

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

Re:	)	Case No. 2002-17
Pharmacy License of)	
MATAYA DRUG	)	STATEMENT OF CHARGES
License No. 17)	
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 (2001).
3. Effective January 1, 2002, the Board renewed Respondent general pharmacy license number 17 with Joseph A. Mataya as pharmacist in charge, allowing Respondent to engage in the operation of pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 17 is current until December 31, 2002.
5. Respondent is currently operating a general pharmacy at 137 West Second Street, Madrid, Iowa 50156 with Joseph A. Mataya as the pharmacist in charge.

COUNT I

The Respondent is charged under Iowa Code § 155A.15(2)(c) (2001) and 657 Iowa Administrative Code §§ 36.1(4)(i) with intentional or repeated violation of Board rules §§ 6.3 (reference manual), 6.8 (controlled drug record-keeping), 8.4 (pharmacist logs), and 23.20 (destruction of controlled substances).

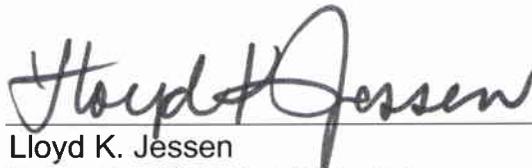
THE CIRCUMSTANCES

1. While investigating the complaint referred to in paragraph 1, a Board investigator inspected the pharmacy and compared the inspection results

to the results of an inspection of the Respondent's pharmacy, which was conducted on March 12, 2002.

2. The new inspection and comparison against the latest inspection revealed that numerous violations of the Board's rules continue to exist in the Respondent's pharmacy. The continuing violations included 657 Iowa Administrative Code §§ 6.3 (reference manual), 6.8 (controlled drug record-keeping), 8.4 (pharmacist logs), and 23.20 (destruction of controlled substances).

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 22 day of Oct., 2002, 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
800 SW Eighth Street, Suite E
Des Moines, IA 50309-4688

cc: Shauna Russell Shields
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

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

Re:	)	Case No. 2002-17
Pharmacy License of)	
MATAYA DRUG	)	DISMISSAL OF CHARGES
License No. 17)	
Respondent)	

The Iowa Board of Pharmacy Examiners hereby dismisses the Statement of Charges filed against Mataya Drug on October 22, 2002.

IT IS SO ORDERED this 9th day of April 2003.



Kay Bolton, Acting 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

Jim P. Robbins, P.C.
1001 West Mamie Eisenhower
Boone, IA 50036-3916

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

Re:	)	Case No. 2003-27
Pharmacy License of)	
MATAYA DRUG	)	STATEMENT OF CHARGES
License No. 17)	
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 January 1, 2002, the Board renewed Respondent general pharmacy license number 17 with Joseph A. Mataya as pharmacist in charge, allowing Respondent to engage in the operation of pharmacy subject to the laws of the State of Iowa and the rules of the Board. The pharmacist license of Joseph A. Mataya was indefinitely suspended on October 22, 2002.
4. General pharmacy license number 17 is current until December 31, 2003.
5. Respondent is currently operating a general pharmacy at 137 West Second Street, Madrid, Iowa, with no designated pharmacist in charge.

COUNT I

Respondent is charged under Iowa Code § 155A.15(2)(i) (2003) and 657 Iowa Administrative Code §§ 6.2(1)(a) and (b), 10.15 and 36.1(4)(u) with a failure to establish effective controls against diversion of prescription drugs and inadequate security.

COUNT II

Respondent is charged under Iowa Code § 155A.15(2)(d) (2003) and 657 Iowa Administrative Code §§ 6.7 with delivery of prescription drugs to unauthorized persons and permitting persons without an active pharmacist license access to the pharmacy while a pharmacist is not on site.

COUNT III

Respondent is charged under Iowa Code §§ 124.308(3), 124.402(1)(a), 155A.15(2)(c) and 155A.15(2)(d) and (h) (2003), and 657 Iowa Administrative Code §§ 6.2, 6.7 and 36.1(4)(u) with failing to maintain accurate control over and accountability for drugs, including controlled substances.

COUNT IV

Respondent is charged under Iowa Code § 155A.15(2)(c) (2003) and 657 Iowa Administrative Code § 8.35(6)(c) with a failure to apply to the Board of Pharmacy Examiners for approval of a change in the pharmacist in charge within 90 days of the suspension of the license of Joseph A. Mataya.

COUNT V

Respondent is charged under Iowa Code § 155A.15(2)(c) and (2003) and 657 Iowa Administrative Code § 8.5 with a failure to maintain an orderly, clean and sanitary pharmacy.

COUNT VI

Respondent is charged under Iowa Code § 155A.15(2)(c) and (e) (2003) and 657 Iowa Administrative Code §§ 8.14, 8.30 and 36.1(4)(l) with knowingly procuring the services of Rebecca Mataya and allowing her to work in the pharmacy after her technician's registration had expired.

THE CIRCUMSTANCES

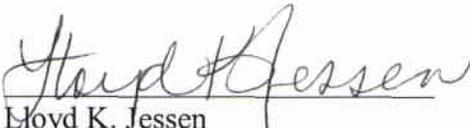
On or about March 19, 2003, an investigation of Mataya Drug was commenced, which revealed the following:

1. Orders placed by the respondent during recent months for significant amounts of Methylphenidate products have continued despite minimal dispensing of these products. An audit of Methylphenidate products indicates in excess of 15,000 missing tablets. Additionally, records relating to other controlled substances such as Hydrocodone and Alprazolam cannot be audited successfully, indicating missing purchase records.
2. Bottles of Methylphenidate 20 mg tablets at respondent pharmacy were discovered to contain materials other than Methylphenidate, possibly vitamins, and prednisone 5mg.
3. Above the ceiling in a room which is connected to the pharmacy by an open entryway,

materials were discovered which included: empty stock bottles of Methylphenidate, straw-like tubes, sexual paraphernalia, empty packages for Nitroglycerin trans-dermal patches and empty liquor bottles.

4. The Board of Pharmacy Examiners has not been notified of respondent's new pharmacist in charge since Joseph A. Mataya's license was suspended on October 22, 2002.
5. Respondent has employed Rebecca Mataya as a technician subsequent to the expiration of her technician registration on August 31, 2000.

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 9th day of April 2003, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Kay Bolton, Acting 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

Jim P. Robbins, P.C.
1001 West Mamie Eisenhower
Boone, IA 50036-3916

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

Re:	)	Case No. 2003-27
Pharmacy License of)	
MATAYA DRUG)	
License No. 17	)	STIPULATION
Respondent	)	AND
	)	CONSENT ORDER

The Iowa Board of Pharmacy Examiners (hereinafter, "Board") and Mataya Drug (hereinafter, "Respondent"), pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2003), have agreed to enter into a Stipulation and Consent Order settling the contested case currently on file. Therefore, the licensee disciplinary hearing pending before the Iowa Board of Pharmacy Examiners, relating to allegations specified in the Statement of Charges filed against Respondent on April 9, 2003, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. Respondent's license to operate a pharmacy was renewed effective January 1, 2002 as evidenced by Pharmacy License Number 17, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. General Pharmacy License Number 17 issued to and currently held by Respondent is current and in force until December 31, 2003.
3. The Board has jurisdiction over the Respondent and the subject matter herein.
4. A Statement of Charges was filed against Respondent on April 9, 2003. An emergency order relating to that Statement of Charges was subsequently entered

by the Board on April 10, 2003.

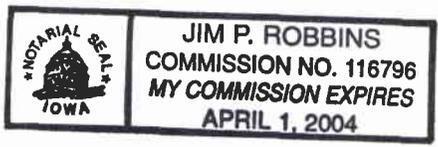
5. Respondent does not contest the allegations set forth in the Statement of Charges and acknowledges that all appropriate grounds exist for the findings of fact, conclusions of law and emergency order entered by the Board April 10, 2003.
6. Respondent agrees to comply with the provisions of the Emergency Order, as modified herein. Specifically, Respondent agrees to (a) appoint and maintain in its employment, at all times, a pharmacist-in-charge, (b) change all locks on Respondent pharmacy so that only the pharmacist-in-charge, and technicians Phyllis Galetich and Jill King have keys to the pharmacy, and (c) refrain from obtaining, selling, transferring, distributing or dispensing any controlled substance.
7. Respondent shall obey all federal and state laws, rules, and regulations substantially related to the operation of a pharmacy.
8. 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.
9. 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.

- 10. 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.
- 11. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary action.
- 12. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 22nd day of April 2003.

James A. Obrecht

 Mataya Pharmacy
 James A. Obrecht, R.Ph.
 Pharmacist in charge,
 Mataya Drug

Subscribed and sworn to before me by James A. Obrecht, who has stated to me that he/she is the pharmacist in charge of Mataya Drug and that he/she is authorized to sign this Stipulation and Consent Order on behalf of said Mataya Drug on this 22nd day of April 2003, *client took it to James who signed it in his presence.*



NOTARY PUBLIC IN AND FOR THE STATE OF IOWA

- 13. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 23 day of April 2003.

Katherine A. Linder

 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
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

Jim P. Robbins, P.C.
1001 West Mamie Eisenhower
Boone, IA 50036-3916

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

Re:)	Case No. 2003-27
Pharmacy License of)	
MATAYA DRUG	)	EMERGENCY ORDER
License No. 17)	
Respondent)	

I. JURISDICTION

Respondent Mataya Drug possesses general pharmacy license number 17, issued by the Iowa Board of Pharmacy Examiners (hereinafter, "Board"). The Board has jurisdiction over pharmacy licensees pursuant to Iowa Code Chapters 155A and 272C (2003).

A Statement of Charges was filed against Respondent on April 9, 2003. After receipt and review of the Statement of Charges, and careful review of evidence relating to the operations of respondent, the Board has adopted the following Findings of Fact and Conclusions of Law.

II. FINDINGS OF FACT

1. Effective January 1, 2002, the Board renewed Respondent general pharmacy license number 17 with Joseph A. Mataya as pharmacist in charge, allowing Respondent to engage in the operation of pharmacy subject to the laws of the State of Iowa and the rules of the Board. The pharmacist license of Joseph A. Mataya was indefinitely suspended on October 22, 2002.

2. Respondent is currently operating a general pharmacy at 137 West Second Street, Madrid, Iowa, with no designated pharmacist in charge.

3. On or about March 19, 2003, the board commenced an investigation of Mataya Drug

which revealed the following:

a. Respondent's recent orders for significant amounts of Methylphenidate products have occurred despite minimal dispensing of these products. An audit of Methylphenidate product inventory indicates in excess of 15,000 missing tablets. Additionally, records relating to other controlled substances such as Hydrocodone and Alprazolam cannot be audited successfully, indicating missing purchase records or diversion of the controlled substances to non-prescription users.

b. Bottles of Methylphenidate 20 mg tablets at respondent pharmacy were discovered to contain materials other than Methylphenidate, possibly vitamins, and prednisone 5mg.

c. Above the ceiling in a room which is connected to the pharmacy by an open entryway, materials were concealed, including: empty stock bottles of Methylphenidate, straw-like tubes, sexual paraphernalia, empty packages of Nitroglycerin trans-dermal patches and empty liquor bottles.

d. The Board of Pharmacy Examiners has not been notified of respondent's new pharmacist in charge since Joseph A. Mataya's license was suspended on October 22, 2002.

4. The Board finds that the evidence assembled during the investigation of Respondent supports the April 9, 2003 Statement of Charges against Respondent. The Board finds that Respondent has violated the provisions of Iowa Code Chapter 155A and Chapter 657 of the Iowa Administrative Code in the manner alleged in the Statement of Charges.

5. The Board finds that the public health, safety and welfare is endangered by

Respondent in the following manner:

a. In the absence of purchase records, the volume of controlled substances leaving the Respondent pharmacy establishes that the pharmacy is being used as a conduit to provide illegal distribution of drugs for non-pharmaceutical purposes.

b. The presence of empty stock bottles of Methylphenidate (a controlled substance), straw-like tubes, sexual paraphernalia, empty packages for Nitroglycerin trans-dermal patches and empty liquor bottles in an open room adjacent to the Respondent pharmacy establishes that (1) the pharmacy is being used for non-pharmacy, sexual activities including illegal distribution of controlled substances and (2) that the pharmacy is being accessed during non-business hours, at which time the drug stocks are vulnerable to illegal distribution and tampering.

c. The presence of empty controlled substances containers in conjunction with sexual paraphernalia establishes that the drug stock of the Respondent pharmacy is being accessed illegally in conjunction with off-hours sexual activities.

d. The presence of adulterated drugs in the Respondent pharmacy establishes that the illegal distribution of controlled substances is being accompanied by an attempt to conceal the distribution, resulting in the dangerous possibility of improper and ineffective drugs being dispensed in error.

6. The Board further finds that the public health, safety and welfare are endangered by Respondent's failure to control access to controlled substances, Respondent's failure to prevent tampering with controlled substances and other drugs. This failure creates the potential that tampered drugs will be dispensed to members of the public, possibly resulting in life-threatening

ingestion of incorrect pharmaceuticals.

7. The Board also finds that the public health, safety and welfare are endangered by Respondent's failure to place any pharmacist in charge of the pharmacy, thereby creating a mechanism for supervision of the pharmacy operations of Respondent.

8. The Board finds that immediate, emergency action must be taken for the reason that if Respondent Pharmacy is allowed to continue to operate in the manner it has been operating, the public health, safety and welfare will be threatened by the possibility of both illegal drugs and drugs that have been tampered with finding their way into the hands of members of the public.

9. The Board finds that the minimum emergency action needed to protect the public health, safety and welfare is as follows:

a. Commencement of proceedings under Iowa Code Chapter 124 (2003) to permit seizure by the Board of all controlled substances currently in the possession of respondent.

b. Issuance of an order directing Respondent to immediately appoint a pharmacist in charge. If the Respondent has not appointed a pharmacist in charge within 7 days, the Board should reconvene to consider revocation of Respondent's pharmacy license.

c. Issuance of an order that none of the controlled substances currently in possession of respondent are to be sold, transferred, distributed or dispensed without a prior visual inspection by a board-approved party to verify their authenticity.

d. Issuance of an order directing that following appointment of a pharmacist-in-charge, all locks on Respondent pharmacy shall be changed to prohibit access by any person other than the pharmacist-in-charge. Access by the pharmacy owners shall be

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

Re:	)	Case No. 2003-27
Controlled Substance Registration of:)	
Mataya Drug	)	EMERGENCY ORDER
Registration No. 1107275)	
Respondent)	

COMES NOW, the Complainant, Lloyd K. Jessen, on April 9, 2003, 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 Chapter 124 (2001) and 657 Iowa Administrative Code 10.12.
3. On December 31, 2002, the Board renewed Respondent Mataya Drug's, controlled substance registration number 1107275, subject to the laws of the State of Iowa and the rules of the Board.
4. Registration number 1107275 is current and active until January 31, 2005.
5. Respondent's current address is 137 West Second Street, Madrid, Iowa 50156.
6. The Respondent's license to operate a pharmacy in Iowa was modified by the Iowa Board of Pharmacy Examiners, by emergency adjudicative action, on April 9, 2003. As a result of that action, the Respondent no longer has authority under the Iowa Uniform Controlled Substances Act, Iowa Code chapter 124.

IF YOU DESIRE A HEARING ON THIS ACTION, YOU MUST FILE A REQUEST FOR A HEARING WITHIN THIRTY (30) DAYS OF SERVICE OF THIS EMERGENCY ORDER.

EFFECTIVE UPON SERVICE OF THIS ORDER, YOUR CONTROLLED SUBSTANCE REGISTRATION NUMBER 1107275 IS REVOKED.



G. Kay Bolton
Acting Chairperson



Lloyd K. Jessen
Executive Secretary/Director

specifically prohibited.

III. CONCLUSIONS OF LAW

Respondent is operating a pharmacy in violation of the provisions of Iowa Code chapter 155A.15 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. Proceedings under Iowa Code Chapter 124 (2003) shall be commenced to permit seizure by the Board of all controlled substances currently in the possession of respondent.
- b. Respondent shall immediately appoint a pharmacist in charge.
- c. Controlled substances currently in possession of Respondent shall not be sold, transferred, distributed or dispensed without a prior visual inspection by a board-approved party to verify their authenticity.
- d. Following appointment of a pharmacist-in-charge, all locks on Respondent pharmacy shall be changed to prohibit access by any person other than the pharmacist-in-charge.

e. A hearing on this Emergency Order and the Statement of Charges, which have been filed concurrently with this Order, shall be held on April 23, 2003. The hearing will be at 2:00 p.m. and will be held at the Iowa Board of Pharmacy Examiners' office, located at 400 SW 8th Street, Suite E, Des Moines, Iowa 50309-4688.

IT IS SO ORDERED this 10th day of April 2003.


Kay Bolton, Acting 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

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1001 West Mamie Eisenhower
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