

**BEFORE THE IOWA BOARD OF PHARMACY**

Re:	)	
Pharmacy License of	)	Case No. 2009-8
<b>PHILCARE PHARMACY</b>	)	
License No. 1316,	)	<b>STATEMENT OF CHARGES</b>
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 December 16, 2009, the Board renewed general pharmacy license number 1316 for Philcare Pharmacy (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 207 Second Avenue SE, Suite B, Cedar Rapids, Iowa 52401, with John Drzycimski as pharmacist in charge.

**A. CHARGES**

**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 Respondent’s introduction of improperly stored drugs into its inventory.

**COUNT II – DISPENSING IMPROPERLY STORED DRUGS**

Respondent is charged with dispensing drugs which were not stored in a manner sufficient to assure their integrity and safety, in violation of Iowa Code §§ 155A.15(2)(c) and 155A.23(6) (2009), and 657 Iowa Administrative Code §§ 8.7(3-4) and 36.1(4)(u).

## B. CIRCUMSTANCES

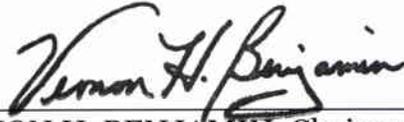
An investigation was commenced January 27, 2009, which revealed the following:

1. Respondent operates a general pharmacy at 207 Second Avenue SE, Suite B, Cedar Rapids, Iowa 52401, with John Drzycimski as pharmacist in charge. Christopher P. Teutken is Respondent's owner.
2. During the summer of 2008, Downtown Drug, another Cedar Rapids area pharmacy owned by Christopher P. Teutken, was inundated by floodwaters.
3. In July of 2008, a Board compliance officer inquired as to Christopher P. Teutken's intentions regarding the Downtown Drug inventory which had remained in the store during the flooding. The compliance officer reminded Teutken that temperature and moisture controls had ceased to exist in the store while it was flooded; that heat and humidity in the store would have been uncontrolled during the hot summer month while the flood was occurring. Teutken acknowledged that the inventory remained in the store for several days during the flood and advised the officer that the drugs would not be returned to inventory.
4. The Board's compliance officer had a similar conversation with the pharmacist in charge at Downtown Drug, reminding her that inventory from Downtown Drug should not be utilized following the flooding.
5. Despite the representations of Teutken, approximately 50 drugs from the flooded inventory of Downtown Drug inventory were deemed "salvageable" by Teutken and placed in the inventory of Respondent.

**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.

  
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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**

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**BEFORE THE IOWA BOARD OF PHARMACY**

Re:	)	Case No. 2009-8
Pharmacy License of	)	
<b>PHILCARE PHARAMACY,</b>	)	<b>STIPULATION</b>
License No. 1316	)	<b>AND</b>
Respondent	)	<b>CONSENT ORDER</b>

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Board of Pharmacy (hereinafter, the “Board”) and Philcare Pharmacy (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 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 1316, which is recorded in the permanent records of the Board.
2. Pharmacy License Number 1316 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 denies the allegations contained in the Statement of Charges, but in the interest of settlement has chosen not to contest the allegations. Respondent acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline described herein.
6. Upon the Board's approval of this Stipulation and Consent Order, Respondent's Iowa pharmacy license shall be placed on probation. Probation is granted under the

following conditions, which Respondent agrees to follow:

- a. The period of probation shall be three (3) years.
  - b. 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 all pharmacy technicians employed by Respondent, the current person responsible for compliance with Iowa law, and provide any other information deemed to be necessary, from time to time, by the Board.
  - c. 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 \$4,000. The civil penalty payment shall be made by check, 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 proceeding.

This Stipulation and Consent Order is voluntarily submitted by Philcare Pharmacy to the Iowa Board of Pharmacy for its consideration on this 11<sup>th</sup> day of March 2011.

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PHILCARE PHARMACY  
Respondent  
By [Signature], R.Ph.  
Pharmacist In Charge

Subscribed and sworn to before me by [Signature], who has stated to me that he/she is the pharmacist in charge of Philcare Pharmacy and is authorized to sign this Stipulation and

Consent Order on behalf of Philcare Pharmacy on this 11 day of March 2011.



Chad Divis  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

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

Vernon H. Benjamin  
VERNON H. BENJAMIN, Chairperson  
Iowa Board of Pharmacy  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

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