

**BEFORE THE IOWA BOARD OF PHARMACY**

Re: )  
Pharmacist License of ) Case No. 2009-63  
**MARK A. McKEE** )  
License No. 18365, ) **STATEMENT OF CHARGES**  
Respondent.

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

1. He is the Executive Director for the Iowa Board of Pharmacy 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 February 21, 1995, the Board issued Mark A. McKee (hereinafter, "Respondent"), after examination, a license to engage in the practice of pharmacy as evidenced by license number 18365, 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, 2010.
5. Respondent's address of record is 16826 S 1<sup>st</sup> Avenue, Phoenix, Arizona 85048.
6. At all times material to this statement of charges, Respondent was employed as the pharmacy manager at a Walgreens Pharmacy in Phoenix, Arizona.

**A. CHARGES**

**COUNT I – VIOLATING LAWS OF ANOTHER JURISDICTION**

Respondent is charged under Iowa Code §§ 155A.12(1) and 155A.12(8) (2009), and 657 Iowa Administrative Code § 36.1(4)(ad), with violating the drug laws and rules of Arizona while under Arizona's jurisdiction.

**COUNT II – FAILURE TO TIMELY REPORT DISCIPLINARY ACTION**

Respondent is charged under Iowa Code § 155A.12(1) (2009), and 657 Iowa Administrative

Code § 36.1(4)(k), with failing to report to the Board the final decision and disciplinary sanction of a licensing authority in another state within thirty days of that decision.

### COUNT III – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.12(1) (2009) and 657 Iowa Administrative Code § 36.1(4)(b) with a lack of professional competency 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 as evidenced by Respondent's diversion of controlled substances and other prescription drugs, and falsification of prescription records.

### COUNT IV – INABILITY TO PRACTICE PHARMACY DUE TO CHEMICAL ABUSE

Respondent is charged under Iowa Code § 155A.12(1) (2009), and 657 Iowa Administrative Code §§ 36.1(4)(d) and 36.1(4)(m), with the inability to practice pharmacy with reasonable skill and safety by reason of chemical abuse.

## B. CIRCUMSTANCES

An investigation commenced on June 11, 2009 which revealed the following:

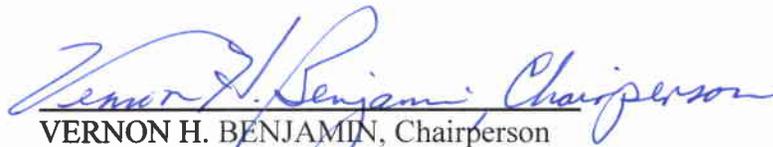
1. At all times material to this statement of charges, Respondent was employed as a pharmacy manager at a Walgreens Pharmacy # 3087, 5625 E. Thomas Road, Phoenix, Arizona. Respondent was discharged from employment following his admission that he had been diverting Oxycontin for personal use.
2. Walgreens reported a loss of 4196 Oxycontin tablets.
3. On May 7, 2009 the Arizona State Board of Pharmacy issued a consent order suspending Respondent's pharmacist license for at least six months, followed by a five year probationary period. Additional disciplinary terms were provided in the consent order.
4. Respondent did not report the May 7, 2009, Arizona discipline to this Board.

**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 18<sup>th</sup> day of November 2009, 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 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

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IOWA BOARD OF PHARMACY

**BEFORE THE IOWA BOARD OF PHARMACY**

Re: ) Case No. 2009-63  
Pharmacist License of )  
**MARK A. McKEE** ) **STIPULATION**  
License No. 18365 ) **AND**  
Respondent ) **CONSENT ORDER**

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Pharmacy Board (hereinafter, "Board") and Mark A. McKee (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 February 21, 1995, by examination, as evidenced by Pharmacist License Number 18365, 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 all times material to this Statement of Charges, employed as the pharmacist in charge at a Walgreens in Phoenix, Arizona.
4. On May 7, 2009 Respondent entered into a Consent Agreement and Order for Suspension and Probation with the Arizona State Board of Pharmacy. Respondent is currently on probation with the Arizona Board of Pharmacy.
5. A Statement of Charges was filed against Respondent by the Board on November

18, 2009.

6. The Board has jurisdiction over the parties and jurisdiction over the subject matter of these proceedings.

7. Respondent has chosen not to 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.

8. On the date of the Board's approval of this Stipulation and Consent Order, Respondent's license to practice pharmacy shall be placed on probation on terms which shall include, but not be limited to, the following:

a. Respondent agrees to comply with these terms of probation.

b. The period of probation shall be five (5) years; provided, however, that only those time periods during which Respondent is employed as a pharmacist shall count toward exhaustion of the probationary term. At such time as Respondent has completed his probationary term in Arizona, he may apply for early termination of his Iowa probation.

c. Respondent shall comply with all terms of his Consent Agreement with the Arizona State Board of Pharmacy.

d. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$250 for his failure to timely report Arizona discipline. This civil penalty shall be paid promptly after the Board's approval of this Stipulation and Consent Order, and shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board.

All civil penalty payments shall be deposited into the State of Iowa general fund.

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 Respondent's efforts to comply with the terms of his stipulation with the Arizona State Board of Pharmacy, and any further information deemed necessary by the Board from time to time.

f. 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.

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 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.

k. Respondent shall not possess or 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.

l. Such other reasonable terms as the Board may wish to impose during the probationary period.

9. Should Respondent violate or fail to comply with any of the terms and conditions of this Stipulation and Consent Order, 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 (2009) and 657 IAC 36.

10. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent Order.

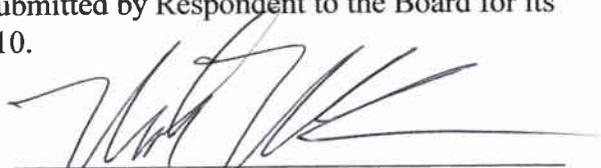
11. The State's legal counsel may present this Stipulation and Consent Order to the Board.

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.

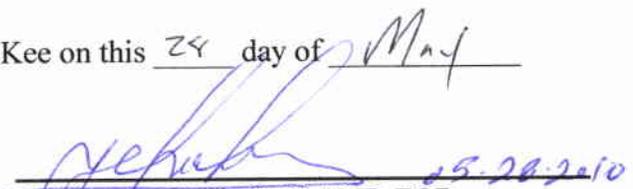
13. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 28 day of May 2010.



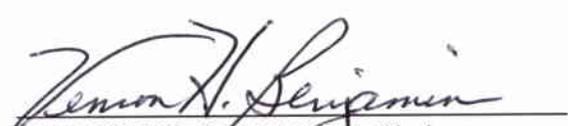
MARK A. McKEE, R.Ph.  
Respondent

Subscribed and sworn to before me by Mark A. McKee on this 28 day of May 2010.



NOTARY PUBLIC IN AND FOR  
THE STATE OF ARIZONA

This Stipulation and Consent Order is accepted by the Iowa Pharmacy Board on the 1<sup>st</sup> day of June 2010.



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  
Office of the Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319