

**BEFORE THE IOWA BOARD OF PHARMACY**

Re: ) Case No. 2007-25  
Pharmacy License of )  
**WALGREENS PHARMACY** ) **STATEMENT OF CHARGES**  
License No. 1096 )  
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 124, 155A and 272C (2007).
3. Effective March 9, 2007, the Board renewed Respondent’s general pharmacy license number 1096, 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. General pharmacy license number 1096 is current until December 31, 2007.
5. Respondent has obtained a controlled substance registration # 1107623 pursuant to Iowa Code Chapter 124 and 657 Iowa Administrative Code Chapter 10.
6. Respondent is currently operating a general pharmacy at 1330 East University, Des Moines, IA 50316, with Kathryn J, Hein as the pharmacist in charge.

**A. THE CHARGES**

**COUNT I – LACK OF PROFESSIONAL COMPETENCY**

Respondent is charged pursuant to Iowa Code § 155A.15(2)(c) (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.

**COUNT II– ILLEGAL DISTRIBUTION OF DRUGS**

Respondent is charged pursuant to Iowa Code § 155A.15(2)(c) and (d), Iowa Code § 155A.23(11), Iowa Code §§ 124.308, 124.401 and 124.402 (2007), and 657 Iowa Administrative Code §§ 36.1(4)(h) and (u), with distribution of drugs and transferring drugs, including controlled substances, without legal authorization and for unlawful purposes.

### COUNT III – FAILURE TO MAINTAIN ADEQUATE CONTROLS

Respondent is charged pursuant to Iowa Code §§ 155A.15(2)(c) and (i), and 657 Iowa Administrative Code §§ 6.2, 6.7 and 36.1(4)(j) and (u), with failing to maintain accurate control over and accountability for drugs, including controlled substances.

### COUNT IV – FAILURE TO MAINTAIN ACCURATE RECORDS

Respondent is charged pursuant Iowa Code §§ 124.306, 155A.15(2)(c) and (h), 155A.23(12) and (13) (2007), and 657 Iowa Administrative Code §§ 10.34 and 36.1(4)(j), (u), (ac) and (ag), with failing to create and maintain complete and accurate records of purchases, sale and disposal of drugs, including controlled substances, and failing to maintain a complete inventory of schedule II controlled substances.

### COUNT V – WILLFULLY MAKING FALSE STATEMENT

Respondent is charged pursuant Iowa Code §§ 124.306, 155A.15(2)(c) and (h), § 155A.23(2) (2007), and 657 Iowa Administrative Code §§ 36.1(4)(j) and (u), with willfully making a false statement in a record required by Iowa Code chapter 155A (2007).

### COUNT VI – SUBVERTING A BOARD INVESTIGATION

Respondent is charged pursuant to Iowa Code §§ 155A.15(2) and 155A.15(2)(c), and 657 Iowa Administrative Code § 36.1(4)(z), with subverting a Board investigation by, among other things, attempting to conceal losses of controlled substances, altering inventory records of controlled substances and prohibiting employees from providing information to Board investigators and directing employees to discuss only certain matters with Board investigators.

### COUNT VII – FAILURE TO NOTIFY BOARD

Respondent is charged pursuant to Iowa Code §§ 155A.15(2)(c) and (2)(i), and 155A.19(3)(f) (2007), and 657 Iowa Administrative Code §§ 10.16 and 34.1(4)(j) and (u), with failing to notify the Board of significant losses of controlled substances.

### COUNT VIII – ACTS CONTRARY TO PUBLIC INTEREST

Respondent is charged pursuant to Iowa Code §§ 124.303 and 124.304(d) (2007) with committing such acts as would render its controlled substances registration inconsistent with the public interest as defined in Iowa Code § 124.303 (2007), including a failure to maintain adequate records, a failure to maintain adequate controls, subverting a Board investigation and a failure to notify the Board of significant losses of controlled substances.

COUNT IX – FAILURE TO REPORT ACTS AND OMISSIONS

Respondent is charged pursuant Iowa Code §§ 155A.15(2)(c), and 657 Iowa Administrative Code §§ 36.2(3) and 34.1(4)(u), with failing to report acts and omissions of a person licensed to practice pharmacy.

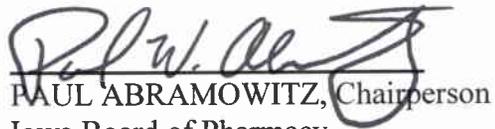
**B. THE CIRCUMSTANCES**

Circumstances supporting the above charges are set forth in Attachment A.

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 25 day of October 2007, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.

  
PAUL ABRAMOWITZ, 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 BOARD OF PHARMACY  
OF THE STATE OF IOWA**

RECEIVED  
MAY 12 2008  
IOWA BOARD OF PHARMAC

Re:	)	Case No. 2007-25
Pharmacy License of	)	
<b>WALGREENS PHARMACY</b>	)	<b>STIPULATION</b>
License No. 1096	)	<b>AND</b>
Respondent	)	<b>CONSENT ORDER</b>

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2007), the Iowa Board of Pharmacy (hereinafter, the "Board") and Walgreens Pharmacy (hereinafter, "Respondent") have agreed to settle a contested case currently on file with the Board. The Statement of Charges filed against Respondent on October 25, 2007, and the licensee disciplinary proceeding shall be resolved without a hearing, as the Board and Respondent have agreed to the following Stipulation and Consent Order:

1. Respondent's license to operate a pharmacy was renewed November 20, 2007 as evidenced by Pharmacy License Number 1096, which is recorded in the permanent records of the Board.
2. General Pharmacy License Number 1096 issued to and held by Respondent is current and in force until December 31, 2008.
3. The Board has jurisdiction over the parties and the subject matter herein.
4. A Statement of Charges was filed against Respondent October 25, 2007.
5. Respondent has chosen not to contest, in a contested case proceeding, the allegations set forth in the Statement of Charges. Respondent acknowledges that the allegations, if proven in such a proceeding, would constitute grounds for the discipline

described herein.

6. Respondent's license shall be placed on probation for one (1) year, upon the following conditions:

- a. Within ten (10) days after the date of the Board's approval of this Stipulation and Consent Order, Respondent will provide to the Board inventory counts for all controlled substances. Such inventory counts shall represent a reconciliation of Respondent's in-store records, corporate records and wholesaler delivery records – so that future inventory counts shall have a single binding initial count.
- b. Within sixty (60) days after the date of the Board's approval of this Stipulation and Consent Order, and not less often than every sixty (60) days thereafter, Respondent will provide the Board with an inventory report for all controlled substances in Respondent's inventory. Any discrepancies revealed by the inventories shall be accurately reported to the Board.
- c. The inventory reports described in paragraph b. immediately above shall segregate hydrocodone inventory counts.
- d. The inventory reports described in paragraph b. above shall terminate at the end of the probationary period unless the Board, in its sole discretion, determines that the inventory reports provided to the Board have revealed ongoing inventory management and control issues. In the event the Board determines Respondent should continue to provide inventory reports past the end of the probationary period, Respondent shall continue to provide the reports to the Board every 60 days until the Board terminates this responsibility.

e. During probation, the *Pharmacist in Charge* of Respondent shall file sworn quarterly reports with the Board attesting to Respondent's compliance with the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than December 5, March 5, June 5 and September 5 of each calendar year. Respondent's quarterly reports shall identify the current pharmacist in charge, all staff pharmacists, Respondent's *most recent efforts to implement the provisions of this Stipulation and Consent Order, by date*, and any further information deemed necessary by the Board from time to time.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$5000. This civil penalty payment shall be 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.

8. Respondent agrees to obey all federal and state laws, rules, and regulations substantially related to the operation of pharmacy.

9. Should 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 suspend Respondent's Iowa license to operate a pharmacy or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 Iowa Administrative Code § 36.1.

10. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent 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 Stipulation and Consent Order.

11. 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.

12. 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 the Walgreen Co. to the Iowa Board of Pharmacy for its consideration on this 5 day of May 2008.



Walgreen Co.

Respondent

By Phil Burgess

Title: National Director  
Pharmacy affairs

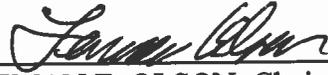
Subscribed and sworn to before me by \_\_\_\_\_, who has stated to me that he/she is an officer of the Walgreen Co. and is authorized to sign this Stipulation and Consent Order on behalf of the Walgreen Co. on this 5<sup>th</sup> day of MAY 2008.



NOTARY PUBLIC IN AND FOR THE  
STATE OF ILLINOIS



This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on this  
4 day of June 2008.



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

cc: Scott M. Galenbeck  
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