

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

|                                  |   |                             |
|----------------------------------|---|-----------------------------|
| Re:                              | ) | Case No. 2004-18            |
| Pharmacy License of              | ) |                             |
| <b>WAL-MART PHARMACY 10-1475</b> | ) | <b>STATEMENT OF CHARGES</b> |
| License No. 107                  | ) |                             |
| 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 (2003).
3. Effective November 23, 2004, the Board renewed Respondent general pharmacy license number with James R. Peterson 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 107 is current until December 31, 2005.
5. Respondent is currently operating a general pharmacy at 530 Highway #1 South, Washington, Iowa 52353, with Lisa Benton as the pharmacist in charge.

**A. CHARGES**

**COUNT I – LACK OF PROFESSIONAL COMPETENCY**

Respondent is charged under Iowa Code § 155A.15(2)(c) (2003) and 657 Iowa Administrative Code § 36.1(4) 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; specifically, erroneously dispensing a medication to a customer, then refusing a refund when the customer complained of the error.

**B. CIRCUMSTANCES**

On or about November 29, 2004, an investigation was commenced which revealed the following:

1. A customer's husband picked up prescriptions for her at the Respondent pharmacy. Upon review of the prescriptions, the customer noted two errors. She had not been prescribed either Pravachol or Norvasc.
2. When the customer attempted to return the incorrect medications, Respondent refused to refund their cost (approximately \$478) to the customer.
3. The customer's doctor has verified that the prescriptions were not ordered for the customer.
4. Respondent's prescription records indicate the orders for Pravachol and Norvasc were taken at the same time, by phone. The prescription order form does not reveal the person who called or the person who received the call.

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 <sup>th</sup>15 day of December 2004, 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

Wal-Mart#10-1475-SOC.doc

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| Re:                              | ) | Case No. 2004-18 |
| Pharmacy License of              | ) |                  |
| <b>WAL-MART PHARMACY 10-1475</b> | ) | <b>CITATION</b>  |
| License No. 107                  | ) | <b>AND</b>       |
| Respondent                       | ) | <b>WARNING</b>   |

Pursuant to Iowa Code §§ 17A.10, 272C.3(4) (2005) and 657 I.A.C. 36.1(2)(j), the Iowa Board of Pharmacy Examiners (hereinafter, "the Board") and Wal-Mart Pharmacy 10-1475 (hereinafter, "Respondent"), enter into the following Stipulated Citation and Warning, settling a licensee disciplinary proceeding currently pending before the Iowa Board of Pharmacy Examiners.

Allegations specified in a Statement of Charges filed against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent's general pharmacy license was renewed effective November 23, 2004, 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.
2. Respondent's general pharmacy license #107 is current until December 31, 2005.
3. A Statement of Charges was filed against Respondent December 15, 2004.
4. The Board has jurisdiction over the parties and jurisdiction over the subject matter of these proceedings.
5. For the purposes of this Stipulated Citation and Warning, Respondent does not contest the allegations set forth in the Statement of Charges. Respondent accepts, pursuant to 657 I.A.C. § 36.1(2)(j), this citation and warning for erroneously dispensing a

medication to a customer, then refusing a refund when the customer complained of the error.

6. Respondent shall adopt written policies and procedures – to be approved by the Board -- regarding the handling of prescription orders. Such policies and procedures shall include, but not be limited to the following:

a. The prescriber or prescriber's agent shall be documented on all call-in prescriptions.

b. The employee receiving the call-in prescription shall be documented on the prescription.

c. When an incorrect prescription is dispensed, the customer shall be reimbursed for the cost of the incorrect prescription.

d. When a dispensing error occurs, information regarding the error will be shared with all members of the pharmacy staff and, whenever possible, the staff will adopt measures to avoid future dispensing errors of the same nature.

7. Upon the Board's approval of this Citation and Warning, 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. This Stipulated Citation and Warning is the resolution of a contested case. By entering into this Stipulated Citation and Warning, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulated Citation and Warning.

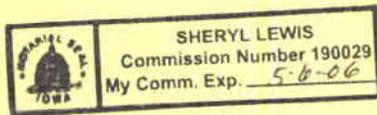
9. This proposed settlement is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Stipulated Citation and Warning, it shall be the full and final resolution of this matter.

10. The Board's approval of this Stipulated Citation and Warning shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

This Stipulated Citation and Warning is voluntarily submitted by Respondent to the Board for its consideration on the 3 day of June 2005.

Jenna M. Perry  
\_\_\_\_\_, R.Ph.  
For Respondent

Subscribed and sworn to before me by Jenna M. Perry on this 3<sup>rd</sup> day of June 2005.



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

This Stipulated Citation and Warning is accepted by the Iowa Board of Pharmacy Examiners on the 7 day of June 2005.

Michael Seifert  
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MICHAEL J. SEIFERT, Chairperson  
Iowa Board of Pharmacy Examiners  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688