

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

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Re: )  
Pharmacy License of )  
**PHAR-MED** ) **STATEMENT OF CHARGES**  
License No. 270 )  
Steven W. Sayler, )  
Pharmacist in charge, )  
Respondent )

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**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 (1997).
3. General pharmacy license number 270, issued in the name of Phar-Med, with Steven W. Sayler as pharmacist in charge, was renewed on December 26, 1996, and is current until December 31, 1997.
4. Respondent currently operates a general pharmacy at 407 North Jefferson, Indianola, Iowa 50125.

**COUNT I**

The Respondent is charged under Iowa Code §§ 155A.15(2)(c), 155A.15(2)(h), and 155A.15(2)(i) (1997) and 657 Iowa Administrative Code §§ 6.6 and 10.10 with failing to provide and maintain effective security, controls, and procedures to guard against the theft and diversion of controlled substances.

**COUNT II**

The Respondent is charged under Iowa Code §§ 124.306, 124.308(3), 124.402(1)(a), 124.403(1)(c), 155A.15(2)(c), 155A.15(2)(h), and 155A.15(2)(i)

(1997) and 657 Iowa Administrative Code § 6.8 with failing to provide accountability for controlled substances and with failing to maintain controlled substance records.

### COUNT III

The Respondent is charged under Iowa Code §§ 155A.15(2)(c) and 155A.15(2)(d) (1997) and 657 Iowa Administrative Code §§ 8.5(1), 9.1(4)(b), 9.1(4)(h), 9.1(4)(j), and 9.1(4)(u) with dispensing prescriptions without prescriber authorization or proper documentation of such.

### COUNT IV

The Respondent is charged under Iowa Code § 155A.15(2)(c) (1997) and 657 Iowa Administrative Code §§ 6.1, 8.18(1), 9.1(4)(b), 9.1(4)(j), and 9.1(4)(u) with making medication dispensing errors and failing to adequately maintain prescription and controlled substance records and patient records.

### COUNT V

The Respondent is charged under Iowa Code § 155A.15(2)(c) (1997) and 657 Iowa Administrative Code §§ 8.1, 9.1(4)(b), 9.1(4)(j), and 9.1(4)(u) with failing to ensure that a pharmacist verifies the accuracy, validity, and appropriateness of prescriptions filled by staff assistants.

### COUNT VI

The Respondent is charged under Iowa Code § 155A.15(2)(c) (1997) and 657 Iowa Administrative Code §§ 8.3, 9.1(4)(b), 9.1(4)(j), and 9.1(4)(u) with failing to comply with the requirements for prepackaging drugs.

### COUNT VII

The Respondent is charged under Iowa Code § 155A.15(2)(c) (1997) and 657 Iowa Administrative Code §§ 6.8(10), 8.5(4), 9.1(4)(b), 9.1(4)(j), and 9.1(4)(u) with nonconformance with law.

## THE CIRCUMSTANCES

1. The Board has received information which alleges that Respondent has failed to provide adequate security for controlled substances located in the

prescription department and that Respondent is unable to provide accountability for numerous controlled substances. The information received by the Board also alleges that Respondent has failed to comply with numerous other pharmacy laws and Board rules pertaining to the practice of pharmacy.

2. An investigation of these allegations was conducted by Board Investigators E. Ray Shelden, Jacqueline Devine, and Dennis Dobesh. Investigators Shelden and Devine have filed reports with the Board which indicate the following:

a. A Schedule II controlled substance accountability audit for the time period beginning May 6, 1995, and ending February 16, 1997, revealed a shortage of 703 units and an overage of 196 units.

b. A Schedule III, IV, and V controlled substance accountability audit for the time period beginning May 6, 1995, and ending February 17, 1997, based on purchase invoices obtained from Respondent, revealed a shortage of 8,454 units and an overage of 16,855 units.

c. A Schedule III, IV, and V controlled substance accountability audit for the time period beginning May 6, 1995, and ending February 17, 1997, based on controlled substance purchase reports issued by Respondent's suppliers, revealed a shortage of 9,287 units and an overage of 14,979 units.

d. Respondent has failed to provide accurate accountability for Schedule II, III, IV, and V controlled substances received by and dispensed from Phar-Med during the time period beginning May 6, 1995, and ending February 17, 1997.

e. Respondent has failed to maintain a timely, complete, and accurate biennial inventory of controlled substances.

f. Respondent dispensed a total of 52 prescriptions for various drugs for eight different patients between February 18, 1995, and January 13, 1997, without prescriber authorization.

g. Respondent has failed to dispense medications correctly and has failed to adequately maintain prescription and controlled substance records and patient records. A review of 597 Schedule II controlled substance prescriptions dispensed between May 6, 1995, and February 16, 1997, revealed 218 errors, omissions, or discrepancies.

h. Respondent has failed to ensure that a pharmacist verifies the accuracy, validity, and appropriateness of prescriptions filled by staff assistants.

i. Respondent has failed to maintain a control record for prepackaged medications and has failed to correctly label containers of prepackaged medications.

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  
Chief Investigator

On this 6th day of March, 1997, 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  
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

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Re:  
Pharmacy License of  
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**STIPULATION  
AND  
CONSENT ORDER**

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On this 10<sup>th</sup> day of June, 1997, the Iowa Board of Pharmacy Examiners and Phar-Med Pharmacy of Indianola, Iowa, 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 filed against Respondent on March 6, 1997, 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 pharmacy on the 26th day of December, 1996, as evidenced by General Pharmacy License Number 270, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That General Pharmacy License Number 270 issued to and currently held by Respondent is current and in full force until December 31, 1997.
3. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
4. A Statement of Charges was filed against Respondent on March 6, 1997.

5. Respondent does not admit to the truth of the allegations set forth in the Statement of Charges. This Stipulation and Consent Order is executed as a compromise settlement of disputed claims.

## SECTION I

THEREFORE, IT IS HEREBY ORDERED that Iowa General Pharmacy License Number 270 issued to Respondent is placed on probation for two (2) years. During the probationary period the Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy and the distribution of controlled substances.

## SECTION II

1. Within thirty (30) days of the date of this Order, the Respondent shall pay a civil penalty of \$ 2,500.00 by delivering 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.

2. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall develop and submit to the Board, for its approval, written policies and procedures for the following:

a. Documenting, resolving, and preventing medication dispensing errors. The policy and procedure shall include a written protocol which describes the procedure for pharmacy employees to follow when a dispensing error occurs. The policy and procedure shall also require that all records of dispensing errors be consistently and periodically evaluated by the pharmacist in charge or his or her designee as part of a cycle

of continuous quality improvement. Records of dispensing errors shall be maintained in the pharmacy for a minimum of two years.

b. Maintaining complete and accurate prescription records, including the full name and address of the patient.

c. Complying with all of the requirements for drug product selection, including the prescriber's dispensing instructions and either the manufacturer's or distributor's name or the National Drug Code (NDC) of the actual drug product dispensed.

d. Complying with all controlled substance recordkeeping and security requirements, including requirements for the biennial inventory of controlled substances. Respondent shall provide accurate accountability for all controlled substances.

e. Providing complete labeling on containers of prescription medication.

f. Training and utilization of pharmacy technicians. Such policies and procedures shall provide appropriate methods for pharmacist supervision and oversight of pharmacy technicians. Such policies and procedures shall be periodically reviewed by Respondent. Respondent's policies shall specify the frequency of review. Technician training shall be documented and maintained by the pharmacy for the duration of employment.

g. Complying with the requirements for receiving new prescription drug orders containing in 657 Iowa Administrative Code § 22.15.

Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures. Respondent also agrees to require all pharmacists and supportive personnel to read the written policies and procedures and to sign written statements certifying that they have read them. Copies of these signed statements shall be submitted to the Board.

3. Respondent shall not dispense any prescription medication without a valid prescription drug order from an authorized prescriber.

4. Respondent shall report to the Board any judgment or settlement of a malpractice claim or action and any dispensing errors brought to their attention by consumers, health care professionals, or others within thirty (30) days of such occurrence.

5. Within 15 days of receipt of this Order, Respondent shall notify all current pharmacy employees of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this Order. Respondent shall cause all current pharmacy employees to report to the Board in writing, acknowledging that the employees have read this Order. And prior to employing a new pharmacist, Respondent shall fully inform the pharmacist of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this Order. Respondent shall cause any new pharmacy employee, including a temporary, part-time, or fulltime pharmacy employee, to report to the Board in writing, acknowledging that the employee has read this Order.

6. Respondent shall submit to random unannounced visits or inspections by the Board or agents of the Board to verify compliance with this Order.

7. Respondent may apply to the Board for modification or termination of the probationary period after one year of probation has been successfully completed.

8. 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).

9. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and impose additional disciplinary sanctions, including the revocation of Respondent's license to operate a pharmacy. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

10. Upon successful completion of probation, Respondent's certificate will be fully restored.

11. 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. If the Board approves this Stipulation and Consent Order, it shall be the final resolution of this matter.

12. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 7 day of June, 1997.

*Steven W. Saylor R.Ph*

PHAR-MED PHARMACY  
Steven W. Saylor, R.Ph.,  
Pharmacist in charge,  
Respondent

Subscribed and Sworn to before me on this 7 day of June, 1997.



*Larry M. Blumberg*  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

13. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 10<sup>th</sup> day of June, 1997.

*Phyllis A. Olson*

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