

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

Re:)
Pharmacist License of)
ANN M. MARCALUS) **STATEMENT OF CHARGES**
License No. 13174)
Respondent)

COMES NOW, the Complainant, Lindy A. Pearson, and states:

1. She is the Chief Investigator for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in her official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (1995).
3. On February 1, 1966, Ann M. Marcalus, the Respondent, was issued license number 13174 by the Board to engage in the practice of pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 13174 is current and active until June 30, 1997.
5. Respondent currently resides at 845 Mark Street, Jewell, Iowa 50130.
6. Respondent is currently employed as the pharmacist in charge of Family Pharmacy in Jewell, Iowa.

COUNT I

The Respondent is charged under Iowa Code Sections 155A.12(1), 155A.12(2), and 155A.12(3) (1995) and 657 Iowa Administrative Code Sections 8.5(1), 9.1(4)(b), 9.1(4)(h), 9.1(4)(j), and 9.1(4)(u) with dispensing a prescription drug without prescriber authorization.

COUNT II

The Respondent is charged under Iowa Code Sections 155A.12(1), 155A.12(2), and 155A.12(3) (1995) and 657 Iowa Administrative Code Sections 6.6, 9.1(4)(b), 9.1(4)(j), 9.1(4)(u), and 10.10 with allowing the prescription department of a pharmacy to be open and accessible to the public in the absence of a pharmacist.

COUNT III

The Respondent is charged under Iowa Code Sections 155A.10, 155A.12(1), 155A.12(2), 155A.12(3), and 155A.13(11) (1995) and 657 Iowa Administrative Code Sections 6.2, 6.8(10), 8.5(4), 9.1(4)(b), 9.1(4)(j), and 9.1(4)(u) with nonconformance with law.

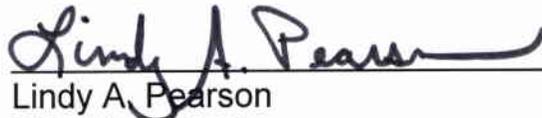
THE CIRCUMSTANCES

1. On August 10, 1995, a prescribing practitioner alleged that the Respondent had dispensed a prescription refill to a patient without prescriber authorization.

2. On January 12, 1996, the Family Pharmacy was open for business and was accessible to nonpharmacists in the absence of the Respondent and without another pharmacist being present.

3. On August 28, 1996, a routine pharmacy inspection of the Family Pharmacy revealed numerous serious deficiencies.

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.


Lindy A. Pearson
Chief Investigator

On this 16th day of September, 1996, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Phyllis A. Olson, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

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

Re: Pharmacist License of
ANN M. MARCALUS
License No. 13174
Respondent

}
}
}
}
}
}

**STIPULATION
AND
CONSENT ORDER**

On this 11th day of February, 1997, the Iowa Board of Pharmacy Examiners and Ann M. Marcalus, R.Ph., of Jewell, Iowa, each hereby agree with the other and stipulate as follows:

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 September 16, 1996, 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 on the 1st day of February, 1966, as evidenced by License Number 13174, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 13174 issued to and currently held by Respondent is current and in full force until June 30, 1997.
3. That 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 on September 16, 1996.

5. This Stipulation and Consent Order is executed as a compromise settlement of disputed claims.

6. Respondent agrees to accept a citation and warning for the alleged violations set forth in the complaint.

7. Respondent also agrees to obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy and the distribution of controlled substances.

8. This Stipulation and Consent Order is subject to approval of a majority of the full Board. If the Board fails to approve this Stipulation and Consent Order, it shall be of no force or effect to either party.

9. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 7th day of February, 1997.



ANN M. MARCALUS, R.Ph.

Respondent

Subscribed and Sworn to before me on this 7th day of February, 1997.



NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

10. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 11th day of February, 1997.

A handwritten signature in black ink, appearing to read "Phyllis A. Olson", written over a horizontal line.

PHYLLIS A. OLSON, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

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

Re:)	Case No. 2001-13174
Pharmacist License of)	
ANN M. MARCALUS)	STATEMENT OF CHARGES
License No. 13174)	
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 (2001).
3. On February 1, 1966, the Board issued Respondent, Ann M. Marcalus, a license to engage in the practice of pharmacy by examination as evidenced by license number 13174, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 13174 is current and active until June 30, 2003.
5. Respondent's current address is 845 Mark Street, Jewell, Iowa 50130.
6. Respondent is currently self employed as the pharmacist in charge at Family Pharmacy in Jewell, 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) (2001) and 657 Iowa Administrative Code §§ 8.20, 36.1(4)(b)(4), (i), (u), and (w) with failing to provide patient counseling.

COUNT II

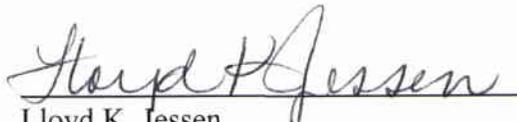
The Respondent is charged under Iowa Code § 155A.12(1) (2001) and 657 Iowa Administrative Code §§ 6.2(1)(k), 6.6(1), 6.6(3) and 36.1(4)(u) with failing to ensure the legal

operation of the pharmacy where she serves as the pharmacist in charge, including inadequate security of the prescription department, permitting access to the prescription department when a pharmacist is not on site, and permitting dispensing or distributing prescription medications to patients or others during the temporary absence of the pharmacist.

THE CIRCUMSTANCES

1. On or about June 12, 2001, the Board office received a complaint alleging that the pharmacist is only at the pharmacy where the Respondent works and serves as pharmacist in charge for a small portion of each day and that technicians were performing improper functions.
2. During the Board's investigation of the allegations referred to in Paragraph 1, a Board investigator discovered the following information:
 - (a) The Respondent permits the technician employed by the pharmacy where the Respondent serves as pharmacist in charge to regularly sell prescriptions to patients or others when the pharmacist is not present in the pharmacy.
 - (b) Patients do not receive counseling from a pharmacist on new prescriptions as required by Board rules when they pick up prescriptions in the pharmacist's absence.
 - (c) The prescription department at the pharmacy where the Respondent serves as pharmacist in charge is not secured in a way that prevents access to the prescription department when the pharmacist is absent.

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 10 day of October, 2001, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.



Matthew C. Osterhaus, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

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:)	Case No. 2001-13174
Pharmacist License of)	
ANN M. MARCALUS)	STIPULATION
License No. 13174)	AND
Respondent)	CONSENT ORDER
)	

COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Ann M. Marcalus, R.Ph. (“Respondent”) and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2001), 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 the Respondent on October 10, 2001, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That the Respondent was issued a license to practice pharmacy in Iowa on February 1, 1966, by examination as evidenced by Pharmacist License Number 13174, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 13174, issued to and held by the Respondent is active and current until June 30, 2003.

3. The Respondent is currently employed as the pharmacist in charge at Family Pharmacy in Jewell, Iowa and has been employed as such during all times relevant to this case.
4. A Statement of Charges was filed against the Respondent on October 10, 2001.
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. The Respondent shall pay a civil penalty of \$200.00 within 30 days of the date of approval of this Stipulation and Consent Order by the Board. The Respondent shall deliver a check made payable to the Treasurer of the State of Iowa to the Executive Secretary/Director of the Board. The check shall be deposited into the general fund of the State of Iowa.
8. Respondent's license shall be placed on probation for two (2) years, 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 her *typewritten* policies and procedures for the following: (a) ensuring proper pharmacy security, (b) ensuring the proper handling of the temporary absence of the pharmacist in the Respondent's absence, (c) ensuring the proper utilization of registered pharmacy technicians, (d) patient counseling, and (e)

prospective drug use review. The typewritten policies and procedures shall relate to the Respondent's practice of pharmacy in her 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 the following areas: (a) patient counseling, (b) prospective drug utilization review, (c) pharmacy security, and (d) utilization of technicians. The education shall be *not less than* two (2) hours in length each, for a total of eight (8) hours in length, and 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.

9. The Respondent may apply to the Board for modification of the provisions of Respondent's probation, including termination of the probation, after Respondent has successfully completed one year of probation. Respondent understands that the determination of whether to modify or terminate her probation will remain in the Board's discretion.
10. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code § 272C.3(2)(a).
11. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, the 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.

14. This Stipulation and Consent Order is voluntarily submitted by the Respondent to the Board for its consideration on the ~~29th~~ day of November, 2002.

Ann M Marcalus

Ann M. Marcalus, R.Ph.
Respondent

Subscribed and sworn to before me by Ann M. Marcalus on this 29 day of November, 2002.



Diane Barkema

NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

15. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 4 day of Dec., 2002.

Katherine A Linder

KATHERINE A. LINDER, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

APPROVED AS TO FORM:

Thomas G. Crabb

Thomas G. Crabb – Attorney for Respondent

Shauna Russell Shields

Shauna Russell Shields – Attorney for State

cc: Thomas G. Crabb
505 5th Avenue
Suite 630
Des Moines, Iowa 50309

ATTORNEY FOR RESPONDENT

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

ATTORNEY FOR STATE