

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

Re:	)	Case No. 2005-19
Pharmacy License of	)	
<b>WALGREENS # 05852,</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 1145,	)	
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 155A and 272C (2005).
3. On December 21, 2004, the Board renewed Respondent general pharmacy license number 1145 with Colvin E. Robertson, Jr., as pharmacist in charge, allowing Respondent to engage in the operation of pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 1145 is current until December 31, 2006.
5. Respondent is currently operating a general pharmacy at 3030 University, Des Moines, Iowa 50311.

**A. CHARGES**

**COUNT I – LACK OF PROFESSIONAL COMPETENCY**

Respondent is charged under Iowa Code § 155A.15(2) (2005) 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 -- FAILURE TO MAINTAIN ADEQUATE RECORDS**

Respondent is charged with failing to maintain complete and adequate records of purchases and disposal of drugs, including controlled substances, in violation of Iowa Code §§ 155A.15.2(c) and 155A.15.2(h) (2005), and 657 Iowa Administrative Code §§ 36.1(4)(u) and 36.1(4)(cc).

### COUNT III -- FAILURE TO MAINTAIN CONTROL OVER DRUGS

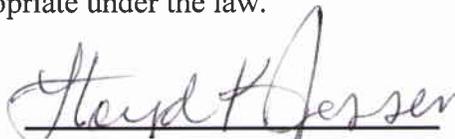
Respondent is charged with failing to maintain accurate control over and accountability for drugs, including controlled substances, in violation of Iowa Code §§ 124.308(3), 124.402(1)(a), 155A.15(2)(c) and 155A.15(2)(c) and (i) (2005), and 657 Iowa Administrative Code §§ 6.2, 6.7 and 36.1(4)(u).

#### B. CIRCUMSTANCES

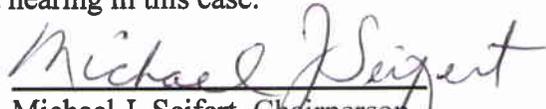
On or about March 14, 2005, an investigation was commenced, revealing the following:

1. Respondent's records are maintained in two places. Some records are maintained at Respondent's retail place of business, while others are maintained by at the corporate offices. The records have substantial inconsistencies.
2. Audits of Respondent's controlled substances records were difficult and inconclusive. Due to differences between the records maintained at Respondent's retail place of business and the records maintained by Walgreens' corporate offices, audit results varied depending on the source of the records.
3. Respondent was unable to provide controlled substance records in a timely manner. Some records were not provided for more than three weeks after requested by the Board's compliance officers.
4. Audits of Respondent's records reveal substantial overages and substantial shortages of controlled substances.
5. Although under the above described circumstances, many controlled substance records appear unreliable, Respondent's records support a conclusion that significant quantities of controlled substances – particularly hydrocodone – are missing and have been diverted from stock.
6. Due to the disarray of Respondent's controlled substance records, internal measures to detect and prove drug diversion would be largely ineffective.
7. Copies of DEA form 222 filed by Respondent were not maintained in Respondent's records.
8. Records relating to schedule II controlled substances were not maintained separately from records relating to other controlled substances.

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 7<sup>th</sup> day of June, 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 50319

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

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**IOWA PHARMACY EXAMINERS**

Re:	)	Case No. 2005-19
Pharmacy License of	)	
<b>WALGREENS #05852</b>	)	<b>STIPULATION</b>
License No. 1145	)	<b>AND</b>
Respondent	)	<b>CONSENT ORDER</b>

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2005), The Iowa Board of Pharmacy Examiners (hereinafter, the "Board") and Walgreens #05852 (hereinafter, "Respondent") have agreed to settle a contested case currently on file with the Iowa Board of Pharmacy Examiners. The Statement of Charges filed against Respondent on June 7, 2005, 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 December 27, 2005, as evidenced by Pharmacy License Number 1145, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. General Pharmacy License Number 1145 issued to and held by Respondent is current and in force until December 31, 2006.
3. 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 June 7, 2005.
5. Respondent denies the allegations contained in the Statement of Charges, but in the interest of settlement has chosen not to contest the allegations. Respondent acknowledges that the allegations set forth in the Statement of Charges, if proven in a

contested case proceeding, would constitute grounds for the discipline described herein.

6. Respondent's license shall be placed on probation for one (1) year. As a condition of probation, Respondent shall -- within sixty (60) days after the date of the Board's approval of this Stipulation and Consent Order -- propose to the Board *typewritten* pharmacy practices and procedures which shall include, but not be limited to the following;

- a. Accuracy of Records. A proposal for pharmacy record keeping which will assure the accuracy of records maintained at the pharmacy.
- b. Access to Records. A proposal to assure that complete, accurate and accessible records relating to controlled substances and other pharmaceuticals are maintained at the pharmacy or are accessible from another location within two business days of the request.
- c. Perpetual Inventory of Schedule-II Controlled Substances. A proposal for establishment of a perpetual inventory at the pharmacy for all schedule 2 controlled substances.

Once Respondent's proposals are approved by the Board, Respondent agrees to abide by the specific terms of its proposals.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$1000. 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.

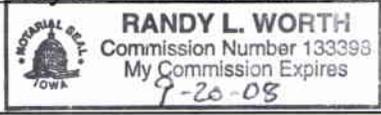
12. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary action.

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This Stipulation and Consent Order is voluntarily submitted by Walgreens #05852 to the Iowa Board of Pharmacy Examiners for its consideration on this \_\_\_\_ day of \_\_\_\_\_ 2006.

C. Earl Robertson  
Walgreens #05852  
Respondent  
By C. EARL ROBERTSON JR. Ph.  
Pharmacist In Charge

Subscribed and sworn to before me by C. Earl Robertson, who has stated to me that he/she is the pharmacist in charge of Walgreens #05852 and is authorized to sign this Stipulation and Consent Order on behalf of Walgreens #05852 on this 8<sup>th</sup> day of November 2006.



NOTARY PUBLIC IN AND FOR THE STATE OF IOWA

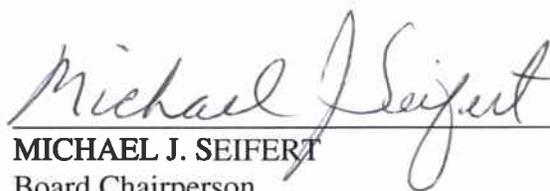
Lorinda Tisdell  
Walgreens #05852  
Respondent  
By LORINDA TISDELL

Subscribed and sworn to before me by LORINDA TISDELL, who has stated to me that he/she is a/an DIVISIONAL DIRECTOR, Pharmacy operations with Walgreen Co. and is authorized to sign this Stipulation and Consent Order on behalf of Walgreen Co. on this 31<sup>st</sup> day of October 2006.



Karen A. Kessler  
NOTARY PUBLIC IN AND FOR THE STATE OF ILLINOIS

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on this 15 day of NOV. 2006.



**MICHAEL J. SEIFERT**

Board Chairperson

Iowa Board of Pharmacy Examiners

400 SW Eighth Street, Suite E

Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck  
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Office of the Attorney General  
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**BEFORE THE BOARD OF PHARMACY STATE OF IOWA**

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**IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST  
WALGREENS #05852, RESPONDENT**

**2005-19**

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**TERMINATION ORDER**

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**DATE: November 19, 2007**

1. On November 16, 2006, a Stipulation and Consent Order was accepted by the Iowa Board of Pharmacy placing the license to practice pharmacy, number 826 issued to Walgreens #05852, on probation for a period of one year under certain terms and conditions.

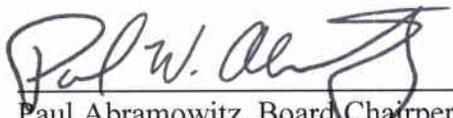
2. Respondent has successfully completed the probation as directed.

3. The Board directed that the probation placed upon the Respondent's license to practice pharmacy should be terminated.

**IT IS HEREBY ORDERED:**

That the probation placed upon the Respondent's license to practice pharmacy is terminated, and the license is returned to its full privileges free and clear of all restrictions.

**IOWA BOARD OF PHARAMCY**

  
\_\_\_\_\_  
Paul Abramowitz, Board Chairperson  
400 SW 8<sup>th</sup> Street, Suite E  
Des Moines, Iowa 50309-4688