

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	
Pharmacy License of)	Case No. 2007-80
NCS HEALTHCARE, URBANDALE)	
License No. 100,)	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 (hereinafter, "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 147, 155A and 272C (2007).
3. Effective November 28, 2007, the Board renewed Respondent's general pharmacy license 100 with Dan Sonntag as pharmacist in charge, allowing Respondent to engage in the operation of a pharmacy subject to the laws of the State of Iowa the rules of the Board.
4. General pharmacy license 100 is current and active until December 31, 2008.
5. Respondent is currently operating a general pharmacy at 4131 109th Street, Urbandale, Iowa 50322, with Dan Sonntag as the pharmacist in charge.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged pursuant to Iowa Code § 155A.15(2) (2007) 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.

COUNT II – FAILURE TO MAINTAIN ADEQUATE RECORDS

Respondent is charged pursuant to Iowa Code §§ 124.306, 155A.15(2)(c) and 155A.15(2)(h), and 657 Iowa Administrative Code §§ 36.1(4)(u) and 36.1(4)(ac), with failing to maintain complete, adequate and accurate records of purchases and disposal of drugs, including controlled substances.

COUNT III – FAILURE TO MAINTAIN CONTROL OVER DRUGS

Respondent is charged pursuant to Iowa Code §§ 124.308(3), 124.402(1)(a), 155A.15(2)(c) and 155A.15(2)(i) (2007), and 657 Iowa Administrative Code §§ 6.7 and 36.1(4)(u), with failing to maintain accurate control over and accountability for drugs, including controlled substances.

COUNT IV – ILLEGAL DISTRIBUTION OF DRUGS

Respondent is charged pursuant to Iowa Code §§ 155A.15(2)(c) and 155A.15(2)(d) (2007), and 657 Iowa Administrative Code §§ 36.1(4)(h) and 36.1(4)(u), with distribution of drugs for other than lawful purposes.

COUNT V – VIOLATION OF CONTROLLED SUBSTANCES LAW

Respondent is charged pursuant to Iowa Code §§ 124.308(3), 124.402(1)(a) and 155A.15(2)(c) (2007), and 657 Iowa Administrative Code §§ 36.1(4)(j) and 36.1(4)(u), with violations of the controlled substances law.

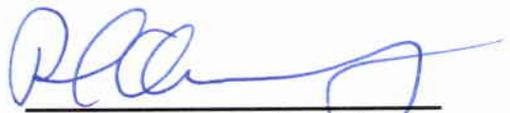
B. CIRCUMSTANCES

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 4th day of March 2008, 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

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BOARD OF PHARMACY

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

Re:)	Case No. 2007-80
Pharmacy License of)	
NCS HEALTHCARE,)	STIPULATION
License No. 100,)	AND
Respondent.)	CONSENT ORDER
)	

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2007), the Iowa Board of Pharmacy (hereinafter, "Board") and NCS HEALTHCARE (hereinafter, "Respondent"), enter into this Stipulation and Consent Order settling a pending contested case. The pending contested case is a licensee disciplinary proceeding before the Iowa Board of Pharmacy based on allegations specified in a Statement of Charges filed March 4, 2008. The Board and Respondent, who hereby agree that the contested case shall be resolved without proceeding to hearing, stipulate to the following:

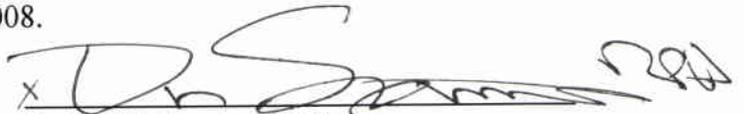
1. On November 28, 2007, the Board renewed Respondent's general pharmacy license number 100, with Daniel V. Sonntag as pharmacist in charge, allowing Respondent to engage in the operation of a pharmacy subject to the laws of the State of Iowa and the rules of the Board.
2. General pharmacy license number 100 is current until December 31, 2008.
3. Respondent is currently operating as a general pharmacy.
4. A Statement of Charges was filed against Respondent on March 4, 2008.
5. The Board has jurisdiction over Respondent and the subject matter herein.

6. Respondent does not admit the allegations set forth in the Statement of Charges but agrees, for the purpose of this Stipulation and Consent Order, to adhere to certain terms and conditions on its license to operate a pharmacy in the State of Iowa.
7. Respondent agrees to accept a Citation and Warning for the alleged violations set forth in the Statement of Charges.
8. Upon the date of the Board's approval of this Stipulation and Consent Order, Respondent agrees to provide to the Board a written "Assurance of Regulatory Compliance" in which Respondent agrees to obey all federal and state laws and regulations related to the practice of pharmacy, including those regulations relating to pharmacy compounding; the maintenance of pharmacy records and control over prescription drugs and controlled substances; and the duties of the pharmacist in charge.
9. Within 30 days of the date that this Stipulation and Consent Order is approved by the Board, Respondent shall submit to the Board, for its review and approval, written policies and procedures which address the following areas: (1) pharmacy compounding; (2) the maintenance of pharmacy records and control over drugs; (3) controlled substance accountability; and (4) the duties of the pharmacist in charge.
10. Within 30 days of the date that this Stipulation and Consent Order is approved by the Board, Respondent shall submit to the Board a civil penalty of \$2,500. Payment shall be made to "Treasurer—State of Iowa" and shall be sent to the Board office.
11. 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 further 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.

12. 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.
13. 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.
14. 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 Nov. 2008.


x Daniel V. Sonntag, R.Ph.,
Pharmacist in charge,
On behalf of NCS HEALTHCARE

State of Iowa

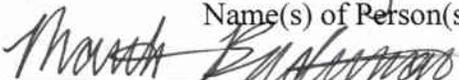
County of Polk

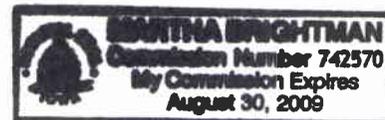
Signed and sworn (or affirmed) before me
on 11/18/08

Date

by Martha Brightman

Name(s) of Person(s)


Signature of Notary Public



This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 19th day of November 2008.



LEMAN OLSON, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck, A.A.G.
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319