

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

| | | |
|-----------------------|---|----------------------|
| Re: |) | COMPLAINT |
| Pharmacist License of |) | AND STATEMENT |
| CARL O. SIGLER |) | OF CHARGES |
| License No. 16435 |) | AND |
| Respondent |) | NOTICE |
| |) | OF HEARING |

COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 22nd day of December, 1994, and files this Complaint and Statement of Charges and Notice of Hearing against Carl O. Sigler, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Jay J. Cayner; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent was issued a license to practice pharmacy in Iowa on May 3, 1984, by reciprocity.

3. Respondent currently resides at Rural Route 2, Box 184, LeMars, Iowa 51031.

4. Respondent was employed as the pharmacist in charge at the Wal-Mart Pharmacy located at 1921 South Main Avenue in Sioux Center, Iowa, until August 22, 1994.

5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1995.

6. The Board has received a copy of a Trial Information filed in the Iowa District Court for Sioux County, titled State of Iowa v. Carl Oliver Sigler, Case No. 7098, in which the Sioux County Attorney charged Respondent on or about December 7, 1994, with 7 counts of prohibited acts. All of the allegations contained in the 7 counts occurred while Respondent was employed as the pharmacist in charge of the Wal-Mart Pharmacy located at 1921 South Main Avenue in Sioux Center, Iowa. Two of the 7 counts are Class "C" felonies and five of the 7 counts are aggravated misdemeanors. A copy of the Trial Information is attached hereto as Exhibit 1 and is incorporated by reference into this Complaint and Statement of Charges and Notice of Hearing as if fully set forth herein.

The Board has also received an investigative report from Board Investigator E. Ray Shelden dated October 4, 1994. Investigator Shelden's report alleges that Respondent obtained numerous prescription drugs and controlled substances for himself and his spouse without prescriber authorization.

7. Respondent is guilty of violations of 1993 Iowa Code sections 124.308(3), 124.401(1)(c)(6), 124.401(1)(d), 124.402(1)(a), 147.55(3), 155A.12(1), 155A.12(2), 155A.12(4), 155A.12(5), 155A.23(2), 155A.23(4), and 205.3 by virtue of the allegations contained in paragraph 6.

1993 Iowa Code section 124.308 provides, in part, the following:

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

1993 Iowa Code section 124.401 provides, in part, the following:

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance, a counterfeit substance, or a simulated controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance, a counterfeit substance, or a simulated controlled substance.

...

c. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "C" felony, and in addition to the provisions of section 902.9, subsection 3, shall be punished by a fine of not less than one thousand dollars nor more than fifty thousand dollars:

...

(6) Any other controlled substance, counterfeit substance, or simulated controlled substance classified in schedule I, II, or III.

d. Violation of this subsection, with respect to any other controlled substances...classified in schedule IV or V is an aggravated misdemeanor.

1993 Iowa Code section 124.402(1) provides, in part, the following:

It is unlawful for any person:

a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 124.308;...

1993 Iowa Code section 147.55 provides, in part, the following:

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:...

3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

1993 Iowa Code section 155A.12 provides, in part, the following:

...The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

1. Violated any provision of this chapter or any rules of the board adopted under this chapter.

2. Engaged in unethical conduct as that term is defined by rules of the board.

...

4. Failed to keep and maintain records required by this chapter or failed to keep and maintain complete and accurate records of purchases and disposal of drugs listed in the controlled substances Act.

5. Violated any provision of the controlled substances Act or rules relating to that Act.

1993 Iowa Code section 155A.23 provides, in part, the following:

A person shall not:...

2. Willfully make a false statement in any prescription, report, or record required by this chapter.

...

4. Make or utter any false or forged prescription or written order.

1993 Iowa Code section 205.3 provides the following:

A person shall not fill a prescription for a drug required by chapter 124 or this chapter to be furnished only upon written prescription unless the prescription is ordered for a medical, dental, or veterinary purpose only.

8. Respondent is guilty of violations of 657 Iowa Administrative Code sections 8.5(1), 9.1(4)(b)(2), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(h), 9.1(4)(j), and 9.1(4)(u) by virtue of the allegations contained in paragraph 6.

657 Iowa Administrative Code section 8.5 provides, in part, the following:

Unethical conduct or practice. The provisions of this section apply to licensed pharmacists and registered pharmacist-interns.

8.5(1) Misrepresentative deeds. A pharmacist shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

657 Iowa Administrative Code section 9.1(4) provides, in part, the following:

The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

b. Professional incompetency. Professional incompetency includes but is not limited to:...

(2) A substantial deviation by a pharmacist from the standards of learning or skill ordinarily possessed and applied

by other pharmacists in the state of Iowa acting in the same or similar circumstances.

...

(4) A willful or repeated departure from, or the failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa.

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of pharmacy or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.

...

h. Distribution of...drugs for other than lawful purposes. The distribution of drugs for other than lawful purposes includes but is not limited to the disposition of drugs in violation of Iowa Code chapters 155A, 124, and 126.

...

j. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy.

...

u. Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections 147.55, 155A.12 and 155A.15.

The Iowa Board of Pharmacy Examiners finds that paragraphs 7 and 8 constitute grounds for which Respondent's license to practice pharmacy in Iowa can be disciplined.

WHEREFORE, the undersigned charges that Respondent has violated 1993 Iowa Code sections 124.308(3), 124.401(1)(c)(6), 124.401(1)(d), 124.402(1)(a), 147.55(3), 155A.12(1), 155A.12(2), 155A.12(4), 155A.12(5), 155A.23(2), 155A.23(4), and 205.3 and 657 Iowa Administrative Code sections 8.5(1), 9.1(4)(b)(2), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(h), 9.1(4)(j), and 9.1(4)(u).

IT IS HEREBY ORDERED, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that Carl O. Sigler appear before the Iowa Board of Pharmacy Examiners on Tuesday, February 7, 1995, at 4:00 p.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to discipline the license to practice pharmacy issued to Carl O. Sigler on May 3, 1984, and take whatever additional action that they deem necessary and appropriate.

Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of his own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision, including disciplinary action, may be rendered.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department of Inspections and Appeals. The office of the Attorney General is responsible for representation of the public interest in these proceedings. Information regarding the hearing may be obtained from Linny C. Emrich, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-3658). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen
Executive Secretary/Director

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

Re: Pharmacist License of
CARL O. SIGLER
License No. 16435
Respondent

}
}
}
}
}
}

**STIPULATION
AND
INFORMAL SETTLEMENT**

COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and Carl O. Sigler, R.Ph. (Respondent) and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (1993), enter into the following Stipulation and Informal Settlement of the contested case currently on file:

1. Respondent was issued a license to practice pharmacy on the 3rd day of May, 1984, by reciprocity, as evidenced by license number 16435, which is recorded in the permanent records of the Board.
2. Iowa Pharmacist License Number 16435 issued to and held by Respondent is current until June 30, 1997.
3. Respondent is currently employed as the pharmacist in charge of Hy-Vee Pharmacy, 203 South Story Street, Rock Rapids, Iowa 51246.
4. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on December 22, 1994.
5. The Board has jurisdiction over the parties and the subject matter herein.

6. Respondent does not admit to the truth of the allegations set forth in the Complaint and Statement of Charges. This Stipulation and Informal Settlement is executed as a compromise settlement of disputed claims.

7. Respondent's license to practice pharmacy is suspended for a period of six (6) months. The suspension is stayed, however, and the Respondent's license is placed on probation for a period of two (2) years from the date of approval of this Stipulation and Informal Settlement. During the probationary period the Respondent shall:

a. Obey all federal and state laws and regulations substantially related to the practice of pharmacy and the distribution of controlled substances.

b. Report to the Board or its designee quarterly. Said report shall be in writing. The report shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time.

c. Provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.

d. Not supervise any registered intern and shall not perform any of the duties of a preceptor.

8. Respondent shall not use any controlled substance or prescription drug in any form unless authorized and prescribed for him by a licensed, treating practitioner.

9. Respondent shall notify all present and prospective employers of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. Within thirty (30) days after approval of this Stipulation and Informal Settlement by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his pharmacy employer to report to the Board in writing acknowledging that the employer has read this document and understands it.

10. Should Respondent leave Iowa to practice pharmacy outside this State, Respondent shall notify the Board in writing of the dates of departure and return. Periods of practice outside the State shall not apply to reduction of the probationary period.

11. Respondent shall pay a civil penalty of \$1,000.00. Two hundred fifty dollars is due and payable within 30 days of the date of approval of this Stipulation and Consent Order by the Board. The remaining \$750 shall be due and payable in quarterly installments of \$250 each (payment dates of March 14, 1996; June 14, 1996; and September 14, 1996). Respondent shall deliver checks made payable to the Treasurer of the State of Iowa to the Executive Secretary/Director of the Board. The checks shall be deposited into the general fund of the State of Iowa.

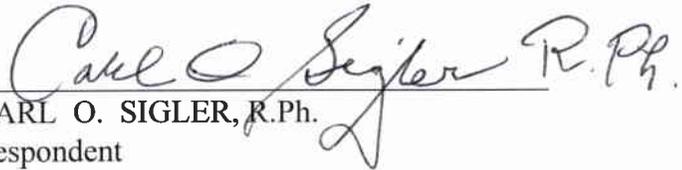
12. Respondent shall take and successfully pass the Iowa Drug Law Exam (IDLE) with a score of 75 percent, and the Federal Drug Law Exam (FDLE) with a score of 75, by November 15, 1996. Respondent may take the exams a maximum of three (3) times each between November 15, 1995, and November 15, 1996. Failure to pass IDLE or FDLE within the one-year period will be grounds to revoke probation and take additional disciplinary action.

13. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the stayed suspension. 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.

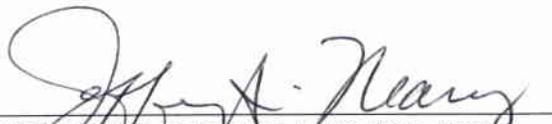
14. Upon successful completion of probation, Respondent's certificate will be fully restored.

15. This Stipulation and Informal Settlement is subject to approval of a majority of the full Board. If the Board approves this Stipulation and Informal Settlement, it becomes the final disposition of this matter. If the Board fails to approve this Stipulation and Informal Settlement, it shall be of no force or effect to either party.

16. This Stipulation and Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 31st day of October, 1995.


CARL O. SIGLER, R.Ph.
Respondent

Subscribed and Sworn to before me on this 31st day of October, 1995.


NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA *my com. Exp 12-22-97*

17. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 14 day of November, 1995.


MARIAN L. ROBERTS, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

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

Re: Pharmacist License of
CARL O. SIGLER
License No. 16435
Respondent

}
}
}
}
}
}
}

ORDER

COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 15th day of July, 1997, and declares that:

1. On November 14, 1995, Respondent's pharmacist license number 16435 was placed on probation with conditions for two (2) years.

2. On July 3, 1997, the Respondent requested early termination of his probationary period. After considering Respondent's request, the Board agreed to modify the terms of Respondent's Stipulation and Informal Settlement dated November 14, 1995, by terminating Respondent's probationary status as of July 15, 1997.

WHEREFORE, it is hereby ordered that the probationary period of pharmacist license number 16435 issued to Respondent and the terms, restrictions, and conditions of Respondent's probation shall end on July 15, 1997, and that as of July 15, 1997, Respondent's Iowa pharmacist certificate is fully restored.



LLOYD K. JESSEN
Executive Secretary/Director
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

Seal