

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

Re:)	Case No. 2002-81
Pharmacist License of)	
MATTHEW J. McNULTY)	STATEMENT OF CHARGES
License No. 17981)	
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 March 8, 1993, the Board issued Respondent, Matthew J. McNulty, after examination, a license to engage in the practice of pharmacy as evidenced by license number 17981, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 17981 is current and active until June 30, 2004.
5. Respondent's current address is 1103 66th Street, Des Moines, Iowa 50311.
6. Respondent is currently employed as the pharmacist in charge at Apria Healthcare, Inc., 11224 Aurora Avenue, Des Moines, Iowa 50322 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, 155A.27 (2003) and 657 Iowa Administrative Code §§ 6.2, 6.8, 8.15 & 36.1(4) and 21 CFR 1304.11 & 1306.22(b)(3) with inadequate record keeping, including but not limited to failure to maintain controlled substances records in a readily retrievable manner.

COUNT II

The Respondent is charged under Iowa Code §§ 124.308(3), 124.402(1)(a), 155A.15(2)(c), 155A.15(2)(d), and 155A.12 (2003) and 657 Iowa Administrative Code §§ 6.2, 6.7, 6.8,

36.1(4)(u) with failing to maintain accurate control over and accountability for drugs, including controlled substances.

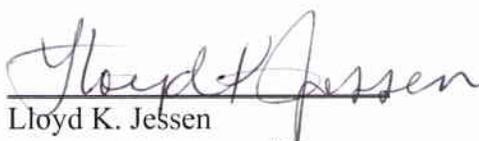
COUNT III

The Respondent is charged under Iowa Code § 155A.12 (2003) and 657 Iowa Administrative Code § 36.1(4) with a lack of professional competency, including repeated departure from, or failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the State of Iowa.

THE CIRCUMSTANCES

1. On or about September 10, 2002, the Board began an investigation regarding the diversion of controlled substances from the pharmacy, Apria Healthcare, where Respondent serves as pharmacist in charge.
2. The Board's investigation revealed a pharmacist had been diverting drugs to her own use from Apria Healthcare's stock and tampering with drugs in Apria Healthcare's stock.
3. Additional investigation, including an audit of certain controlled substances, revealed that documentation regarding approximately 80 Schedule-II prescriptions was missing.
4. Of the 80 Schedule-II prescriptions for which documentation was missing, 60 Schedule-II prescriptions were entered by Respondent in the Apria Healthcare computer.

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 19 day of February 200~~2~~³, 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, Chairperson
Iowa Board of Pharmacy Examiners
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 50319

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

Re:)	Case No. 2002-81
Pharmacist License of)	
MATTHEW J. McNULTY)	CITATION
License No. 17981)	AND
Respondent)	WARNING

Pursuant to Iowa Code §§ 17A.10, 272C.3(4) (2003) and 657 I.A.C. 36.1(2)(j), the Iowa Board of Pharmacy Examiners (hereinafter, “the Board”) and Matthew J. McNulty (hereinafter, “Respondent”), enter into the following Stipulated Citation and Warning, settling a licensee disciplinary proceeding currently pending before the Iowa Board of Pharmacy Examiners.

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 March 8, 1993, after examination, as evidenced by Pharmacist License Number 17981, 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, 2005.
3. A Statement of Charges was filed against Respondent on February 19, 2003.
4. Respondent was, at all times material to the Statement of Charges, employed as the pharmacist-in-charge at the Apria Healthcare, Inc. pharmacy, 11224 Aurora Avenue, Des Moines, Iowa 50322.
5. The Board has jurisdiction over the parties and jurisdiction over the subject matter of these proceedings.

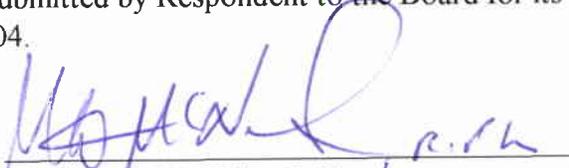
6. For the purposes of this Stipulated Citation and Warning, Respondent does not contest the allegations set forth in the Statement of Charges. Respondent accepts, pursuant to 657 I.A.C. § 36.1(2)(j), this citation and warning for (1) inadequate record keeping, including a failure to maintain controlled substance records in a readily retrievable manner, (2) failure to maintain accurate control over and accountability for drugs, including controlled substances and (3) a lack of professional competency, including a failure to conform to the minimal standard or acceptable and prevailing practice of pharmacy in the State of Iowa.

7. This Stipulated Citation and Warning is the resolution of a contested case. By entering into this Stipulated Citation and Warning, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulated Citation and Warning.

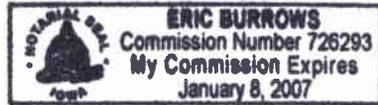
8. This proposed settlement is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Stipulated Citation and Warning, it shall be the full and final resolution of this matter.

9. The Board's approval of this Stipulated Citation and Warning shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

This Stipulated Citation and Warning is voluntarily submitted by Respondent to the Board for its consideration on the 10 day of November 2004.


Matthew J. McNulty, R.Ph.
Respondent

Subscribed and sworn to before me by Matthew J. McNulty on this 10 day of November 2004.




NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

This Stipulated Citation and Warning is accepted by the Iowa Board of Pharmacy Examiners on the 15 day of December 2004.


MICHAEL J. SEIFERT, Chairperson
Iowa Board of Pharmacy Examiners
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

Thomas G. Crabb
505 5th Avenue,
Des Moines, Iowa 50309

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