

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

Re:	)	Case No. 2005-59
Pharmacist License of	)	
<b>PATRICK W. SLIFKA</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 17742,	)	
Respondent.	)	

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

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners 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 (2005).
3. On November 18, 1991, the Board issued Respondent, after examination, a license to engage in the practice of pharmacy as evidenced by license number 17742, 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, 2007.
5. Respondent's current address is 702 Ridge Road, Decorah, Iowa 52101.
6. Respondent was, at all times material, employed as a staff pharmacist at L&P Compounding Specialists, Inc., 303 2<sup>nd</sup> Avenue SW, Suite A, Cresco, Iowa 52136. Respondent is also employed as a staff pharmacist at Medicap Pharmacy, 303 2<sup>nd</sup> Avenue SW, Cresco, Iowa 52136.

**A. CHARGES**

**COUNT I – VIOLATION OF PHARMACY COMPOUNDING RULES**

The Respondent is charged with failure to comply with Board rules for pharmacy compounding in violation of Iowa Code §§ 155A.12(1) (2005), 155A.12(4) (2005), and 657 Iowa Administrative Code §§ 8.30, 20.4(2), 20.5, 20.6(1), 20.8, 20.9, 20.10, 20.11, 20.12, 36.1(4)(j), and 36.1(4)(cc).

## COUNT II – PROFESSIONAL INCOMPETENCY

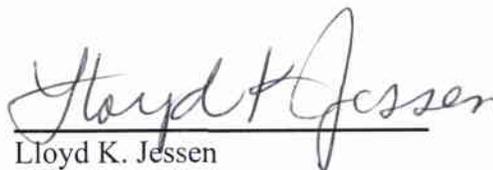
The Respondent is charged with an inability to practice pharmacy compounding with reasonable skill and safety by reason of professional incompetency in violation of Iowa Code § 155A.12(1) (2005) and 155A.12(4) (2005) and 657 Iowa Administrative Code § 36.1(4)(b).

### B. CIRCUMSTANCES

On or about June 21, 2005 an inspection and investigation was commenced, revealing the following:

1. Respondent is compounding inhalation/nebulizer medications for dispensing to patients, pursuant to prescriptions.
2. One of the inhalation medications compounded by Respondent is a product consisting of three active ingredients: albuterol, ipatropium, and budesonide.
3. FDA regulations require that inhalation solutions be sterile (21 CFR § 200.51).
4. Preparation of the albuterol—ipatropium—budesonide combination product by Respondent begins with non-sterile ingredients that are mixed in an area that is not aseptic. The final product is not sterilized before it is dispensed to customers.
5. Respondent does not comply with administrative rules relating to sterile product compounding. Among other things, Respondent does not:
  - a. Utilize proper aseptic technique.
  - b. Follow duly established policies and procedures.
  - c. Utilize appropriate recall procedures.
6. As a compounding pharmacy, Respondent does not comply with FDA good manufacturing practices.
7. Due to lack of sterility, inhalation/nebulizer medications prepared by Respondent may be contaminated with life-threatening pathogens. Respondent has demonstrated a lack of professional knowledge and understanding in the area of sterile compounding to such a degree that he has placed patients who have received these products at high risk for injury or disease.

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 4<sup>th</sup> day of August 2005, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.



Michael J. Seifert, Chairperson  
Iowa Board of Pharmacy Examiners  
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 BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA**

Re:	)	Case No. 2005-59
Pharmacist License of	)	
<b>PATRICK W. SLIFKA,</b>	)	<b>STIPULATION</b>
License No. 17742,	)	<b>AND</b>
Respondent.	)	<b>CONSENT ORDER</b>
	)	

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2003), the Iowa Board of Pharmacy Examiners (hereinafter, "Board") and PATRICK W. SLIFKA, R.Ph. (hereinafter, "Respondent"), enter into this Stipulation and Consent Order settling a pending contested case. The pending contested case is a licensee disciplinary proceeding before the Iowa Board of Pharmacy Examiners based on allegations specified in a Statement of Charges filed August 4, 2005. The Board and Respondent, who hereby agree that the contested case shall be resolved without proceeding to hearing, stipulate to the following:

1. Respondent was issued a license to practice pharmacy in Iowa on November 18, 1991, by examination, as evidenced by Pharmacist License Number 17742, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. Iowa Pharmacist License Number 17742, issued to and held by Respondent is active and current until June 30, 2007.
3. Respondent is currently employed as a staff pharmacist at L&P Compounding Specialists, Inc., 303 2<sup>nd</sup> Avenue SW, Suite A, Cresco, Iowa 52136. Respondent is also employed as a staff pharmacist at Medicap Pharmacy, 303 2<sup>nd</sup> Avenue SW, Cresco, Iowa 52136
4. A Statement of Charges was filed against Respondent on August 4, 2005.

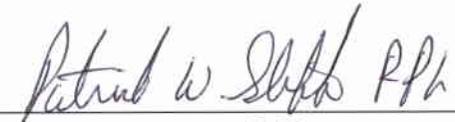
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5. The Board has jurisdiction over Respondent and the subject matter herein.
6. Respondent does not contest the allegations set forth in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, constitute grounds for discipline of his license to practice pharmacy in Iowa.
7. Respondent agrees to accept a Citation and Warning for the allegations set forth in the Statement of Charges.
8. Upon the date of the Board's approval of this Stipulation and Consent Order, Respondent hereby agrees to never again engage in the preparation and distribution of any compounded products that require sterility.
9. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy, pharmacy compounding that does not require sterility, and the distribution of controlled substances.
10. Should the Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or further restrict the Respondent's Iowa pharmacist license, or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2003), and 657 IAC 36.
11. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, the 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.
12. 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.

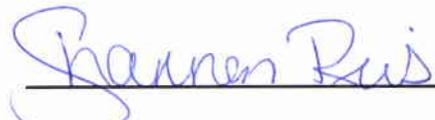
13. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary action.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 8 day of September 2006.

  
\_\_\_\_\_  
PATRICK W. SLIFKA, R.Ph.  
Respondent

Subscribed and sworn to before me by PATRICK W. SLIFKA on this 8<sup>th</sup> day of September 2006.



  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 13 day of Sept. 2006.

  
\_\_\_\_\_  
MICHAEL J. SEIFERT, Chairperson  
Iowa Board of Pharmacy Examiners  
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

**BEFORE THE IOWA BOARD OF PHARMACY**

Re: )  
Pharmacist License of ) Case No. 2007-6  
**PATRICK W. SLIFKA** )  
License No. 17742, ) **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 (2007).
3. On November 18, 1991, the Board issued Patrick W. Slifka (hereinafter, "Respondent"), by reciprocity, a license to engage in the practice of pharmacy as evidenced by license number 17742, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's pharmacist license is current and active through June 30, 2010.
5. Respondent's most recent address of record is 21999 115<sup>th</sup> Street, Cresco, Iowa 52136.
6. At all times material to this statement of charges, Respondent was employed as a pharmacist at the Medicap Pharmacy in Cresco.

**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 as evidenced by Respondent's diversion of controlled substances and other prescription drugs.

## COUNT II – CONVICTION OF A FELONY RELATED TO PHARMACY

Respondent is charged, pursuant to Iowa Code § 155A.12(1) (2009), and 657 Iowa Administrative Code § 36.1(4)(j), with conviction of wire fraud and aggravated identity theft, crimes related to the practice of pharmacy.

## COUNT III – MAKING FALSE AND FRAUDULENT STATEMENTS

Respondent is charged, pursuant to Iowa Code §§ 155A.12(1), 155A.21 and 155A.23(2) and 155A.23(4) (2009), and 657 Iowa Administrative Code § and 36.1(4)(u), with making a false prescription order and willfully making false and fraudulent statements in a prescription, report and record required by Iowa law.

### B. CIRCUMSTANCES

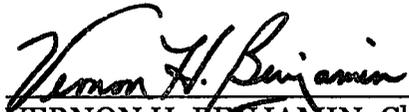
1. Respondent was employed as a pharmacist at Medicap Pharmacy in Cresco, Iowa.
2. Between 2000 and 2005, Respondent submitted over 1400, mostly false health insurance claims for himself and his family. The claims totaled more than \$130,000 and were paid by Wellmark. Claims were submitted electronically through the claims system operated by his employer, Medicap Pharmacy.
3. Respondent also generated false prescriptions to support the insurance claims, and falsified a prescriber name. The prescription claims were entered at the Medicap Pharmacy, but were not filled by the pharmacy.
4. Criminal charges were filed against Respondent in the United States District Court for the Northern District of Iowa.
5. On or about September 17, 2009, Respondent pleaded guilty to two criminal charges: aggravated identity theft and wire fraud.
6. Sentencing of Respondent will not occur until early 2010. Respondent is working as a pharmacist while on supervised release pending sentencing.

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 8<sup>th</sup> day of October 2009, 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

Connie Diekema  
1900 Hub Tower  
Des Moines, Iowa 50309  
Attorney for Respondent

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**BEFORE THE IOWA BOARD OF PHARMACY**

Re: )  
Pharmacist License of ) Case No. 2007-6  
**PATRICK W. SLIFKA** )  
License No. 17742, ) **EMERGENCY ORDER**  
Respondent. )

**I. JURISDICTION**

The Iowa Board of Pharmacy (hereinafter, "Board") has jurisdiction over pharmacist licensees pursuant to Iowa Code Chapters 155A and 272C (2009). Patrick W. Slifka ("Respondent") possesses pharmacist license number 17742 issued by the Board. A Statement of Charges was filed against Respondent on October 8, 2009. After receipt and review of the Statement of Charges, and review of evidence relating to the Statement of Charges, the Board adopts the following Findings of Fact, Conclusions of Law and Emergency Order.

**II. FINDINGS OF FACT**

1. On November 18, 1991, the Board issued Respondent a pharmacist license evidenced by license number 17742, subject to the laws of the State of Iowa and the rules of the Board.
2. Respondent is employed as a pharmacist by Medicap Pharmacy in Cresco.
3. An investigation of Respondent revealed the following, which the Board finds as fact:
  - a. Between 2000 and 2005, Respondent submitted over 1400, mostly false health insurance claims for himself and his family. The claims totaled more than \$130,000 and were paid by Wellmark. Claims were submitted electronically

- through the claims system operated by his employer, Medicap Pharmacy.
- b. Respondent also generated false prescriptions to support the insurance claims, and falsified a prescriber name. The prescription claims were entered at the Medicap Pharmacy, but were not filled by the pharmacy.
  - c. Criminal charges were filed against Respondent in the United States District Court for the Northern District of Iowa.
  - d. On or about September 17, 2009, Respondent pleaded guilty to two criminal charges: aggravated identity theft and wire fraud.
  - e. Sentencing of Respondent will not occur until early 2010. Respondent is working as a pharmacist while on supervised release pending sentencing.
4. The Board finds that immediate, emergency action must be taken due to the fact that Respondent is not incarcerated and remains employed in a pharmacy. Respondent's employment and work environment are the same as they were when he committed the two federal crimes to which he has pleaded guilty; when he submitted fraudulent claims and committed identity theft.
  5. The Board further finds that the duration of Respondent's admittedly fraudulent activities, and the volume of false insurance claims – approximately 1400 – indicate Respondent's crimes were part of a well-thought-out pattern and plan of fraudulent activity. The crimes were neither isolated, nor committed on the spur of the moment. Respondent's false claims activity stretched over a period of more than 5 years.
  6. Unless Respondent is removed from his role as a pharmacist, he may chose to repeat his earlier criminal conduct, or formulate a new criminal scheme. Given the

seriousness and duration of his prior criminal conduct, there is no reason for the Board to assume that Respondent will not repeat his misconduct.

7. Additionally, Respondent's admission of guilt to the crime of identity theft equates to an admission that he falsified pharmacy records required by Board rules to be accurately maintained. Respondent's criminal activities could not relate more closely to the practice of pharmacy. Even more seriously, Respondent misused his knowledge of pharmacy, misused the electronic claims system of Medicap Pharmacy, and misused his knowledge of the health insurance claim systems to effect long term fraud a upon Wellmark.
8. The Board finds that the minimum emergency action needed to protect the public health, safety and welfare from identity theft, fraud, and possible additional criminal activity by Respondent, is immediate suspension of Respondent's pharmacist license.

### **III. CONCLUSIONS OF LAW**

1. Respondent's numerous and serious violations of the provisions of Iowa Code chapter 155A (2009), 657 Iowa Administrative Code § 36.1(4), plus his admitted violations of federal law, establish that Respondent unfit to hold a pharmacist license. Insurance claim fraud, identity theft and falsification of documents are activities which are inconsistent with the practice of pharmacy and inconsistent with the public health, safety and welfare.
2. The provisions of Iowa Code § 17A.18A (2009) permit the Board of Pharmacy to take emergency action to protect the health, safety and welfare of the public. A basis for

emergency action against respondent, pursuant to the provisions of the Iowa Code and the Iowa Administrative Code, has been established by the findings of fact adopted above.

#### IV. EMERGENCY ORDER

The Board ORDERS as follows:

1. Pursuant to its authority in Iowa Code § 17A.18A, Iowa Code chapter 155A (2009), and 657 Iowa Administrative Code chapter 36, Respondent's pharmacist license is hereby suspended.
2. A hearing regarding this Emergency Adjudicative Order and the Statement of Charges against Respondent shall be held on November 18, 2009. The hearing will be held during the morning session beginning at 9:00 A.M. and be held at the office of the Iowa Board of Pharmacy, 400 Southwest 8<sup>th</sup> Street, Suite E, Des Moines, Iowa 50309.

**DATED** this 8th day of October 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  
Hoover State Office Building  
Des Moines, Iowa 50319**

BEFORE THE IOWA BOARD OF PHARMACY

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IN THE MATTER OF:	)	CASE NO: 2007-6
	)	DIA NOS. 09PHB036
Pharmacist License of	)	
PATRICK W. SLIFKA	)	
License No. 17742	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent.	)	DECISION AND ORDER

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On October 8, 2009, the Iowa Board of Pharmacy (Board) found probable cause to file a Statement of Charges against pharmacist Patrick W. Slifka (Respondent). Respondent was charged with:

- Count I: Lack of Professional Competency
- Count II: Conviction of a Felony Related to Pharmacy
- Count III: Making False and Fraudulent Statements

The Board also filed an Emergency Order, pursuant to Iowa Code section 17A.18A(2009), which immediately suspended Respondent's pharmacist license. A hearing was held on November 18, 2009 at 9:00 a.m. in the Board Conference Room, 400 SW 8<sup>th</sup> Street, Des Moines, Iowa. The following members of the Board served as presiding officers for the hearing: Vernon H. Benjamin, Chairperson; Susan Frey; Edward L. Maier; Mark Anliker, Margaret Whitworth, and Ann Diehl. Assistant Attorney General Scott Galenbeck represented the state. Respondent was represented by attorney Connie Diekema. The hearing was closed to the public at Respondents' request, pursuant to Iowa Code §272C.6(1). The record was held open for a few hours following the hearing for Respondent to submit witness statements of the physician(s) interviewed by the Federal Bureau of Investigation (FBI). When Respondent's attorney discovered that she did not have these documents in her file, she submitted Respondent's written statement to the FBI as Exhibit B. The state did not object, and Exhibit B was admitted. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was asked to prepare the Board's written Decision and Order for their review, in conformance with their deliberations.

## THE RECORD

The record includes the testimony of the witnesses, State Exhibits 1-5 (See Exhibit Index for description) and Respondent Exhibits A and B (Exhibit A includes 50 letters in support of Respondent and Exhibit B is Respondent's Voluntary Written Statement dated 1/8/08)

## FINDINGS OF FACT

1. On November 18, 1991, the Board issued Respondent license number 17742, which authorized him to engage in the practice of pharmacy in the state of Iowa, subject to the laws of the state and the rules of the Board. Respondent's pharmacist license is currently suspended, pursuant to the Board's Emergency Order issued on October 8, 2009. (State Exhibits 4, 5)
2. Respondent has been employed as a full-time pharmacist by the Medicap Pharmacy in Cresco, Iowa (hereinafter "Medicap Pharmacy") since 1997. The Medicap Pharmacy is owned by pharmacist Larry Shroyer. Respondent has a small (less than 5%) ownership interest in pharmacy. (Testimony of Respondent; Larry Shroyer)
3. Respondent had a family health insurance policy issued by Wellmark Blue Cross/Blue Shield (hereinafter "Wellmark") at all times relevant to this decision. The policy included a prescription drug benefit. Under the policy's terms, Respondent paid the entire retail cost of prescriptions at the time of purchase and then submitted a claim to Wellmark for reimbursement. The pharmacy that filled the prescription could file an electronic claim on Respondent's behalf directly with Wellmark. Wellmark's pharmacy benefit managers then reimbursed Respondent directly by sending him a check at his home address for the retail cost of the prescription. (Testimony of Respondent; Larry Shroyer; State Exhibit 1)
4. In January 2008, the Federal Bureau of Investigation (FBI) visited the Medicap Pharmacy to question Respondent about fraudulent health insurance claims for prescription drugs that he had filed for himself and his family. A Board compliance officer was also present for the FBI interview. During the interview, Respondent admitted that he had filed false insurance claims and agreed to cooperate with the investigation. On January 8, 2008, Respondent signed a voluntary written statement admitting that:

- He began filing false claims for falsified prescriptions with his Wellmark insurance policy sometime in 2004 and stopped in early 2007;<sup>1</sup>
- He filed the false claims knowingly and intentionally and sent them electronically through the MedicaP computer system;
- He filed the claims under his own name, his wife's name, and the names of his three children;
- His false claims caused Wellmark to issue checks to him that were mailed to his residence.

Respondent further admitted that his motivation for filing the false claims was "financial" and stated that his family and his business partner had no knowledge of the false claims. He had "no explanation as to why I initiated these criminal activities" but admitted that he knew it was wrong and a criminal offense. Respondent informed his employer, Larry Shroyer, of his illegal and fraudulent prescription claims later that same day. (Testimony of Respondent; Respondent Exhibit B; State Exhibit 1)

5. According to Wellmark's records, Respondent filed 1411 claims for reimbursement for prescriptions for himself and his family between September 2000 and October 2005, and he received \$130,000 in reimbursement for the prescriptions. Wellmark identified three physicians who purportedly wrote the majority of the prescriptions. (State Exhibit 1)

6. The FBI interviewed Larry Shroyer, owner of the MedicaP Pharmacy, on January 23, 2008, and a Board compliance officer was present for the interview. Mr. Shroyer reported that he had decided not to fire Respondent because it would be difficult and expensive to replace him. Mr. Shroyer believed that Respondent felt bad about what he had done and would not file any future false prescription claims. Respondent continued to work as a pharmacist at MedicaP Pharmacy until the Board suspended his pharmacist license through its Emergency Order issued on October 8, 2009. (Testimony of Respondent; Larry Shroyer; State Exhibits 1, 5)

7. On September 8, 2009, Respondent was charged in the United States District Court for the Northern District of Iowa with one count of Wire Fraud, in

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<sup>1</sup> At hearing, however, Respondent testified that he stopped filing false claims in July 2007. (Testimony of Respondent)

violation of 18 U.S.C. § 1343, and one count of Aggravated Identity Theft, in violation of 18 U.S.C. § 1028A(a)(1). The Trial Information alleged, in part:

- From as early as January 2002 and continuing through and about January 2008, Respondent devised a scheme and artifice to defraud and to obtain money and property by means of false pretenses;
- Respondent knowingly submitted claims to his personal family health insurance provider, Wellmark Blue Cross/Blue Shield, for payment on prescription medications that were not prescribed by a licensed physician and which were oftentimes not dispensed;
- Respondent used the unique Drug Enforcement Administration (DEA) number assigned to health care professionals to support his claim that the medication was prescribed to himself and his family when, in truth, no such valid prescription was issued;
- On some occasions Respondent submitted fraudulent claims for prescriptions that were not validly issued by a licensed physician but that Respondent knowingly and unlawfully filled for himself and for other family members;
- On other occasions, Respondent submitted fraudulent claims for prescriptions, purportedly issued to himself or other family members, that were not validly issued by a licensed physician and that were never filled;
- In either case, upon approval by Wellmark of the fraudulently submitted prescription drug claim, Respondent would personally receive reimbursement payment to which he was not entitled.

(State Exhibit 2) On September 16, 2009, Respondent entered voluntary guilty pleas before a United States Magistrate Judge on both counts in the Trial Information. The court recommended that the pleas of guilty be accepted and that Respondent be adjudged guilty and have sentence imposed. Respondent was released pending sentencing. (State Exhibit 3; Testimony of Respondent)

8. The federal court has not yet scheduled a date for Respondent's sentencing because it has not reviewed the records to determine the appropriate amount of restitution. Respondent's probation officer has told him that the federal court is very busy, and his case has been given a lower priority. (Testimony of Respondent)

9. At hearing before the Board, Respondent admitted that he used the MedicaP Pharmacy claim processing system to file false claims for reimbursement at a time when he was employed by MedicaP as a full-time pharmacist. Respondent admitted that he falsified prescriptions for himself and his family members that were never filled but for which he sought reimbursement from his insurance company.

Respondent denies that the dollar amount of his false insurance claims was as high as the \$130,000 figure suggested by Wellmark. Respondent estimates that the total value of his falsified claims is closer to \$25,000 and that the rest of the claims were for prescriptions that were verbally authorized by physicians and that he actually filled for himself or his family. However, Respondent admits that the MedicaP pharmacy records will not include all of the required documentation for these prescriptions. Respondent claimed that prescribers authorized some prescription refills over the phone but that he failed to document the prescriber's authorization in the pharmacy record and may not have created a hard copy for the prescription. Respondent further claimed that on a few occasions physicians have allowed him to select an appropriate medication for a family member without first examining the patient and without providing any written or verbal authorization for Respondent to dispense the drug to his family member. Respondent admits that on these occasions he likely failed to document a prescription in the pharmacy record and further admits that the physicians may not have documentation of the prescriptions in their patient records. (Testimony of Respondent)

10. Respondent submitted fifty letters of support from family members and members of his community, including health care providers. (Testimony of Respondent; Respondent Exhibit 50)

#### CONCLUSIONS OF LAW

Iowa Code §155A.12(1)(2009) provides, in relevant part, that the Board may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a pharmacist license, or place a license on probation if the Board finds that a licensee has:

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

*Count I – Lack of Professional Competency*

657 IAC 36.1(4)(b) provides that the Board may impose any of the disciplinary sanctions set out in subrule 36.1(2) when it determines that a licensee is guilty of professional incompetency. Professional incompetency includes but is not limited to 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.

The preponderance of the evidence established that Respondent violated Iowa Code §155A.12(1)(2009) and 657 IAC 36.1(4)(b) by his willful and repeated departures from and failures to conform to the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa. Honesty and truthfulness are essential components of competent pharmacy practice. Minimal standards of practice require pharmacists to fill only properly authorized prescriptions, to submit insurance claims only for properly authorized and filled prescriptions, and to maintain proper records of all prescriptions. Respondent has admitted filing insurance claims for himself and his family members for prescriptions that were not properly authorized and which were never in fact filled. Respondent has further admitted filling prescriptions for himself and his family members that were not properly authorized and documented. Respondent has admitted that he did not always make and keep required records for the prescriptions that he filled for himself and his family members.

*Count II: Conviction of a Felony Related to Pharmacy*

657 IAC 36.1(4)(j) provides that the Board may impose any of the disciplinary sanctions set out in subrule 36.1(2) when it determines that a licensee is guilty of 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 or the distribution of controlled substances, prescription drugs, or nonprescription drugs.

The preponderance of the evidence established that Respondent violated §155A.12(1)(2009) and 657 IAC 36.1(4)(j) when he pled guilty in federal court to the crimes of Wire Fraud and Aggravated Identity Theft. The factual basis for these crimes involved Respondent's scheme and artifice to submit fraudulent claims to his personal family health insurance provider for payment on prescriptions medications that were not prescribed by a licensed physician and

oftentimes were not dispensed. Respondent's convictions clearly relate to the practice of pharmacy because he used his position as a pharmacist at Medicap Pharmacy to falsify prescriptions and to submit false insurance claims using Medicap's electronic claim filing system.

*Count III: Making False and Fraudulent Statements*

Iowa Code § 155A.21 provides that it is a serious misdemeanor to possess a drug or device limited to dispensation by prescription, unless the drug or device was so lawfully dispensed.

Iowa Code §155A.23 provides, in relevant part, that a person shall not perform or cause the performance of or aid and abet any of the following acts:

...

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

...

4. Making or uttering any false or forged oral, written, electronic, or facsimile prescription or oral, written, electronic or facsimile order.

The preponderance of the evidence established that Respondent violated Iowa Code §155A.12(1), 155A.21, and 155A.23(2) and (4) by making false prescriptions and by making false and fraudulent statements in a prescription, report, or record required by Iowa law.

*Sanction*

Respondent is asking the Board to lift the suspension of his pharmacist license and allow him to return to the practice of pharmacy pending his sentencing in federal court. In support of this request, Respondent asserts that he stopped submitting false claims for prescriptions six months before he was confronted by the FBI, that he took immediate responsibility for his actions when confronted, that the actual amount of his false claims was only \$25,000 and not the \$130,000 claimed by Wellmark, and that the federal government does not see him as a threat to public safety or welfare because they have released him pending sentencing and have delayed his sentencing until sometime in 2010 or even later. Respondent further asserts that the public can be adequately protected if his pharmacy practice is monitored by the Board.

The Board has considered the factors set out in 657 IAC 36.1(3) and concludes that license suspension is the appropriate sanction in this case. Respondent embarked on an elaborate scheme to defraud his health insurance company, which he executed over an extended period of time. Respondent used his professional position as a Medicap pharmacist to create numerous false prescriptions for both himself and his family members and to electronically file false claims for reimbursement with his insurance company. Respondent's dishonest and unethical actions violated the trust placed in him as a pharmacist and are a discredit to the pharmacy profession. It does not matter if the actual amount of the fraudulent claims is determined to be \$25,000 as Respondent contends or \$130,000 as alleged by Wellmark. In addition, Respondent's actions also harmed the public by contributing to increased costs for all consumers.

Although Respondent admitted his actions when confronted, it does not appear that he appreciates the seriousness of his violations. Respondent provided the Board with no explanation for his actions and revealed no personal insight into why he engaged in this dishonest and deceitful pattern of behavior. The Board is very concerned that Respondent may have an underlying character or personality disorder and believes that Respondent would engage in similar behavior in the future if he believed he could do so without being caught.

#### DECISION AND ORDER

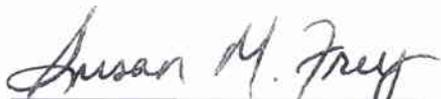
IT IS THEREFORE ORDERED that License Number 17742, issued to Respondent Patrick W. Slifka, shall be INDEFINITELY SUSPENDED. IT IS FURTHER ORDERED that Respondent may not apply for reinstatement for a minimum period of one year. In addition, the Board will not consider an application for reinstatement until after:

1. Respondent's criminal sentencing has been completed, and
2. Respondent has submitted to a comprehensive physical and mental evaluation from a facility pre-approved by the Board and has provided a written evaluation report which explores whether there is any psychiatric or psychological condition underlying his criminal behavior. Respondent shall comply with any treatment recommendations made as a result of the evaluation.

IT IS FURTHER ORDERED, pursuant to Iowa Code §272C.6 and 657 IAC 36.18(2), that Respondent Patrick W. Slifka shall pay \$75.00 for fees associated

with conducting the disciplinary hearing. In addition, the executive secretary/director of the Board shall bill Respondents for any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondents shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this 29<sup>th</sup> day of December, 2009.



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Susan M. Frey, Vice-Chair  
Iowa Board of Pharmacy

cc: Scott Galenbeck, Assistant Attorney General  
Connie Diekema, Respondents' Attorney

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.