

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2009-159
Pharmacist License of)	
MATT SALES)	STATEMENT OF CHARGES
License No. 21127,)	
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter, "Board") 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 August 13, 2009, the Board issued Matt Sales ("Respondent"), after examination, a license to engage in the practice of pharmacy as evidenced by license number 21127, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's pharmacist license is current and active until June 30, 2011.
5. Respondent's address of record is 1900 High Street Unit E211, Des Moines, Iowa.
6. At all times material to this statement of charges, Respondent was employed as a pharmacist at Walgreens, 4415 Douglas Avenue, Des Moines, Iowa 50310.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

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

COUNT II – ALTERING DRUG STRENGTH WITHOUT PERMISSION

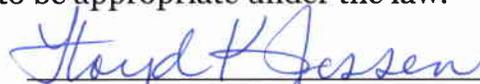
Respondent is charged under Iowa Code § 155A.12(1) (2009) and 657 Iowa Administrative Code §§ 10.21(5) and 36.1(4)(u) with altering the dispensed strength of a controlled substance prescription without obtaining the permission of the prescriber.

B. CIRCUMSTANCES

An investigation was commenced December 3, 2009, which revealed the following:

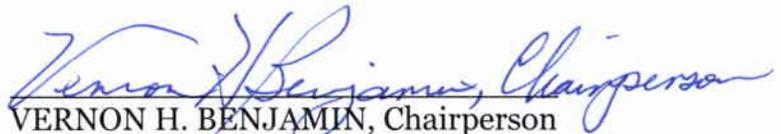
1. At all times material to this statement of charges, Respondent was employed as a pharmacist at Walgreens #07452, 4415 Douglas Avenue, Des Moines, Iowa 50310.
2. A Walgreens pharmacy patient received two prescriptions for Oxycontin. The first, Oxycontin 80mg (#90) to be taken three times per day, was correctly filled and dispensed.
3. A second prescription, to be used by the patient in conjunction with the first, was filled incorrectly. The second script called for Oxycontin 20mg (#120), to be taken three times daily in doses of 20mg, 40mg and 20mg. The prescriber's intention was to have the patient take – by combining the two prescriptions – 100mg Oxycontin in the morning, 120mg mid-day, and 100mg in the evening.
4. When filling the second prescription, pharmacist Kyle Rotert learned that the patient's insurer would not cover the Oxycontin 20mg #120 during a 30 day period. Without contacting the prescriber, Rotert split the second prescription into two parts and dispensed oxycodone 20mg ER #60, to be taken morning and evening, and Oxycontin 40mg #30 to be taken mid-day.
5. The fill of the second prescription was reviewed by Respondent, who did not contact the patient's prescriber.
6. When, prior to the completion of the 30 day period, the patient contacted the prescriber seeking more medication, the prescriber learned that the patient had been taking two Oxycontin 40mg tablets at mid day, in addition to an Oxycontin 80mg tablet, for a total dosage of 160mg.
7. After learning the second prescription had not been correctly filled, the prescriber attempted to contact the Walgreens pharmacist who dispensed the Oxycontin. Walgreens would not provide the name of the pharmacist or agree to have the pharmacist return the prescriber's call.
8. The patient does not recall being counseled by a pharmacist regarding the differences between the actual prescription and the medication as 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 Director

On this 28 day of Sept. 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. 2009-159
Pharmacist License of)	
MATT SALES,)	SETTLEMENT AGREEMENT
License No. 21127)	AND
Respondent.)	FINAL ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Matt Sales, Respondent, enter into the following Settlement Agreement and Final Order to settle a licensee disciplinary proceeding currently pending before the Board.

The 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 Pharmacist License No. 21127. That license is active and current until June 30, 2013.
2. A Statement of Charges was filed against Respondent on September 28, 2010.
3. At all times relevant to the Statement of Charges, Respondent was employed as a pharmacist at Walgreens Pharmacy, 4415 Douglas Road, Des Moines, Iowa.
4. The Board has jurisdiction over the parties and the subject matter of these proceedings.
5. Respondent has chosen not to contest the allegations in the Statements of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
6. Respondent is hereby CITED for altering the strength of a controlled substance prescription without the permission of the prescriber, as described in the Statement of Charges, and is hereby WARNED that future violations of the law governing the practice of pharmacy in Iowa could result in further disciplinary action.
7. Respondent agrees to pay a civil penalty in the amount of \$250. This civil penalty shall be

made payable to the Treasurer of Iowa and mailed to the executive director of the Board within twenty (20) days of the Board's approval of this Settlement Agreement and Final Order. All civil penalty payments shall be deposited into the State of Iowa general fund.

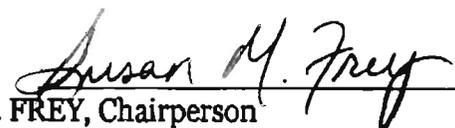
8. Within 60 days of the date this Settlement Agreement is approved by the Board, Respondent shall complete an additional two (2) hours of continuing pharmacy education (CPE) on dispensing errors and ethics which is pre-approved by the Board. Documentation of satisfactory completion of this CPE shall be promptly submitted to the Board. The CPE shall be in addition to the thirty (30) hours of CPE required every two years for license renewal.
9. Should Respondent violate or fail to comply with any of the terms and conditions of this Settlement Agreement and Final Order, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2011) and 657 IAC 36.
10. This Settlement Agreement and Final Order is the resolution of a contested case. By entering into this Settlement Agreement and Final 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 Final Order.
11. The State's legal counsel may present this Settlement Agreement and Final Order to the Board.
12. This Settlement Agreement and Final 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 Settlement Agreement and Final Order, it shall be the full and final resolution of this matter.
13. The Board's approval of this Settlement Agreement and Final Order shall constitute a FINAL ORDER of the Board.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 5 day of April 2013.

MATT SALES, RPh
Respondent

 4/5/2013

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 13th day of March 2013.



SUSAN M. FREY, Chairperson

Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Theresa O'Connell Weeg
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