

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re: Pharmacist License of	)	COMPLAINT
ALLEN P. WOLNERMAN	)	AND STATEMENT
License No. 15870	)	OF CHARGES
Respondent	)	AND
	)	NOTICE
	)	OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 11th day of February, 1994, and files this Complaint and Statement of Charges and Notice of Hearing against Allen P. Wolnerman, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; 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 February 26, 1981, by examination.
3. Respondent currently resides at 13221 Cedarwood Avenue, Des Moines, Iowa 50325.
4. Respondent is currently self-employed as pharmacist in charge and owner of Urbandale Pharmacy, 6941 Douglas Avenue, Des Moines, Iowa 50322. Respondent also owns Uni-Med Pharmacy, 4946 Franklin, Des Moines, Iowa 50322, and Franklin Pharmacy, 4944 Franklin, Des Moines, Iowa 50310.
5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1995.
6. The Board has received investigative reports and other investigative information which allege that Respondent has: (1) repeatedly engaged in unethical conduct in connection with the practice of pharmacy; (2) repeatedly exhibited unprofessional behavior in connection with the practice of pharmacy; and (3) unlawfully utilized the title "Doctor". The allegations of unethical conduct and unprofessional behavior include Iowa Medicaid billing discrepancies as well as harassment, threats, and verbal abuse directed at pharmacy employees and co-workers, pharmacists, pharmacy interns and students, patients, and others.

7. Respondent is guilty of violations of 1993 Iowa Code sections 147.55(3), 155A.12(1), 155A.12(2), 155A.20(3), and 272C.10(3) by virtue of the allegations contained in paragraph 6.

1993 Iowa Code section 147.55 provides, in part, the following:

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:...

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

1993 Iowa Code section 155A.12 provides, in part, the following:

...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.

2. Engaged in unethical conduct as that term is defined by rules of the board.

1993 Iowa Code section 155A.20 provides, in part, the following:

3. A pharmacist shall not utilize the title "Dr." or "Doctor" if that pharmacist has not acquired the doctor of pharmacy degree from an approved college of pharmacy or the doctor of philosophy degree in an area related to pharmacy.

1993 Iowa Code section 272C.10 (formerly 1991 Iowa Code section 258A.10) provides, in part, the following:

A licensing board established after January 1, 1978, and pursuant to the provisions of this chapter shall by rule include provisions for the revocation or suspension of a license which shall include but is not limited to the following:...

3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

8. Respondent is guilty of violations of 657 Iowa Administrative Code sections 8.5(9), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(j), 9.1(4)(t), and 9.1(4)(u) by virtue of the allegations contained in paragraph 6.

657 Iowa Administrative Code section 8.5 provides, in part, the following:

Unethical conduct or practice. The provisions of this section apply to licensed pharmacists and registered pharmacist-interns....

8.5(9) Unprofessional conduct or behavior. A pharmacist shall not exhibit unprofessional behavior in connection with the practice of pharmacy or refuse to provide reasonable information or answer reasonable questions for the benefit of the patient. Unprofessional behavior shall include, but is not limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, and theft.

657 Iowa Administrative Code section 9.1(4) provides, in part, the following:

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:...

(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.

....

t. Obtaining any fee by fraud or misrepresentation.

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 7 and 8 constitute grounds for which Respondent's license to practice pharmacy in Iowa can be disciplined.

WHEREFORE, the undersigned charges that Respondent has violated 1993 Iowa Code sections 147.55(3), 155A.12(1), 155A.12(2), 155A.20(3), and 272C.10(3), and 657 Iowa Administrative Code sections 8.5(9), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(j), 9.1(4)(t), and 9.1(4)(u).

IT IS HEREBY ORDERED that Allen P. Wolnerman appear before the Iowa Board of Pharmacy Examiners on Tuesday, April 19, 1994, 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 discipline the license to practice pharmacy issued to Allen P. Wolnerman on February 26, 1981, 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 disciplinary action, including the permanent suspension or revocation of his license to practice pharmacy.

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 representing the public interest in these proceedings. Information regarding the hearing may be obtained from Theresa O'Connell Weeg, Iowa Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-6858). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen
Executive Secretary/Director

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

	}	AMENDMENT
	}	TO
Re: Pharmacist License of	}	COMPLAINT AND
ALLEN P. WOLNERMAN	}	STATEMENT OF
License No. 15870	}	CHARGES
Respondent	}	AND
	}	NOTICE OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 25th day of July, 1994, and files this Amendment to the Complaint and Statement of Charges and Notice of Hearing issued on February 11, 1994, to Allen P. Wolnerman, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Jay J. Cayner; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; 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 February 26, 1981, by examination.
3. Respondent is self-employed as pharmacist in charge and owner of the Urbandale Pharmacy, located at 6941 Douglas Avenue in Des Moines, Iowa 50322. Respondent also owns Uni-Med Pharmacy, 4946 Franklin, Des Moines, Iowa 50322, and Franklin Pharmacy, 4944 Franklin, Des Moines, Iowa 50310.
4. Respondent currently resides at 13221 Cedarwood Avenue, Des Moines, Iowa 50325.
5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1995.

6. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on February 11, 1994. That Complaint and Statement of Charges and Notice of Hearing is incorporated by reference into this Amendment to the Complaint and Statement of Charges and Notice of Hearing as if fully set forth herein.

7. Prior to February 11, 1994, the Board received information which indicated that Respondent had engaged in unethical conduct and unprofessional behavior in connection with the practice of pharmacy and that he had unlawfully utilized the title "Doctor." That information alleged the following:

a. Respondent over-billed the Iowa Medicaid program during calendar year 1989.

b. Respondent exhibited unprofessional behavior toward "V.O." a customer of Respondent's pharmacy, the Urbandale Pharmacy, after "V.O." received a prescription medication from the Urbandale Pharmacy in February 1992. "V.O.," a Medicaid patient, was subjected to verbal abuse by Respondent between March 27, 1992, and July 6, 1992, when Respondent attempted to collect for a prescription drug which was not covered by the Iowa Medicaid program.

c. Respondent exhibited unprofessional behavior toward pharmacy student #1 who was employed by Respondent's pharmacy, the Urbandale Pharmacy, from May 1991 to July 1991. During her employment at the Urbandale Pharmacy, pharmacy intern #1 was subjected to verbal abuse by Respondent. During the same time period, Respondent also engaged in unethical and unlawful pharmacy practice in the presence of pharmacy student #1.

d. Respondent exhibited unprofessional behavior toward pharmacist #1 who was employed by Respondent's pharmacy, the Urbandale Pharmacy, from August 1986 to August 1988. During his employment at the Urbandale Pharmacy, pharmacist #1 was subjected to and/or witnessed verbal abuse by Respondent. During the same time period, Respondent also engaged in other unethical and unlawful pharmacy practice in the presence of pharmacist #1.

e. Respondent exhibited unprofessional behavior toward pharmacist #2 who was part owner of the Urbandale Pharmacy from 1983 to 1985. During his employment at the Urbandale Pharmacy, pharmacist #2 was subjected to and/or witnessed verbal abuse by Respondent. During the same time period, Respondent also engaged in other unethical and unlawful pharmacy practice in the presence of pharmacist #2.

f. Respondent repeatedly identified himself as a doctor and claimed, in May 1993, that he had a "Doctor of Clinical Pharmacy" degree.

g. Respondent exhibited unethical conduct and unprofessional behavior toward "S.S.," a customer of Respondent's pharmacy, the Franklin Pharmacy, when

"S.S." attempted to have a prescription filled at the Franklin Pharmacy in July 1993. Respondent seized "S.S.'s" Iowa Medicaid eligibility card, his prescription, and a laboratory order for a blood test and refused to return them to "S.S." until "S.S." paid a bill that Respondent claimed was unpaid. "S.S." was forced to obtain another prescription from his physician and also had to obtain another Medicaid eligibility card from the Iowa Medicaid program.

h. Respondent exhibited gross ethical misconduct toward pharmacist #3 in 1991 by allegedly maligning her reputation to the administrator of a long term care facility.

i. Respondent exhibited unprofessional behavior toward pharmacy student #2 who was employed by Respondent's pharmacy, the Urbandale Pharmacy, from 1990 to 1991. During her employment at the Urbandale Pharmacy, pharmacy student #2 was subjected to and/or witnessed verbal abuse by Respondent. During the same time period, Respondent also engaged in other unethical and unlawful pharmacy practice in the presence of pharmacy student #2.

Since February 11, 1994, the Board has received additional information which alleges the following:

j. Respondent exhibited unprofessional behavior toward pharmacy student #3 while she was employed by Respondent's pharmacy, the Urbandale Pharmacy. Respondent also required pharmacy student #3 to remove the word "sample" from sample medications while employed at Urbandale Pharmacy.

k. On February 3, 1994, Respondent offered "special services" to a long term care facility from his Uni-Med LTC Pharmacy. These "special services" included free over-the-counter drugs (acetaminophen and aspirin) to private pay patients and facility staff, customized med-charts, med-review sheets, a fax machine, and a unit-dose drug distribution system. These "special services" constitute unlawful "kickbacks" offered in exchange for placement of pharmacy business or solicitation of patronage.

l. Respondent exhibited unprofessional behavior toward pharmacy student #4 while he was employed by Respondent's pharmacy, the Urbandale Pharmacy, from June 1990 through February 1991. During the same time period, Respondent also engaged in unethical and unlawful pharmacy practice in the presence of pharmacy student #4. During his employment at the Urbandale Pharmacy, pharmacy student #4 was subjected to verbal abuse by Respondent. In addition, Respondent repeatedly identified himself as a doctor in the presence of pharmacy student #4.

m. Respondent repeatedly over-billed patient "E.M." for prescription medications supplied by his pharmacy, the Urbandale Pharmacy, between 1987 and 1990. The over-billings were for erroneous late charges, service charges, discontinued medications, and medications that had *not* been ordered for "E.M."

n. Respondent solicited the return of prescription medications previously dispensed by Respondent to patient "J.W." following "J.W.'s" death. Said medications were delivered to Respondent by "J.W.'s" mother, "V.W.," in November 1993.

o. As an incentive to purchase all of his medications from Respondent's pharmacy, the Urbandale Pharmacy, Respondent offered "J.W." a \$200 per month credit on "J.W.'s" account. According to "V.W.," such credits were given to "J.W." and Respondent claimed that he would "get it back from Medicaid."

p. As an incentive to pay off "V.W.'s" unpaid account at Urbandale Pharmacy, Respondent offered to refund "V.W." \$100 for every \$500 paid. Respondent also offered to put "J.W.'s" medications under "V.W.'s" name, so that "V.W." could claim the expenses as a tax deduction for herself.

q. Respondent exhibited unprofessional behavior toward "M.M." a customer of Respondent's pharmacy, the Urbandale Pharmacy, after "M.M." purchased certain sale items from the Urbandale Pharmacy in late 1993 or early 1994.

r. Respondent exhibited unprofessional behavior toward pharmacy technician #1 while she was employed by Respondent's pharmacy, the Urbandale Pharmacy, from October 1993 through December 1993. During the same time period, Respondent also engaged in unethical and unlawful pharmacy practice in the presence of pharmacy technician #1. During her employment at the Urbandale Pharmacy, pharmacy technician #1 was subjected to and/or witnessed verbal abuse by Respondent.

s. Respondent submitted fraudulent prescription claims to PCS Health Systems, Inc., for refills of prescriptions for "H.M." between October 30, 1993, and February 5, 1994.

t. Respondent exhibited unprofessional behavior toward pharmacy student #5 while she was employed by Respondent's pharmacy, the Urbandale Pharmacy, from December 1987 through December 1988. During the same time period, Respondent also engaged in unethical conduct in the presence of pharmacy student #5. During her employment at the Urbandale Pharmacy, pharmacy student #5 was subjected to abusive behavior by Respondent.

8. Respondent is guilty of violations of those 1993 Iowa Code sections specified in paragraph 7 on page 2 of the Complaint and Statement of Charges and Notice of Hearing issued on February 11, 1994, by virtue of the allegations contained in paragraph 7 of this Amendment to the Complaint and Statement of Charges and Notice of Hearing.

9. Respondent is guilty of violations of those sections of 657 Iowa Administrative Code specified in paragraph 8 on page 3 of the Complaint and Statement of Charges and Notice of Hearing issued on February 11, 1994, as well as 657 Iowa Administrative Code sections 6.10 and 8.5(6), by virtue of the allegations contained in paragraph 7 of this Amendment to the Complaint and Statement of Charges and Notice of Hearing.

657 Iowa Administrative Code section 6.10 provides the following:

For the protection of the public health and safety, no prescription drugs of any description or items of personal contact nature which have been removed from the original package or container after sale, shall be accepted for return, exchanged, or resold by any pharmacist except as authorized in subrule 8.9(6).

657 Iowa Administrative Code section 8.5(6) provides, in relevant part, the following:

...A pharmacist shall not participate in agreements or arrangements with any person, corporation, partnership, association, firm, or others involving premiums, "kickbacks," fee-splitting, or special charges in exchange for recommending, promoting, accepting, or promising to accept the professional pharmaceutical services of any pharmacist or pharmacy as compensation or inducement for placement of business or solicitation of patronage with any pharmacist or pharmacy. "Kickbacks" include, but are not limited to, medication carts, facsimile machines, or any other equipment for the exclusive use of the registrant.

The Iowa Board of Pharmacy Examiners finds that paragraphs 8 and 9 constitute additional grounds for which Respondent's license to practice pharmacy in Iowa can be disciplined.

WHEREFORE, the undersigned charges that Respondent Allen P. Wolnerman has violated 1993 Iowa Code sections 147.55(3), 155A.12(1), 155A.12(2), 155A.20(3), and 272C.10(3) and 657 Iowa Administrative Code sections 6.10, 8.5(6), 8.5(9), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(i), 9.1(4)(j), 9.1(4)(t), and 9.1(4)(u).

IT IS HEREBY ORDERED, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2(1), that Allen P. Wolnerman appear before the Iowa Board of Pharmacy Examiners on Wednesday, September 28, 1994, at 1:00 p.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 discipline the license to practice pharmacy issued to Allen P. Wolnerman on February 26, 1981, 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 disciplinary action, including 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 representing the public interest in these proceedings.

Information regarding the hearing may be obtained from Linny Emrich, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-3658). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen, Executive Secretary/Director

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

Re: Pharmacist License of ALLEN P. WOLNERMAN License No. 15870 Respondent	} } } } }	SECOND AMENDMENT TO THE COMPLAINT AND STATEMENT OF CHARGES AND NOTICE OF HEARING
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COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 15th day of November, 1994, and files this Second Amendment to the Complaint and Statement of Charges and Notice of Hearing issued on February 11, 1994, to Allen P. Wolnerman, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Jay J. Cayner; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; 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 February 26, 1981, by examination.

3. Respondent is currently self-employed as pharmacist in charge and owner of Urbandale Pharmacy, 6941 Douglas Avenue, Des Moines, Iowa 50322. Respondent also owns Uni-Med Pharmacy, 4946 Franklin, Des Moines, Iowa 50322, and Franklin Pharmacy, 4944 Franklin, Des Moines, Iowa 50310.

4. Respondent currently resides at 13221 Cedarwood Avenue, Des Moines, Iowa 50325.

5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1995.

6. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on February 11, 1994. An Amendment to the Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on July 25, 1994. The Complaint and Statement of Charges and Notice of Hearing and the Amendment to the Complaint and Statement of Charges and Notice of Hearing are

incorporated by reference into this Second Amendment to the Complaint and Statement of Charges and Notice of Hearing as if fully set forth herein.

7. Since July 25, 1994, the Board has received additional investigative information which alleges the following:

a. Respondent exhibited unprofessional behavior toward pharmacist #4 who was employed by Respondent's pharmacy, the Urbandale Pharmacy, from March 7, 1994, to May 14, 1994. During her employment at the Urbandale Pharmacy, pharmacist #4 was subjected to and/or witnessed verbal abuse by Respondent. During the same time period, Respondent also engaged in other unethical and unlawful pharmacy practice in the presence of pharmacist #4.

b. Respondent's Pharmacy, the Urbandale Pharmacy, failed to take a complete biennial inventory of all controlled substances on May 22, 1993. The biennial inventory did not include sixteen or more Schedule III and IV controlled substances which were present at Urbandale Pharmacy on May 22, 1993, but which were not counted or recorded in the inventory.

c. During 1992, 1993, and 1994, the Respondent and his pharmacy, the Urbandale Pharmacy, dispensed a total of six (6) new prescriptions and fourteen (14) refill prescriptions to Respondent's friends or relatives for the following six prescription drugs: Allopurinol 300mg (9 refills), Motrin 800mg, Seldane 60mg, Loestrin Fe 1.5/30 (4 refills), Maxair Autohaler, and Naproxen 500mg (1 refill). These prescriptions were issued by or under the name of Respondent's spouse, Amy Hollander Wolnerman, O.D. 1993 Iowa Code § 154.1 provides, in relevant part, the following:

Optometry--certified licensed optometrists--therapeutically certified optometrists.

For the purpose of this title the following classes of persons shall be deemed to be engaged in the practice of optometry:

...

3. Persons who publicly profess to be optometrists and to assume the duties incident to said profession.

...

Therapeutically certified optometrists may employ the following pharmaceuticals: topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, and oral analgesic agents...These therapeutic efforts are intended for the purpose of examination, diagnosis, and treatment of visual defects, abnormal conditions and diseases of the human eye and adnexa, for proper optometric practice or referral for consultation or treatment to persons licensed under chapter 148 or 150A.

A therapeutically certified optometrist may not prescribe oral pharmaceutical agents such as Allopurinol 300mg (an antigout drug), Motrin 800mg (a nonsteroidal anti-inflammatory drug), Seldane 60mg (an anti-allergy drug), Loestrin Fe 1.5/30 (an oral contraceptive/birth control drug), Maxair Autohaler (a bronchodilator drug), and Naproxen 500mg (an anti-inflammatory drug). The six (6) new prescriptions and (14) refill prescriptions for these drugs which were dispensed to Respondent's friends or relatives by the Respondent at the Urbandale Pharmacy under the prescribing authority of Amy Hollander Wolnerman, O.D., are invalid and unlawful.

d. Respondent has repeatedly dispensed APAP with Codeine 30mg, a Schedule III controlled substance, to two patients (including one Iowa Medicaid--Title XIX recipient) without physician authorization. The following prescriptions or refills of prescriptions were not authorized by the prescriber indicated on the prescriptions or in the pharmacy's computer files:

DATE FILLED	RX #	DRUG	QTY	PATIENT
03-22-93	097781	APAP/Codeine 30mg	100	RC
04-05-93	097781	APAP/Codeine 30mg	100	RC
06-12-93	100700	APAP/Codeine 30mg	100	RC
06-28-93	101077	APAP/Codeine 30mg	100	RC
11-02-93	103486	APAP/Codeine 30mg	30	CL (XIX)
12-01-93	103486	APAP/Codeine 30mg	30	CL (XIX)
12-27-93	103486	APAP/Codeine 30mg	30	CL (XIX)
02-23-94	103486	APAP/Codeine 30mg	30	CL (XIX)
03-31-94	108592	APAP/Codeine 30mg	30	CL (XIX)
04-27-94	108592	APAP/Codeine 30mg	30	CL (XIX)
06-27-94	110921	APAP/Codeine 30mg	30	CL (XIX)
09-14-94	110921	APAP/Codeine 30mg	30	CL (XIX)
10-10-94	110921	APAP/Codeine 30mg	30	CL (XIX)

e. Respondent has dispensed Propoxyphene Napsylate 100mg with Acetaminophen 650mg, Schedule IV controlled substance, to one patient (an Iowa Medicaid--Title XIX recipient) without physician authorization. The following new prescription and refill were not authorized by the prescriber indicated on the prescription or in the pharmacy's computer files:

DATE FILLED	RX #	DRUG	QTY	PATIENT
06-27-94	110919	Propoxyphene Napsylate 100mg with Acetaminophen 650mg	30	CL (XIX)
09-14-94	110919	Propoxyphene Napsylate 100mg with Acetaminophen 650mg	30	CL (XIX)

8. Respondent is guilty of violating 1993 Iowa Code sections 124.308(3), 124.401(1)(c)(6), 124.401(1)(d), 124.402(1)(a), 155A.12(4), 155A.12(5), 155A.23(2), 155A.23(4), and 205.3 and those 1993 Iowa Code sections specified in paragraph 7 on page 2 of the Complaint and Statement of Charges and Notice of Hearing issued on February 11, 1994, by virtue of the allegations contained in paragraph 7 of this Second Amendment to the Complaint and Statement of Charges and Notice of Hearing.

1993 Iowa Code section 124.308 provides, in part, the following:

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

1993 Iowa Code section 124.401 provides, in part, the following:

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance, a counterfeit substance, or a simulated controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance, a counterfeit substance, or a simulated controlled substance.

...

c. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "C" felony, and in addition to the provisions of section 902.9, subsection 3, shall be punished by a fine of not less than one thousand dollars nor more than fifty thousand dollars:

...

(6) Any other controlled substance, counterfeit substance, or simulated controlled substance classified in schedule I, II, or III.

d. Violation of this subsection, with respect to any other controlled substances...classified in schedule IV or V is an aggravated misdemeanor.

1993 Iowa Code section 124.402(1) provides, in part, the following:

It is unlawful for any person:

a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 124.308;...

1993 Iowa Code section 155A.12 provides, in part, the following:

...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:...

4. Failed to keep and maintain records required by this chapter or failed to keep and maintain complete and accurate records of purchases and disposal of drugs listed in the controlled substances Act.

5. Violated any provision of the controlled substances Act or rules relating to that Act.

1993 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.

1993 Iowa Code section 205.3 provides the following:

A person shall not fill a prescription for a drug required by chapter 124 or this chapter to be furnished only upon written prescription unless the prescription is ordered for a medical, dental, or veterinary purpose only.

9. Respondent is guilty of violating 657 Iowa Administrative Code sections 6.8(10), 8.5(1), and 9.1(4)(h). Respondent is also guilty of violations of those sections of 657 Iowa Administrative Code specified in paragraph 7 on page 2 of the Complaint and Statement of Charges and Notice of Hearing issued on February 11, 1994, and in paragraph 9 on page 5 of the First Amendment to the Complaint and Statement of Charges and Notice of Hearing issued on July 25, 1994, by virtue of the allegations contained in paragraph 7 of this Second Amendment to the Complaint and Statement of Charges and Notice of Hearing.

657 Iowa Administrative Code section 6.8 provides, in part, the following:

Records. Every inventory or other record required to be kept under Iowa Code chapters 124 and 155A or 657--Chapter 6 shall be kept at the licensed location of the pharmacy and be available for inspection and copying by the board or its representative for at least two years from the date of the inventory or record. Controlled substance records shall be

maintained in a readily retrievable manner in accordance with federal requirements. Those requirements, in summary, are as follows:...

6.8(10). A biennial inventory of controlled substances shall be maintained;

657 Iowa Administrative Code section 8.5 provides, in part, the following:

Unethical conduct or practice. The provisions of this section apply to licensed pharmacists and registered pharmacist-interns.

8.5(1) Misrepresentative deeds. A pharmacist shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

657 Iowa Administrative Code section 9.1(4) provides, in part, the following:

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:...

h. Distribution of...drugs for other than lawful purposes. The distribution of drugs for other than lawful purposes includes but is not limited to the disposition of drugs in violation of Iowa Code chapters 155A, 124, and 126.

The Iowa Board of Pharmacy Examiners finds that paragraphs 8 and 9 constitute additional grounds for which Respondent's license to practice pharmacy in Iowa can be disciplined.

WHEREFORE, the undersigned charges that Respondent Allen P. Wolnerman has violated 1993 Iowa Code sections 124.308(3), 124.401(1)(c)(6), 124.401(1)(d), 124.402(1)(a), 147.55(3), 155A.12(1), 155A.12(2), 155A.12(4), 155A.12(5), 155A.23(2), 155A.23(4), 205.3, and 272C.10(3) and 657 Iowa Administrative Code sections 6.8(10), 6.10, 8.5(1), 8.5(6), 8.5(9), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(h), 9.1(4)(j), 9.1(4)(t), and 9.1(4)(u).

IT IS HEREBY ORDERED that the administrative hearing for Allen P. Wolnerman previously scheduled for Monday, November 28, 1994, is continued and, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2(1), that Allen P. Wolnerman appear before the Iowa Board of Pharmacy Examiners on Wednesday, January 18, 1995, at 2:00 p.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 discipline the license to practice pharmacy issued to Allen P. Wolnerman on February 26, 1981, 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 disciplinary action, including 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 representing the public interest in these proceedings.

Information regarding the hearing may be obtained from Linny C. Emrich, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-3658). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen
Executive Secretary/Director

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

Re: Pharmacist License of	}	
ALLEN P. WOLNERMAN	}	THIRD AMENDMENT TO
License No. 15870	}	THE COMPLAINT AND
Respondent	}	STATEMENT OF CHARGES
	}	AND
	}	NOTICE OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 6th day of December, 1994, and files this Third Amendment to the Complaint and Statement of Charges and Notice of Hearing issued on February 11, 1994, to Allen P. Wolnerman, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Jay J. Cayner; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; 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 February 26, 1981, by examination.

3. Respondent is currently self-employed as pharmacist in charge and owner of Urbandale Pharmacy, 6941 Douglas Avenue, Des Moines, Iowa 50322. Respondent also owns Uni-Med Pharmacy, 4946 Franklin, Des Moines, Iowa 50322, and Franklin Pharmacy, 4944 Franklin, Des Moines, Iowa 50310.

4. Respondent currently resides at 13221 Cedarwood Avenue, Des Moines, Iowa 50325.

5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1995.

6. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on February 11, 1994. An Amendment to the Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on July 25,

1994. A Second Amendment to the Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on November 15, 1994. The Complaint and Statement of Charges and Notice of Hearing, the First Amendment to the Complaint and Statement of Charges and Notice of Hearing, and the Second Amendment to the Complaint and Statement of Charges and Notice of Hearing are incorporated by reference into this Third Amendment to the Complaint and Statement of Charges and Notice of Hearing as if fully set forth herein.

7. Since November 15, 1994, the Board has received additional investigative information which alleges the following:

a. Respondent has repeatedly dispensed Halcion 0.125mg, a Schedule IV controlled substance, to one patient without physician authorization. The following prescriptions or refills of prescriptions were not authorized by the prescriber indicated in the pharmacy's computer files:

DATE FILLED	RX #	DRUG	PATIENT
01-22-92	088190	Halcion 0.125mg	HP
04-09-92	088190	Halcion 0.125mg	HP
10-29-92	094522	Halcion 0.125mg	HP
01-25-93	094522	Halcion 0.125mg	HP
03-28-93	094522	Halcion 0.125mg	HP
05-17-93	099981	Halcion 0.125mg	HP
11-21-93	104908	Halcion 0.125mg	HP
02-03-94	104908	Halcion 0.125mg	HP

b. Respondent has dispensed Dalmane 15mg and Restoril 7.5mg, Schedule IV controlled substances, to one patient without physician authorization. The following new prescriptions and refills were not authorized by the prescriber indicated in the pharmacy's computer files:

DATE FILLED	RX #	DRUG	PATIENT
07-10-92	091869	Dalmane 15mg	HP
10-29-92	091869	Dalmane 15mg	HP
01-25-93	096784	Dalmane 15mg	HP
03-28-93	096784	Dalmane 15mg	HP
05-17-93	096784	Dalmane 15mg	HP
11-23-93	104907	Dalmane 15mg	HP
03-11-93	108110	Restoril 7.5mg	HP
03-25-93	108110	Restoril 7.5mg	HP

c. Respondent has dispensed Tylenol with Codeine No. 3, a Schedule III controlled substance, to patient "H.P." without physician authorization. A new

prescription for Tylenol with Codeine No. 3 (Rx # 109670) dated May 14, 1994, was not authorized by the prescriber indicated in the pharmacy's computer files.

d. An accountability audit of certain Schedule III and IV controlled substances received by and dispensed from the Urbandale Pharmacy for the time period beginning May 22, 1993, and ending October 27, 1994, revealed significant discrepancies including the following shortages and overages:

Tylenol with Codeine 30mg	(-)	1,468
APAP with Codeine 30mg	(-)	9,075*
Darvocet-N 100	(-)	963*
Propoxyphene Napsylate with APAP 100/650	(-)	313
Hydrocodone with APAP 7.5/500	(-)	54
Hydrocodone with APAP 7.5/750	(-)	54
Versed IM amps 10 x 10ml	(-)	270*
Alprazolam 0.5mg	(-)	348
Xanax 1mg	(-)	237
Fiorinal with Codeine 30mg	(-)	190
Hydrocodone with APAP 5/500	+	696
Vicodin	+	124
Lortab 7.5/500	+	124
Lorazepam 0.5mg	+	444*
Lorazepam 1mg	+	1,183*
Xanax 0.25mg	+	755
Xanax 0.5mg	+	714

*Zero-based audit; no inventory taken on May 22, 1993.

8. Respondent is guilty of violating 1993 Iowa Code sections 124.308(3), 124.401(1)(c)(6), 124.401(1)(d), 124.402(1)(a), 155A.12(4), 155A.12(5), 155A.23(2), 155A.23(4), and 205.3 and those 1993 Iowa Code sections specified in paragraph 7 on page 2 of the Complaint and Statement of Charges and Notice of Hearing issued on February 11, 1994, by virtue of the allegations contained in paragraph 7 of this Third Amendment to the Complaint and Statement of Charges and Notice of Hearing.

1993 Iowa Code section 124.308 provides, in part, the following:

3. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug as determined under chapter 155A, shall not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than

six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

1993 Iowa Code section 124.401 provides, in part, the following:

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance, a counterfeit substance, or a simulated controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance, a counterfeit substance, or a simulated controlled substance.

...

c. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "C" felony, and in addition to the provisions of section 902.9, subsection 3, shall be punished by a fine of not less than one thousand dollars nor more than fifty thousand dollars:

...

(6) Any other controlled substance, counterfeit substance, or simulated controlled substance classified in schedule I, II, or III.

d. Violation of this subsection, with respect to any other controlled substances...classified in schedule IV or V is an aggravated misdemeanor.

1993 Iowa Code section 124.402(1) provides, in part, the following:

It is unlawful for any person:

a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 124.308;...

1993 Iowa Code section 155A.12 provides, in part, the following:

...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:...

4. Failed to keep and maintain records required by this chapter or failed to keep and maintain complete and accurate records of purchases and disposal of drugs listed in the controlled substances Act.

5. Violated any provision of the controlled substances Act or rules relating to that Act.

1993 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.

1993 Iowa Code section 205.3 provides the following:

A person shall not fill a prescription for a drug required by chapter 124 or this chapter to be furnished only upon written prescription unless the prescription is ordered for a medical, dental, or veterinary purpose only.

9. Respondent is guilty of violating 657 Iowa Administrative Code sections 6.8(10), 8.5(1), and 9.1(4)(h). Respondent is also guilty of violations of those sections of 657 Iowa Administrative Code specified in paragraph 7 on page 2 of the Complaint and Statement of Charges and Notice of Hearing issued on February 11, 1994, and in paragraph 9 on page 5 of the First Amendment to the Complaint and Statement of Charges and Notice of Hearing issued on July 25, 1994, by virtue of the allegations contained in paragraph 7 of this Third Amendment to the Complaint and Statement of Charges and Notice of Hearing.

657 Iowa Administrative Code section 6.8 provides, in part, the following:

Records. Every inventory or other record required to be kept under Iowa Code chapters 124 and 155A or 657--Chapter 6 shall be kept at the licensed location of the pharmacy and be available for inspection and copying by the board or its representative for at least two years from the date of the inventory or record. Controlled substance records shall be maintained in a readily retrievable manner in accordance with federal requirements. Those requirements, in summary, are as follows:...

6.8(10). A biennial inventory of controlled substances shall be maintained;

657 Iowa Administrative Code section 8.5 provides, in part, the following:

Unethical conduct or practice. The provisions of this section apply to licensed pharmacists and registered pharmacist-interns.

8.5(1) Misrepresentative deeds. A pharmacist shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

657 Iowa Administrative Code section 9.1(4) provides, in part, the following:

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:...

h. Distribution of...drugs for other than lawful purposes. The distribution of drugs for other than lawful purposes includes but is not limited to the disposition of drugs in violation of Iowa Code chapters 155A, 124, and 126.

The Iowa Board of Pharmacy Examiners finds that paragraphs 8 and 9 constitute additional grounds for which Respondent's license to practice pharmacy in Iowa can be disciplined.

WHEREFORE, the undersigned charges that Respondent Allen P. Wolnerman has violated 1993 Iowa Code sections 124.308(3), 124.401(1)(c)(6), 124.401(1)(d), 124.402(1)(a), 147.55(3), 155A.12(1), 155A.12(2), 155A.12(4), 155A.12(5), 155A.23(2), 155A.23(4), 205.3, and 272C.10(3) and 657 Iowa Administrative Code sections 6.8(10), 6.10, 8.5(1), 8.5(6), 8.5(9), 9.1(4)(b)(4), 9.1(4)(c), 9.1(4)(h), 9.1(4)(j), 9.1(4)(t), and 9.1(4)(u).

IT IS HEREBY ORDERED, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2(1), that Respondent appear before the Iowa Board of Pharmacy Examiners on Wednesday, January 18, 1995, at 2:00 p.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 discipline the license to practice pharmacy issued to Allen P. Wolnerman on February 26, 1981, 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 disciplinary action, including 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 representing the public interest in these proceedings.

Information regarding the hearing may be obtained from Linny C. Emrich, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-3658). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen
Executive Secretary/Director

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

Re: Pharmacist License of
ALLEN P. WOLNERMAN
License No. 15870
Respondent

}
}
}
}
}
}
}

**STIPULATION
AND
CONSENT ORDER**

On this 11 day of July, 1995, the Iowa Board of Pharmacy Examiners and Allen P. Wolnerman, R.Ph., 13221 Cedarwood Avenue, Des Moines, Iowa, each hereby agree with the other and stipulate as follows:

The licensee disciplinary hearing pending before the Iowa Board of Pharmacy Examiners, on the allegations specified in the Complaint and Statement of Charges and Notice of Hearing filed against Respondent on February 11, 1994, and the three Amendments to the Complaint and Statement of Charges and Notice of Hearing filed against Respondent on July 25, 1994; November 15, 1994; and December 6, 1994, 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 on the 26th day of February, 1981, as evidenced by License Number 15870, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 15870 issued to and currently held by Respondent is current and in full force until June 30, 1997.

3. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.

4. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on February 11, 1994. Amendments to the Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on July 25, 1994; November 15, 1994; and December 6, 1994.

5. Respondent does not admit to the truth of any of the allegations set forth in either the Complaint and Statement of Charges or any of the Amendments to the Complaint and Statement of Charges, and this Stipulation and Consent Order is executed as a compromise settlement of disputed claims.

SECTION I

THEREFORE, IT IS HEREBY ORDERED that Iowa Pharmacist License Number 15870 issued to Respondent is suspended for a period of thirty (30) days beginning thirty (30) days after the date of approval of this Stipulation and Consent Order by the Board.

1. During the period of license suspension, Respondent agrees to the following restrictions, limitations, and conditions:

a. Respondent shall not be physically present in the prescription department of any pharmacy at any time.

b. Respondent shall not function or serve as a pharmacist, pharmacy technician, pharmacy assistant, or pharmacy clerk in any pharmacy or any other location.

c. Respondent shall not represent himself to be a pharmacist nor in any way cause other persons to view him as a pharmacist.

d. Respondent shall not provide drug or medical information to the public or to other health professionals and shall not provide any other cognitive service related to or involving the practice of pharmacy.

2. Within thirty (30) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall pay a civil penalty of \$15,000.00 by delivering a check made payable to the Treasurer of the State of Iowa to the Executive Secretary/Director of the Board. The check shall be deposited into the general fund of the State of Iowa.

3. Within thirty (30) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall undergo a complete physical and mental evaluation at a medical facility approved by the Board.

4. The Respondent shall sign releases to allow the free flow of information between the Board and the Respondent's physicians and other health care providers and any other releases to ensure the same if further treatment is required.

5. A complete written report of the findings and conclusions of this physical and mental evaluation shall be provided to the Board within fourteen (14) days of its completion.

6. All costs associated with the evaluation shall be the sole responsibility of Respondent.

SECTION II

Following the completion of the thirty (30) day license suspension, Respondent's pharmacist license shall be placed on probation for five (5) years with the following restrictions and conditions:

1. The Respondent shall comply with all recommendations set forth in the evaluation report, including any recommendations as to treatment, counseling, or therapy.

2. The Respondent agrees to comply with any restrictions on his practice of pharmacy contained in the evaluation report or as ordered by the Board following receipt of the evaluation report.

3. If the Respondent undergoes treatment, counseling, or therapy pursuant to this Order, the Respondent and his counselor shall make quarterly reports to the Board for as long as the treatment, counseling, or therapy continues. These reports shall include, but not be limited to, information relative to any medications prescribed to Respondent, his progress, participation in therapy, compliance with the physician or counselor's recommendations, place of employment, current address, and any further information deemed necessary by the Board. All expenses of the Respondent's treatment, counseling, or therapy shall be the sole responsibility of Respondent.

4. Any problems determined by the treating physician or counselor that may cause concern for the well-being of patients, employees, or co-workers should be immediately reported to the Board by the treating physician or counselor. The Board may require Respondent to submit to further evaluations, treatment, or other appropriate action if so indicated.

5. If the Respondent or physician or counselor feel it is necessary to terminate their doctor/patient relationship, a written explanation by both parties must be submitted to the Board at least thirty (30) days before any scheduled report is due. The Board will consider the explanations and determine whether or not another physician or counselor shall be appointed. If so determined, the Board will then approve another physician or counselor to continue Respondent's treatment and/or counseling.

6. The Respondent shall not engage in any unprofessional behavior in connection with the practice of pharmacy as defined in rules of the Board.

7. The Respondent shall not engage in any unethical or unlawful conduct in connection with the practice of pharmacy as defined in rules of the Board.

8. The Respondent shall not utilize the title "Dr.," "Doctor," "P.D.," "Pharmacy Doctor," "Doctor of Pharmacy," or "Doctor of Clinical Pharmacy" unless or until he has acquired the doctor of pharmacy degree (Pharm.D.) from an approved college of pharmacy or the doctor of philosophy degree (Ph.D.) in an area related to pharmacy.

9. Within one (1) year of the date of approval of this Stipulation and Consent Order by the Board, the 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.

10. The Respondent shall inform all partners and pharmacist employees of the contents of this Order. Respondent shall cause his partners and pharmacist employees to report to the Board in writing acknowledging that they have read and understand this document. 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 that the employer has read and understands this document.

11. The Respondent shall inform his physicians and counselors referred to in Sections I and II, above, of the contents of this Order as well as the Complaint and Statement of Charges and the three Amendments to the Complaint and Statement of Charges. Respondent shall cause his physicians and counselors to report to the Board in writing acknowledging that they have read and understand this document and the Complaint and Statement of Charges and the three Amendments to the Complaint and Statement of Charges.

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

13. The Respondent shall not supervise or work with any pharmacy student, pharmacy extern, or pharmacy intern in any setting whatsoever and shall not perform any

of the duties of a preceptor. Respondent may petition the Board for modification of this restriction after successfully completing two (2) years of probation.

14. The Respondent shall make an annual report to the Board either in writing or in person, as directed by the Board. Such report shall include the status of Respondent's practice of pharmacy as well as any other matters deemed necessary or important by Respondent or the Board.

15. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy and all federal and state criminal laws.

SECTION III

1. Respondent shall appear before the Board at any time or place designated by the Board.

2. All costs incurred by Respondent in complying with this Order shall be the sole responsibility of Respondent.

3. Should Respondent leave Iowa to reside or practice in another state, he shall notify the Board in writing fourteen (14) days prior to his departure and within fourteen (14) days of his return. Periods of residency or practice outside the State of Iowa shall not apply to reduction of the probationary period.

4. Respondent shall submit to random unannounced visits to or inspections of any of his pharmacies by the Board or agents of the Board to verify compliance with this Order.

5. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and

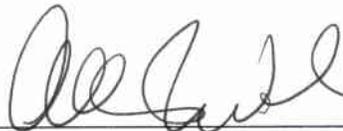
opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a).

6. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and impose additional disciplinary sanctions, including the revocation of Respondent's license to practice pharmacy. 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.

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

8. This Stipulation and Consent Order is subject to approval of a majority of the full Board. If the Board fails to approve this Stipulation and Consent Order, it shall be of no force or effect to either party.

9. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 10th day of July, 1995.



ALLEN P. WOLNERMAN, R.Ph.
Respondent

Subscribed and Sworn to before me on this 10th day of July, 1995.



NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

10. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 11 day of July, 1995.


MARIAN L. ROBERTS, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Linny Emrich
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

David L. Brown
Attorney For Respondent
Eighth Floor, Fleming Building
218 Sixth Avenue
Des Moines, Iowa 50309

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

Re:)
Pharmacist License of)
ALLEN P. WOLNERMAN) **STATEMENT OF CHARGES**
License No. 15870)
Respondent)

COMES NOW, the Complainant, Lindy A. Pearson, and states:

1. She is the Chief Investigator for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in her official capacity.

2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (1995).

3. On February 26, 1981, Allen P. Wolnerman, the Respondent, was issued license number 15870 by the Board to engage in the practice of pharmacy, subject to the laws of the State of Iowa and the rules of the Board.

4. License number 15870 is current and active until June 30, 1997.

5. Respondent currently resides at 13221 Cedarwood Avenue, Des Moines, Iowa 50325.

6. Respondent is self-employed as the owner of Urbandale Pharmacy, 6941 Douglas Avenue, Des Moines, Iowa 50322.

7. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on February 11, 1994. Three Amendments to the Complaint and Statement of Charges and Notice of Hearing were filed against Respondent on July 25, 1994; November 15, 1994; and December 6, 1994. On July 11, 1995, Respondent and the Board agreed to a Stipulation and Consent Order in which Respondent's license to practice pharmacy was disciplined. Respondent's license was suspended for a period of thirty (30) days and then placed on probation with conditions for five years. Respondent was also fined \$15,000.00.

COUNT I

The Respondent is charged under Iowa Code §§ 147.55(2), 155A.12(1), and 155A.12(3) (1995) and 657 Iowa Administrative Code §§ 9.1(4)(b), 9.1(4)(j), and 9.1(4)(u) with professional incompetency which resulted in a preventable medication dispensing error.

COUNT II

The Respondent is charged under Iowa Code §§ 147.55(3), 155A.12(1), 155A.12(2), 155A.12(3), and 155A.23(2) (1995) and 657 Iowa Administrative Code §§ 8.5(1), 8.5(4), 8.5(9), 9.1(4)(c), 9.1(4)(j), and 9.1(4)(u) with knowingly making deceptive or untrue representations in the practice of pharmacy following a dispensing error.

COUNT III

The Respondent is charged under Iowa Code § 155A.12(1) (1995) and 657 Iowa Administrative Code §§ 9.1(4)(i), 9.1(4)(j), and 9.1(4)(u) with violating the terms of his probation as established by the Board on July 11, 1995, by engaging in unethical and unprofessional conduct or practice harmful to the public and with violating a lawful disciplinary order of the Board by making a dispensing error, by knowingly making deceptive representations following the dispensing error, and by holding himself out to the public as a pharmacy doctor.

THE CIRCUMSTANCES

The Board has received investigative information which alleges the following:

1. Respondent committed a dispensing error on December 16, 1995. On December 29, 1995, Respondent misrepresented the nature of the error to the patient's mother. Respondent also failed to inform the patient's mother that her son had received the wrong drug on December 16, 1995. In addition, Respondent misrepresented the drug which he dispensed to the patient on December 29, 1995.
2. Respondent has continued to hold himself out to the public as a pharmacy doctor by using the initials "P.D." following his name on prescription sacks utilized by his three pharmacies: Urbandale Pharmacy, Franklin Pharmacy, and Uni-Med L.T.C. Pharmacy.

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.



Lindy A. Pearson
Chief Investigator

On this 7th day of February, 1996, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.



Phyllis A. Olson, Vice Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Linny Emrich
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**

Re: Pharmacist License of ALLEN P. WOLNERMAN License No. 15870 Respondent	} } } } } }	AMENDMENT TO STIPULATION AND CONSENT ORDER
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On this 19th day of March, 1996, the Iowa Board of Pharmacy Examiners and Allen P. Wolnerman, R.Ph., 13221 Cedarwood Avenue, Des Moines, Iowa, each hereby agree with the other and stipulate as follows:

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 February 7, 1996, shall be resolved without proceeding to hearing, as the parties have agreed to the following:

1. That Respondent was issued a license to practice pharmacy on the 26th day of February, 1981, as evidenced by License Number 15870, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 15870 issued to and currently held by Respondent is current until June 30, 1997.
3. That Iowa Pharmacist License Number 15870 was disciplined on July 11, 1995, pursuant to a Stipulation and Consent Order which was approved by the Board on July 11, 1995.

4. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.

5. A Statement of Charges and Notice of Hearing was filed against Respondent on February 7, 1996.

6. Respondent does not admit to the truth of any of the allegations set forth in the Statement of Charges, and this Amendment to the Stipulation and Consent Order dated July 11, 1995, is executed as a compromise settlement of disputed claims.

7. Within thirty (30) days of the date of approval of this Amendment to the Stipulation and Consent Order by the Board, the Respondent shall pay a civil penalty of \$1,500.00 by delivering a check made payable to the Treasurer of the State of Iowa to the Executive Secretary/Director of the Board. The check shall be deposited into the general fund of the State of Iowa.

8. Within thirty (30) days of the date of approval of this Amendment to the Stipulation and Consent Order by the Board, the Respondent shall submit to the Board, for its approval, a written policy and procedure for documenting, resolving, and preventing medication dispensing errors in the practice of pharmacy. The policy and procedure shall also require that all records of Respondent's dispensing errors be consistently and periodically evaluated by the Respondent as part of a cycle of continuous quality improvement. Records of dispensing errors shall be maintained by Respondent for a minimum of two years. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to this policy and procedure whenever engaging in the practice of pharmacy.

9. Within one (1) year of the date of approval of this Amendment to the Stipulation and Consent Order by the Board, the Respondent shall complete pharmacy continuing education (CE) or other formal, structured education in medication dispensing errors. The education shall be not less than six (6) hours in length and 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 pharmacy continuing education required every two years for license renewal.

10. Upon approval of this Amendment to the Stipulation and Consent Order dated July 11, 1995, Respondent's pharmacist license shall be placed on probation for five (5) years with the same restrictions and conditions contained in the Stipulation and Consent Order dated July 11, 1995. The Stipulation and Consent Order dated July 11, 1995, is attached and incorporated by reference into this Amendment as if fully set forth herein.

11. The Respondent shall inform all partners and pharmacist employees of the contents of this Amendment to the Stipulation and Consent 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 that the employer has read and understands this document.

12. Respondent shall submit to random unannounced visits to or inspections of any of his pharmacies by the Board or agents of the Board to verify compliance with this Order.

13. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a).

14. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and impose additional disciplinary sanctions, including the revocation of Respondent's license to practice pharmacy. 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.

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

16. This Stipulation and Consent Order is subject to approval of a majority of the full Board. If the Board fails to approve this Stipulation and Consent Order, 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.

17. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 19th day of March, 1996.



ALLEN P. WOLNERMAN, R.Ph.
Respondent

Subscribed and Sworn to before me on this 19th day of March, 1996.



NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

18. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 19th day of March, 1996.



PHYLLIS A. OLSON, Vice Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

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

RE: Repharmacist License of ALLEN P. WOLNERMAN License No. 15870 Respondent.	: : : : : : :	PETITION FOR MODIFICATION OF CONSENT ORDER
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COMES NOW the licensee, Allen P. Wolnerman and for his petition of modification of consent order states:

1. On March 19, 1996 Allen Wolnerman entered into an Amended Stipulation and Consent Order with the Board of Pharmacy which placed Mr. Wolnerman on probation with conditions. The March 19th Order amended the original Consent Order dated July 11, 1995.
2. Pursuant to the original Consent Order, Mr. Wolnerman's license was suspended for 30 days, he was placed on five years probation with conditions, and he paid a fine of \$15,000. Pursuant to the Amended Order, Mr. Wolnerman paid an additional \$1,500 fine.
3. Three years have now passed since the entry of the original Consent Order, and 2 years, 3 months have passed since the entry of the Amended Stipulation and Consent Order. During that period, Mr. Wolnerman has complied with all the conditions of his probation, which included the following:
 - a. Underwent complete medical and physical evaluation;
 - b. Successfully passed the IDLE and FDLE exams;
 - c. Informed all partners and employees of the contents of the consent order;
 - d. Informed all physicians and counselors of the contents of the consent order;

- e. Completed all required CPE classes:
- f. Refrained from working with any pharmacy students.

4. In addition to complying with all the conditions associated with his probation, Mr. Wolnerman has upgraded the computer system in use at Urbandale Pharmacy and Franklin Pharmacy so as to avoid the errors that lead in part to the original probation.

WHEREFORE, licensee Allen Wolnerman respectfully requests that he be allowed to appear in person before the Board at an informal conference to request modification of the Amended Stipulation and Consent Order dated March 19, 1996.



Douglas E. Gross

BROWN, WINICK, GRAVES, GROSS,
BASKERVILLE AND SCHOENEBAUM, P.L.C.
Suite 1100, Two Ruan Center
601 Locust Street
Des Moines, IA 50309-3765
Telephone: 515/242-2400
Facsimile: 515/283-0231

Copy to:

Iowa Board of Pharmacy Examiners
1209 E. Court Avenue
Des Moines, Iowa 50319

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at such attorney's address as disclosed by the pleadings of record herein on the 2 day of July, 1998.

By: U.S. Mail Facsimile
 Hand Delivered Overnight Courier
 Federal Express Other

Signature 

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

Re:	)	SECOND AMENDMENT
Pharmacist License of	)	TO
ALLEN P. WOLNERMAN	)	STIPULATION
License No. 15870	)	AND
Respondent	)	CONSENT ORDER

COMES NOW, Arlan D. Van Norman, Chairperson of the Iowa Board of Pharmacy Examiners, on the 15th day of July, 1998, and declares that:

1. On July 11, 1995, the Iowa Board of Pharmacy Examiners accepted a Stipulation and Consent Order for Respondent.

2. On March 19, 1996, the Iowa Board of Pharmacy Examiners accepted an Amendment to Stipulation and Consent Order for Respondent.

3. On July 2, 1998, Respondent filed a Petition for Modification of Consent Order. On July 15, 1998, Respondent appeared in person before the Board at an informal conference. At the conclusion of the conference, the Board agreed to modify Respondent's Stipulation and Consent Order.

WHEREFORE, it is hereby ordered that Respondent's Stipulation and Consent Order dated July 11, 1995, is further modified as follows:

(1) Section II, paragraph 13, is rescinded.

(2) During the remainder of Respondent's probationary period, Respondent may supervise and work with pharmacy students, pharmacy externs, and pharmacy interns and may perform the duties of a preceptor, subject to the following conditions:

(a) Within 30 days of receipt of this Order, Respondent shall prepare and submit to the Board for its review Respondent's written policies and procedures for the following personnel issues: progressive discipline of pharmacy students, pharmacy externs, and pharmacy interns employed by Respondent; compliance with federal and state laws and regulations regarding workplace discrimination and harassment; and appropriate methods for Respondent to use to communicate with pharmacy students, pharmacy externs, or pharmacy interns.

(b) Respondent shall submit written quarterly reports to the Board which include the following information: the name of any pharmacy student, pharmacy extern, or pharmacy intern who has been employed by Respondent in any pharmacy in which Respondent has an ownership interest; any errors or problems encountered with any pharmacy student, pharmacy extern, or pharmacy intern employed by Respondent during the reporting period; and a description of how errors or problems with pharmacy students, pharmacy externs, or pharmacy interns were handled and resolved by Respondent. Quarterly reports shall be submitted to the Board office no later than October 15, January 15, April 15, and July 15 of each year of Respondent's remaining probationary period.

Respondent may not request further modification of his Stipulation and Consent Order until July 15, 1999.

IOWA BOARD OF PHARMACY EXAMINERS



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

cc: Linny Emrich
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319



THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

BOARD OF PHARMACY EXAMINERS
LLOYD K. JESSEN, EXECUTIVE SECRETARY/DIRECTOR

September 23, 1999

Allen P. Wolnerman, R.Ph.
Urbandale Pharmacy
6941 Douglas Avenue
Des Moines, Iowa 50322

Dear Mr. Wolnerman:

As you are aware, the Board granted your request for early termination of your probation, effective September 15, 1999. Your Iowa pharmacist license #15870 is now restored to a current and active status, without any conditions or restrictions.

In regard to records that are still in our possession from the Board's investigation, such as old invoices, print-outs, prescriptions, and other items, you need to tell us if you would like these records returned to you or if you want us to have them destroyed. Please let Lindy Pearson know of your decision. She can be reached at (515) 281-5944.
Thank you.

Sincerely yours,

Lloyd K. Jessen
Executive Secretary/Director
IOWA BOARD OF PHARMACY EXAMINERS

3. On July 15, 1998, following an informal conference, a Second Amendment to Stipulation and Order was issued by the Board. Pursuant to the Second Amendment, the conditions of Mr. Wolnerman's probation barring him from working with pharmacy students was rescinded, provided Mr. Wolnerman a) prepare written policies for the Board's review regarding personnel issues, and b) submit quarterly reports to the Board regarding pharmacy students working under his supervision. The Second Amendment also provided that Mr. Wolnerman may not request further modification of his Stipulation and Consent Order until July 15, 1999.

4. Four years have now passed since the entry of the original Consent Order, and 3 years, 3 months have passed since the entry of the Amended Stipulation and Consent Order. During that period, Mr. Wolnerman has complied with all the conditions of his probation in a timely manner.

5. In addition to complying with all the conditions associated with his probation, Mr. Wolnerman has upgraded the computer system in use at Urbandale Pharmacy and Franklin Pharmacy so as to avoid the errors that lead in part to the original probation. As a result, the Urbandale Pharmacy is once again in good standing with PCS. Further, since renewing its relationship with PCS, Urbandale Pharmacy has been audited several times by PCS and has had excellent results.

WHEREFORE, licensee Allen Wolnerman respectfully requests that he be allowed to appear in person before the Board at its July 1999 meeting at an informal conference to request modification of the Second Amendment to Stipulation and Order dated July 15, 1998.



Douglas E. Gross

BROWN, WINICK, GRAVES, GROSS,
BASKERVILLE AND SCHOENEBAUM, P.L.C.
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Telephone: 515/242-2400
Facsimile: 515/283-0231

Copy to:

Iowa Board of Pharmacy Examiners
1209 E. Court Avenue
Des Moines, Iowa 50319

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at such attorney's address as disclosed by the pleadings of record herein on the 10th day of June, 1999.

By: U.S. Mail Facsimile
 Hand Delivered Overnight Courier
 Federal Express Other

Signature Jamara Niles Sprole