BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re:	)	
Pharmacy License of	)	
OSCO DRUG #812	)	**STATEMENT OF CHARGES**
License No. 736	)	
John A. Aagesen,	)	
Pharmacist in charge,	)	
Respondent	)	

COMES NOW, the Complainant, Lindy A. Pearson, and states:

1. She is the Chief Investigator for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in her official capacity.

2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (1995).

3. General pharmacy license number 736, issued in the name of Osco Drug #812, American Stores Company, with John A. Aagesen as pharmacist in charge, was renewed on December 14, 1994, and is current until December 31, 1995.

4. Respondent currently operates a general pharmacy at 10 East Main Street, Marshalltown, Iowa 50158.

COUNT I

The Respondent is charged under Iowa Code §§ 155A.4, 155A.15(2)(c), 155A.15(2)(d), and 155A.15(2)(e) (1995) and 657 Iowa Administrative Code §§ 6.1, 6.6, 8.5(1), 8.5(4), 9.1(4)(b), 9.1(4)(j), 9.1(4)(l), 9.1(4)(u), and 9.1(4)(v) with allowing an employee who was not a licensed pharmacist to practice pharmacy.

COUNT II

The Respondent is charged under Iowa Code § 155A.15(2)(c) (1995) and 657 Iowa Administrative Code §§ 6.6 and 10.10 with failing to provide adequate and effective security, controls, and procedures to prevent anyone from entering the prescription department at any time the pharmacist is absent from the department.

COUNT III

The Respondent is charged under Iowa Code §§ 155A.4, 155A.15(2)(c), 155A.15(2)(d), and 155A.15(2)(e) (1995) and 657 Iowa Administrative Code §§ 6.1, 6.6, 8.1, 8.5(1), 8.5(4), 8.18, 8.19, 8.20, 9.1(4)(b), 9.1(4)(j), 9.1(4)(l), 9.1(4)(u), 9.1(4)(v), and 9.1(4)(w) with failing to obtain patient health care information as required; with failing to provide patient counseling as required; and with failing to perform prospective drug use review by reviewing and assessing patient records as required.

THE CIRCUMSTANCES

The Board has received investigative information which alleges the following:

1. Pat Gulbranson, a non-pharmacist employee of the Respondent who was the general manager of Osco Drug #812, practiced pharmacy at Osco Drug #812 without a pharmacist license on more than one occasion between September 9, 1994, and September 3, 1995. Mr. Gulbranson created false pharmacy records. At least one medication dispensing error has occurred as a result of this unlawful activity.

2. Pat Gulbranson entered the prescription department at Osco Drug #812 on more than one occasion between September 9, 1994, and September 3, 1995 at times when the prescription department was closed and no pharmacist was on duty. Respondent has failed to provide adequate and effective security, controls, and procedures to prevent unauthorized persons from entering the prescription department at Osco Drug #812 at any time the pharmacist is absent from the department.

3. Respondent has failed to obtain patient health care information as required; has failed to ensure that a pharmacist will provide patient counseling as required; and has failed to ensure that a pharmacist will perform prospective drug use review by reviewing and assessing patient records as required. Respondent

has failed to ensure that all patients will receive pharmaceutical care from a licensed pharmacist.

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.

Lindy A. Pearson

Lindy A. Pearson
Chief Investigator

On this 29th day of September, 1995, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.

Marian Roberts

Marian L. Roberts, 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

Re: Iowa Pharmacy Licenses of **AMERICAN DRUG STORES** **d.b.a. OSCO DRUG** Respondent	} } } } }	**STIPULATION** **AND** **CONSENT ORDER**

On this 14 day of November, 1995, the Iowa Board of Pharmacy Examiners and American Drug Stores, d.b.a. Osco Drug, each hereby agree with the other and stipulate as follows:

The licensee disciplinary hearing pending before the Iowa Board of Pharmacy Examiners, on the allegations specified in the Statement of Charges and Notice of Hearing filed against Respondent on October 3, 1995, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That Respondent was issued a license to operate a general pharmacy in the name of Osco Drug #812 at 10 East Main Street in Marshalltown, Iowa, on the 14th day of December, 1994, as evidenced by General Pharmacy License Number 736, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.

2. That Iowa General Pharmacy License Number 736 issued to and held by Respondent was current until December 31, 1995; however, Osco Drug #812 located at 10 East Main Street in Marshalltown, Iowa, closed on October 17, 1995, and has permanently ceased operation.

3. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.

4. A Statement of Charges and Notice of Hearing was filed against Respondent on October 3, 1995.

5. This Stipulation and Consent Order is executed as a compromise settlement of disputed claims. It does not constitute any admission of liability or wrongdoing on the part of American Drug Stores, d.b.a. Osco Drug.

SECTION I

THEREFORE, IT IS HEREBY ORDERED AND AGREED that the following disciplinary sanctions shall be imposed by the Board on the Respondent, American Drug Stores, d.b.a. Osco Drug: a public citation and warning for the lack of adequate security at Osco Drug #812 in Marshalltown, Iowa, and a civil penalty of $7,500.00. The civil penalty is due and payable within 30 days of the date of approval of this Stipulation and Consent Order by the Board. Respondent shall deliver a check, made payable to the Treasurer of the State of Iowa, to the Executive Secretary/Director of the Board. The check shall be deposited into the general fund of the State of Iowa.

It is also ordered and agreed that Respondent, American Drug Stores, d.b.a. Osco Drug, will take the following remedial and corrective action at all present and future Osco Drugs located in Iowa beginning no later than sixty (60) days following the date of approval of this Stipulation and Consent Order by the Board:

1. Respondent agrees to re-emphasize its "Pharmacy Security Policies" by redistributing copies of the policies to all of its pharmacies located or to be located in Iowa. Respondent will require the store general manager, the operations manager, the assistant manager, all management trainees, all supervisors, the pharmacist in charge, all staff pharmacists, and all pharmacy supportive personnel of each Osco Drug located or to be located in Iowa to sign a form acknowledging that they have read and understood the

policies and that they agree to comply with the policies at all times. A copy of the "Pharmacy Security Policies" is attached to this Stipulation and Consent Order.

2. Respondent agrees to adopt and implement a written policy in all of its pharmacies located or to be located in Iowa which prohibits any store manager from acting or serving as a pharmacy assistant or technician within the store.

3. Respondent agrees to adopt and implement a written policy in all of its pharmacies located or to be located in Iowa which requires the regional pharmacy manager to routinely review a copy of the pharmacy staffing schedule listing the hours worked each week by the pharmacist in charge and all staff pharmacists at each Iowa location. Such staffing information shall include the number of hours that the pharmacy is open each week as well as the hours scheduled each day for each individual pharmacist who works in the prescription department.

SECTION II

1. Respondent agrees to obey all federal and Iowa laws, rules, and regulations substantially related to the practice of pharmacy and the distribution of controlled substances and all federal and Iowa criminal laws.

2. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a).

3. Should Respondent violate this agreement in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may take additional disciplinary action.

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

5. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 14th day of November, 1995.

Lawrence Metz,
Vice President
American Drug Stores, Inc.
d.b.a. Osco Drug
Respondent

Subscribed and Sworn to before me on this 14 day of November, 1995.

OFFICIAL NOTARY SEAL
Erin M JORGENSEN
Notary Public
STATE OF UTAH
My Comm. Exp. [illegible]

NOTARY PUBLIC IN AND FOR THE
STATE OF UTAH

6. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 14 day of November, 1995.

MARIAN L. ROBERTS, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319