

**BEFORE THE IOWA BOARD OF PHARMACY**

Re:	)	
Pharmacist License of	)	Case No. 2008-96
<b>JAMES RHODES</b>	)	
License No. 15633,	)	<b>STATEMENT OF CHARGES</b>
	)	
Respondent	)	

**COMES NOW**, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Director of 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 147, 155A and 272C (2009).
3. James Rhodes (hereinafter, "Respondent") was originally licensed as a pharmacist in Iowa, by reciprocity, on January 23, 1980, as evidenced by license number 15266.
4. Respondent's pharmacist license number 15633 is current and active until June 30, 2011 subject to the laws of the State of Iowa the rules of the Board.
5. Respondent's address of record is 429 E. 26<sup>th</sup> Street, South Sioux City, Nebraska, 68776.
6. Respondent was, at all times material to this statement of charges, employed as a pharmacist in at Hy-Vee Pharmacy 1382, located at 1201 12<sup>th</sup> Avenue SW, LeMars, Iowa 51031.

**A. CHARGES**

**COUNT I – LACK OF PROFESSIONAL COMPETENCY**

Respondent is charged under Iowa Code § 155A.12(1) (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.

## B. CIRCUMSTANCES

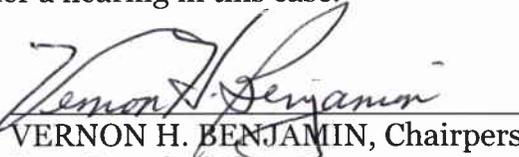
On September 24, 2008 an investigation was commenced, revealing the following:

1. Respondent was employed as a relief pharmacist at the Hy-Vee Pharmacy in LeMars, Iowa.
2. On September 18, 2008 a patient who had been prescribed Vibramycin (Doxycycline) 100mg took the prescription to the Hy-Vee pharmacy. Respondent explained to the patient that he was having difficulty reading the script. Despite this difficulty, Respondent did not contact the prescriber to verify the prescription or the prescriber.
3. The patient was dispensed Nitrofurantoin 100mg instead of the prescribed Vibramycin. Additionally, the prescriber name was incorrectly stated on the label of the medication dispensed.

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 Secretary/Director

On this 1<sup>st</sup> day of June 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

**BEFORE THE IOWA BOARD OF PHARMACY**

Re:	)	Case No. 2008-96
Pharmacist License of	)	
<b>JAMES RHODES</b>	)	<b>STIPULATION</b>
License No. 15633	)	<b>AND</b>
Respondent	)	<b>CONSENT ORDER</b>

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Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Board of Pharmacy (hereinafter, “Board”) and James Rhodes (hereinafter, “Respondent”), enter into the following Stipulation and Consent Order settling a licensee disciplinary proceeding currently pending before the Board.

Allegations contained in a Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent was issued a license to practice pharmacy in Iowa on January 23, 1980, by reciprocity, as evidenced by Pharmacist License Number 15266 which is recorded in the permanent records of the Board.
2. The Iowa pharmacist license issued to and held by Respondent is active and current until June 30, 2012.
3. The Board has jurisdiction over Respondent and jurisdiction over the subject matter of these proceedings.
4. A Statement of Charges was filed against Respondent by the Board on June 1, 2010.
5. Respondent was, at all times material to the Statement of Charges, employed as a

pharmacist at Hy-Vee Pharmacy 1382, 1201 12<sup>th</sup> Avenue SW, LeMars, Iowa 51031.

6. Respondent has chosen not to contest the allegations set forth 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.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent's Iowa pharmacist 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 a minimum of two (2) years provided, however, that only those time periods during which Respondent is employed as a pharmacist shall count toward exhaustion of the probationary term.

b. Within three (3) months after the date of the Board's approval of this Stipulation and Consent Order, Respondent shall complete not less than four (4) hours of formal, structured continuing pharmacy education ("CPE") which shall be pre-approved by the Board. The CPE shall be focused on prevention of dispensing errors, and appropriate handling of dispensing errors when they do occur. Upon completion of the four hours of CPE, documentation of satisfactory completion shall be promptly submitted to the Board. This CPE shall be in addition to – not in lieu of – the thirty (30) hours of continuing pharmacy education required every two years for license renewal.

c. Within three (3) months after the date of the Board's approval of this Stipulation and Consent Order, Respondent will submit to the Board *typewritten*<sup>1</sup> pharmacy policies and procedures for (1) the prevention of medication errors and

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<sup>1</sup> For the purposes of this order, "typewritten" policies may be generated on computer word-processing equipment.

(2) verification of confusing or difficult-to-read prescription information.

Following review and approval by the Board, Respondent agrees to adopt, implement, and adhere to these policies and procedures in his current employment setting and whenever engaging in the practice of pharmacy – unless specific policies and procedures adopted by her employer prevent such adherence.

d. Respondent shall inform the Board, in writing, of any change of home address, place of employment, home telephone number, or work telephone number, within ten (10) days of such a change.

e. Within thirty (30) days after approval of this Stipulation and Consent Order by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his pharmacy employer, and any pharmacist-in-charge he works under, to report to the Board in writing acknowledging that the employer and the pharmacist-in-charge have read this document and understand it. It shall be Respondent's responsibility to assure that these reports are provided to the Board.

f. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing his performance as a pharmacist during Respondent's probationary period. Respondent shall be given reasonable notice of the date, time, and place for the appearances.

g. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.

h. Respondent shall comply with such other reasonable terms as the Board

may wish to impose.

8. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$750. This civil penalty shall be paid promptly after the Board's approval of this Stipulation and Consent Order, by check made payable to the Treasurer of Iowa and mailed to the executive director of the Board. All civil penalty payments shall be deposited into the State of Iowa general fund.

9. Should Respondent violate or fail to comply with any of the terms and conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2009), and 657 IAC § 36.

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

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

12. This Stipulation and Consent Order 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 the Board or Respondent. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

13. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 18 day of Nov 2010.

*James H. Rhodes, R.Ph.*  
\_\_\_\_\_  
JAMES RHODES, R.Ph.

Respondent

Subscribed and sworn to before me by James Rhodes on this 18 day of November 2010.



*Joe Abramo* *Swing City, Iowa*  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 7<sup>th</sup> day of December 2010.

*Vernon H. Benjamin*  
\_\_\_\_\_  
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

James Rhodes

Rhodes settle 10-10.doc

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

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**IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST  
JAMES H. RHODES, R.Ph., RESPONDENT**

**2008-96**

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**TERMINATION ORDER**

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**DATE: December 10, 2012**

1. On December 10, 2010, a Stipulation and Consent Order was issued by the Iowa Board of Pharmacy placing the license to practice pharmacy, number 15633 issued to James Rhodes on January 23, 1980, on probation for a period of two years under certain terms and conditions.

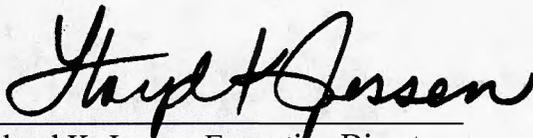
2. Respondent has successfully completed the probation as directed.

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

**IT IS HEREBY ORDERED:**

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

**IOWA BOARD OF PHARMACY**



Lloyd K. Jessen, Executive Director  
Iowa Board of Pharmacy  
400 SW 8<sup>th</sup> Street, Suite E  
Des Moines, Iowa 50309-4688