

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

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Re: )  
Pharmacy License of )  
**WALGREENS #1198** ) **STATEMENT OF CHARGES**  
License No. 459 )  
David W. Persinger, )  
Pharmacist in charge, )  
Respondent )

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*COMES NOW*, the Complainant, Lindy A. Pearson, and states:

1. She is the Chief Investigator for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in her official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (1995).
3. General pharmacy license number 459, issued in the name of Walgreens #1198, with David W. Persinger as pharmacist in charge, was issued on August 31, 1995, and is current until December 31, 1995.
4. Respondent currently operates a general pharmacy at 4213 Fleur Drive, Des Moines, Iowa 50321.

COUNT I

The Respondent is charged under Iowa Code § 155A.15(2)(c) (1995) and 657 Iowa Administrative Code §§ 6.1, 8.1, 8.5(4), 8.19, 8.20, 9.1(4)(b), 9.1(4)(j), 9.1(4)(u), and 9.1(4)(w) with failure to effectively utilize patient information; failure to conduct prospective drug use review; and failure to provide oral patient counseling; all of which resulted in a preventable medication dispensing error.

## THE CIRCUMSTANCES

The Board has received investigative information which alleges the following:

1. On October 9, 1995, two prescriptions for a 34-month-old child were telephoned to Walgreen Pharmacy #1198 by a prescriber's agent. Pharmacist Mary E. Netzel or her staff assistant received and interpreted the prescriptions as: Mysoline® Oral Suspension (Primidone) 250mg per 5ml, 150ml, take one and one-half teaspoonfuls twice a day for ten days; and Dimetane DX, 120ml, take one-half teaspoonful every 4 to 6 hours.

2. The prescription for Mysoline® Oral Suspension was given prescription number 525557-1198. It was processed and verified by Mary E. Netzel at 10:07 a.m. on October 9, 1995.

3. Both prescriptions were dispensed to the child's mother on October 10, 1995. The mother received *no* oral patient counseling from Mary E. Netzel, who was then on duty at Walgreens Pharmacy #1198, or any other pharmacist.

4. Later in the day on October 10, 1995, the child was hospitalized following the administration of the first two doses of the Mysoline® Oral Suspension. The dosage of the drug and the patient instructions, as provided by Mary E. Netzel, caused the child to receive an overdose of Mysoline®. As dispensed, the child received **750mg** of Mysoline® on October 10. The correct dosage to initiate therapy for a child under eight (8) years old is **50mg** per day for the first three days followed by a gradual increase in dosage. The child received *fifteen times* the recommended dosage of Mysoline®.

5. On October 11, 1995, the prescriber contacted the Board to report that a dispensing error had occurred at Walgreens Pharmacy #1198. According to the prescriber, he had ordered the drug "Ilosone® Suspension 250mg/5ml" for the child. Ilosone® is an antibiotic which is used to treat infections. Mysoline® is an anticonvulsant drug which is used to control seizures.

6. On October 12, 1995, the child's mother verified that her child had received the drug Mysoline® and had been hospitalized as a result. She also indicated that she did *not* receive any oral patient counseling from Mary E. Netzel or any other pharmacist at Walgreen Pharmacy #1198.

7. Effective oral patient counseling by Mary E. Netzel, who was the pharmacist on duty at the time that the child's mother received the medication, could have prevented the error from occurring. Effective prospective drug use review by Mary E.

Netzel, *before* the prescription was filled and dispensed, could also have prevented the error from occurring. By utilizing patient information contained in the patient record (date of birth) and by conducting prospective drug use review, the Mary E. Netzel could have identified the Mysoline® overdose.

8. In summary, Respondent has failed to ensure that a pharmacist will provide patient counseling at Walgreen's Pharmacy #1198 and has failed to ensure that a pharmacist will perform prospective drug use review by reviewing and assessing patient records at Walgreen's Pharmacy #1198. Respondent has failed to ensure that all patients will receive pharmaceutical care from a licensed pharmacist at Walgreen's Pharmacy #1198.

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.



Lindy A. Pearson  
Chief Investigator

On this 13th day of October, 1995, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.



Phyllis A. Olson, Vice Chairperson  
Iowa Board of Pharmacy Examiners  
Executive Hills West  
1209 East Court Avenue  
Des Moines, Iowa 50319

cc: Linny Emrich  
Assistant Attorney General  
Office of the Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

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

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|                        |   |                      |
|------------------------|---|----------------------|
| Re:                    | ) |                      |
| Pharmacy License of    | ) |                      |
| <b>WALGREENS #1198</b> | ) | <b>STIPULATION</b>   |
| License No. 459        | ) | <b>AND</b>           |
| David W. Persinger,    | ) | <b>CONSENT ORDER</b> |
| Pharmacist in charge,  | ) |                      |
| Respondent             | ) |                      |

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On this 7<sup>th</sup> day of May, 1996, the Iowa Board of Pharmacy Examiners and Walgreens Pharmacy #1198 of Des Moines, Iowa, each hereby agree with the other and stipulate as follows:

The licensee disciplinary hearing pending before the Iowa Board of Pharmacy Examiners, on the allegations specified in the Statement of Charges filed against Respondent on October 13, 1995, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That Respondent was issued a license to operate a pharmacy on the 26th day of December, 1995, as evidenced by General Pharmacy License Number 459, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That General Pharmacy License Number 459 issued to and currently held by Respondent is current and in full force until December 31, 1996.
3. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.

4. A Statement of Charges was filed against Respondent on October 13, 1995.
5. The Statement of Charges was answered by Respondent on January 3, 1996.
6. This Stipulation and Consent Order is entered into in order to resolve a disputed claim and constitutes no admission on the part of Respondent.

#### **SECTION I**

THEREFORE, IT IS HEREBY AGREED that Iowa General Pharmacy License Number 459 issued to Respondent is placed on probation for three (3) years subject expressly to the right of Respondent to request removal of the probation after two years of compliance with this agreement. During the probationary period the Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy and the distribution of controlled substances and comply with the provisions of Section II.

#### **SECTION II**

1. Within thirty (30) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall pay a civil penalty of \$1500.00 by delivering a check made payable to the Treasurer of the State of Iowa to the Executive Secretary/Director of the Board. The check shall be deposited into the general fund of the State of Iowa.

2. Within thirty (30) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent will submit to the Board, its written policy and procedure for documenting, resolving, and preventing medication dispensing errors. The policy and procedure shall include a written protocol which describes the procedure for pharmacy employees to follow when a dispensing error occurs. The policy and procedure shall also require that all records of dispensing errors be consistently and periodically evaluated by the pharmacist in charge or his or her designee as part of a cycle of continuous quality improvement. Records of

dispensing errors shall be maintained in the pharmacy for a minimum of two years. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to this policy and procedure.

3. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent will provide its written policies and procedures for the following: (a) dispensing accuracy; (b) obtaining, recording, and maintaining patient information; (c) patient counseling; and (d) prospective drug use review. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures. Respondent also agrees to require all pharmacists and supportive personnel to read the written policies and procedures and to sign written statements certifying that they have read it. Copies of these signed statements shall be maintained.

4. The Respondent shall report any judgment or settlement of a malpractice claim or action and any incident reports relating to dispensing errors brought to their attention by consumers, health care professionals, or others within thirty (30) days of such occurrence.

5. Respondent shall submit to random unannounced visits or inspections by the Board or agents of the Board to verify compliance with this Stipulation and Consent Order.

6. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a).

7. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and impose additional

disciplinary sanctions, including the revocation of Respondent's license to operate a pharmacy. 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.

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

9. This Stipulation and Consent Order is subject to approval of a majority of the full Board. If the Board fails to approve this Stipulation and Consent Order, 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.

10. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 6 day of May, 1996.

David W. Persinger  
WALGREEN PHARMACY #1198  
David W. Persinger, R.Ph.,  
Pharmacist in charge,  
Respondent

Subscribed and Sworn to before me on this 6<sup>E</sup> day of May, 1996.

Russell D. Wisley  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

11. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 7<sup>th</sup> day of May, 1996.



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PHYLLIS A. OLSON, Chairperson  
Iowa Board of Pharmacy Examiners  
Executive Hills West  
1209 East Court Avenue  
Des Moines, Iowa 50319

**BEFORE THE IOWA BOARD OF PHARMACY**

Re: )  
Pharmacy License of )  
**WALGREENS #04714** )  
License No. 459, )  
Respondent. )

Case No. 2009-112

**STATEMENT OF CHARGES**

**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 17, 2009, the Board renewed general pharmacy license number 459 for Walgreens #04714 (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 4555 Fleur Drive, Des Moines, Iowa 50321, with Karlie Douglas as the pharmacist in charge.

**A. CHARGES**

**COUNT I – LACK OF PROFESSIONAL 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 willful and repeated violations of standards related to patient counseling.

**COUNT II -- FAILURE TO PROVIDE COUNSELING**

Respondent is charged under Iowa Code § 155A.15(2)(c) (2009), and 657 Iowa Administrative Code §§ 6.14(1) and 36.1(4)(w), with failing to provide counseling to patients and engaging in business practices intended to circumvent requirements for patient counseling.

## B. CIRCUMSTANCES

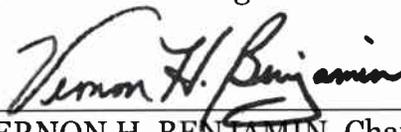
An investigation was commenced September 8, 2009, which revealed the following:

1. Respondent operates a general pharmacy at 4555 Fleur Drive, Des Moines, Iowa 50321, with Karlie Douglas as the pharmacist in charge.
2. When picking up a new prescription from Respondent, a patient was asked by a pharmacy technician if he (the patient) had taken the medication before. When the patient answered that he wasn't sure, the technician asked him if he had any questions. At this point the patient's wife asked the technician if a pharmacist wasn't supposed to be the person performing counseling.
3. The technician asked the patient to move to a different window where, subsequently, effective counseling was provided by a person who appeared to be the pharmacist on duty. The apparent pharmacist did not wear a name tag.
4. Despite the technician's offer of counseling, the patient's request for counseling by a pharmacist, and the actual counseling by a person who appeared to be a pharmacist, Respondent's computerized record of the transaction shows that the patient "refused" counseling.

**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 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

**BEFORE THE IOWA BOARD OF PHARMACY**

|                           |   |                             |
|---------------------------|---|-----------------------------|
| Re:                       | ) |                             |
| Pharmacy License of       | ) | Case No. 2010-34            |
| <b>WALGREENS PHARMACY</b> | ) |                             |
| License No. 459,          | ) | <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 (2011).
3. On December 27, 2010, the Board renewed general pharmacy license number 459 for Walgreens 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 4555 Fleur Drive, Des Moines, Iowa 50321 with Karlie Douglas as the pharmacist in charge.

**A. CHARGES**

**COUNT I – LACK OF PROFESSIONAL COMPETENCY**

Respondent is charged under Iowa Code § 155A.15(2)(c) (2011) and 657 Iowa Administrative Code § 36.1(4)(b) with a lack of professional competency as demonstrated by Respondent's (a) substantial deviation from the standards of learning and skill ordinarily possessed and applied by other Iowa pharmacies, (b) failure to exercise in a substantial respect that degree of care which is ordinarily exercised by an Iowa pharmacy and (c) 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 repeated failure to perceive and correct a dispensing error.

**COUNT II – DELIVERY OF MISLABELLED PRESCRIPTION**

Respondent is charged under Iowa Code § 155A.15(2)(f) (2011) and 657 Iowa Administrative Code § 36.1(4)(j) with delivery of a mislabeled prescription drug.

## B. CIRCUMSTANCES

An investigation was commenced on March 31, 2010, which revealed the following:

1. Respondent operates a general pharmacy at 4555 Fleur Drive, Des Moines, Iowa, with Karlie Douglas as the pharmacist in charge.
2. At Respondent pharmacy, original prescription information was incorrectly entered by a technician into Walgreens' computer system. The incorrect prescription information was then checked by a Walgreens pharmacist at a different location (Urbandale). The checking pharmacist failed to notice that the prescription information had been entered incorrectly. At the time the prescription information was checked by the pharmacist in Urbandale, Walgreens' computer program alerted the pharmacist that the dosage was questionable – requiring that he override the system to fill the order. The program was overridden by the Urbandale Walgreens pharmacist.
3. The prescription was then incorrectly filled by Respondent pharmacy. One of Respondent's pharmacists reviewed the prescription contents before the medication was dispensed. Respondent's pharmacist also failed to catch the discrepancy between the prescription and the medication being dispensed.
4. The patient's prescription was filled with the correct medication, but the directions on the label were incorrect, resulting in a medication overdose.
5. Prior to the patient receiving the overdose, the patient's mother called Respondent's pharmacist and questioned the directions on the prescription label, asserting that if the directions were followed, there would not be sufficient medication to last through five days of therapy.
6. The patient's mother was told by Respondent's pharmacist that the prescription had been correctly dispensed.
7. After the patient vomited the excessive dose, her mother called Respondent again, at which time the dispensing error was discovered.

**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 29 day of June 2011, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.

  
SUSAN FREY, 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

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|                         |   |                               |
|-------------------------|---|-------------------------------|
| Re:                     | ) | Case No. 2009-112 and 2010-34 |
| Pharmacy License of     | ) |                               |
| <b>WALGREENS #04714</b> | ) | <b>SETTLEMENT AGREEMENT</b>   |
| License No. 459,        | ) | <b>AND</b>                    |
| Respondent.             | ) | <b>FINAL ORDER</b>            |

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Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Walgreens Pharmacy #04714, 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 the Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent was issued Pharmacy License No. 459. That license is active and current until December 31, 2013.
2. Statement of Charges were filed against Respondent on July 20, 2010 and June 29, 2011.
3. Respondent at all times relevant to the Statement of Charges operated a general pharmacy at 4555 Fleur Drive, Des Moines, Iowa, with Karlie Douglas as the pharmacist in charge.
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 Statement 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 failure to provide counseling and dispensing errors identified 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 \$2000. 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. 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.
9. The State's legal counsel may present this Settlement Agreement and Final Order to the Board.
10. 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.

11. 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 4<sup>th</sup> day of February 2013.

Michael R  
Walgreens  
For Respondent

By his signature Mike Fulla acknowledges he is the Pharmacy Supervisor for Walgreens Pharmacy and is authorized to sign this Settlement Agreement and Final Order on behalf of Walgreens Pharmacy #04714.

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

Susan M. Frey  
SUSAN M. FREY, Chairperson  
Iowa Board of Pharmacy  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Theresa O=Connell Weeg  
Assistant Attorney General  
Office of the Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

Kevin M. Reynolds  
WHITFIELD & EDDY, P.L.C.  
317 6<sup>th</sup> Ave., Suite 1200  
Des Moines, IA 50309