

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

Re:	)	Case No. 2004-16
Wholesale Drug License of	)	
<b>KENYON DRUG COMPANY</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 5046	)	
Respondent	)	

**COMES NOW**, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (2003).
3. Effective December 9, 2004, the Board renewed Respondent's wholesale drug license number 5046 allowing Respondent to engage in the operation of a wholesale drug facility subject to the laws of the State of Iowa and the rules of the Board. Respondent's wholesale drug license is current until December 31, 2004.
4. At all times material to the charges herein, Respondent was operating it business at 207 Second Avenue Southwest, Cedar Rapids, IA 52404.

**A. CHARGES**

**COUNT I – OBTAINING PRESCRIPTION DRUGS BY FRAUD**

The Respondent is charged under Iowa Code §§ 155A.17 (2003) and 155A.23(1)(a) and 657 Iowa Administrative Code § 36.1(4)(c) with knowingly making misleading, deceptive, untrue or fraudulent representations in the course of obtaining legend drugs from Clark's Pharmacy for the personal use of Richard and Mary Keel.

**COUNT II – ILLEGAL DISTRIBUTION OF DRUGS**

The Respondent is charged under Iowa Code § 155A.17 (2003) and 657 Iowa Administrative Code § 36.1(4)(h) with distribution of drugs for other than lawful purposes, specifically the direct distribution to Richard and Mary Keel of prescription medications for their personal use.

### COUNT III- INADEQUATE RECORDKEEPING

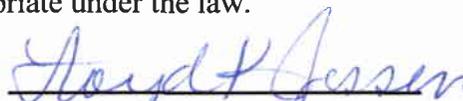
The Respondent is charged under Iowa Code § 155A.17 (2003) and 657 Iowa Administrative Code § 17.16 with maintaining inadequate records of the purchases of prescription drugs.

#### B. CIRCUMSTANCES

Beginning on or about March 3, 2004 an investigation of Kenyon Drug Company was conducted, revealing the following:

1. Respondent's most recent wholesale drug license application, filed December 8, 2003, indicated that Respondent is a distributor of controlled substances and over-the-counter drugs and devices to community pharmacies and individual physicians and prescribers.
2. Inspection of the Respondent's business revealed that Respondent's primary activity is distribution of over-the-counter products, manufactured by third-parties, many of which bear a Kenyon Drug label.
3. Respondent's records of the purchase of legend drugs from Clark's Pharmacy in Cedar Rapids were incomplete.
4. The owner of Respondent, Richard D. Keel, admits that legend drugs purchased by Respondent from Clark's Pharmacy were for the personal use of Keel and his wife, Mary K. Keel, and not for wholesale distribution.

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 7 day of October 2004, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.

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

cc: Scott M. Galenbeck  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

Kenyon DrugSOC.doc

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

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Re:	)	Case No. 2004-16
Wholesale Drug License of	)	
<b>KENYON DRUG COMPANY</b>	)	<b>STIPULATION</b>
License No. 5046	)	<b>AND</b>
Respondent	)	<b>CONSENT ORDER</b>

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Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2005), The Iowa Board of Pharmacy Examiners (hereinafter, the "Board") and Kenyon Drug Company (hereinafter, "Respondent") have agreed to settle a contested case currently on file with the Iowa Board of Pharmacy Examiners. The Statement of Charges filed against Respondent on October 7, 2004 and the licensee disciplinary proceeding shall be resolved without a hearing, as the Board and Respondent have agreed to the following Stipulation and Consent Order:

1. Respondent's wholesale drug license was renewed December 6, 2004 as evidenced by license number 5046, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. Wholesale drug license number 5046, issued to and currently held by Respondent, is current and in force until December 31, 2005.
3. The Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
4. A Statement of Charges was filed against Respondent October 7, 2004.
5. Respondent does not contest the allegations set forth in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, constitute grounds for the discipline described herein.

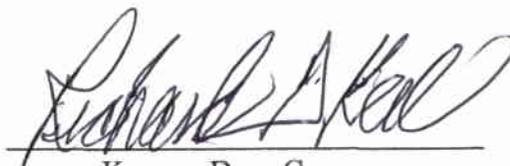
6. Respondent's license shall be placed on probation for three (3) years, upon the following conditions:
  - a. Within sixty (60) days after the date of the Board's approval of this Stipulation and Consent Order, Respondent will propose to the Board *typewritten* policies and procedures for the following: (1) record-keeping relating to the purchase of legend drugs and (2) authorized distribution of legend drugs. Such written procedures shall specify that legend drugs shall not be distributed to individual persons. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures.
  - b. During probation, Respondent shall file sworn quarterly reports with the Board attesting to Respondent's compliance with the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than December 5, March 5, June 5 and September 5 of each calendar year. Respondent's quarterly reports shall detail 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.
7. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$500. This civil penalty payment shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board. All civil penalty payments shall be deposited into the State of Iowa general fund.
8. Respondent agrees to obey all federal and state laws, rules, and regulations substantially related to the operation of pharmacy.
9. Should Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend Respondent's Iowa license to operate a pharmacy or to impose other licensee discipline

as authorized by Iowa Code chapters 272C and 155A and 657 Iowa Administrative Code § 36.1.

10. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent Order.
11. This proposed settlement is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.
12. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary action.

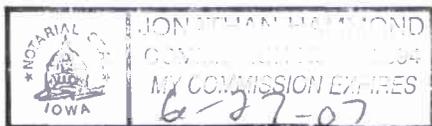
This Stipulation and Consent Order is voluntarily submitted by Kenyon Drug Company to the Iowa Board of Pharmacy Examiners for its consideration on

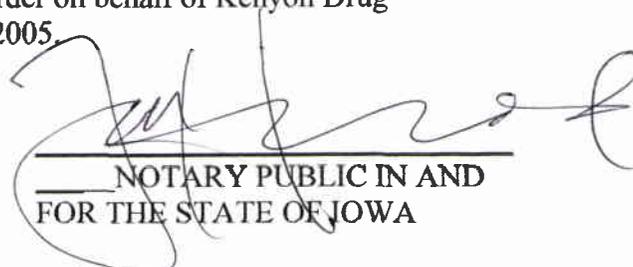
8/8/05 2005.



Kenyon Drug Company  
Respondent  
By Richard Keel

Subscribed and sworn to before me by Richard Keel, who has stated to me that he is authorized to sign this Stipulation and Consent Order on behalf of Kenyon Drug Company on this 8 day of AUGUST, 2005.



  
NOTARY PUBLIC IN AND  
FOR THE STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on this 13 day of Sept., 2005.

  
MICHAEL J. SEIFERT,

Chairperson

Iowa Board of Pharmacy Examiners  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: **Scott M. Galenbeck**  
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Office of the Attorney General  
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