

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2008-48
Pharmacy License of)	
PHARMERICA MIDWEST, INC.,)	STATEMENT OF CHARGES
dba PHARMERICA ,)	
License No. 742)	
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 (2007).
3. Effective July 23, 2008, the Board renewed the general pharmacy license of PharMerica Midwest, Inc., doing business as PharMerica (hereinafter, "Respondent"). Pharmacy license number 742, issued to Respondent, allows Respondent to engage in the operation of a pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 742 is current until December 31, 2008.
5. Respondent is currently operating a general pharmacy at 2901 99th Street, Urbandale, Iowa 50322. Judith Weldon was the pharmacist in charge at all times material to this statement of charges.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged pursuant to Iowa Code § 155A.15(2)(c) (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 – VIOLATION OF PHARMACY LAWS

Respondent is charged pursuant to Iowa Code §§ 155A.15(2)(c) (2007), 155A.21, 155A.23(1)(b) and 155A.23(2) (2007), and 657 Iowa Administrative Code § 36.1(4)(i) with having employees who have violated state laws related to the distribution of prescription medications.

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 (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 – FAILURE TO MAINTAIN ADEQUATE RECORDS

Respondent is charged pursuant to Iowa Code §§ 155A.15(2)(c) and 155A.15(2)(h) (2007), and 657 Iowa Administrative Code § 36.1(4)(ac) with failing to maintain complete and adequate records of purchases, distribution and disposal of drugs, including controlled substances.

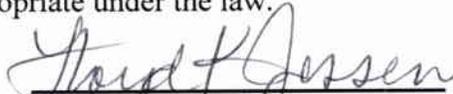
COUNT V – ILLEGAL DISTRIBUTION OF DRUGS

Respondent is charged pursuant to Iowa Code § 155A.15(2)(c-d) (2007) and 657 Iowa Administrative Code § 36.1(4)(h), with distribution of drugs for other than lawful purposes; specifically, distribution of prescription medications in the absence of a prescription.

B. CIRCUMSTANCES

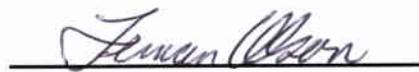
Circumstances supporting the above charges are set forth in Attachment A.

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 7th day of October 2008, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.



LEMAN OLSON, 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 50319

BEFORE THE IOWA BOARD OF PHARMACY

RECEIVED

MAR 08 2010

IOWA BOARD OF PHARMACY

Re:)
Pharmacy License of)
PHARMERICA MIDWEST, INC.)
License No. 742)
Respondent)

Case No. 2008-48

**STIPULATION
AND
CONSENT ORDER**

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Board of Pharmacy (hereinafter, the "Board") and PharMerica Midwest, Inc. (hereinafter, "Respondent", have agreed to settle a contested case currently on file with the Board. The Statement of Charges filed against Respondent on October 7, 2008, and the licensee disciplinary proceeding shall be resolved without a hearing, as the Board and Respondent have agreed to the following Stipulation and Consent Order:

1. Respondent's license to operate a nonresident pharmacy in Iowa was evidenced by Pharmacy License Number 742, which is recorded in the permanent records of the Board.
2. Nonresident Pharmacy License Number 3207 is current and active until December 31, 2009.
3. The Board has jurisdiction over the parties and the subject matter herein.
4. A Statement of Charges was filed against Respondent October 7, 2008.
5. Respondent does not contest the allegations contained 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.

6. Beginning on the date of the Board's approval of this Stipulation and Consent Order, Respondent's license shall be placed on probation for three (3) years, upon the following conditions:

- (a) Within sixty (60) days of the Board's approval of this Stipulation and Consent Order, Respondent shall prepare a written Pharmacy Corrective Action Plan to address: (1) receipt and maintenance of prescriptions and prescription records, including records of emergency dispensing pursuant to oral directives from physicians, (2) maintenance of a perpetual inventory of all schedule II and schedule III controlled substances, (3) improvements to controls for controlled substance inventories, including controls relating to expired drugs and drugs awaiting destruction, (4) prompt reporting of controlled substance shortages, (5) maintenance of pharmacist and technician logs, and (6) preparation of appropriate medication labels and instructions. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to this Pharmacy Corrective Action Plan.
- (b) Within sixty (60) days after the date of the Board's approval of this Stipulation and Consent Order, Respondent will propose to the Board *typewritten* pharmacy policies and procedures regarding each of the elements of the Pharmacy Corrective Action Plan described in the preceding paragraph. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures.

- (c) Respondent shall file sworn quarterly reports with the Board attesting to Respondent's compliance with the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than December 5, March 5, June 5 and September 5 of each calendar year and *shall include a description of Respondent's most recent efforts to comply with this Stipulation and Consent Order.* Respondent's quarterly reports shall identify the current person responsible for compliance with Iowa law, as well as any other information deemed to be necessary, from time to time, by the Board.
- (d) Respondent shall obey all federal and state laws, rules, and regulations substantially related to the operation of an Iowa pharmacy.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$5000. The civil penalty payment shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board within 10 days after Respondent's receipt of notice of the Board's approval of this Stipulation and Consent Order. All civil penalty payments shall be deposited into the State of Iowa general fund. Upon the Board's receipt of the civil penalty, this disciplinary proceeding shall be concluded without further order of the Board.

8. Should Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate further action to impose licensee discipline as authorized by Iowa Code chapters 272C and 155A (2009), and 657 Iowa Administrative Code § 36.1.

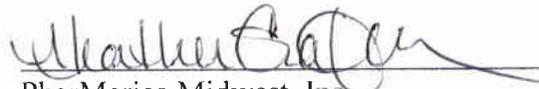
9. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent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

10. 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.

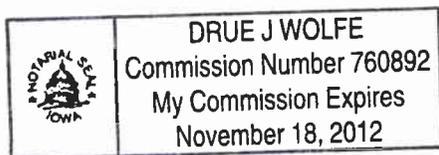
11. The State's counsel may present this Stipulation and Consent Order to the Board.

12. 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 PharMerica Midwest, Inc., to the Iowa Board of Pharmacy for its consideration on this 2 day of March 2010.


PharMerica Midwest, Inc.
Respondent

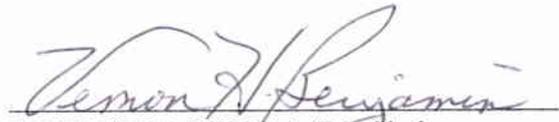
Subscribed and sworn to before me by HEATHER GRAPTON, who has stated to me that he/she is the pharmacist in charge of PharMerica Midwest, Inc., and is authorized to sign this Stipulation and Consent Order on behalf of PharMerica Midwest, Inc., on this 2 day of MARCH 2010.





NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on this 10th day of March 2009.



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

Jeffrey w. Mittleman
Holland & Knight
10 St. James Avenue
Boston, MA 02116-3889

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BEFORE THE IOWA BOARD OF PHARMACY

Re:)	
Pharmacy License of)	Case No. 2009-41
PHARMERICA)	
License No. 742,)	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 October 27, 2009, the Board renewed general pharmacy license number 742 for Pharmerica (hereinafter, "Respondent"), 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.
4. At all times material to this statement of charges, Respondent was operating a general pharmacy at 2901 99th Street, Urbandale, Iowa 50322, with Heather Grafton as the pharmacist in charge.

A. CHARGE

COUNT I – LACK OF COMPETENCY

Respondent is charged under Iowa Code § 155A.15(2)(c) (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 inadequacies in Respondent's prescription handling procedures, resulting in a dispensing error.

B. CIRCUMSTANCES

An investigation was commenced April 20, 2009, which revealed the following:

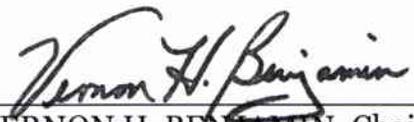
1. Respondent operates a general pharmacy located at 2901 99th Street, Urbandale, Iowa 50322, with Heather Grafton as the pharmacist in charge.
2. A patient was prescribed morphine sulphate, 10mg/5 ml, with directions to give 2.5-5ml (5-10mg) every 4 hours.
3. Pharmerica filled the patient's prescription with morphine sulphate, 20mg/ml, ten times the prescription strength.
4. The patient, who had been under hospice care for almost a year, received the incorrect prescription for approximately a day. The correct medication was resumed following discovery of the error. The patient died about two weeks later.

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 20 day of July 2010, 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

RECEIVED
March 11-2011
IOWA BOARD OF PHARMACY

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Case No. 2009-41
Pharmacy License of)
PHARMERICA MIDWEST, INC.,) **STIPULATION**
License No. 742) **AND**
Respondent) **CONSENT ORDER**

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Board of Pharmacy (hereinafter, the “Board”) and PharMerica Midwest, Inc. (hereinafter, “Respondent”, have agreed to settle a contested case currently on file with the Board. The Statement of Charges filed against Respondent on July 20, 2010, and the licensee disciplinary proceeding shall be resolved without a hearing, as the Board and Respondent stipulate to the following:

1. Respondent’s license to operate a general pharmacy in Iowa is evidenced by Pharmacy License Number 742, which is recorded in the permanent records of the Board.
2. Pharmacy License Number 742 is current and active until December 31, 2011.
3. The Board has jurisdiction over the parties and the subject matter herein.
4. A Statement of Charges was filed against Respondent on July 20, 2010.
5. Respondent does not contest the allegations contained 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.
6. Respondent's license is currently on probation. On the date of the Board's approval of this Stipulation and Consent Order, Respondent’s license shall be placed on probation for three (3) additional years, extending through March 11, 2016, upon the following conditions:

- (a) Within ninety (90) days of the Board's approval of this Stipulation and Consent Order, Respondent shall prepare a written Root Cause Analysis relating to the dispensing error which is the subject of the Statement of Charges, and a Corrective Action Plan to address: (1) avoidance of dispensing errors and (2) accurate preparation of appropriate medication labels and instructions. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to this Pharmacy Corrective Action Plan.
- (b) Within ninety (90) days after the date of the Board's approval of this Stipulation and Consent Order, Respondent will propose to the Board *typewritten* pharmacy policies and procedures regarding each of the elements of the Pharmacy Corrective Action Plan described in the preceding paragraph. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures.
- (c) Respondent shall file sworn quarterly reports with the Board attesting to Respondent's compliance with the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than December 5, March 5, June 5 and September 5 of each calendar year and *shall include a description of Respondent's most recent efforts to comply with this Stipulation and Consent Order*. Respondent's quarterly reports shall identify the current person responsible for compliance with Iowa law, as well as any other information deemed to be necessary, from time to time, by the Board.

(d) Respondent shall obey all federal and state laws, rules, and regulations substantially related to the operation of an Iowa pharmacy.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$5,000. The civil penalty payment shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board within 10 days after Respondent's receipt of notice of the Board's approval of this Stipulation and Consent Order. All civil penalty payments shall be deposited into the State of Iowa general fund. Upon the Board's receipt of the civil penalty, this disciplinary proceeding shall be concluded without further order of the Board.

8. Should Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate further action to impose licensee discipline as authorized by Iowa Code chapters 272C and 155A (2009), and 657 Iowa Administrative Code § 36.1.

9. 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.

10. 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.

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

12. 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 PharMerica Midwest, Inc., to the Iowa Board of Pharmacy for its consideration on this 3rd day of March 2011.

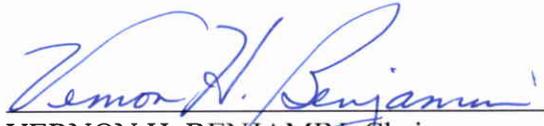

PharMerica Midwest, Inc.
Respondent

Subscribed and sworn to before me by Thomas A. Caneris, who has stated to me that he/she is the pharmacist in charge of PharMerica Midwest, Inc., and is authorized to sign this Stipulation and Consent Order on behalf of PharMerica Midwest, Inc., on this 3rd day of March 2011.

5/14/2013

 MARY JANE HALL
NOTARY PUBLIC IN AND FOR THE
STATE OF Kentucky

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on this 27th day of April 2011.


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

Jeffrey w. Mittleman
Holland & Knight
10 St. James Avenue
Boston, MA 02116-3889

BEFORE THE BOARD OF PHARMACY STATE OF IOWA

**IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST
PHARMERICA MIDWEST, INC., RESPONDENT**

2009-41

TERMINATION ORDER

DATE: March 11, 2016

1. On April 27, 2011, a Stipulation and Consent Order was issued by the Iowa Board of Pharmacy placing the pharmacy license, number 742 issued to Pharmerica Midwest, Inc., on probation until March 11, 2016, under certain terms and conditions.

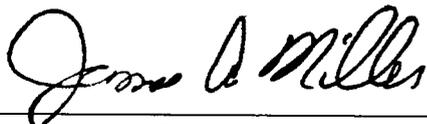
2. Respondent has successfully completed the probation as directed.

3. The Board directed that the probation placed upon the Respondent's pharmacy license should be terminated.

IT IS HEREBY ORDERED:

That the probation placed upon the Respondent's pharmacy license is terminated, and the license is returned to its full privileges free and clear of all restrictions.

IOWA BOARD OF PHARAMCY



James Miller, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688