Respondent's attorney. Staff noted that the Board's Order required Respondent to comply with any treatment recommendations made by the evaluator. Staff quoted the following probationary condition from Board's Order: "if the evaluator concludes that Respondent has a chemical dependency problem, he will be required to sign a contract with the Iowa Pharmacist Recovery Network (IPRN)." Board staff then asked St. Luke's for further information, including what tests were performed, whether the evaluator concluded that Respondent had a chemical dependency problem, and what if any were Respondent's treatment recommendations. (Respondent Exhibit D)

St. Luke's responded to the Board in a letter dated October 8, 2010. St. Luke's enclosed the following documents: a copy of the Authorization for Release of Medical Information signed by Respondent on July 26, 2010; the outpatient treatment discharge summary; the SASSI Test, Heilman Questionnaire, and Drug Questionnaire completed

by Respondent at the time of the evaluation; and the Chemical Dependency Evaluation. The evaluator reviewed the test results and the documents provided by the Board. The evaluator interviewed Respondent and his wife. The evaluator concluded that Respondent had symptoms of alcohol abuse. The evaluator's recommendations for Respondent included total abstinence, weekly participation in A.A./N.A., and Level I Extended Outpatient Treatment. (State Exhibit 4)

4. Respondent did not contact IPRN or sign an IPRN contract after completing outpatient treatment on August 31, 2010. The Board filed its Statement of Charges on March 8, 2011. Respondent contacted IPRN only after receiving the Statement of Charges. Since that time, Respondent has had three telephone contacts with the IPRN representative. Respondent testified that he signed something and sent it into IPRN but has received nothing back from them. However, Respondent has not provided the Board with a copy of an IPRN contract or any other IPRN document that he has signed. Respondent testified that it was his understanding that all the IPRN was requiring him to do was to stay in telephone contact. (Testimony of Respondent)

5. Respondent testified that he did not sign up for IPRN because he was never told, either verbally or in writing, that the evaluator made a finding of alcohol abuse. Respondent further testified that the evaluator never gave him a copy of her evaluation or recommendations. Respondent denied ever being told that he should abstain completely from alcohol and attend weekly AA meetings. Respondent claimed that the evaluator told him that he was not entitled to a copy of the evaluation but that she could send a copy to his attorney. (Testimony of Respondent) However, this claim was inconsistent with the release signed by Respondent for St. Luke's, which stated in relevant part:

I understand that I have the right to review the disclosed information by contacting the Document Control Coordinator at St. Luke's Hospital, Cedar Rapids, Iowa 52406-3026....

Respondent claimed that he asked the evaluator to provide a copy of the evaluation to his attorney but she failed to do so. (State Exhibit 4)

6. Respondent is currently working part-time as a pharmacist for Phillips Pharmacy. His hours and work locations vary. In April and May 2011, Respondent worked between 12 and 15 days. In June, he only worked 4 days. Respondent continues to consume alcohol but is willing to abstain if told to do so by the Board.

Respondent attended one AA meeting in connection with his outpatient treatment but has attended no further meetings. (Testimony of Respondent)

CONCLUSIONS OF LAW

Iowa Code §272C.3(2)(a)(2009, 2011) authorizes the Board to discipline a license for failure to comply with a Board decision imposing license discipline. The preponderance of the evidence established that Respondent violated Iowa Code §272C.3(2)(a)(2009, 2011) by failing to comply with all of the probationary terms established in the Board's March 24, 2010 Decision and Order. Respondent's chemical dependency assessment concluded that he had symptoms of alcohol abuse. The evaluator recommended that Respondent complete extended outpatient treatment, totally abstain from alcohol, and attend weekly AA/NA meetings. Respondent did not sign an IPRN contract following the evaluation. He continues to consume alcohol and does not attend AA meetings.

It was Respondent's responsibility to obtain a copy of the evaluation report, to comply with any recommendations made by the evaluator, and to fully comply with the terms of the Board's Order. Respondent should have been proactive in obtaining a copy of the evaluation either directly from St. Luke's (as was his right under the release he signed) or from the Board. Moreover, Respondent knew that the evaluator recommended extended outpatient treatment for him. This fact alone put Respondent on notice that the evaluator concluded he had a chemical abuse problem. It appears that Respondent went out of his way to avoid facing the evaluator's recommendations and the consequences of those recommendations.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Respondent Glen Madsen shall pay a civil penalty of five hundred dollars (\$500) within thirty (30) days of the issuance of this Decision and Order.

IT IS FURTHER ORDERED that pharmacist license number 13417 issued to Respondent Glen Madsen is hereby placed on PROBATION for a period of two (2) years, subject to the following terms and conditions:

- A. Respondent shall sign a contract with the Iowa Pharmacist Recovery Network (IPRN) within thirty (30) days of the issuance of this Decision and Order and shall fully comply with the contract.

B. Respondent shall abstain from all use of alcohol or illicit drugs. Respondent shall cooperate with the Board's alcohol and drug screening program through FirstLab. Respondent shall provide random blood or urine specimens when required by the screening program. Respondent shall also provide random blood or urine specimens on demand by an agent of the Board.

C. Respondent shall not use any controlled substances or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for him by a licensed, treating physician or other qualified health care provider.

D. Respondent shall attend Alcoholics Anonymous (AA) on a regular weekly basis or at the frequency recommended by his counselors. Respondent shall obtain verification of his AA attendance and submit it with his quarterly written reports to the Board.

E. Respondent shall file written, sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of probation. The reports shall be filed no later than March 5, June 5, September 5, and December 5 of each year of Respondent's probation. The quarterly reports shall include Respondent's current place of employment, home address, home telephone number or work telephone number, and any further information deemed necessary by the Board from time to time.

F. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.

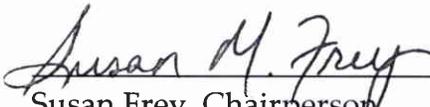
G. Respondent shall not own or manage a pharmacy and shall not serve as the pharmacist in charge of a pharmacy.

H. Respondent shall notify all prospective pharmacy or pharmacy-related employers, including any pharmacist-in-charge, of the terms, conditions, and restrictions imposed on Respondent by this Decision and Order. Notification shall be made no later than the time of interview. Within fifteen (15) days of undertaking new employment as a pharmacist or in a pharmacy-related business, Respondent shall cause his employer to report to the Board in writing, acknowledging that the employer has read this document and understands it.

- I. During probation, Respondent shall inform the Board in writing within ten (10) days of any change of home address, employment status, place of employment, home telephone number or work telephone number.
- J. Respondent shall make personal appearances before the Board or a Board committee upon request. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.
- K. Respondent is responsible for all costs of testing and all costs of compliance with this Decision and Order.
- L. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.
- M. Should Respondent violate or fail to comply with any of the terms or conditions of probation, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 36.18(2), that Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive secretary/director of the Board may bill Respondent for any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondent shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this 13th day of July, 2011.



Susan Frey, Chairperson
Iowa Board of Pharmacy

cc: Scott Galenbeck, Assistant Attorney General
Joseph Bertroche, Respondent's Attorney

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.

BEFORE THE BOARD OF PHARMACY STATE OF IOWA

**IN THE MATTER OF THE DECISION AND ORDER AGAINST
GLENN H. MADSEN, R.Ph., RESPONDENT
2006-123**

TERMINATION ORDER

DATE: July 14, 2013

1. On July 13, 2013, a Finding of Fact, Conclusions of Law, Decision and Order was issued by the Iowa Board of Pharmacy placing the license to practice pharmacy, number 13417 issued to Glenn H. Madsen on January 30, 1968, on probation for a period of two 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 PHARAMCY



Edward L. Maier, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688