

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

---

Re: Pharmacist License of	)	<b>COMPLAINT</b>
<b>CHARLES G. WIEBKE</b>	)	<b>AND</b>
License No. 14610	)	<b>STATEMENT</b>
Respondent	)	<b>OF CHARGES</b>
	)	<b>AND</b>
	)	<b>NOTICE OF HEARING</b>

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**COMES NOW**, Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners, on the 5th day of September, 1991, and files this Complaint and Statement of Charges against Charles G. Wiebke, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Melba L. Scaglione, Chairperson; Alan M. Shepley, Vice Chairperson; Rollin C. Bridge; Donna J. Flower; Phyllis A. Olson; Marian L. Roberts; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent was issued a license to practice pharmacy in Iowa on July 1, 1975, by examination.

3. Respondent's license to practice pharmacy in Iowa is current until June 30, 1993.

4. Respondent is a self-employed pharmacist and part-owner of Palmer Drug located at 2600 Dodge Street, Dubuque, Iowa 52001. Respondent has been continuously employed as a pharmacist at Palmer Drug during all or part of the time relevant to this complaint and statement of charges.

5. Respondent currently resides at 17251 Cinnamon Drive, Dubuque, Iowa 52001.

6. On January 28, 1991, a consumer complaint was received at the Board office which alleged that pharmacists employed at Palmer Drug had repeatedly dispensed two prescription medications, chlorpromazine 50mg (Thorazine 50mg) and doxepin hydrochloride 50mg (Sinequan 50mg), to a female patient without prescriber authorization between 1972 and 1986. It was further alleged that Richard H. Lee, M.D., had issued the original prescriptions for both medications but had not authorized continuous refills. The complaint was referred to Pharmacy Investigator E. Ray Shelden for investigation.

7. On April 3, 1991, the Board received a written statement and a copy of a patient medical record from Richard H. Lee, M.D. Dr. Lee stated that he had first seen the patient around 1971. The patient medical record indicated that Dr. Lee did not see the patient between 1976 and 1986. The patient medical record also indicated that Dr. Lee did not authorize prescriptions for the patient for chlorpromazine 50mg (Thorazine 50mg) or doxepin hydrochloride 50mg (Sinequan 50mg) between approximately 1976 and September 19, 1986.

8. On April 11, 1991, the Board received an investigative report from Pharmacy Investigator E. Ray Sheldon which indicates that Respondent and other pharmacists employed at Palmer Drug dispensed the prescription drugs chlorpromazine 50mg (Thorazine 50mg) and doxepin hydrochloride 50mg (Sinequan 50mg) in the following manner and during the following time period:

a. The patient alleges that on April 3, 1972, Richard H. Lee, M.D., issued her a prescription for chlorpromazine 50mg (Thorazine 50mg). The patient also alleges that on April 17, 1972, Richard H. Lee, M.D., issued her a prescription for doxepin hydrochloride 50mg (Sinequan 50mg). The patient states that after seeing Dr. Lee in April 1972 she did not see him again until 1986.

b. The patient alleges that the prescriptions for chlorpromazine 50mg (Thorazine 50mg) and doxepin hydrochloride 50mg (Sinequan 50mg) were repeatedly and continuously refilled by Respondent and other pharmacists employed at Palmer Drug from 1972 to 1986 without authorization from Richard H. Lee, M.D., or any other authorized prescriber.

c. Evidence produced by the patient indicates that Respondent and other pharmacists employed at Palmer Drug dispensed either doxepin hydrochloride 50mg (Sinequan 50mg) or chlorpromazine 50mg (Thorazine 50mg) on sixteen occasions in 1981, seventeen occasions in 1982, and ten occasions in 1984. The records purport that all of the prescriptions were issued by Richard H. Lee, M.D.

d. Prescription number 657154 obtained from Palmer Drug indicates that a prescription for 100 capsules of doxepin hydrochloride 50mg (Sinequan 50mg) was filled and dispensed to the patient on July 24, 1986. In addition, prescription number 657156 obtained from Palmer Drug indicates that a prescription for 120 tablets of chlorpromazine 50mg (Thorazine 50mg) was filled and dispensed to the patient on July 24, 1986. Pharmacy records from Palmer Drug indicate that prescription numbers 657154 and 657156 were purportedly issued by Richard H. Lee, M.D.

9. Respondent is guilty of violations of Iowa Code sections 155A.12(1), 155A.23(2), 155A.23(4), and 155A.29 by virtue of the information and allegations contained in paragraphs 6, 7, and 8.

Iowa Code section 155A.12 provides, in part, the following:

...The board shall refuse to issue a pharmacist license for failure to meet the requirements of section 155A.8. The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

1. Violated any provision of this chapter or any rules of the board adopted under this chapter.

Iowa Code section 155A.23 provides, in part, the following:

A person shall not:...

2. Willfully make a false statement in any prescription, report, or record required by this chapter.

....

4. Make or utter any false or forged prescription or written order.

Iowa Code section 155A.29 provides the following:

1. Except as specified in subsection 2, a prescription for any prescription drug or device which is not a controlled substance shall not be filled or refilled more than eighteen months after the date on which the prescription was issued and a prescription which is authorized to be refilled shall not be refilled more than eleven times.

2. A pharmacist may exercise professional judgment by refilling a prescription without prescriber authorization if all of the following are true:

- a. The pharmacist is unable to contact the prescriber after reasonable effort.

- b. Failure to refill the prescription might result in an interruption of therapeutic regimen or create patient suffering.

- c. The pharmacist informs the patient or the patient's representative at the time of dispensing, and the practitioner at the earliest convenience that prescriber reauthorization is required.

3. Prescriptions may be refilled once pursuant to subsection 2 for a period of time reasonably necessary for the pharmacist to secure prescriber authorization.

10. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(b), 9.1(4)(c), 9.1(4)(j), and 9.1(4)(u) by virtue of the information and allegations contained in paragraphs 6, 7, and 8.

657 Iowa Administrative Code section 9.1 provides, in part, the following:

4. The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

b. Professional incompetency. Professional incompetency includes but is not limited to:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the pharmacist's practice.

(2) A substantial deviation by a pharmacist from the standards of learning or skill ordinarily possessed and applied by other pharmacists in the state of Iowa acting in the same or similar circumstances.

(3) A failure by a pharmacist to exercise in a substantial respect that degree of care which is ordinarily exercised by the average pharmacist in the state of Iowa acting under the same or similar circumstances.

(4) A willful or repeated departure from, or the failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa.

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of pharmacy or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.

....  
j. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy.

....  
u. Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections 147.55, 155A.12 and 155A.15.

The Iowa Board of Pharmacy Examiners finds that paragraphs 9 and 10 constitute grounds for which Respondent's license to practice pharmacy in Iowa can be suspended or revoked.

**WHEREFORE**, the undersigned charges that Respondent has violated Iowa Code sections 155A.12(1), 155A.23(2), 155A.23(4), and 155A.29 and 657 Iowa Administrative Code sections 9.1(4)(b), 9.1(4)(c), 9.1(4)(j), and 9.1(4)(u).

**IT IS HEREBY ORDERED**, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that Charles G. Wiebke appear before the Iowa Board of Pharmacy Examiners on Thursday, November 21, 1991, at 10:00 a.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to suspend or revoke the license to practice pharmacy issued to Charles G. Wiebke on July 1, 1975, and take whatever additional action that they deem necessary and appropriate.

Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of his own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision may be rendered. The failure of Respondent to appear could result in the permanent suspension or revocation of his license.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department of Inspections and Appeals. The office of the Attorney General is responsible for the public interest in these proceedings.

Information regarding the hearing may be obtained from Lynette A. F. Donner, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-8760). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS

  
\_\_\_\_\_  
Lloyd K. Jessen  
Executive Secretary



7. Respondent's license to practice pharmacy is suspended for a period of thirty (30) days. The suspension is stayed however, and the Respondent's license is placed on probation for a period of one (1) year from the approval of this Stipulation and Informal Settlement. During the probationary period the Respondent shall:

a. Obey all federal and state laws and regulations substantially related to the practice of pharmacy.

b. Report to the Board or its designee quarterly. Said report shall be in person or in writing, as directed. The report shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time.

c. Provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.

d. Should Respondent cease to be self-employed, within fifteen (15) days of Respondent undertaking new employment, Respondent shall cause his employer to report to the Board in writing acknowledging the employer has read this document.

e. Not supervise any registered intern and shall not perform any of the duties of a preceptor.

8. Should Respondent leave Iowa to reside or practice outside this State, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the State shall not apply to reduction of the

probationary period.

9. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the stayed suspension. 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.

10. Respondent shall take and successfully pass the Iowa Drug Law Exam (IDLE) with a score of 75 percent, and the Federal Drug Law Exam (FDLE) with a score of 75, within the one (1) year probationary period after approval of this Stipulation and Informal Settlement. Respondent may take the exams a maximum of three (3) times each in the one year period. Failure to pass IDLE or FDLE within the one year period will be grounds to revoke probation and carry out the stayed suspension.

11. On or before January 1, 1993, Respondent shall pay a civil penalty in the amount of \$1000 by delivering a check made payable to the Treasurer of Iowa to the Executive Secretary of the Board. The check shall be deposited into the general fund.

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

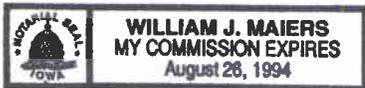
13. This Stipulation and Informal Settlement is subject to approval of the Board. If the Board approves this Stipulation and Informal Settlement, it becomes the final disposition of this matter. If the Board fails to approve this Stipulation and

Informal Settlement, it shall be of no force or effect to either party.

14. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 3<sup>RD</sup> day of JANUARY, 1992.

Charles G. Wiebke  
CHARLES G. WIEBKE  
Respondent

Signed and sworn to before me this 3 day of JANUARY, 1992.



William J. Maiers  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

Approved as to form:

William J. Maiers  
WILLIAM J. MAIERS  
Reynolds & Kenline  
Ste. 222 Fischer Bldg.  
P.O. Box 239  
Dubuque, Iowa 52004-0239

ATTORNEY FOR RESPONDENT

Lynette A. F. Donner  
LYNETTE A. F. DONNER  
Assistant Attorney General  
Iowa Department of Justice  
Second Floor, Hoover Bldg.  
Des Moines, Iowa 50319

ATTORNEY FOR THE  
PUBLIC INTEREST

15. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 14<sup>th</sup> day of January, 1992.

Melba L. Scaglione  
MELBA L. SCAGLIONE, Chairperson  
Iowa Board of Pharmacy Examiners

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Pharmacist License of	}	
<b>CHARLES G. WIEBKE</b>	}	<b>PETITION</b>
License No. 14610	}	<b>TO REVOKE</b>
Respondent	}	<b>PROBATION</b>
		<b>AND</b>
		<b>NOTICE OF HEARING</b>

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**COMES NOW**, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 8th day of December, 1992, and files this Petition to Revoke Probation and Notice of Hearing against Charles G. Wiebke, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Alan M. Shepley, Chairperson; Marian L. Roberts, Vice Chairperson; Donna J. Flower; Phyllis A. Olson; Arlan D. Van Norman; Phyllis A. Miller; and Ronald B. Reiff are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent was issued a license to practice pharmacy in Iowa on July 1, 1975, by examination.

3. Respondent's license is current until June 30, 1993.

4. Respondent is a self-employed pharmacist and part-owner of Palmer Drug located at 2600 Dodge Street, Dubuque, Iowa 52001.

5. A complaint and Statement of Charges and Notice of Hearing was filed against Respondent on September 5, 1991.

6. A Stipulation and Informal Settlement was approved on January 14, 1992. That agreement suspended Respondent's license for a period of thirty (30) days. The suspension was stayed, however, and Respondent's license was placed on probation for a period of one year, from January 14, 1992, to January 13, 1993.

7. The Stipulation and Informal Settlement also provided, in part, that during the probationary period the Respondent shall:

7(b). Report to the board or its designee quarterly. Said report shall be in person or in writing, as directed. The report shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time.

....

10. Respondent shall take and successfully pass the Iowa Drug Law Exam (IDLE) with a score of 75 percent, and the Federal Drug Law Exam (FDLE) with a score of 75, within the one (1) year probationary period after approval of this Stipulation and Informal Settlement. Respondent may take the exams a maximum of three (3) times each in the one year period. Failure to pass IDLE or FDLE within the one year period will be grounds to revoke probation and carry out the stayed suspension.

8. Respondent has failed to report to the board as specified in subparagraph 7(b) of the Stipulation and Informal Settlement.

9. Respondent has failed to take and pass the IDLE and FDLE within the one year probationary period as specified in paragraph 10 of the Stipulation and Informal Settlement.

10. Respondent is guilty of violating subparagraph 7(b) and paragraph 10 of the Stipulation and Informal Settlement by virtue of the information contained in paragraphs 8 and 9 of this Petition to Revoke Probation.

The Iowa Board of Pharmacy Examiners finds that paragraph 10 constitutes grounds for which Respondent's probation can be revoked and for which his license to practice pharmacy in Iowa can be suspended.

**IT IS HEREBY ORDERED,** pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that Respondent appear before the Iowa Board of Pharmacy Examiners on Monday, January 11, 1993, at 10:30 a.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to revoke Respondent's probation and to suspend his license to practice pharmacy issued on July 1, 1975, and take whatever additional action that they deem necessary and appropriate.

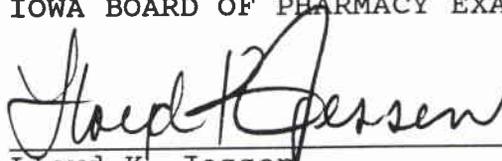
Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of his own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision may be rendered. The failure of Respondent to appear could result in the suspension of his license.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department

of Inspections and Appeals. The office of the Attorney General is responsible for the public interest in these proceedings.

Information regarding the hearing may be obtained from Lynette A. F. Donner, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-8760). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS

A handwritten signature in cursive script, appearing to read "Lloyd K. Jessen", written over a horizontal line.

Lloyd K. Jessen  
Executive Secretary/Director

BEFORE THE IOWA BOARD OF PHARMACY EXAMINERS

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RE: Pharmacist License of	)	DIA DOCKET NO. 92PHB-13
	)	
CHARGES G. WIEBKE	)	
License No. 14610	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

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TO: CHARLES G. WIEBKE

A Petition to Revoke Probation and Notice of Hearing was filed by Lloyd K. Jessen, Executive Secretary of the Iowa Board of Pharmacy Examiners (Board), on December 8, 1992. The Petition to Revoke Probation alleged that the Respondent had failed to comply with the terms of the Stipulation and Informal Settlement, approved January 14, 1992.

A hearing was held on January 11, 1993, at 10:45 a.m. The following members of the Board were present: Alan M. Shepley, Chairperson; Marian L. Roberts, Vice Chairperson; Phyllis A. Olson; Arlan D. Van Norman; and Phyllis A. Miller. Lynnette Donner, Assistant Attorney General, appeared on behalf of the State. The Respondent, Charles B. Wiebke, appeared and was not represented by counsel. Present also were members of the staff of the Board and a court reporter. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided. The hearing was closed to the public at the request of the Respondent, pursuant to Iowa Code section 258A.5(1). After hearing the testimony and examining the exhibits the Board convened in closed executive session pursuant to Iowa Code section 21.5(1)"f" (1991) to deliberate. The undersigned administrative law judge was instructed to prepare this Board's Order.

THE RECORD

The record in this case includes the Petition to Revoke Probation and Notice of Hearing, the testimony of the witnesses, and the following exhibits:

Exhibit A: Stipulation and Informal Settlement approved January 14, 1992.

Exhibit B: Complaint and Statement of Charges and Notice of Hearing issued September 5, 1991.

FINDINGS OF FACT

1. Respondent was issued a license to practice pharmacy in Iowa on July 1, 1975, by examination. Respondent's license is current until June 30, 1993. Respondent is a self-employed pharmacist and

part owner of Palmer Drug located at 2600 Dodge Street, Dubuque, Iowa 52001. (official file)

2. A Complaint and Statement of Charges and Notice of Hearing was filed against the Respondent on September 5, 1991. It alleged that the Respondent repeatedly dispensed two noncontrolled prescription drugs to a female patient between 1976 and 1986, without physician authorization. (testimony of Lloyd Jessen; Exhibit B)

3. A Stipulation and Informal Settlement was approved on January 14, 1992. That agreement suspended Respondent's license for a period of thirty (30) days. The suspension was stayed and Respondent's license was placed on probation for a period of one year, from January 14, 1992 to January 13, 1993. (testimony of Lloyd Jessen; Exhibit A)

4. The Stipulation and Informal Settlement also provided, in part, that during the probationary period the Respondent shall:

7(b). Report to the Board or its designee quarterly. Said report shall be in person or in writing, as directed. The report shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time.

• • •

10. Respondent shall take and successfully pass the Iowa Drug Law Exam (IDLE) with a score of 75 percent, and the Federal Drug Law Exam (FDLE) with a score of 75, within the one (1) year probationary period after approval of this Stipulation and Informal Settlement. Respondent may take the exams a maximum of three (3) times each in the one year period. Failure to pass IDLE or FDLE within the one year period will be grounds to revoke probation and carry out the stayed suspension.

(testimony of Lloyd Jessen; Exhibit A)

5. Respondent has failed to report to the Board as specified in subparagraph 7(b) of the Stipulation and Informal Settlement. The Respondent testified that he had "overlooked" this requirement. (testimony of Lloyd Jessen, Respondent)

6. Respondent has failed to take and pass the IDLE and FDLE within the one year probationary period as specified in paragraph 10 of the Stipulation and Informal Settlement. The Respondent is now registered to take the exams on January 27, 1993. The Respondent could have taken the IDLE any month during his probation. The Respondent could have taken the FDLE in June or September. The Respondent states that his partner took the exam in June, and both of them could not afford to be absent from the pharmacy at the same time. The Respondent claims that he forgot

about the exam until late August, and when he called to register for the September exam was told that he was too late. Respondent admits that he did not ask to speak to the Board's Executive Secretary when he attempted to register for the September exam. (testimony of Lloyd Jessen, Respondent)

7. The Respondent has failed to comply with paragraphs 7(b) and 10 of the Stipulation and Informal Settlement.

#### CONCLUSIONS OF LAW

657 IAC 9.1(4)(i) provides in relevant part:

9.1(4) The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board determines that the licensee or registrant is guilty of the following acts or offenses:

• • •

i. Willful or repeated violations of the provisions of Iowa Code chapter 147. Willful or repeated violations of this Act include but are not limited to a pharmacist intentionally or repeatedly violating . . . a lawful order of the board in a disciplinary hearing . . .

The preponderance of the evidence established that the Respondent repeatedly violated a lawful order of the Board imposing licensee discipline, in violation of 657 IAC 9.1(4)(i).

#### DECISION AND ORDER

THEREFORE, it is the order of the Iowa Board of Pharmacy Examiners that License Number 14610 issued to the Respondent, Charles G. Wiebke, shall be suspended for a period of ninety (90) days. However, all but thirty (30) days of the suspension shall be stayed, and the license placed on probation for a period of one (1) year, subject to the following terms and stipulations:

a. The thirty day suspension of Respondent's license shall commence on January 27, 1993. The Respondent shall surrender his license and wallet registration card when he appears for the FDLE and IDLE examinations on January 27, 1993.

b. During the suspension, the Respondent is prohibited from performing judgmental functions which cannot be delegated to staff assistants, which include, but are not limited to, the following:

(1) Read and interpret the prescription of a duly licensed medical practitioner, whether transmitted to the pharmacist by writing or orally.

- (2) Ensure the accuracy of the ingredients when measured or compounded as specified by the medical practitioner.
  - (3) Ensure adequate label directions as are necessary to assure the patient's understanding of the prescriber's intentions.
  - (4) Ensure the validity of written or oral prescriptions as to their source of origin.
  - (5) Review and assessment of patient records for purposes identified in rule 657-8.19(155A).
  - (6) Patient counseling.
- (657 IAC 8.1)

c. Within thirty days of the date of this Order, Respondent shall pay a civil penalty of \$1,000.00 by delivering a check made payable to the Treasurer of Iowa to the Executive Secretary of the Board. The check shall be deposited into the general fund.

d. Respondent shall take and successfully pass the Iowa Drug Law Exam (IDLE) with a score of 75 percent, and the Federal Drug Law Exam (FDLE) with a score of 75, by January 11, 1994. Respondent may take the exams a maximum of three (3) times each in the one-year period. Failure to pass IDLE or FDLE within the one-year period will be grounds to revoke probation and carry out the stayed suspension.

e. The Respondent shall report to the Board or its designee quarterly. Said report shall be in writing. The report shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time.

f. The Respondent shall inform his partner and the pharmacist-in-charge of the contents of this Order. Should Respondent cease to be self-employed, within fifteen (15) days of Respondent undertaking new employment, Respondent shall cause his employer to report to the Board in writing acknowledging the employer has read this document.

g. The Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.

h. The Respondent shall not supervise any registered intern and shall not perform any of the duties of a preceptor.

i. The Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.

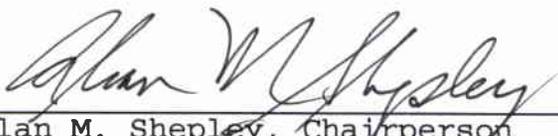
j. Should Respondent leave Iowa to reside or practice outside this State, Respondent shall notify the Board in

writing of the dates of departure and return. Periods of residency or practice outside the State shall not apply to reduction of the probationary period.

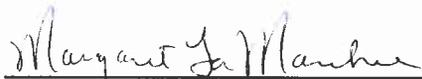
k. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the stayed suspension. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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

Dated this 22<sup>ND</sup> day of JANUARY, 1993



Alan M. Shepley, Chairperson  
Iowa Board of Pharmacy Examiners



Margaret LaMarche  
Administrative Law Judge

ML/jmm

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

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Re: )  
Pharmacist License of )  
**CHARLES G. WIEBKE** ) **STATEMENT OF CHARGES**  
License No. 14610 )  
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 (1999).
3. On July 1, 1975, the Board issued Respondent, Charles G. Wiebke, a license to engage in the practice of pharmacy by examination as evidenced by license number 14610, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 14610 is current and active until June 30, 2001.
5. Respondent's current address is 17251 Cinnamon Drive, Dubuque, Iowa 52001.
6. Respondent is currently employed as the pharmacist in charge of Union Family Pharmacy, 2541 Central Avenue, Dubuque, Iowa 52001, and has been employed as such during all times relevant to this statement of charges.

COUNT I

The Respondent is charged under Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code §§ 8.18, 36.1(4)(b)(4) with failing to obtain and record patient information, including the patient's age or date of birth, known drug allergies, drug reactions, idiosyncrasies, chronic conditions or disease states, and the identity of any other drugs currently being used by the patient .

COUNT II

The Respondent is charged under Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code §§ 6.2 & 8.19 with failure to ensure that pharmacists working under his

supervision perform prospective drug review.

### COUNT III

The Respondent is charged under Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code §§ 8.18, 36.1(4)(b)(4) with failing to provide adequate patient counseling as specified in rule 657 Iowa Administrative Code § 8.20.

### COUNT IV

The Respondent is charged under Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code §§ 6.2(1)(a) & (b), 8.20, 36.1(4)(b)(4) with failure to ensure that pharmacists working under his supervision provide adequate patient counseling as specified in rule 657 Iowa Administrative Code § 8.20.

### THE CIRCUMSTANCES

1. On June 15, 1999, as part of a shopper survey conducted by the Board, the Respondent was presented with new prescription drug orders by a prospective patient.
2. The Respondent asked the patient for information relating to his allergies, his date of birth, his insurance, and other demographic information, but did not ask him about any other for other prescription or over the counter drugs he was taking.
3. When the patient picked up the new prescriptions he was not counseled by a pharmacist, and the written materials he was provided did not advise the patient that the pharmacist may be contacted for consultation in person at the pharmacy by toll-free number or a collect telephone call.
4. Respondent is the Pharmacist in Charge at Union Family Pharmacy in Dubuque, Iowa.
5. During the shopper survey conducted at Union Family Pharmacy on June 15 and 16, 1999, Board investigators discovered that the pharmacists at the pharmacy have not been collecting information about other prescription and over the counter drugs a patient is taking, making it difficult for pharmacists at the pharmacy to conduct prospective drug review of the therapeutic appropriateness of the patient's drug therapy as required by Board rule 8.19.
6. During the shopper survey conducted at Union Family Pharmacy on June 15 and 16, 1999 Board investigators discovered that the pharmacists at the pharmacy do

not routinely provide oral counseling to patients receiving new prescriptions and the pharmacy's practice has been to include information about contacting the pharmacist for consultation only on written information provided to patients receiving prescriptions by mail.

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 16<sup>th</sup> day of July, 1999, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.

  
Arlan D. VanNorman, Chairperson  
Iowa Board of Pharmacy Examiners  
1209 East Court Avenue  
Des Moines, Iowa 50319

cc: Shauna Russell Shields  
Assistant 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:	)	
Pharmacist License of	)	
<b>CHARLES G. WIEBKE</b>	)	<b>STIPULATION</b>
License No. 14610	)	<b>AND</b>
Respondent	)	<b>CONSENT ORDER</b>
	)	

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COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Charles G. Wiebke, R.Ph. (“Respondent”) and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (1999), enter into the following Stipulation and Consent Order settling the contested case currently on file:

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 July 16, 1999, 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 practice pharmacy in Iowa on the first day of July, 1975, by examination as evidenced by Pharmacist License Number 14610, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 14610, issued to and held by Respondent is active and current until June 30, 2001.

3. Respondent is currently employed as a pharmacist at Union Family Pharmacy, 2541 Central Avenue, Dubuque, Iowa 52001, and has been employed as such during all times relevant to this case.
4. A Statement of Charges was filed against Respondent on July 16, 1999.
5. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
6. This Stipulation and Consent Order is entered into in order to resolve disputed claims and constitutes no admission on the part of the Respondent.
7. Respondent's license shall be placed on probation for six (6) months, with the following conditions, beginning on the date this Stipulation and Consent Order is accepted by the Board:
  - a. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent will provide his *typewritten* policies and procedures for the following: (a) obtaining, recording, and maintaining patient information, (b) patient counseling, and (c) prospective drug use review. The typewritten policies and procedures shall relate to Respondent's practice of pharmacy in his current work setting. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures whenever engaging in the practice of pharmacy.
  - b. Within six (6) months of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall complete continuing

pharmacy education (CPE) or other formal, structured education in (1) patient counseling and (2) prospective drug use review. The education shall be *not less than* three hours in length on patient counseling and *not less than* three hours in length on prospective drug use review. The education shall be pre-approved by the Board. Documentation of satisfactory completion of the education shall be submitted to the Board. This education is in addition to the thirty (30) hours of continuing pharmacy education required every two years for license renewal.

- c. During probation, Respondent shall inform the Board in writing within ten (10) days of any change of home address, place of employment, home telephone number, or work telephone number.
  - d. During probation, Respondent shall report to the Board or its designee quarterly. Said report shall be in writing. The report shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time.
8. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
9. Respondent shall notify all present employers and prospective employers (no later than at the time of an interview), including the pharmacist-in-charge, of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. Within thirty (30) days after approval of this Stipulation and Consent Order by the Board, and within fifteen (15) days of

undertaking new employment as a pharmacist, Respondent shall cause his pharmacy employer and the pharmacist-in-charge that he works under to report to the Board in writing acknowledging that the employer and the pharmacist-in-charge have read this document and understand it.

10. 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 the Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.1.
11. 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.
12. 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.
13. 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.
14. The Board's approval of this Stipulation and Consent Order shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

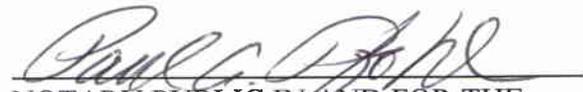
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15. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 17 day of August, 1999.

  
CHARLES G. WIEBKE, R.Ph.  
Respondent

Subscribed and sworn to before me by Charles G. Wiebke on this 17 day of August, 1999.



  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

16. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 15<sup>th</sup> day of Sept., 1999.

  
ARLAN D. VAN NORMAN, Chairperson  
Iowa Board of Pharmacy Examiners  
Executive Hills West  
1209 East Court Avenue  
Des Moines, Iowa 50319

cc: Shauna Russell Shields  
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:	)	Case No. 2003-71
Pharmacist License of	)	
<b>CHARLES G. WIEBKE</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 14610	)	
Respondent	)	

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**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 147, 155A and 272C (2003).
3. On July 1, 1975, the Board issued Respondent, Charles G. Wiebke, by examination, a license to engage in the practice of pharmacy as evidenced by license number 14610, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's pharmacist license is current and active until June 30, 2005.
5. Respondent's current address is 17281 Cinnamon Road, Dubuque, Iowa 52001.
6. Respondent was employed as the pharmacist in charge at Union Family Pharmacy, Dubuque, Iowa, and had been employed as such during all times relevant to this statement of charges.

**COUNT I**

Respondent is charged under Iowa Code §§ 124.308(3), 124.402(1)(a), 155A.15(2)(c) and 155A.15(2)(d) and (h) (2003), and 657 Iowa Administrative Code §§ 6.2, 6.7 and 36.1(4)(u) with failing to maintain accurate control over and accountability for drugs, including controlled substances, at Union Family Pharmacy.

**COUNT II**

Respondent is charged under Iowa Code § 155A.15(2)(i) (2003) and 657 Iowa Administrative Code §§ 6.2(1)(a) and (b), 10.15, and 36.1(4)(u) with a failure to establish

effective controls against diversion of prescription drugs and failure to provide adequate security at Union Family Pharmacy.

#### COUNT III

Respondent is charged under Iowa Code § 155A.15(2)(d) with delivering prescription drugs to persons without proper legal authorization.

#### COUNT IV

Respondent is charged under Iowa Code § 155A.15(2)(h) with failing to keep and maintain records as required by the Controlled Substances Act.

#### COUNT V

Respondent is charged under Iowa Code § 155A.4(1) with allowing non-pharmacists to dispense prescription drugs.

#### COUNT VI

Respondent is charged under Iowa Code § 155A.33 with delegating inappropriate functions to pharmacy technicians and with failing to properly supervise appropriate dispensing functions that are performed by pharmacy technicians.

#### COUNT VII

Respondent is charged under Iowa Code § 155A.35 with failing to maintain complete patient records.

#### COUNT VIII

Respondent is charged under Iowa Code § 205.3 and 657 I.A.C. § 8.19 with failing to ensure that prescription drug orders have been issued for a legitimate medical purpose by an authorized practitioner acting in the usual course of the practitioner's professional practice.

COUNT IX

Respondent is charged under 657 I.A.C. § 8.11(5) with unethical conduct by participating in an agreement or arrangement with Pharmacom LLC/buymeds.com involving fee splitting or special charges in exchange for professional pharmaceutical services as compensation or inducement for placement of business or solicitation of patronage with Union Family Pharmacy.

COUNT X

Respondent is charged under 657 I.A.C. § 8.19 with failing to comply with requirements for the issuance of a prescription drug order, including verification of the order.

COUNT XI

Respondent is charged under 657 I.A.C. § 8.21 with failing to provide adequate prospective drug use review.

COUNT XII

Respondent is charged under 657 I.A.C. § 36.1(4)(j) and 21 C.F.R. § 1306.04 with allowing other pharmacists at Union Family Pharmacy to fill Internet prescriptions for controlled substances that were not issued in the usual course of professional treatment and as such were not prescriptions within the meaning and intent of § 309 of the Controlled Substances Act (21 U.S.C. 829).

COUNT XIII

Respondent is charged under 657 I.A.C. § 36.1(4)(j), 21 C.F.R. § 1306.05 and 657 I.A.C. 10.21(1) with allowing other pharmacists at Union Family Pharmacy to fill Internet prescriptions that were not prepared in the form prescribed by Federal regulations.

COUNT XIV

Respondent is charged under Iowa Code § 155A.31 with failing to maintain an adequate pharmacy reference library at Union Family Pharmacy.

COUNT XV

Respondent is charged under 657 I.A.C. §§ 3.17, 6.2(14), and 22.1(2)(b) with failing to establish and implement required written policies and procedures at Union Family Pharmacy.

### THE CIRCUMSTANCES

On or about September 9, 2003, an investigation of Union Family Pharmacy was commenced, which produced the following information:

1. An accountability audit of controlled substances at Union Family Pharmacy has revealed shortages of certain controlled substances.
2. An investigation of Union Family Pharmacy has revealed that it became a fulfilling pharmacy for an Internet website known as buymeds.com. As a fulfilling pharmacy for buymeds.com, Union Family Pharmacy retrieved prescription drug orders from an online location, filled the orders, and shipped medication to consumers throughout the United States.
3. Union Family Pharmacy shipped medication for buymeds.com to consumers located in at least 47 U.S. states. Union Family Pharmacy was not licensed as a pharmacy in any state except Iowa. Currently, approximately 43 of 53 U.S. states and jurisdictions require licensure of nonresident pharmacies such as Union Family Pharmacy.
4. The Internet website, buymeds.com, is registered to Pharmacom LLC, PMB 365 9100 Port of Sale, Suite 2, St. Thomas, Virgin Islands 00802. Pharmacom LLC is not a pharmacy and is not licensed as such in any state, including Iowa. Pharmacom LLC recruits licensed pharmacies to fulfill orders that they solicit over the Internet. Neither Pharmacom LLC or buymeds.com are VIPPS-certified. VIPPS stands for Verified Internet Pharmacy Practice Site. Currently there are only 14 VIPPS-certified pharmacies in the United States.
5. Pharmacom LLC is a processor of prescriptions. It represents itself to the public on its website homepage as "Your Private, Secure, and Convenient Online Pharmacy for FDA approved prescription medications." The website offers "Free Medical Consultancy."
6. Pharmacom LLC recruits "affiliates" who agree to provide sponsoring websites that help drive business for the company. Such links direct potential customers to Pharmacom's website. The buymeds.com affiliate agreement program pays affiliates a fee for every new customer plus a percent of all sales, including product refills.
7. On or about August 19, 2003, Union Family Pharmacy became a fulfilling

pharmacy for buymeds.com and began shipping prescription drugs, including controlled substances, to customers throughout the U.S. Union Family Pharmacy has indicated to the Board that the reason for the change to this vendor was “to be able to dispense a larger volume of prescriptions.”

8. Beginning August 19, 2003, Union Family Pharmacy dispensed approximately 4,750 Internet prescriptions as follows:

- |                          |                          |
|--------------------------|--------------------------|
| • August 19, 2003: 82    | • September 2, 2003: 241 |
| • August 20, 2003: 440   | • September 3, 2003: 200 |
| • August 21, 2003: 284   | • September 4, 2003: 197 |
| • August 24, 2003: 463   | • September 5, 2003: 289 |
| • August 27, 2003: 105   | • September 6, 2003: 425 |
| • August 28, 2003: 102   | • September 7, 2003: 584 |
| • August 29, 2003: 190   | • September 8, 2003: 489 |
| • September 1, 2003: 354 | • September 9, 2003: 205 |

Some of the Internet prescriptions filled between August 20, 2003 and August 29, 2003, originated from another website known as “Medical Web Services,” Union Family Pharmacy first began filling Internet prescriptions for Medical Web Services in March 2003. Medical Web Services is the parent company to a conglomeration of online sites that offer prescription drugs. The domain address for Medical Web Services is 440 Sawgrass Corporate Parkway, Suite 210, Sunrise, Florida 33325. Union Family Pharmacy filled prescriptions for Medical Web Services in a manner similar to the way in which it filled prescriptions for Pharmacom LLC and buymeds.com. On May 21, 2003, the Board received a complaint from a consumer who alleged that Respondent refused to provide her with a receipt for an Internet prescription that she had received from Union Family Pharmacy via Medical Web Services.

9. Four of the buymeds.com Internet prescriptions were filled for residents of Iowa: #60 Hydrocodone/APAP 7.5/750 for “BJ” of Davenport, Iowa; #60 Hydrocodone/APAP 5.0/500 for “RT” of Nevada, Iowa; #60 Diazepam 10mg for “IP” of Ames, Iowa; and #60 Acetaminophen with Codeine 60mg for “RB” of LeClaire, Iowa.
10. Nearly all of the Internet prescriptions were for Schedule III and Schedule IV controlled substances. The most commonly dispensed Schedule III controlled substance was Hydrocodone. The most commonly dispensed Schedule IV controlled substance was Phentermine. Quantities dispensed were typically 60 or more per prescription.
11. Most, if not all, of the buymeds.com prescriptions were approved electronically by four physicians licensed in Florida: Armando Angulo, MD, Hialeah, Florida;

Mario R. Avello, MD, Coral Gables, Florida; Carlos M. Barrera, MD, Miami, Florida; and Mario A. Diaz, MD, Hialeah, Florida. None of these prescriptions identified the date the prescriber approved them.

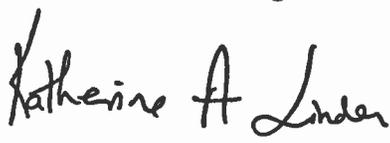
12. To the Complainant's information and belief, all of these Internet prescriptions were based solely upon an electronic questionnaire. There was no pre-existing patient-prescriber relationship between the purchasers and these four prescribers. There was no in-person physical examination of any of the purchasers prior to the prescribing of any of the medications. Purchasers were not seen or contacted by the prescribers. To the Complainant's information and belief, there was no telephone consultation between any of the purchasers and the prescribers. As a result, there was no valid patient-prescriber relationship for any of the Internet prescriptions for controlled substances which were dispensed by Union Family Pharmacy between August 19 and September 9, 2003.
13. Respondent and Union Family Pharmacy utilized pharmacy technicians to dispense these Internet prescriptions and other prescriptions. Respondent and the pharmacy delegated inappropriate functions to the technicians and failed to properly supervise the appropriate functions they performed. Respondent and the pharmacy also failed to ensure that pharmacists verified filled prescriptions before dispensing the prescriptions to purchasers.
14. Respondent and Union Family Pharmacy failed to provide proper security for prescription drugs and controlled substances stored and handled in the dispensing areas.
15. Respondent and Union Family Pharmacy failed to comply with Board rules pertaining to the electronic transmission of prescriptions, sales of Schedule V controlled substances, pharmacy record keeping requirements, required pharmacy references, and failed to report an apparent theft or loss of controlled substances.
16. Numerous inspections of Union Family Pharmacy conducted between 1992 and 2003 have revealed that Respondent and the pharmacy have repeatedly failed to comply with the minimum standards for the practice of pharmacy and the operation of a pharmacy, including but not limited to the requirements for: patient information, prescription records, pharmacy record keeping, pharmacy policies and procedures, prospective drug utilization review, patient counseling, final verification of filled prescriptions, utilization of pharmacy technicians, security of prescription drugs, electronic transmission of prescriptions, sales of Schedule V controlled substances, pharmacy references, pharmacist logs, advertising, theft or loss of prescription drugs, and delivery and mailing of prescriptions.
17. The Board has received numerous complaints regarding Respondent, including allegations of dispensing errors, record keeping errors, dispensing prescription

drugs without prescriber authorization, and violating numerous pharmacy laws and board rules relating to minimum standards for the practice of pharmacy and the operation of a pharmacy in Iowa. In 1991 Respondent received an administrative warning from the Board. Following that, he was formally charged and disciplined by the Board in 1992, 1993, and 1999. In 1995 he pled guilty in Iowa District Court for Dubuque County to dispensing a prescription drug while performing the duties of a pharmacist without first obtaining a proper prescription.

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 17<sup>th</sup> day of November 2003, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.

  
Katherine A. Linder, 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

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

---

Re:	)	Case No. 2003-71
Pharmacist License of	)	
<b>CHARLES G. WIEBKE</b>	)	<b>EMERGENCY ORDER</b>
License No. 14610	)	
Respondent	)	

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**I. JURISDICTION**

Respondent Charles G. Wiebke possesses pharmacist license number 14610, issued by the Iowa Board of Pharmacy Examiners (hereinafter "Board"). The Board has jurisdiction over pharmacist licensees pursuant to Iowa Code Chapters 147, 155A and 272C (2003).

A Statement of Charges was filed against Respondent on November 6, 2003. After receipt and review of the Statement of Charges, and careful review of evidence relating to the practices of Respondent, the Board has adopted the following Findings of Fact and Conclusions of Law.

**II. FINDINGS OF FACT**

1. Effective June 2, 2003, the Board renewed Respondent's pharmacist license number 14610, allowing Respondent to continue to engage in the practice of pharmacy subject to the laws of the State of Iowa and the rules of the Board.
2. Respondent served as pharmacist in charge of Union Family Pharmacy at 2541 Central Avenue, Dubuque, Iowa, until September 12, 2003, when Union Family Pharmacy was closed by Order of the Board.
3. Since September 9, 2003, the Board has been conducting an ongoing investigation of Union Family Pharmacy and Respondent, which has revealed that Respondent has failed to

comply with the minimum standards for the practice of pharmacy in the State of Iowa and has, thereby, placed patients at high risk for harm.

4. The Board finds that the evidence assembled during the ongoing investigation of Union Family Pharmacy and Respondent supports the November 6, 2003, Statement of Charges against Respondent. The Board finds that Respondent has violated the provisions of Iowa Code Chapter 124 and 155A, Chapter 657 of the Iowa Administrative Code, and 21 Code of Federal Regulations in the manner alleged in the Statement of Charges.

5. The Board finds that the public health, safety and welfare was endangered by Respondent when he served as pharmacist in charge of Union Family Pharmacy and engaged in the following illegal/unethical activities at Union Family Pharmacy:

a. Respondent dispensed controlled substances and prescription drugs in an illegal and improper manner, which placed patients at high risk for harm due to failure to meet the minimum standards for the practice of pharmacy.

b. Respondent dispensed controlled substances and prescription drugs without complete patient information, including a patient's known allergies; known drug reactions; known chronic conditions or disease states; and the identity of any other drugs, over-the-counter drugs, herbals, other alternative medicines, or devices currently being used by a patient.

c. Respondent dispensed controlled substances and prescription drugs without adequate prospective drug utilization review and thereby failing to identify drug overutilization or underutilization; therapeutic duplication; drug-disease contraindication; drug-drug interaction; incorrect drug dosage; incorrect duration of drug treatment; drug-

allergy interaction; clinical abuse/misuse; and drug-prescriber contraindication.

d. Respondent failed to provide oral patient counseling on new prescriptions.

e. Respondent failed to provide and document the final verification for the accuracy, validity, completeness, and appropriateness of a patient's prescription prior to the delivery of the medication to patients.

f. Respondent failed to ensure that all prescription drug orders had been issued for a legitimate medical purpose by an authorized practitioner acting in the usual course of the practitioner's professional practice.

g. Respondent failed to verify and ensure the legitimacy of the prescriber-patient relationship prior to dispensing prescription drugs.

h. Respondent failed to take adequate measures to guard against the diversion of prescription drugs and controlled substances.

i. Respondent failed to comply with pharmacy licensing requirements of other U.S. jurisdictions prior to delivering prescription drugs to residents of other U.S. jurisdictions.

j. Respondent failed to properly supervise pharmacy technicians and other supportive personnel in compliance with Iowa pharmacy laws and Board rules.

k. Respondent failed to ensure that all pharmacy technicians wear a visible name badge while on duty that clearly identifies the individual as a pharmacy technician.

l. Respondent failed to ensure that the pharmacy employed an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy.

- m. Respondent failed to require the minimum standards for security of a prescription department.
- n. Respondent failed to verify the authenticity, including source of origin, of electronically transmitted prescription drug orders.
- o. Respondent failed to comply with the minimum standards for electronic transmission of prescriptions, which currently prohibit computer-to-computer transmission of controlled substance prescriptions.
- p. Respondent failed to ensure that electronically transmitted prescription drug orders identified the transmitter's telephone number for verbal confirmation, the time and date of transmission, and the pharmacy intended to receive the transmission.
- q. Respondent failed to comply with requirements for sales without a prescription of Schedule V controlled substances.
- r. Respondent failed to comply with pharmacy record keeping requirements.
- s. Respondent failed to ensure that an electronically transmitted prescription drug orders were properly signed with a valid electronic signature.
- t. Respondent failed to maintain current pharmacy references.
- u. Respondent failed to provide complete and proper documentation for all processed prescription drug orders.
- v. Respondent failed to maintain a permanent log of the unique initials or identification codes, which identify by name each pharmacist and pharmacy technician involved in dispensing processes.

w. Respondent failed to comply with the prohibition against advertising of controlled substances, including pricing.

x. Respondent failed to report a significant loss or theft of controlled substances.

y. Respondent failed to ensure that all prescription drug orders for controlled substances comply with federal and state requirements pertaining to form.

z. Respondent failed to conform to the minimal standard of acceptable and prevailing practice of pharmacy in Iowa and failed to adhere to the minimum standards of learning or skill ordinarily possessed and applied by other pharmacists in the State of Iowa acting in the same or similar circumstances.

6. The Board further finds that the public health, safety and welfare were endangered by Respondent's failure to control access to prescription drugs, including controlled substances.

7. The Board finds that immediate, emergency action must be taken because to allow Respondent to return to the practice of pharmacy at Union Family Pharmacy—despite the presence of new ownership—as either the pharmacist in charge or as a staff pharmacist or pharmacy technician or clerk, would endanger the public health, safety and welfare because Respondent would be likely to return to the illegal and unsafe distribution of controlled substances and prescription drugs to members of the public. This finding is based on the following factors:

a. Respondent has a long history of noncompliance with pharmacy laws, rules, and regulations.

b. In 1991 Respondent was issued an administrative warning for a serious

dispensing error.

- c. In 1992 Respondent was disciplined for dispensing medications without prescriber authorization.
- d. In 1993 Respondent was disciplined for violating the terms of his probation.
- e. In 1995 Respondent pled guilty in Iowa District Court for Dubuque County to dispensing a prescription drug while performing the duties of a pharmacist without first obtaining a proper prescription.
- f. In 1997 Respondent was allegedly involved in another dispensing error that harmed a patient.
- g. In 1999 Respondent was disciplined for violating board rules relating to patient records, prospective drug utilization review, and patient counseling.
- h. In 2000 Respondent allegedly failed to correct repeated errors in prescription records at Union Family Pharmacy.
- i. In 1992, 1995, 1996, 1999, 2001, and 2003, inspections of Union Family Pharmacy revealed that Respondent, as pharmacist in charge, repeatedly failed to comply with the minimum standards for the practice of pharmacy and the operation of a pharmacy in Iowa. In particular, Respondent repeatedly failed to comply with the duties of a pharmacist in charge as currently set forth in 657 Iowa Administrative Code § 6.2.
- j. Although Union Family Pharmacy may soon reopen under new ownership, it will remain in the same location, serve the same patients, employ much

the same support staff including pharmacy technicians and clerks, and reference the same computer information that was created and utilized by Respondent in his role as pharmacist in charge of Union Family Pharmacy prior to September 12, 2003. That prescription information in the pharmacy computer system is now considered null and void and may only be used as reference information for obtaining new prescriptions from prescribers.

Given the Respondent's long history of failing to comply with pharmacy laws and rules, and his long history of failing to obtain proper prescriber authorization for all prescriptions dispensed, it is highly unlikely that he would return to the Union Family Pharmacy location in any employment capacity and comply with all pharmacy laws and rules. It is also highly unlikely that he could, without extensive supervision and monitoring, perform the duties of the pharmacist in charge at any Iowa-licensed pharmacy and remain in compliance with all pharmacy laws and rules.

8. The Board finds that the minimum emergency action needed to protect the public health, safety and welfare is the issuance of an Order immediately prohibiting Respondent from working as the pharmacist in charge at any Iowa-licensed pharmacy and from working as the pharmacist in charge, a staff pharmacist, a pharmacy technician or in any other capacity at the Union Family Pharmacy location.

### **III. CONCLUSIONS OF LAW**

Respondent has practiced pharmacy at the Union Family Pharmacy location in violation of the provisions of 21 Code of Federal Regulation sections 1306.04 and 1306.05, Iowa Code sections 124.304(1)(d), 124.308(3), 124.402(1)(a), 155A.4(1), 155A.15, 155A.33, 155A.35, 205.3, and Chapter 657 of the Iowa Administrative Code.

The provisions of Iowa Code § 17A.18A (2003) permit the Board of Pharmacy Examiners to take emergency action to protect the health, safety and welfare of the public. A basis for emergency action against Respondent, pursuant to the provisions of the Iowa Code, has been established by the findings of fact adopted above.

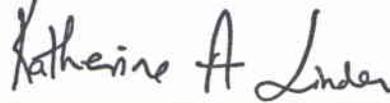
### **IV. ORDER**

The Board ORDERS as follows:

- a. Immediate restriction of pharmacist license number 14610, issued to Charles G. Wiebke, prohibiting him from working as the pharmacist in charge at the Union Family Pharmacy location in Dubuque, Iowa, and further prohibiting him from working there in any other capacity.
- b. Immediate restriction of pharmacist license number 14610, issued to Charles G. Wiebke, prohibiting him from working as the pharmacist in charge of any Iowa-licensed pharmacy.

c. Hearing on this Emergency Order and the Statement of Charges, which has been filed concurrently with this Order, shall be held on December 2, 2003, at 9:00 a.m., and will be held at the Iowa Board of Pharmacy Examiners' office located at 400 SW Eighth Street, Suite E, Des Moines, Iowa 50309-4688.

IT IS SO ORDERED this 17<sup>th</sup> day of November 2003.



Katherine A. Linder  
Katherine A. Linder, 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

39a Charles G. Wiebke EO

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

---

Re:	)	<b>ORDER</b>
Pharmacist License of	)	<b>ACCEPTING</b>
<b>CHARLES G. WIEBKE</b>	)	<b>SURRENDER OF</b>
License No. 14610	)	<b>PHARMACIST LICENSE</b>

---

**COMES NOW**, Michael J. Seifert, Chairperson of the Iowa Board of Pharmacy Examiners, on the 15<sup>th</sup> day of February, 2005, and declares that:

1. On January 31, 2005, Respondent executed a voluntary surrender of his pharmacist license number 14610.

3. On February 15, 2005, the Board reviewed Respondent's voluntary surrender of his pharmacist license and agreed to accept it.

**WHEREFORE**, it is hereby ordered that Respondent's voluntary surrender of his Iowa pharmacist license number 114610 is hereby accepted.

IOWA BOARD OF PHARMACY EXAMINERS

  
\_\_\_\_\_  
MICHAEL J. SEIFERT, Chairperson

## VOLUNTARY SURRENDER OF PHARMACIST LICENSE

I, Charles G. Wiebke resident of Dubuque, Iowa, of my own free will and without any mental reservation and not as a result of any inducement, promise or threat on the part of anyone, do hereby voluntarily surrender my State of Iowa pharmacist license, number 14610 to the Iowa Board of Pharmacy Examiners, for an indefinite period of time. This surrender of license shall become effective upon my notarized signature being affixed to this voluntary surrender document.

I, Charles G. Wiebke, of my own free will and without any mental reservation and not as a result of any inducement, promise or threat by any representative, officer, or employee of the Iowa Board of Pharmacy Examiners, or by any other state official, do hereby further acknowledge that by signing this surrender statement I am knowingly and willingly giving up my right to exercise the following legal rights relating to proceedings pending before the Iowa Board of Pharmacy Examiners:

- (1) My right to a formal hearing before the Iowa Board of Pharmacy Examiners regarding potential discipline or discontinuance of my license to practice as a pharmacist, issued pursuant to Iowa Code Chapter 155A (2003).
- (2) My right to be represented by an attorney in preparation for and during such formal hearing before the Iowa Board of Pharmacy Examiners.
- (3) My right to submit evidence and to have witnesses called on my own behalf at a formal hearing.

I, Charles G. Wiebke do hereby further acknowledge that, pursuant to 657 Iowa Administrative Code § 36.15, a pharmacist license which has been voluntarily surrendered shall be considered a revoked license with respect to any future request for reinstatement. Any request for reinstatement will be handled under terms established by 657 Iowa Administrative Code § 36.13, which provides:

Any person whose license to practice pharmacy or to operate a pharmacy or whose wholesale drug license or permit to handle precursor substances or whose pharmacy technician registration or pharmacist-intern registration has been revoked or suspended shall meet the following eligibility requirements for reinstatement:

36.13(1) Prerequisites. The individual shall satisfy all terms of the order of revocation or suspension or court proceedings as they apply to that revocation or suspension. If the order of revocation or suspension did not establish

terms and conditions upon which reinstatement might occur, or if the license, registration, or permit was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the board's order or the date of voluntary surrender.

36.13(2) Pharmacist license revoked or surrendered--examinations required. A person whose license to practice pharmacy was revoked or voluntarily surrendered must successfully pass the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination as determined by NABP and the Multistate Pharmacy Jurisprudence Examination (MPJE), Iowa Edition.

36.13(3) Proceedings. The respondent shall initiate all proceedings for reinstatement by filing with the board an application for reinstatement of the license, registration, or permit. The application shall be docketed in the original case in which the license, registration, or permit was revoked, suspended, or surrendered. All proceedings upon petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board. The board and the respondent may informally settle the issue of reinstatement. The respondent may choose to have an informal reinstatement conference before the board, as provided in rule 36.14(17A,124B,147,155A,272C).

36.13(4) Burden of proof. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license, registration, or permit to be reinstated. The burden of proof to establish such facts shall be on the respondent.

36.13(5) Order. An order for reinstatement shall be based upon a decision that incorporates findings of facts and conclusions of law and shall be based upon the affirmative vote of a quorum of the board. This order shall be available to the public as provided in 657--Chapter 14.

I, Charles G. Wiebke, hereby further give my assurance that I shall not engage, in any manner, in the practices of a pharmacist in the State of Iowa for which a license is required.

January 31, 2005  
Date of signature

Charles G. Wiebke  
(name of licensee)

State of Iowa :  
: SS  
County of Linn :

Subscribed and sworn to before me by Charles G. Wiebke on this 31st day of  
January, 2005.

[Signature]  
NOTARY PUBLIC FOR THE STATE OF IOWA

Form-surrender.doc

