

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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In the Matter of the Complaint                   :  
and Statement of Charges Against               :  
JOSEPH A. MATAYA, Pharmacist                 :  
Respondent                                        :  
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COMPLAINT AND  
STATEMENT OF CHARGES

COMES NOW, Norman C. Johnson, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 10th day of December 1985, and files this Complaint and Statement of Charges against Joseph A. Mataya, a pharmacist licensed pursuant to Iowa Code Chapter 155, and alleges:

1. That John F. Rode, chairperson; Margo L. Underwood, vice chairperson; Rollin C. Bridge; Jerry M. Hartleip; Melba L. Scaglione; Alan M. Shepley; and Gale W. Stapp are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. That Respondent is a residence of Madrid, Iowa, and was issued license number 14310 to practice pharmacy in the State of Iowa on November 3, 1973.

3. That Respondent's license to practice pharmacy is current until June 30, 1987.

4. That Respondent is the pharmacist-manager/owner of Joe's Pharmacy, Ltd., 210 W. 2nd, Madrid, Iowa.

5. That Respondent has admitted to the submission of fraudulent billings for prescription services to the Metropolitan Insurance Co., Medimet program, and to the John Deere Prescription Insurance program.

6. That the fraudulent billings to the Medimet program totaled \$9,081.31 and involved the following:

a. Rx 54937 and 54938, with dispensed dates of 9-21-84, 11-24-84, 1-3-85, 2-9-85, 3-15-85, 4-20-85, 5-14-85, 7-8-85, and 8-8-85. Total amount received was \$972.88.

b. Rx 59538 and 59539, with dispensed dates of 2-20-85, 3-29-85, 4-23-85, 5-28-85, 6-29-85, and 7-23-85. Total amount received was \$474.86.

c. Rx 60775, with dispensed dates of 3-29-85, 4-23-85, 5-31-85, 7-13-85, and 8-12-85. Total amount paid was \$252.35.

d. Rx 54741 and 54742, with dispensed dates of 9-15-84, 10-15-84, 11-15-84, 1-18-85, 2-22-85, 3-29-85, 5-10-85, 6-29-85, and 7-31-85. Total amount paid was \$586.13.

e. Rx 57737, with dispensed dates of 10-20-84, 12-28-84, 2-8-85, 3-14-85, and 4-20-85. Total amount paid was \$137.50.

f. Rx 57738 and 57739, with dispensed dates of 10-20-84, 12-28-84, 2-8-85, 3-14-85, 4-20-85, 5-10-85, 6-11-85, and 7-26-85. Total amount paid was \$673.24.

g. Rx 62014, with dispensed dates of 5-10-85, 6-11-85, and 7-11-85. Total amount paid was \$109.83.

h. Rx 55092 and 55093, with dispensed dates of 11-3-84, 12-3-84, 2-16-85, 3-14-85, 4-26-85, 5-30-85, and 7-3-85. Total amount paid was \$696.47.

i. Rx 56862 and 56863, with dispensed dates of 11-27-84, 1-5-85 and 4-13-85. Total amount paid was \$223.57.

j. Rx 54745 and 54746, with dispensed dates of 9-15-84, 11-30-84, 2-23-85, 4-20-85, 5-13-85, and 7-3-85. Total amount paid was \$272.28.

k. Rx 54890, 54891, 54892, with dispensed dates of 9-20-84, 10-16-84, 11-15-84, 12-22-84, 2-5-85, and 3-15-85. Total amount paid was \$599.36.

l. Rx 61678 and 61679, with dispensed dates of 4-30-85, 7-8-85, and 8-8-85. Total amount paid was \$299.28.

m. Rx 55156 and 55157, with dispensed dates of 9-29-84, 11-9-84, 12-3-84, and 1-5-85. Total amount paid was \$401.18.

n. Rx 55337 and 55338, with dispensed dates of 10-5-84, 11-9-84, 12-6-84, 1-7-85, 6-1-85, 7-13-85, and 8-16-85. Total amount paid was \$519.59.

o. Rx 59670, with dispensed dates of 2-24-85, 4-30-85, 5-31-85, 7-9-85, and 8-9-85. Total amount paid was \$252.30.

p. Rx 54893 and 54894, with dispensed dates of 9-20-84, 10-20-84, 11-27-84, 12-28-84, 1-17-85, 4-30-85, 5-31-85, 7-9-85, and 8-9-85. Total amount paid was \$505.53.

q. Rx 62089 and 62090, with dispensed dates of 5-14-85 and 7-18-85. Total amount paid was \$69.84.

r. Rx 55741 and 55742, with dispensed dates of 10-20-84, 11-24-84, and 1-4-85. Total amount paid was \$326.40.

s. Rx 57398 and 57399, with dispensed dates of 12-16-84 and 2-2-85. Total amount paid was \$75.93.

t. Rx 55345 and 55346, with dispensed dates of 10-5-84 and 1-5-85. Total amount paid was \$123.08.

u. Rx 54749 and 54750, with dispensed dates of 9-15-84, 10-15-84, 11-24-84, 12-27-84, 2-5-85, 4-26-85, 5-14-85, 7-9-85, and 8-12-85. Total amount paid was \$825.53.

v. Rx 55137 and 55138, with dispensed dates of 9-28-84, 11-3-84, 11-30-84, and 12-31-84. Total amount paid was \$334.24.

w. Rx 54951, 54952, 54953, and 54954, with dispensed dates of 9-22-84, 10-22-84, 11-24-84, and 12-27-84. Total amount paid was \$349.94.

7. That the fraudulent billings to the John Deere Prescription Insurance Program totaled \$2383.40, and involved the following:

a. Rx 54956, with dispensed dates of 9-22-84 and 11-15-85. Total amount paid was \$98.12.

b. Rx 54957, with dispensed dates of 9-22-84, 11-15-84, 1-17-85, and 2-23-85. Total amount paid was \$116.56.

c. Rx 55745, with dispensed dates of 10-21-84, 11-24-84, 12-28-84, 1-12-85, 1-17-85, 2-18-85, 3-14-85, and 4-20-85. Total amount paid was \$269.12.

d. Rx 55746, with dispensed dates of 10-21-84, 11-24-84, 12-28-84, 1-12-85, 2-8-85, 3-14-85, and 4-20-85. Total amount paid was \$288.99.

e. Rx 55792 and 55793, with dispensed dates of 10-22-84, 1-3-85, 2-9-85, 3-14-85, 4-20-85, 5-13-85, and 8-14-85. Total amount paid was \$612.98.

f. Rx 54939, with dispensed dates of 10-20-84, 11-24-84, 12-27-84, 2-2-85, 3-15-85, 4-23-85, 5-14-85, 6-5-85, 7-9-85, and 8-8-85. Total amount paid was \$556.71.

g. Rx 54748, with dispensed dates of 9-15-84, 10-16-84, 11-30-84, 12-27-84, 1-17-85, 5-13-85, 7-8-85, and 8-9-85. Total amount paid was \$339.90.

h. Rx 56860, with dispensed dates of 11-27-84, 1-5-85, and 4-13-85. Total amount paid was \$100.92.

8. That Respondent is guilty of violations of Iowa Administrative Code (IAC) §620--6.5(1) and 10.1(4)"t" by virtue of the allegations in paragraphs 6 and 7.

Board Subrule IAC §620--6.5(1) reads as follows:

"Misrepresentative deeds. It is unethical for a practitioner of the profession of pharmacy to...be party to or an accessory to, any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy."

Subrule 10.1(4) reads as follows:

"10.1(4) The board may impose any of the disciplinary sanctions set out in subrule 10.1(2), including civil penalties in an amount

not to exceed \$1000.00, when the board determines that the licensee or registrant is guilty of the following acts or offenses:

t. obtaining any fee by fraud or misrepresentation."

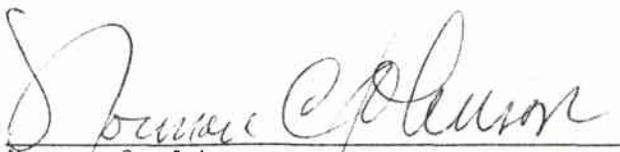
9. That paragraph 8 constitutes grounds for which Respondent's license to practice pharmacy in the State of Iowa can be suspended, revoked or otherwise reprimanded.

WHEREFORE, the undersigned charges that Joseph A. Mataya has violated Board Rules, Iowa Administrative Code, §620--6.5(1) and 10.1(4)"t."

IT IS HEREBY ORDERED that Joseph A. Mataya appear before the Iowa Board of Pharmacy Examiners on February 11, 1986, at 9:00 a.m. in the second floor conference room, 1209 East Court, Executive Hills West, Des Moines, Iowa.

The undersigned further asks that upon final hearing the Board enter its Findings of Fact and Decision to suspend or revoke the license to practice pharmacy issued to Joseph A. Mataya on the 3rd day of November 1973, or take whatever additional steps they deem necessary.

IOWA BOARD OF PHARMACY EXAMINERS

  
Norman C. Johnson  
Executive Secretary

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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In the Matter of :  
JOSEPH A. MATAYA, Pharmacist : STIPULATION  
License No. 14310 :

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WHEREAS, Joseph A. Mataya, hereinafter referred to as the Licensee, has had certain allegations made against him by the Board of Pharmacy Examiners, hereinafter referred to as the Board, concerning his professional conduct as a pharmacist, and

WHEREAS, the Licensee admits to the allegations made against him, and

WHEREAS, both the Licensee and the Board desire to arrive at a mutually agreeable informal settlement of this matter,

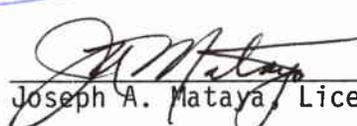
IT IS MUTUALLY AGREED AND STIPULATED as follows between the Licensee and the Board:

1. That the Board by and through its member, Melba L. Scaglione, and the Licensee, by and through his attorney, Jim P. Robbins, have entered into settlement discussions and have agreed upon a disposition of this matter.
2. That the Licensee desires to avoid the uncertainty and the expense of a trial and desires to consent to the disciplinary action to be taken by the Board as specified in paragraph 4, infra.
3. It is the purpose and intent of the parties hereto to waive all the provisions of Chapter 17A of the 1985 Code of Iowa as they relate to notice and hearing on the matter of revocation or suspension of Licensee's license to be a pharmacist, and to acknowledge that each are fully aware of their rights and procedures afforded them through Chapter 17A of the 1985 Code of Iowa and the rules of the Board of Pharmacy Examiners promulgated in accordance and pursuant thereto, particularly Section 17A.12 as it relates to contested cases and provides notice of hearing and records, and Section 17A.18, as it relates to the requirements concerning notice of the suspension and revocation of licenses.
4. It is the understanding of both the Licensee and the Board that they will enter into an Order and Consent to Order which will provide the following:
  - a. License #14310 issued to Licensee is suspended for a period of twelve (12) months effective January 14, 1986, with the suspension stayed.

- b. Licensee to be placed on probation for three years beginning January 14, 1987, and ending on January 14, 1990.
- c. Licensee shall make a payment to the Metropolitan Life Insurance Company Medimet Program in the amount of \$9081.31, and to the John Deere Prescription Insurance Program in the amount of \$2383.40. Such payments shall be made directly to those programs prior to February 14, 1986. Such payments shall be accompanied by a document to be returned to the board office which attests to the receipt of said monies.
- d. Licensee shall pay a fine of one thousand dollars (\$1000). Payment shall be made prior to February 14, 1986, with the check made payable to the State of Iowa.
- e. Licensee shall provide a list of all third-party prescription programs participated in by Joe's Pharmacy Ltd., 210 W. 2nd, Madrid, Iowa. Such list shall be submitted to the Board prior to February 14, 1986, and be updated quarterly during the period covered by the stayed suspension and the probation.
- f. Licensee shall not supervise any registered intern nor perform any of the duties of a preceptor during the period of stayed suspension and probation.
- g. Licensee shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.
- h. Should licensee leave Iowa to reside or practice outside this state, he shall notify the Board in writing of the date of departure and return. Periods of residency or practice outside the state shall not apply to a reduction in the probationary period.
- i. Licensee shall report in writing no later than the 10th of each month his residency and employment status during the stayed suspension and probationary period.

THE ABOVE AND FOREGOING CONSTITUTE THE FULL AND COMPLETE STIPULATION AND AGREEMENT OF THE PARTIES HERETO.

  
\_\_\_\_\_  
John F. Rode, Chairman  
Iowa Board of Pharmacy Examiners

  
\_\_\_\_\_  
Joseph A. Mataya, Licensee

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

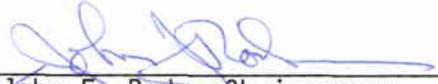
In the Matter of Pharmacist :  
Joseph A. Mataya : ORDER AND CONSENT TO ORDER  
License #14310 :

The Iowa Board of Pharmacy Examiners, having been advised of the allegations that Joseph A. Mataya has conducted himself in a manner which could cause his license to practice pharmacy to be suspended, and the Board of Pharmacy Examiners through a Board Member and said Joseph A. Mataya, having entered into a Stipulation representing their mutual informed consent as to the waiver of the provisions found in the Iowa Administrative Code appearing at Chapter 17A, particularly Section 17A.12 and Section 17A.18, Code of Iowa 1985, in regards to Notice and Hearing, the parties to this action agree to an informal settlement of this matter, namely that the license of Joseph A. Mataya be disciplined according to the conditions attached hereto.

ORDER

IT IS THEREFORE ORDERED, subject to the consent of Joseph A. Mataya to be contained herein to this Order that the license of Joseph A. Mataya to practice pharmacy be disciplined according to the conditions outlined in the Stipulation attached hereto and made part of this Order.

Date 1-16-86

  
\_\_\_\_\_  
John F. Rode, Chairperson  
Iowa Board of Pharmacy Examiners

~~CONSENT TO ORDER~~

I, Joseph A. Mataya, hereby consent to the Order set forth above, waive my right to a hearing in this matter, and thereby specifically waive a right to confrontation, cross-examination of witnesses, production of evidence, making of a record and judicial review.

Date 1-20-86

  
\_\_\_\_\_  
Joseph A. Mataya

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

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Re:	)	
Pharmacist License of	)	
<b>JOSEPH A. MATAYA</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 14310	)	
Respondent	)	

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**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 (1997).

3. On November 13, 1973, Joseph A. Mataya, the Respondent, was issued license number 14310 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 14310 is current and active until June 30, 1999.

5. Respondent currently resides at 605 Kingman, Madrid, Iowa 50156.

6. Respondent is self-employed as the pharmacist in charge and owner of Mataya Drug, 137 West Second Street, Madrid, Iowa 50156.

7. Respondent's license to practice pharmacy in Iowa was disciplined by the Iowa Board of Pharmacy Examiners in 1986. In a Consent Order, Respondent agreed to a one-year suspension of his pharmacist license. The suspension was stayed and Respondent was placed on probation for three years. He agreed to pay a fine of \$1,000 and to make restitution.

## COUNT I

The Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment or chemical abuse in violation of 1997 Iowa Code §§ 147.55(4) and 155A.12(1) and 657 Iowa Administrative Code Sections 9.1(4)(d), 9.1(4)(j), 9.1(4)(m), and 9.1(4)(u).

### THE CIRCUMSTANCES

The Board has received investigative information which alleges that Respondent has experienced performance problems as a pharmacist and has exhibited symptoms of impairment. A urine specimen was obtained from Respondent on February 27, 1998. A toxicology report dated March 3, 1998, reported that Respondent's urine was suspicious for benzodiazepine and propoxyphene. Benzodiazepine and propoxyphene are Schedule IV controlled substances.

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 3rd day of March, 1998, 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  
1209 East Court Avenue  
Des Moines, Iowa 50319

cc: Linny Emrich  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

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

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Re: Pharmacist License of <b>JOSEPH A. MATAYA</b> License No. 14310 Respondent	} } } } } } }	<b>STIPULATION AND INFORMAL SETTLEMENT</b>
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COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and Joseph A. Mataya, R.Ph. (Respondent) and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (1997), enter into the following Stipulation and Informal Settlement of the contested case currently on file:

1. Respondent was issued a license to practice pharmacy on the 13th day of November, 1973, by examination, as evidenced by license number 14310, which is recorded in the permanent records of the Board. The license was disciplined in 1986 and placed on probation for three years.
2. Iowa Pharmacist License Number 14310 issued to and held by Respondent is current until June 30, 1999.
3. Respondent is self-employed as the pharmacist in charge and owner of Mataya Drug, 137 West Second Street, Madrid, Iowa 50156.
4. A Statement of Charges and Notice of Hearing was filed against Respondent on March 3, 1998.
5. The Board has jurisdiction over the parties and the subject matter herein.

6. Respondent's license shall be placed on probation for a period of five (5) years. During period of probation, the following terms, conditions, and restrictions shall apply:

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

b. Respondent shall provide witnessed blood or urine specimens on demand by an agent of the Board. The specimens shall be used for alcohol and drug screening and to verify Respondent's compliance with any drug therapy ordered by Respondent's physician, all costs of which shall be paid by the Respondent.

c. Respondent shall comply with all recommendations of his physician(s) and/or counselor(s).

d. Respondent shall file sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Stipulation and Informal Settlement. The reports shall be filed not later than September 5, December 5, March 5, and June 5 of each year of the Respondent's probation. The quarterly reports shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time. Respondent's first quarterly report shall be filed with the Board not later than June 5, 1998.

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

f. Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy and the distribution of controlled substances, and all state and federal criminal laws.

g. Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.

h. Respondent shall not supervise any registered intern and shall not perform any of the duties of a preceptor.

i. Respondent shall actively participate in the Iowa Pharmacy Recovery Network (IPRN) program under the direct support of a pharmacist advocate.

j. Respondent shall notify all present and prospective employers of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. Within thirty (30) days after approval of this Stipulation and Informal Settlement by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his pharmacy employer to report to the Board in writing acknowledging that the employer has read this document and understands it.

7. In the event the Respondent leaves Iowa to reside or to practice outside the state, the Respondent shall notify the Board in writing of the dates of departure and return. Periods of residence or practice outside Iowa will not apply to the duration of this Informal Settlement. However, evidence that the Respondent has failed to abide by the terms of subparagraph 6-a of this Informal Settlement while outside the state shall constitute a violation of this Informal Settlement.

8. Should Respondent violate or fail to comply with any of the terms of conditions of this Informal Settlement, the Board may initiate action to revoke or suspend the Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized in Iowa Code chapters 272C and 155A and 657 IAC 9.1.

9. Upon full compliance with the terms and conditions of this Stipulation and Informal Settlement and upon expiration of the period of probation, the Respondent's Iowa pharmacist license shall be restored to its full privileges free and clear of the terms of probation.

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

11. The Board's approval of this Stipulation and Informal Settlement shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

12. This Stipulation and Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 14<sup>th</sup> day of April, 1998.

  
JOSEPH A. MATAYA, R.Ph.  
Respondent

Subscribed and Sworn to before me on this 14<sup>th</sup> day of April, 1998.

  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

13. This Stipulation and Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 30 day of April, 1998.

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

cc: Linny Emrich  
Assistant Attorney General  
Office of the Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

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

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Re:	)	
Pharmacist License of	)	
<b>JOSEPH A. MATAYA</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 14310	)	
Respondent	)	

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**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 (1997).

3. On November 13, 1973, Joseph A. Mataya, the Respondent, was issued license number 14310 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 14310 is current and active until June 30, 1999.

5. Respondent currently resides at 605 Kingman, Madrid, Iowa 50156.

6. Respondent is self-employed as the pharmacist in charge and owner of Mataya Drug, 137 West Second Street, Madrid, Iowa 50156.

7. Respondent's license to practice pharmacy in Iowa was disciplined by the Iowa Board of Pharmacy Examiners in 1986. In a Consent Order, Respondent agreed to a one-year suspension of his pharmacist license. The suspension was stayed and Respondent was placed on probation for three years. He agreed to pay a fine of \$1,000 and to make restitution.

8. Respondent's license to practice pharmacy in Iowa was disciplined by the Iowa Board of Pharmacy Examiners in 1998. Respondent was charged with the inability to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment or chemical abuse. In a Stipulation and Informal

Settlement dated April 30, 1998, Respondent was placed on probation with conditions for five years.

### COUNT I

The Respondent is charged with failing to comply with a decision of the Board imposing licensee discipline, in violation of 1997 Iowa Code § 272C.3(2)(a).

### COUNT II

The Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment or chemical abuse in violation of 1997 Iowa Code §§ 147.55(4) and 155A.12(1) and 657 Iowa Administrative Code Sections 9.1(4)(d), 9.1(4)(j), 9.1(4)(m), and 9.1(4)(u).

### THE CIRCUMSTANCES

1. On April 14, 1998, Respondent consented to having his Iowa pharmacist license placed on probation for a period of five (5) years effective April 30, 1998. In his Stipulation and Informal Settlement, Respondent agreed to conditions during his probationary period, including the following:

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

(6)(f). Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy and the distribution of controlled substances, and all state and federal criminal laws.

2. Between October 12, 1998, and October 16, 1998, the Board received investigative information which alleges that Respondent has again experienced performance problems as a pharmacist and has again exhibited symptoms of impairment. Urine specimens were obtained from Respondent while he was on duty as a pharmacist at Mataya Drug on October 12 and 13, 1998. Toxicology reports dated October 13 and 14, 1998, reported that both samples of Respondent's urine were positive for hydrocodone and benzodiazepine. Hydrocodone is a Schedule III controlled substance and benzodiazepines are Schedule IV controlled substances.

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 21st day of October, 1998, 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. Van Norman, Chairperson  
Iowa Board of Pharmacy Examiners  
1209 East Court Avenue  
Des Moines, Iowa 50319

cc: Linny Emrich  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

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

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Re: Pharmacist License of  
**JOSEPH A. MATAYA**  
License No. 14310  
Respondent

**STIPULATION  
AND  
INFORMAL SETTLEMENT**

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COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and Joseph A. Mataya, R.Ph. (Respondent) and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (1997), enter into the following Stipulation and Informal Settlement of the contested case currently on file:

1. Respondent was issued a license to practice pharmacy on the 13th day of November, 1973, by examination, as evidenced by license number 14310, which is recorded in the permanent records of the Board. The license was disciplined in 1986 and placed on probation for three years. The license was again disciplined in April 1998 and placed on probation for five years.
2. Iowa Pharmacist License Number 14310 issued to and held by Respondent is current until June 30, 1999.
3. Respondent is self-employed as the pharmacist in charge and owner of Mataya Drug, 137 West Second Street, Madrid, Iowa 50156.
4. A Statement of Charges was filed against Respondent on October 21, 1998.
5. The Board has jurisdiction over the parties and the subject matter herein.

6. Upon the date of the Board's approval of this Stipulation and Informal Settlement, Respondent's license to practice pharmacy shall be placed on probation for a period of five (5) years under the following terms and conditions:

a. Respondent shall not use any controlled substance or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for Respondent by a licensed, treating physician or other qualified treating health care provider. The Respondent shall inform any treating physician or other treating health care provider of his medical history, including his history of chemical dependency.

b. Respondent shall not fill any prescriptions for himself nor dispense any medication to himself. All prescription drugs and controlled substances that are prescribed for Respondent by a licensed, treating physician or other qualified treating health care provider shall be dispensed by another licensed pharmacist who shall conduct appropriate prospective and retrospective drug utilization review (DUR) and who shall provide appropriate counseling to Respondent.

c. Respondent shall provide witnessed blood or urine specimens on demand by an agent of the Board. The specimens shall be used for alcohol and drug screening and to verify Respondent's compliance with any drug therapy ordered by Respondent's physician, all costs of which shall be paid by the Respondent.

d. Respondent shall comply with all treatment recommendations of his physicians and/or counselors.

e. Respondent shall file sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Stipulation and Informal Settlement. The reports shall be filed not later than March 5, June 5, September 5, and December 5 of each year of the Respondent's probation. The quarterly reports shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time.

f. Respondent shall file monthly written reports with the Board attesting to his compliance with any drug therapy prescribed for him. Respondent shall attach copies of his prescriptions and his pharmacy patient profile to his medication compliance reports.

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

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

i. Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.

j. Respondent shall not supervise any registered intern and shall not perform any of the duties of a preceptor.

k. Respondent shall notify all present and prospective employers of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. Within thirty (30) days after approval of this Stipulation and Informal Settlement by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his pharmacy employer to report to the Board in writing acknowledging that the employer has read this document and understands it.

l. Respondent agrees to release medical records to the Board, including all medical recordings pertaining to treatment for alcohol and substance abuse, and agrees to allow the free flow of information between the Board and Respondent's physician(s) and treatment provider(s) and ensure that the Board receives all necessary information if further evaluation or treatment of Respondent is requested or required. This release of medical records, including records pertaining to treatment for alcohol and substance

abuse, shall be effective for five years from the date of the Board's approval of this Stipulation and Informal Settlement.

m. Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program under the direct support of a pharmacist advocate.

7. In the event the Respondent leaves Iowa to reside or to practice outside the state, the Respondent shall notify the Board in writing of the dates of departure and return. Periods of residence or practice outside Iowa will not apply to the duration of this Informal Settlement. However, evidence that the Respondent has failed to abide by the terms of subparagraphs 6-a, 6-b, 6-c, 6-d, 6-e, or 6-f of this Informal Settlement while outside the state shall constitute a violation of this Informal Settlement.

8. Should Respondent violate or fail to comply with any of the terms of conditions of this Informal Settlement, the Board may initiate action to revoke or suspend the Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized in Iowa Code chapters 272C and 155A and 657 IAC 9.1.

9. Upon full compliance with the terms and conditions of this Stipulation and Informal Settlement and upon expiration of the period of probation, the Respondent's Iowa pharmacist license shall be restored to its full privileges free and clear of the terms of probation.

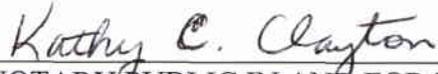
10. This Stipulation and Informal Settlement is subject to approval of a majority of the full Board. If the Board fails to approve this Stipulation and Informal Settlement, it shall be of no force or effect to either party.

11. The Board's approval of this Stipulation and Informal Settlement shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

12. This Stipulation and Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 16<sup>th</sup> day of December, 19 98.

  
JOSEPH A. MATAYA, R.Ph.  
Respondent

Subscribed and Sworn to before me on this 16<sup>th</sup> day of December, 19 98.

  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

13. This Stipulation and Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 5 day of January, 19 99.

  
ARLAN D. VAN NORMAN, 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**

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Re:	)	Case No. 2002-14310
Pharmacist License of	)	
<b>JOSEPH A. MATAYA</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 14310	)	
Respondent	)	

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**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 November 13, 1973, the Board issued Respondent, Joseph A. Mataya, a license to engage in the practice of pharmacy by examination as evidenced by license number 14310, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 14310 is current and active until June 30, 2003, but subject to probation until January 2004.
5. Respondent's license to practice pharmacy in Iowa was disciplined by the Iowa Board of Pharmacy Examiners in 1986. In a Consent Order, the Respondent agreed to a one-year suspension of his pharmacist license. The suspension was stayed and the Respondent was placed on probation for three years. He agreed to pay a \$1,000 fine and to make restitution.
6. Respondent's license to practice pharmacy in Iowa was disciplined by the Iowa Board of Pharmacy Examiners in 1998. Respondent was charged with the inability to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment or chemical abuse. In a Stipulation and Informal Settlement dated April 30, 1998, Respondent was placed on probation with conditions for five years.
7. Respondent's license to practice pharmacy in Iowa disciplined a third time by the Iowa Board of Pharmacy Examiners in 1999. Respondent was charged with failing to comply with a decision of the Board imposing licensee discipline and with inability to practice pharmacy with reasonable skill and safety by reason of

mental or physical impairment or chemical abuse. In a Stipulation and Informal Settlement dated January 5, 1999, Respondent was placed on probation with conditions for five years.

8. Respondent's current address is 605 Kingman, Madrid, Iowa 50156.
9. Respondent is currently self employed as the pharmacist in charge at Mataya Drug, 137 W. Second Street, Madrid, Iowa 50156 and has been employed as such during all times relevant to this statement of charges.

#### COUNT I

The Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment or chemical abuse in violation of Iowa Code sections 147.55(4) and 155A.12(1) and 657 Iowa Administrative Code sections 36.1(4)(d), 36.1(4)(j), 36.1(4)(m) and 36.1.4(u).

#### COUNT II

The Respondent is charged under Iowa Code §§ 155A.12 (2001) and 657 Iowa Administrative Code §§ 22.19 and 36.1(4)(b)(3) with failing to exercise in a substantial respect that degree of care which is ordinarily exercised by the average pharmacist in the state of Iowa acting under the same or similar circumstances.

#### COUNT III

The Respondent is charged under Iowa Code § 155A.12 (2001) and 657 Iowa Administrative Code §§ 36.1(4)(i) with intentional or repeated violation of Board rules including but not limited to rules 657 Iowa Administrative Code §§ 6.3 (reference manual), 6.8 (controlled drug record-keeping), 8.4 (pharmacist logs), and 23.20 (destruction of controlled substances).

#### COUNT IV

The Respondent is charged under Iowa Code § 155A.12(1) (2001) and 657 Iowa Administrative Code § 36.1(4) with failure to comply with the terms of probation ordered by the Board pursuant to a Decision and Order of the Board.

#### THE CIRCUMSTANCES

1. On or about October 21, 2002, the Board received a complaint alleging that the Respondent exhibited symptoms of impairment while filling and dispensing a prescription. The complainant alleged that the Respondent dispensed a prescription for Cephalexin for a seven-year-old child that had been reconstituted with rubbing alcohol rather than water.

2. During the Board's investigation of the complaint referred to in Paragraph 1, above, the Board investigator confirmed that the Cephalexin in fact appeared to have been reconstituted with rubbing alcohol.
3. During the Board's investigation of the complaint referred to in Paragraph 1, above, the Respondent admitted that he is having difficulty practicing pharmacy safely.
4. On or about June 17, 2002 the Board received a complaint alleging that the Respondent had dispensed the incorrect strength of a prescription drug to a patient.
5. Patient #1 had a prescription for Synthroid .175 mg.
6. The Respondent dispensed Synthroid .100 mg to Patient #1 instead of Synthroid .175 mg.
7. After Synthroid .100 mg for approximately one week, Patient #1 began noticed health difficulties and contacted the Respondent.
8. The Respondent discovered that Patient #1 had received the incorrect strength of the medication and replaced the medication with the correct strength.
9. Patient #1 reports that the Respondent did not advise the patient to see her doctor regarding the health symptoms she was experiencing and did not follow up with the patient's prescriber to ensure that she received appropriate medical attention to address the dispensing error.
10. Patient #1 sought follow up medical treatment on her own and experienced adverse health consequences as a result of the dispensing error.
11. While investigating the complaint referred to in paragraph 4, a Board investigator inspected the pharmacy and compared the inspection results to the results of an inspection of the pharmacy where the Respondent serves as the pharmacist in charge, which was conducted on March 12, 2002.
12. The new inspection and comparison against the latest inspection revealed that numerous violations of the Board's rules continue to exist in the pharmacy where the Respondent serves as the pharmacist in charge. The continuing violations included 657 Iowa Administrative Code §§ 6.3 (reference manual), 6.8 (controlled drug record-keeping), 8.4 (pharmacist logs), and 23.20 (destruction of controlled substances).

13. The Respondent's pharmacist license is currently on probation pursuant to a Stipulation and Informal Settlement ("Stipulation") agreed to by the Respondent and approved by the Board on January 5, 1999.
14. The Stipulation referred to in Paragraph 8 placed the Respondent's Iowa pharmacist license on probation until January 5, 2004. One of the terms of probation is that "Respondent shall file sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Stipulation and Informal Settlement. The reports shall be filed not later than March 5, June 5, September 5, and December 5 of each year of the Respondent's probation. The quarterly reports shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time."
15. The Stipulation referred to in Paragraph 8 required the Respondent to "file monthly reports with the Board attesting to his compliance with any drug therapy prescribed for him. Respondent shall attach copies of his prescriptions and his pharmacy profile to his medication compliance reports."
16. The Stipulation referred to in Paragraph 8 required the Respondent to participate in the Iowa Pharmacy Recovery Network (IPRN) under the direct support of a pharmacist advocate.
17. The Respondent has been late in filing his reports with the Board and has not maintained participation in IPRN.
18. The Respondent's failure to file timely reports and to maintain participation in IPRN constitutes a violation of the Respondent's probation.
19. The Stipulation referred to in Paragraph 8 obligated the Respondent to comply with all laws and regulations related to the practice of pharmacy.
20. The Respondent's failure to comply with the Board rules referred to in Paragraph 12 constitutes a violation of the Respondent's probation.

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 22 day of Oct., 2002, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.

*Katherine A Linder*

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Katherine A. Linder, 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 IOWA BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA**

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Re:	)	Case No. 2002-14310
Pharmacist License of	)	
<b>JOSEPH A. MATAYA</b>	)	<b>EMERGENCY</b>
License No. 14310	)	<b>ADJUDICATIVE ORDER</b>
Respondent.	)	

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**COMES NOW** the Iowa Board of Pharmacy Examiners and finds that on October 22, 2002, it was presented with evidence that establishes that Respondent's continued practice of pharmacy constitutes an immediate danger to the public health, safety, and welfare. The Board has conducted a full investigation of this matter. A summary of the Evidence obtained in that investigation is as follows:

**FINDINGS OF FACT**

1. Respondent is currently self-employed as the pharmacist in charge at Mataya Drug, 137 W. Second Street, Madrid, Iowa 50156 and has been employed as such during all times relevant to this case.
2. The Board received complaints about dispensing errors committed by the Respondent on or about June 17, 2002 and October 21, 2002.
3. During the Board's investigation of the complaints referred to in Paragraph 2, above, the Board received information that suggests the Respondent is not able to function safely as a pharmacist. These alleged violations are set forth in greater detail in the Statement of Charges, which was filed by the Board simultaneously with this Order.
4. The Board has reviewed the investigative information presented, and it appears that the Respondent has repeatedly failed to meet the standard of care and has

violated laws governing the practice of pharmacy.

5. The Respondent's apparent violations of the standard of care presents a significant risk to the health and safety of his patients.

6. The Board has reviewed the information it has received regarding the Respondent's physical or mental impairment or chemical abuse, and it appears that the Respondent is suffering from a physical or mental impairment or chemical abuse that renders him unable to practice pharmacy with reasonable skill and safety.

7. The Respondent continues to practice pharmacy and dispense drugs.

#### **CONCLUSIONS OF LAW**

8. The facts set forth above establish that Respondent appears to have committed the violations alleged against him in Counts I through IV in the Statement of Charges.

9. The Board concludes on the basis of the facts set forth above that this investigation has been sufficient to ensure the Board is proceeding on the basis of reliable information. Respondent has been interviewed and allowed an opportunity to respond to the allegations against him.

10. The facts set forth above establish that Respondent may not continue to engage in the practice of pharmacy without posing an immediate danger to the public health, safety, or welfare. His inability to practice within the standard of care and his uncontrolled physical or mental impairment or substance abuse indicate that he is unsafe to continue any aspect of the practice of pharmacy under the current circumstances. The Board believes patients will continue to suffer harm if the Respondent is allowed to continue to practice pharmacy before the Board reaches a final resolution of the formal

charges pending against him.

11. The Board finds there are no monitoring requirements or other interim safeguards that would be sufficient to protect the public health, safety, or welfare.

12. The immediate suspension of Respondent's license to practice pharmacy is necessary to avoid immediate danger to the public.

**ORDER**

**IT IS HEREBY ORDERED**, in accordance with Iowa Code Section 17A.18A (2001) and 657 Iowa Administrative Code 35.30, that the pharmacist license of Respondent Joseph A. Mataya be indefinitely suspended. This suspension of the Respondent's pharmacist license is effective immediately upon issuance of this order. Respondent shall be notified immediately of this order pursuant to 657 Iowa Administrative Code 35.30(2).

A hearing on this Emergency Adjudicative Order and the Statement of Charges, which have been filed concurrently with this order, shall be held on December 4, 2002. The hearing will be at 9:00 a.m. and will be held at the Iowa Board of Pharmacy Examiner's office, located at 400 SW 8<sup>th</sup> Street, Suite E, Des Moines, Iowa 50309.



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

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

## VOLUNTARY SURRENDER OF PHARMACIST LICENSE

I, Joseph A. Mataya, a resident of 605 Kingman, Madrid, Iowa 50156, of my own free will and without any mental reservation and not as a result of any inducement, promise or threat on the part of anyone, do hereby voluntarily surrender my pharmacist license in the State of Iowa, number 14310, to the Iowa Board of Pharmacy Examiners, for an indefinite period of time. This surrender of license shall become effective upon the notarized signature of the licensee, Joseph A. Mataya, being affixed to this voluntary surrender document.

I, Joseph A. Mataya, of my own free will and without any mental reservation and not as a result of any inducement, promise or threat given or made by any representative, officer, or employee of the Iowa Board of Pharmacy Examiners, or of any other state official, do hereby further acknowledge that by voluntarily signing this surrender statement that I am knowingly and willingly giving up the exercise of the following legal rights:

- (1) My right to a formal hearing before the Iowa Board of Pharmacy Examiners on the matter of my continued licensure as a pharmacist pursuant to Chapter 155A, Code of Iowa (2001).
- (2) My right to be represented by an attorney in preparation for and during such formal hearing before the Iowa Board of Pharmacy Examiners.
- (3) My right to submit evidence and to have witnesses called on my own behalf at such formal hearing.
- (4) My right to be represented by an attorney in this matter at this time.

I, Joseph A. Mataya, do hereby acknowledge that pursuant to 657 Iowa Administrative Code section 36.15, a pharmacist license which has been voluntarily surrendered shall be considered a revocation of license with respect to a request for reinstatement, which will be handled under the terms established by 657 Iowa Administrative Code section 36.13, which provides as follows:

Any person whose license to practice pharmacy or to operate a pharmacy or whose wholesale drug license or permit to handle precursor substances or whose pharmacy technician registration or pharmacist-intern registration has been revoked or suspended must meet the following eligibility requirements.

1. Must have satisfied all the terms of the order of revocation or suspension or court proceedings as they apply to that revocation or suspension. If the order of revocation or suspension

did not establish terms and conditions upon which reinstatement might occur, or if the license, registration or permit was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the board's order or the date of voluntary surrender.

2. A person whose license to practice pharmacy was revoked or voluntarily surrendered must successfully pass the North American Pharmacist Licensure Examination (NAPLEX<sup>®</sup>) or an equivalent examination as determined by NABP and the Multistate Pharmacy Jurisprudence Examination (MPJE<sup>®</sup>), Iowa Edition.

3. All proceedings for reinstatement shall be initiated by the Respondent who shall file with the board an application for reinstatement of the license, registration, or permit. Such application shall be docketed in the original case in which the license, registration, or permit was revoked, suspended, or relinquished. All proceedings upon petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules or procedure as other cases before the board. The board and the Respondent may informally settle the issue of reinstatement. The Respondent may choose to have an informal reinstatement conference before the board, as provided in rule 657—36.14(17A, 124B, 147, 155A, 272C).

4. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license, registration, or permit to be reinstated. The burden of proof to establish such facts shall be on the Respondent.

5. An order for reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law and must be based upon the affirmative vote of a quorum of the board. This order shall be available to the public as provided in 657—Chapter 14.

I, Joseph A. Mataya, hereby further acknowledge that I shall not engage in any of the practices or aspects of a pharmacist in the State of Iowa for which a license is required.

April 22<sup>nd</sup>, 2003.  
Date of signature

Joseph A. Mataya  
Joseph A. Mataya

State of Iowa

County of Boone

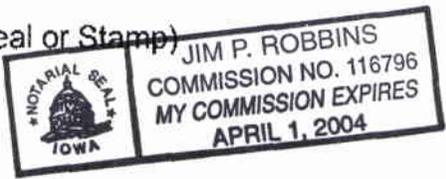
Subscribed and sworn to (or affirmed) before me on this 22<sup>nd</sup> day of April, 2003 by Joseph A. Mataya.

[Signature]

NOTARY PUBLIC

My commission expires \_\_\_\_\_

(Seal or Stamp)



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

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Re:	)	<b>ORDER</b>
Pharmacist License of	)	<b>ACCEPTING</b>
<b>JOSEPH A. MATAYA</b>	)	<b>SURRENDER OF</b>
License No. 14310	)	<b>PHARMACIST LICENSE</b>
	)	

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**COMES NOW**, Katherine A. Linder, Chairperson of the Iowa Board of Pharmacy Examiners, on the 23<sup>rd</sup> day of April, 2003, and declares that:

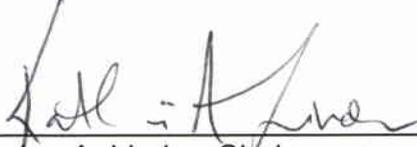
1. On October 22, 2002, the Board issued a Statement of Charges to the Respondent.

2. On April 22, 2003, Respondent executed a voluntary surrender of his pharmacist license number 14310 pursuant to 657 Iowa Administrative Code § 36.15. In so doing, Respondent waived his right to a formal hearing before the Iowa Board of Pharmacy Examiners.

3. On April 23<sup>rd</sup>, 2003, the Board reviewed Respondent's voluntary surrender of his pharmacist license and agreed to accept it.

**WHEREFORE**, it is hereby ordered that Respondent's voluntary surrender of his Iowa pharmacist license number 14310 is hereby accepted and, pursuant to 657 Iowa Administrative Code § 36.13, said surrender shall be considered a revocation of registration with respect to any future request for reinstatement.

IOWA BOARD OF PHARMACY EXAMINERS

  
\_\_\_\_\_  
Katherine A. Linder, Chairperson