

BEFORE THE IOWA BOARD OF PHARMACY

Re:)
Pharmacy License of) Case No. 2011-1
LUTZ LONG TERM CARE)
License No. 1327) **STATEMENT OF CHARGES**
Respondent.)

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

1. He is the Executive Director for the Iowa Board of Pharmacy 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 (2011).
3. On December 1, 2010, the Board renewed general pharmacy license number 1327 for Lutz Long Term Care pharmacy (hereinafter, "Respondent"), allowing Respondent to engage in the operation of a pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 1327 is current until December 31, 2011.
5. Respondent operates a general pharmacy at 120 8th Street Southeast, Suite B, Altoona, Iowa 50009 with Susan C. Lutz as the pharmacist in charge.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.15(2)(c) (2011) and 657 Iowa Administrative Code § 36.1(4)(b) with lack of professional competency as demonstrated by Respondent's (a) substantial deviation from the standards of learning and skill ordinarily possessed and applied by other Iowa pharmacies, (b) failure to exercise in a substantial respect that degree of care which is ordinarily exercised by an Iowa pharmacy and (c) willful and repeated departures from, and a failure to conform to, the minimal standard and acceptable and prevailing practice of pharmacy in the state of Iowa, as evidenced by Respondent's failure to maintain adequate controls over controlled substances.

COUNT II – FAILURE TO MAINTAIN ADEQUATE CONTROLS

Respondent is charged under Iowa Code §§ 124.306, 124.402(1) and 155A.15(2)(i) (2011), and 657 Iowa Administrative Code § 6.7, with failing to maintain adequate control over and accountability for controlled substances.

B. CIRCUMSTANCES

On or about January 3, 2011, an investigation was commenced which revealed the following:

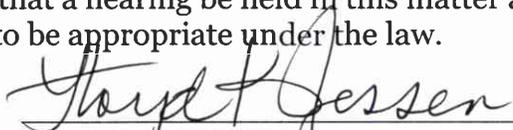
1. At all times material, Respondent operated a general pharmacy at 120 8th Street Southeast, Suite B, Altoona, Iowa 50009 with Susan Lutz as the pharmacist in charge.
2. Another pharmacist employed by Respondent was arrested by police on January 3, 2011. During a related search of her vehicle, over 100 tablets were found loose in the pharmacist's purse. The recovered drugs and their quantities were as follows:

Hydrocodone/APAP 7.5/500mg	68
Hydrocodone/APAP 10/325mg	4
Hydrocodone/APAP 10/500mg	21
Lorazepam 2mg	5
Diazepam 10mg	13
Zolpidem 10mg	2

3. All of the drugs in the pharmacist's possession at the time of her arrest were of the same generic brand that Respondent has in its dispensing stock.
4. On the following day, January 4, 2011, the same pharmacist-employee entered Respondent sometime after the pharmacy closed and left her key to the door, along with a note. After it was discovered that the pharmacist had made an after-hours entry into Respondent, a pharmacy audit was performed. The audit covered the same six drugs the pharmacist had in her possession when she was arrested on January 3, 2011. The audit revealed the following inventory shortages:

Hydrocodone/APAP 7.5/500mg	-2093
Hydrocodone/APAP 10/325mg	-878
Hydrocodone/APAP 10/500mg	-1438
Zolpidem 10mg	-788

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 Director

On this 13th day of Sept. 2011, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.



SUSAN FREY, 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

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BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2011-1
Pharmacy License of)	
LUTZ LONG TERM CARE)	STIPULATED
License No. 1327)	CITATION
Respondent)	AND WARNING

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), and 657 I.A.C. § 36.1(2) (j), the Iowa Board of Pharmacy (hereinafter, “the Board”) and Lutz Long Term Care (hereinafter, “Respondent”), enter into the following Stipulated Citation and Warning, settling a licensee disciplinary proceeding currently pending before the Board.

Allegations specified in a Statement of Charges filed against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent operates a general pharmacy at 120 8th Street Southeast, Suite B, Altoona, Iowa 50009, with Susan C. Lutz as pharmacist in charge.
2. Pharmacy license number 1327 is active and current through December 31, 2012.
3. A Statement of Charges was filed against Respondent on September 13, 2011.
4. The Board has jurisdiction over Respondent and jurisdiction over the subject matter of these proceedings.
5. For the purposes of this Stipulated Citation and Warning, Respondent does not contest the allegations set forth in the Statement of Charges.

Respondent accepts, pursuant to 657 I.A.C. § 36.1(2)(j), this citation and warning

for failure maintain adequate controls over controlled substances.

6. Beginning not later than thirty (30) days after the Board's approval of this Stipulated Citation and Warning, and continuing for the duration of Respondent's license, Respondent shall maintain a perpetual inventory of all products containing hydrocodone.

7. Within thirty (30) days of the Board's approval of this Stipulated Citation and Warning, Respondent shall submit, for the Board's approval, policies and procedures relating to security and accountability for controlled substances. Respondent agrees to adopt, implement, and adhere to these policies and procedures upon Board approval.

8. Should the Respondent violate or fail to comply with any of the terms or conditions of this Stipulated Citation and Warning, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacy license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2011), and 657 IAC § 36.

9. This Stipulated Citation and Warning is the resolution of a contested case. By entering into this Stipulated Citation and Warning, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulated Citation and Warning.

10. The State's legal counsel may present this Stipulated Citation and Warning to the Board.

11. This proposed settlement is subject to approval by a majority of the full Board. If the Board fails to approve this Stipulated Citation and Warning, it shall

be of no force or effect to either the Board or Respondent. If the Board approves this Stipulated Citation and Warning, it shall be the full and final resolution of this matter.

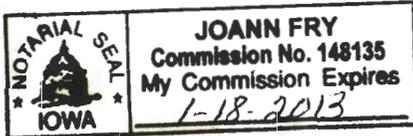
12. The Board's approval of this Stipulated Citation and Warning shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

This Stipulated Citation and Warning is voluntarily submitted by Respondent to the Board for its consideration on the 5th day of March 2012.

LUTZ LONG TERM CARE,
Respondent

By *Susan C. Lutz*

Subscribed and sworn to before me by Susan C. Lutz, who has stated to me that she is the pharmacist in charge at Lutz Long Term Care and is authorized to sign this Stipulation and Consent Order on behalf of Lutz Long Term Care, on this 5th day of March 2012.



Joann Fry
NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

This Stipulated Citation and Warning is accepted by the Iowa Board of Pharmacy on this 7th day of March 2012.

Susan M. Frey
SUSAN M. FREY, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

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