

BEFORE THE IOWA BOARD OF PHARMACY EXAMINERS

In the Matter of the Complaint :
and Statement of Charges Against : DECISION AND ORDER
WILLIAM R. MONROE, JR., Pharmacist. :

TO: William R. Monroe, Jr.

STATEMENT OF THE CASE:

A Complaint and Statement of Charges against William R. Monroe, Jr., was filed by the Executive Secretary of the Iowa Board of Pharmacy Examiners on May 16, 1985. All essential allegations of the Complaint being denied, a hearing was held in Des Moines, Iowa, on August 14, 1985, after due notices were issued. William R. Monroe, Jr. participated in person and was represented by William Bauer, attorney at law. John Hare, Eugene Larson, and Marilyn Larson testified on behalf of Mr. Monroe; and two exhibits marked Exhibits M-A and M-B were admitted into evidence on his behalf. Thomas D. McGrane, Assistant Attorney General, represented the Executive Secretary. Testimony in support of the Complaint was given by E. Ray Sheldon, James W. Reardon, Thomas Greene, Michael Miller, Stacy Schroeder, and Wanita Grinnell. Twelve exhibits, marked Exhibits One through Twelve for identification purposes, were admitted into evidence on behalf of the Executive Secretary. Craig Warner, attorney at law, participated in the hearing on behalf of Barry Geng, and Apothecary 24, respondents in associated cases which were joined in part during the proceedings. Pursuant to Mr. Monroe's request, the hearing was open to the public. The undersigned administrative hearing officer presided at the hearing and participated in the deliberation of the Board of Pharmacy Examiners (Board) after the conclusion of testimony. Board members Margo L. Underwood, Melba L. Scaglione, Jerry M. Hartleip, Rollin C. Bridge, Alan M. Shepley, and Gail W. Stapp participated in the hearing and deliberations. John F. Rode, Chairperson of the Board, did not participate in either the hearing or deliberation because of prior discussions with Mr. Monroe and his attorney.

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the Board made its decision and instructed the hearing officer to prepare its Decision and Order.

FINDINGS OF FACT:

William R. Monroe, Jr. was issued Iowa pharmacy license number 12568. His license was current until June 30, 1985.

Mr. Monroe was at all relevant times herein the secretary/treasurer and 50 percent shareholder of the corporation which owns Apothecary 24, a pharmacy in Burlington, Iowa. He was employed as a professional

pharmacist by Apothecary 24 at all pertinent times herein.

Between March 19, 1985, and April 8, 1985, audits of the records and inventory of Apothecary 24 performed by authorized agents of the Board for the period June 30, 1983, through March 19, 1985, established the following shortages:

- a. 4,140 Valium five mg tablets, a Schedule IV controlled substance;
- b. 7,077 Valium ten mg tablets, a Schedule IV controlled substance;
- c. 770 Fiorinal with Codeine 30 mg capsules, a Schedule III controlled substance;
- d. 1,200 cc (10 x 4 oz. bottles) of Novahistine DH, a Schedule V controlled substance;
- e. 1,656 cc (13.8 x 4 oz. bottles) of Robitussin AC, a Schedule V controlled substance;
- f. 45,480 cc (379 x 4 oz. bottles) of Terpin Hydrate with Codeine Elixir, a Schedule V controlled substance;
- g. 3,090 cc (27.75 x 4 oz. bottles) of various Phenergan with Codeine products, a Schedule V controlled substance.

A separate audit was also conducted between March 19, 1985, and April 8, 1985, by authorized agents of the Board covering the period December 21, 1980, through June 30, 1983, revealing the following shortages:

- a. 10,088 cc (21 pints) of Paregoric, a Schedule III controlled substance;
- b. 3,260 Valium 5 mg tablets, a Schedule IV controlled substance;
- c. 5,645 Valium 10 mg tablets, a Schedule IV controlled substance.

Mr. Monroe consumed three pints of the missing Paregoric personally without obtaining a physician's prescription.

In an inventory filed with the Board on behalf of Apothecary 24, Mr. Monroe understated the number of Methaqualone tablets on hand and failed to forward the Methaqualone tablets to the Board as directed upon the reclassification of Methaqualone from Schedule II to Schedule I.

On or about November 30, 1983, Mr. Monroe filled a prescription for Percodan, a Schedule II controlled substance, made by C. W. Zablodil, MD, which had been altered from 100 tablets to 150 tablets. The prescription was filled without first verifying the validity of the alteration with Dr. Zablodil.

On various dates, Mr. Monroe sold four ounce bottles of Schedule V nonprescription cough preparations without making adequate inquiry as to

the medical necessity for the medications.

On various dates, Mr. Monroe sold four ounce bottles of Schedule V cough preparations to the same individual within periods of less than 48 hours.

Mr. Monroe is chemically dependent on alcohol and was under the influence of alcohol on March 14, 1985, while on duty at Apothecary 24.

On or about March 21, 1985, Mr. Monroe voluntarily surrendered his license to practice pharmacy. It is now in the possession of his attorney, William Bauer.

REASONING AND CONCLUSIONS OF LAW:

From the evidence in the record, the Board concludes that Mr. Monroe sold Schedule V cough preparations on various occasions without first ascertaining the medical need for the preparations. This is a violation of Section 204.308(4)b of the Code of Iowa. Similarly, the evidence establishes that on several occasions Mr. Monroe made multiple sales of Schedule V cough preparations to the same individual within 48-hour periods in violation of Section 620-8.13(15)b of the Iowa Administrative Code. Although the sale of Schedule V products without prescription is legal under certain circumstances, Mr. Monroe violated the legal restrictions by his indiscriminate sales. Thus, he is subject to discipline for violations of the Code and Administrative Code. His actions also constitute evidence of negligence in the practice of his profession.

The record establishes significant losses from the inventory of controlled substances at Apothecary 24 during a period in which Mr. Monroe was a 50 percent shareholder, corporate officer, and professional employee. The fact that the licenses issued to Apothecary 24 were in the name of Mr. Monroe's partner does not, in the opinion of the Board, excuse Mr. Monroe from professional responsibility for the physical safety and integrity of the Apothecary's stocks of controlled substances. It was his duty to monitor the inventory to prevent diversion of controlled substances for illicit use. Nevertheless, testimony in the record establishes that Mr. Monroe was unaware even that the loss was occurring. His failure to keep effective inventory control is evidence of gross negligence.

Although no expert testimony as to the average inventory shrinkage through loss was given, the lack of effective inventory control in this case is so obvious that even those without training in pharmacy can comprehend what occurred. Furthermore, the evidence establishes that the inventory was under the exclusive control and management of Mr. Monroe's corporation and that losses of this magnitude would not ordinarily occur, had reasonable inventory control been effected. Under the circumstances of this case, no expert testimony was needed for the Board to make its findings.

Further evidence of negligence is found in Mr. Monroe's failure to make an accurate listing of Methaqualone products, and in his failure to

deliver those products to the Board as directed, upon the rescheduling of Methaqualone to a Schedule I substance, not legally maintained in the inventory of a retail pharmacy.

Similarly, Mr. Monroe's failure to verify that Dr. Zablodil had altered his prescription for Percodan from 100 to 150 tablets is further evidence of negligence. His personal removal of Paregoric from inventory for personal use without prescription is further evidence of negligence in the practice of his profession.

Finally, Mr. Monroe's admissions and the testimony of Mr. Hare establish that Mr. Monroe is chemically dependent on alcohol. The Board applauds Mr. Monroe's candor and acknowledges his decision to seek treatment. Nevertheless, the Board is deeply concerned by the testimony concerning the events at Apothecary 24 on March 14, 1985. Further actions is required to ensure the safe and prudent practice of pharmacy by Mr. Monroe. Noting Mr. Hare's testimony, the Board concludes that Mr. Monroe's recovery is beginning but that it has not been completed as yet.

From the facts in evidence and for the reasons set forth herein, the Board concludes that discipline of William R. Monroe, Jr., is justified because of his violation of state law in the sale of Schedule V cough preparations; his negligence in maintenance of inventory, failure to return Methaqualone stock, and failure to verify alteration in a Schedule II prescription; and his continuing alcoholism.

DECISION:

It is, therefore, the Order of the Iowa Board of Pharmacy Examiners that Iowa Pharmacy License number 12568 issued to William R. Monroe, Jr. should be and is hereby suspended for a period of two years, retroactive to March 21, 1985, provided that the second year of said suspension shall be stayed if the said William R. Monroe, Jr. complies fully with all the terms and requirements set forth herein.

It is further ordered that William R. Monroe, Jr. be placed on five years probation following the reinstatement of his license.

It is further ordered that William R. Monroe, Jr. be fined the sum of \$1,000.00, said amount to be paid in full within 60 days of the effective date of this decision.

It is further ordered that William R. Monroe, Jr. shall retake the Federal Drug Law Examination prior to the reinstatement of his license, and that he receive a passing score on said test as of the date of his examination.

It is further ordered that within 60 days of the effective date of this decision, William R. Monroe, Jr. prepare and submit, subject to Board approval, written policies and procedures for the professional operation of a pharmacy in accordance with federal and state requirements. Said policies and procedures shall contain:

- a. Policies and procedures for dispensing Schedule V controlled substances;
- b. Policies and procedures for the physical security of controlled drugs;
- c. Policies and procedures for the verification and documentation of possible alterations of prescriptions;
- d. Policies and procedures for the delineation of management responsibilities.

It is further ordered that William R. Monroe, Jr. shall take no part in the judgmental and non-judgmental functions of dispensing prescriptions during the period of the actual suspension of his license. Non-judgmental dispensing duties include:

- a. Retrieving and filing prescription labels;
- b. Typing prescription labels;
- c. Inputting prescription information into a computer;
- d. Retrieval of prescription drug bulk containers from storage;
- e. Counting tablets and capsules and placing them in appropriate prescription containers;
- f. Pouring liquids into appropriate containers;
- g. Handing completed and verified prescriptions to the patient or the patient's adult representative;
- g. Recording information on patient records.

It is further ordered that William R. Monroe, Jr. make no sales of Schedule V controlled substances without prescription for the duration of his probation.

It is further ordered that within 30 days of the effective date of this decision, William R. Monroe, Jr. shall submit for Board approval a substance abuse rehabilitation program in which he shall participate for a minimum of two years. Documentary evidence of continuing participation in the program shall be provided to the Board quarterly. During the course of the program, Mr. Monroe shall immediately submit to biological fluid testing, at his cost, upon the request of the Board, its designee, or the rehabilitation provider.

It is further ordered that if Mr. Monroe becomes pharmacist manager of another pharmacy within the period of his probation, three actual, physical inventories of controlled substances shall be taken at six-month intervals beginning with his assumption of the position. A copy of each such inventory shall be mailed to the Board office.

It is further ordered that Mr. Monroe shall obey all federal and state laws and regulations relating to the practice of pharmacy.

It is further ordered that Mr. Monroe shall report to the Board or its designee quarterly. Said report shall either be in person or in writing as shall be directed. Should the final probation report not be made as directed, the period of probation shall be extended until such time that the final report is made.

It is further ordered that Mr. Monroe shall submit to peer review as deemed necessary by the Board.

It is further ordered that Mr. Monroe shall provide evidence of efforts to maintain his skill and knowledge as a pharmacist as directed by the Board.

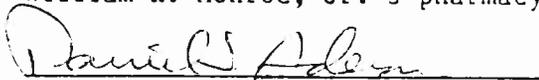
It is further ordered that Mr. Monroe shall notify all present and prospective employers of the decision in this case, and the terms, conditions, and restrictions imposed by said decision. Within 30 days of the effective date of this decision, and within 15 days of his undertaking new employment, Mr. Monroe shall cause his employer to report to the Board in writing acknowledging that the employer has read the decision in this case.

It is further ordered that Mr. Monroe shall not supervise any registered intern and shall not perform any of the duties of a preceptor during the course of his suspension and probation.

It is further ordered that should Mr. Monroe leave Iowa to reside or practice outside this state, he shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to the reduction of the probationary period.

It is further ordered that should Mr. Monroe violate any term of this probation, the Board, after giving him notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

It is further ordered that upon successful completion of probation, William R. Monroe, Jr.'s pharmacy license shall be fully restored.


Daniel S. Anderson
Administrative Hearing Officer
1000 East Grand Avenue
Des Moines, Iowa 50319

KD

August 30, 1985