

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

---

Re:	)	Case No. 2003-71
Pharmacist License of	)	
<b>DOUGLAS W. BOUCHEY</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 19775	)	
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 147, 155A and 272C (2003).
3. On December 5, 2002, the Board issued Respondent, Douglas W. Bouchey, by reciprocity, a license to engage in the practice of pharmacy as evidenced by license number 19775, 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, 2004.
5. Respondent's current address is 2480 Spruce Wood Drive, Dubuque, Iowa 52002.
6. Respondent was employed as a staff pharmacist at Union Family Pharmacy, Dubuque, Iowa, until September 12, 2003, and was employed as such during all times relevant to this statement of charges.

COUNT I

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

COUNT II

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 III

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

### COUNT IV

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 V

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

### COUNT VI

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 VII

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 VIII

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 IX

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

prospective drug use review.

#### COUNT X

Respondent is charged under 657 I.A.C. § 36.1(4)(j) and 21 C.F.R. § 1306.04 with filling 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 XI

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 filling Internet prescriptions that were not prepared in the form prescribed by Federal regulations.

#### 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. Respondent was hired by Union Family Pharmacy to handle the filling of Internet prescriptions.
4. 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.
5. 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.

6. 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.”
7. 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.
8. 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.”
9. Beginning August 19, 2003, Union Family Pharmacy dispensed approximately 4,750 Internet prescriptions as follows:
  - August 19, 2003: 82
  - August 20, 2003: 440
  - August 21, 2003: 284
  - August 24, 2003: 463
  - August 27, 2003: 105
  - August 28, 2003: 102
  - August 29, 2003: 190
  - September 1, 2003: 354
  - September 2, 2003: 241
  - September 3, 2003: 200
  - September 4, 2003: 197
  - September 5, 2003: 289
  - September 6, 2003: 425
  - September 7, 2003: 584
  - September 8, 2003: 489
  - 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

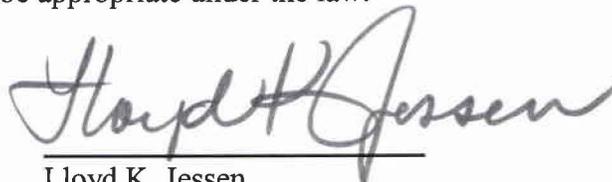
with a receipt for an Internet prescription that she had received from Union Family Pharmacy via Medical Web Services.

10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. Respondent and Union Family Pharmacy failed to provide proper security for prescription drugs and controlled substances stored and handled in the dispensing areas.
16. 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.

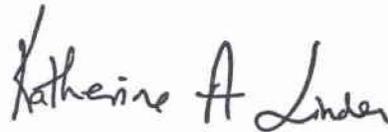
17. Numerous inspections of Union Family Pharmacy conducted between 1992 and 2003 have revealed that Union Family Pharmacy has repeatedly failed to comply with the minimum standards for the practice of pharmacy and the operation of a pharmacy, including but not limited to the requirements for: patient 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.

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

Bouchey SOC.doc

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

---

Re:	)	Case No. 2003-71
Pharmacist License of	)	
<b>DOUGLAS W. BOUCHEY</b>	)	<b>EMERGENCY ORDER</b>
License No. 19775	)	
Respondent	)	

---

**I. JURISDICTION**

Respondent Douglas W. Bouchey possesses pharmacist license number 19775, 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. On December 5, 2002, the Board issued Iowa pharmacist license number 19775 to Respondent based upon license reciprocity from the state of Michigan, thereby authorizing Respondent to engage in the practice of pharmacy in Iowa subject to the laws of the State of Iowa and the rules of the Board.

2. Respondent served as a staff pharmacist at Union Family Pharmacy at 2541 Central Avenue, Dubuque, Iowa, until September 12, 2003, when Union Family Pharmacy was closed by Order of the Board. Respondent's primary duty at Union Family Pharmacy was handling Internet prescriptions.

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 a staff pharmacist at 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 properly supervise pharmacy technicians and other supportive personnel in compliance with Iowa pharmacy laws and Board rules.
- i. Respondent failed to verify the authenticity, including source of origin, of electronically transmitted prescription drug orders.
- j. Respondent failed to comply with the minimum standards for electronic transmission of prescriptions, which currently prohibit computer-to-computer transmission of controlled substance prescriptions.
- k. 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.

- l. Respondent failed to comply with pharmacy record keeping requirements.
- m. Respondent failed to ensure that an electronically transmitted prescription drug orders were properly signed with a valid electronic signature.
- n. Respondent failed to provide complete and proper documentation for all processed prescription drug orders.
- o. Respondent failed to ensure that all prescription drug orders for controlled substances comply with federal and state requirements pertaining to form.
- p. 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 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 fact that 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 utilized by 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 severity of Respondent's failure to comply with pharmacy laws and rules, and his failure 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.

7. 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

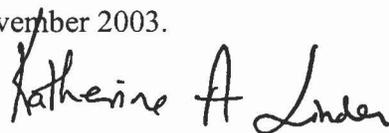
The Board ORDERS as follows:

a. Immediate restriction of pharmacist license number 19775, issued to Douglas W. Bouchey, 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 19775, issued to Douglas W. Bouchey, 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, 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

## VOLUNTARY SURRENDER OF PHARMACIST LICENSE

I, Douglas W. Bouchey, a 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 19775, 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, Douglas W. Bouchey, 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:

- (1) My right to a formal hearing before the Iowa Board of Pharmacy Examiners on the matter of my continued licensure as a pharmacist 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 formal hearing.

I, Douglas W. Bouchey, 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.



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

---

Re:	)	<b>ORDER</b>
Pharmacist License of	)	<b>ACCEPTING</b>
<b>DOUGLAS W. BOUCHEY</b>	)	<b>SURRENDER OF</b>
License No. 19775	)	<b>PHARMACIST LICENSE</b>

---

**COMES NOW**, Katherine A. Linder, Chairperson of the Iowa Board of Pharmacy Examiners, on the 16<sup>th</sup> day of March, 2004, and declares that:

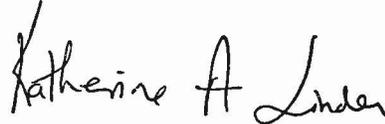
1. On November 17, 2003, the Board issued a Statement of Charges to the Respondent.

2. On February 24, 2004, Respondent executed a voluntary surrender of his pharmacist license number 19775 pursuant to 657 Iowa Administrative Code § 36.15. In so doing, Respondent waived his right to a formal hearing before the Iowa Board of Pharmacy Examiners.

3. On March 16, 2004, 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 19775 is hereby accepted and, pursuant to 657 Iowa Administrative Code § 36.13, said surrender shall be considered a revocation of registration with respect to any future request for reinstatement.

IOWA BOARD OF PHARMACY EXAMINERS



---

Katherine A. Linder, Chairperson