

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Case No. 2010-27
Controlled Substance Registration of)
DES MOINES UNIVERSITY)
No. 4200310,) **STIPULATED**
Respondent.) **FINDINGS OF FACT**
) **AND ORDER**

I. BACKGROUND

The Iowa Board of Pharmacy (hereinafter, "Board") and Des Moines University ("Respondent") hereby agree to these Stipulated Findings of Fact and Order to resolve disciplinary proceedings relating to Controlled Substance Registration ("CSR") number 4200310. The Board's jurisdiction arises under Iowa Code chapters 124 and 272C (2009), most specifically under Iowa Code § 124.304(1)(d) (2009). The Board's authority to resolve this disciplinary proceeding by settlement is found in Iowa Code §§ 17A.10 and 272C.3(2)(a) (2009), and 657 Iowa Administrative Code § 10.12(8).

II. SHOW CAUSE ORDER

Iowa Code § 124.305(1) (2009) provides that before commencing disciplinary proceedings relating to a CSR, the Board shall serve upon the registrant a show cause order. Respondent hereby waives the issuance and service of a show cause order in order to expedite settlement of these proceedings.

III. FINDINGS OF FACT

The Board finds as follows:

- a. Respondent held CSR 4200310 prior to its expiration on May 31, 2008.
- b. From September 2007 through May 31, 2008, Terriann Crisp ("Crisp"), a

professor in Respondent's Department of Physiology and Pharmacology, was designated by Respondent to serve as the person responsible for controlled substances acquired pursuant to CSR 4200310 and for record keeping relating to the controlled substances acquired. No person was designated by Respondent to over-see Crisp's compliance with CSR regulations.

c. Crisp ordered and acquired morphine sulphate after Respondent's CSR had expired on May 31, 2008.

d. A graduate student research project conducted at Respondent used small quantities – totaling approximately 20 milliliters – of morphine sulfate, a controlled substance. The morphine sulfate was ordered by utilizing Respondent's CSR. Quantities of morphine sulfate acquired by Respondent greatly exceeded the quantity needed to conduct the research.

e. Following completion of a graduate student research project on August 1, 2009, Respondent had no further use for morphine sulfate.

f. Morphine sulphate was ordered and acquired after the graduate student research concluded on August 1, 2009. Crisp placed orders for five 20ml vials of morphine sulfate injectable on 8-18-09 and again on 8-27-09.

g. An audit of morphine sulfate 15mg/ml injection solution acquired by Respondent revealed that 768.48 milliliters are unaccounted for. The audit covered a nine month time period (December 2008 to August 2009). A more extensive audit was impossible because Respondent's controlled substance logbook for 2001-2008 is missing.

h. Crisp's laboratory was conducting the only research at Respondent which

utilized morphine sulfate.

i. Crisp claims to have destroyed the morphine sulfate which is unaccounted for by pouring it down a laboratory drain.

IV. CONCLUSIONS OF LAW

a. The Board has jurisdiction over the parties and the subject matter of this proceeding pursuant to Iowa Code Chapters 124 and 272C (2009).

b. These Stipulated Findings of Fact and Order constitute the resolution of a contested case proceeding. The findings of fact provide grounds for the disciplinary order below.

c. Respondent voluntarily waives any right to a contested case hearing and voluntarily waives any objections to the terms of these Stipulated Findings of Fact and Order, including the right to appeal.

d. These Stipulated Findings of Fact and Order are voluntarily submitted by Respondent to the Board for consideration.

e. Counsel for the State may present these Stipulated Findings of Fact and Order to the Board for approval.

f. These Stipulated Findings of Fact and Order shall be made part of the Respondent's permanent record and may be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future statutory or rule violation by Respondent.

g. In the event Respondent violates or fails to comply with any of the terms of these Stipulated Findings of Fact and Order, the Board may initiate appropriate action to revoke or suspend Respondent's CSR or to impose other licensee discipline in

accordance with Iowa Code chapters 124 and 272C (2009).

h. These Stipulated Findings of Fact and Order are a public record available for inspection and copying, after execution and acceptance by the Board, in accordance with the requirements of Iowa Code chapters 22 and 272C (2009).

V. ORDER

- a. Upon the Board's approval of these Stipulated Findings of Fact and Order, Respondent shall be assessed a civil penalty in the amount of \$6000. This civil penalty payment shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board. All civil penalty payments shall be deposited into the State of Iowa general fund.
- b. Within sixty (60) days after the date of the Board's approval of these Stipulated Findings of Fact and Order, Respondent will provide to the Board policies and procedures for the following: (a) appropriate handling – by all personnel – of controlled substances, (b) controlled substance record keeping, (c) adoption of measures to prevent controlled substance diversion and loss, (d) designation and supervision of persons responsible for controlled substance management and record keeping, (e) inventory audit and management standards, and (f) keeping Respondent's CSR current. Following review and approval by the Board, Respondent agrees to adopt, implement, and adhere to such policies and procedures.
- c. Respondent's CSR shall, if reinstated, be placed on probation for one (1) year. During probation, Respondent shall report to the Board quarterly, in writing. The quarterly report shall include *Respondent's most recent efforts to implement the provisions of*

this Stipulation and Consent Order, by date, and any further information deemed necessary by the Board from time to time.

d. Crisp shall not serve as the person responsible for Respondent's CSR, CSR renewal, or compliance with Respondent's policies and procedures related to controlled substances.

IT IS SO STIPULATED this 27 day of SEPTEMBER 2010:

DES MOINES UNIVERSITY

Respondent

By: *Stephen Sydney Dale*

Title: INTERIM PRESIDENT

IT IS SO ORDERED this 28 day of September 2010:

Vernon H. Benjamin, Chairperson
VERNON H. BENJAMIN, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa

Connie Diekema

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