

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2006-119
Pharmacist License of)	
PHIL MARKWAY,)	STATEMENT OF CHARGES
License No. 16512,)	
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 August 15, 1984, the Board issued Phil Markway (hereinafter, "Respondent"), by reciprocity, a license to engage in the practice of pharmacy in Iowa, as evidenced by license number 16512, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's Iowa pharmacist license is current and active through June 30, 2008.
5. Respondent's address is 108 North Main, Carroll, Iowa 51401.
6. At all material times, Respondent was employed as the pharmacist in charge by the Carroll Apothecary, 707 North Main, Carroll, Iowa 52401.

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 – FAILURE TO MAINTAIN RECORDS

Respondent is charged pursuant Iowa Code §§ 155A.12(1) and 155A.23(12) (2007), and 657 Iowa Administrative Code §§ 10.34 and 36.1(4)(j), (u) and (ac), with failing to create and maintain complete and accurate records of its compounding activities.

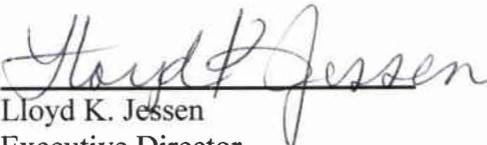
COUNT III – VIOLATION OF PHARMACY COMPOUNDING RULES

Respondent is charged pursuant to Iowa Code §§ 155A.15(2)(c) (2007), 657 Iowa Administrative Code chapter 20, and 657 Iowa Administrative Code §§ 8.30, 20.8, 20.10, 20.11, 20.12, 36.1(4)(j), and 36.1(4)(u) with failure to comply with Board rules for pharmacy compounding.

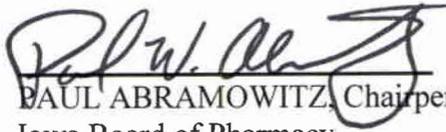
B. CIRCUMSTANCES

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 Oct. 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

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Case No. 2006-119
Pharmacist License of)
PHILLIP J. MARKWAY) **STIPULATION**
License No. 16512) **AND**
Respondent) **CONSENT ORDER**

IOWA BOARD OF PHARMACY
SEP 21 2009
Filed in Case No. 2006-119

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2007), the Iowa Board of Pharmacy (hereinafter, "the Board") and Phillip J. Markway (hereinafter, "Respondent"), enter into the following Stipulation and Consent Order settling a licensee disciplinary proceeding currently pending before the Board.

Allegations specified in a Statement of Charges filed against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent was issued a license to practice pharmacy in Iowa on August 15, 1984, by reciprocity, as evidenced by Pharmacist License Number 16512, which is recorded in the permanent records of the Board.
2. The Iowa Pharmacist License issued to and held by Respondent is active and current until June 30, 2010.
3. Respondent was, at times material to the Statement of Charges, employed as the pharmacist in charge at the Carroll Apothecary, 707 North Main, Carroll, Iowa 52401.
4. A Statement of Charges was filed against Respondent on November 15, 2006.
5. The Board has jurisdiction over the parties and jurisdiction over the subject matter of these proceedings.

6. Respondent does not contest the allegations set forth in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline described herein.

7. On the date of the Board's approval of this Stipulation and Consent Order, Respondent's license shall be placed on probation. The period of probation shall be not less than five (5) years. Respondent's period of probation shall begin on the date of this order and continue for five (5) years or until Respondent has been employed as a pharmacist in Iowa for five (5) years subsequent to commencement of probation. Only those time periods during which Respondent is employed as a pharmacist in Iowa shall count toward satisfaction of the probation requirement.

8. Probation is granted under the following conditions, which Respondent agrees to follow:

a. Within six (6) months after the date of the Board's approval of this Stipulation and Consent Order, Respondent shall complete continuing pharmacy education ("CPE") or other formal, structured education in (1) ethics and (2) pharmacy record-keeping. The CPE shall be not less than six (6) hours in length and shall be pre-approved by the Board. Documentation of satisfactory completion of the education shall be promptly submitted to the Board. This CPE shall be in addition to – not in lieu of – the thirty (30) hours of continuing pharmacy education required every two years for license renewal.

b. Within six (6) months after the date of the Board's approval of this Stipulation and Consent Order, Respondent shall take and pass the Multi-State

Pharmacy Jurisprudence Exam (MPJE), Iowa edition.

c. Within sixty (60) days after the date of the Board's approval of this Stipulation and Consent Order, Respondent will submit to the Board *typewritten*¹ pharmacy policies and procedures: (1) regarding Respondent's method for identifying Iowa Code and Iowa Administrative Code provisions applicable to his activities, (2) regarding Respondent's personal involvement with compounding, (3) regarding testing of compounded substances, and (4) regarding the appropriate response to circumstances which reveal that a compounded substance is contaminated, under-strength, or otherwise defective. Following review and approval by the Board, Respondent agrees to adopt, implement, and adhere to these policies and procedures in both his current employment setting – unless specific policies and procedures adopted by his employer prevent such adherence – and whenever engaging in the practice of pharmacy.

d. Respondent shall inform the Board, in writing, of any change of home address, place of employment, home telephone number, or work telephone number, within ten (10) days of such a change.

e. During probation, Respondent shall report to the Board or its designee quarterly, in writing. The report shall include Respondent's place of employment, current address, *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.

f. Respondent shall not serve as a preceptor.

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

g. Respondent shall notify all present employers and prospective employers (no later than at the time of an employment interview), including any pharmacist-in-charge, of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this Stipulation and Consent Order.

h. Within thirty (30) days after approval of this Stipulation and Consent Order by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his present pharmacy employer, and any pharmacist-in-charge he works under, to report to the Board in writing acknowledging that the employer and the pharmacist-in-charge have read this document and understand it.

i. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing his performance as a pharmacist during his probationary period. Respondent shall be given reasonable notice of the date, time, and place for the appearances.

j. Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.

9. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$1000. This civil penalty payment shall be made payable to the Treasurer of Iowa and promptly mailed to the executive director of the Board. All civil penalty payments shall be deposited into the State of Iowa general fund.

10. Should the 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

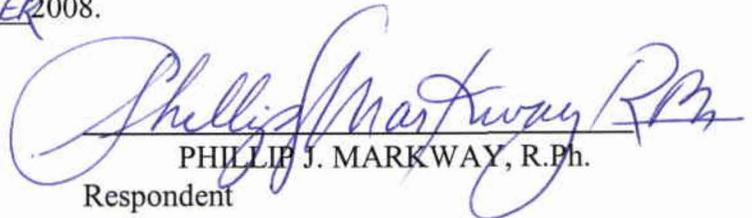
or suspend the Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2007) and 657 IAC 36.

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 the Board or Respondent. 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 Respondent to the Board for its consideration on the 19 day of SEPTEMBER 2008.


PHILLIP J. MARKWAY, R.Ph.
Respondent

Subscribed and sworn to before me by Phillip J. Markway on this 19th day of September 2008.



Jane L. Meiners
NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

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

Leman Olson
LEMAN OLSON, 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 5031

Markway-settlement.doc

BEFORE THE BOARD OF PHARMACY STATE OF IOWA

**IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST
PHILLIP J. MARKWAY, R.Ph., RESPONDENT**

2006-119

TERMINATION ORDER

DATE: October 8, 20 13

1. On October 7, 2008, a Stipulation and Consent Order was issued by the Iowa Board of Pharmacy placing the license to practice pharmacy, number 16512 issued to Phillip J. Markway on August 15, 1984, on probation for a period of five 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 Maier, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688