

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

Re:)	Case No. 2005-21
Pharmacy License of)	STATEMENT OF CHARGES
WALGREENS # 07967,)	
License No. 1257,)	
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 February 14, 2005, the Board renewed Respondent general pharmacy license number 1257 with Pamela Osterhaus 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 1257 is current until December 31, 2006.
5. Respondent is currently operating a general pharmacy at 15601 Hickman Road, Clive, Iowa, 50335.

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

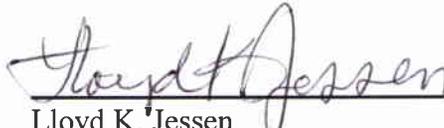
Respondent is charged with failing to maintain accurate control over and accountability for drugs, including controlled substances, in violation of Iowa Code §§ 124.308(3), 124.402(1)(a), 155A.15(2)(c) and 155A.15(2)(c) and (i) (2005), and 657 Iowa Administrative Code §§ 6.2, 6.7 and 36.1(4)(u).

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 (inventory counted as received before receipt) 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. Some copies of DEA form 222 filed by Respondent were not properly maintained in Respondent's records.
7. 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 7th 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

WalgreensClive-SOC.doc

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

RECEIVED

NOV 08 2006

IOWA PHARMACY EXAMINERS
Case No. 2005-21

Re:)
Pharmacy License of)
WALGREENS #07967)
License No. 1257)
Respondent)

**STIPULATION
AND
CONSENT ORDER**

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2005), The Iowa Board of Pharmacy Examiners (hereinafter, the "Board") and Walgreens #07967 (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 1257, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. General Pharmacy License Number 1257 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.

This Stipulation and Consent Order is voluntarily submitted by Walgreens #07967 to the Iowa Board of Pharmacy Examiners for its consideration on this ___ day of _____ 2006.

Karla Fiori

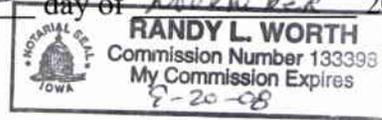
Walgreens #07967

Respondent

By Karla Fiori, R.Ph.

Pharmacist In Charge

Subscribed and sworn to before me by Karla Fiori, who has stated to me that he/she is the pharmacist in charge of Walgreens #07967 and is authorized to sign this Stipulation and Consent Order on behalf of Walgreens #07967 on this 8th day of November 2006.



NOTARY PUBLIC IN AND FOR THE STATE OF IOWA

Corinda Tisbell

Corinda Tisbell

Walgreens #07967

Respondent

By Corinda Tisbell

Subscribed and sworn to before me by Corinda Tisbell, 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 31st 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**
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

Dwayne A. Piñon, R.Ph.
Senior Attorney
Corporate & Regulatory Law
Walgreen Company
104 Wilmot Road, MS #1447
Deerfield, IL 60015

Walgreens_7967-Settle.doc

BEFORE THE BOARD OF PHARMACY STATE OF IOWA

**IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST
WALGREENS #07967, RESPONDENT**

2005-21

TERMINATION ORDER

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 #07967, on probation for a period of one year under certain terms and conditions.

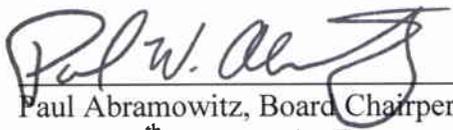
2. Respondent has successfully completed the probation as directed.

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 8th Street, Suite E
Des Moines, Iowa 50309-4688

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	
Pharmacy License of)	Case No. 2010-12
WALGREENS PHARMACY)	
License No. 1257,)	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 (2009).
3. On December 17, 2009, the Board renewed general pharmacy license number 1257 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 15601 Hickman Road, Clive Iowa 50325 with Karla Fiori 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 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.

COUNT III – AIDING UNLAWFUL PRACTICE OF PHARMACY

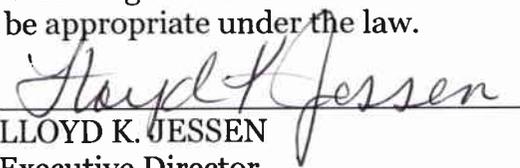
Respondent is charged with allowing a person who is not a licensed pharmacist to practice pharmacy by delegating pharmacist responsibilities to a pharmacy technician in violation of Iowa Code §§ 155A.15(2)(c) and 155A.15(2)(e) (2009), and 657 Iowa Administrative Code §§ 6.14 and 36.1(4)(l).

B. CIRCUMSTANCES

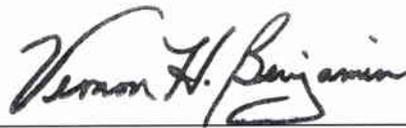
An investigation was commenced on May 19, 2010, which revealed the following:

1. Respondent operates a general pharmacy at 15601 Hickman Road, Clive Iowa 50325 with Karla Fiori as the pharmacist in charge.
2. When a patient (complainant) picked up a new prescription (Levaquin) from Respondent, a pharmacy technician provided an answer to the patient's question regarding when she should take the first dose of the medication. The complainant has previously picked up a prescription from the Respondent and been told the pharmacist was too busy to answer her question.
3. Respondent's computer records relating to the complainant's purchase of Levaquin reflect that counseling was refused – the opposite of what occurred.
4. When investigating the complaint, the Board's compliance officer witnessed a second patient pick up a new prescription. This patient was asked by a technician, "Do you need to talk to the pharmacist about this?" No counseling was received by the patient.
5. Respondent's technician training is designed, at best, to *offer* counseling rather than assure that patient counseling occurs. For example, Respondent's training materials suggest that technicians ask patients, "Do you have a moment to speak to the pharmacist?"

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 24 day of Nov. 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

WalgreensClive-SOC 10-10.doc

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2010-12
Pharmacy License of)	
WALGREENS #07967)	SETTLEMENT AGREEMENT
License No. 1257,)	AND
Respondent.)	FINAL ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Walgreens Pharmacy #07967, 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 a 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. 1257. That license is active and current until December 31, 2013.
2. A Statement of Charges was filed against Respondent on November 24, 2010.
3. Respondent was at all times relevant to the Statement of Charges, Respondent operated a general pharmacy at 15601 Hickman Road, Clive, Iowa, with Karla Fiori 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 as 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 \$1000. 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.

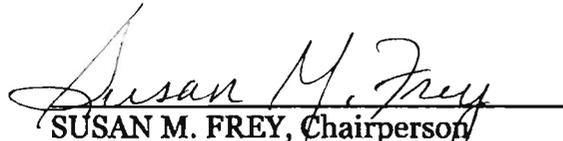
This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 4 day of February 2013.



Walgreens (Pharmacy Supervisor)
For Respondent

By his signature Mike Fulker 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 #07967.

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



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 6th Ave., Suite 1200
Des Moines, IA 50309