

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

| | | |
|---------------------------|---|-----------------------------|
| Re: |) | Case No. 2003-56 |
| Pharmacy License of |) | |
| MONTY' DRUG, INC., |) | STATEMENT OF CHARGES |
| License No. 1133, |) | |
| 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 30, 2002, the Board renewed Respondent general pharmacy license number 1133 with Monte Crowdes 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 1133 is current until December 31, 2003.
5. Respondent is currently operating a general pharmacy at 803 W. Sheridan, Shenandoah, Iowa 51601.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.15(2) (2003) and 657 Iowa Administrative Code § 36.1(4) with a lack of professional competency, as demonstrated by 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.

COUNT II – IMPROPER DELEGATION OF PHARMACIST FUNCTIONS

Respondent is charged under Iowa Code § 155A.15(2)(e) (2003) and 657 Iowa Administrative Code §§ 6.7(3) and 36.1(4)(i) and (l) with the improper delegation, to supportive personnel, of pharmacist functions such as filling, providing final verification of and dispensing prescriptions.

COUNT III -- FAILURE TO MAINTAIN ADEQUATE RECORDS

Respondent is charged with failing to maintain complete and adequate records of purchases and disposal of drugs, including controlled substances, in violation of Iowa Code §§ 155A.15.2(c) and 155A.15.2(h), and 657 Iowa Administrative Code §§ 36.1(4)(u) and 36.1(4)(cc).

COUNT IV -- FAILURE TO MAINTAIN CONTROL OVER DRUGS

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

COUNT V – ILLEGAL DISTRIBUTION OF DRUGS

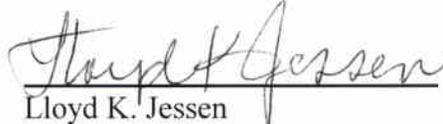
Respondent is charged with distribution of drugs for other than lawful purposes in violation of Iowa Code §§ 155A.15(2)(c) and 155A.15(d) (2003) and 657 Iowa Administrative Code § 36.1(4)(h) and 36.1(4)(u).

B. CIRCUMSTANCES

On or about April 1, 2002, an investigation was commenced, revealing the following:

1. Respondent operates a pharmacy in Shenandoah, Iowa, employing Monty Crowdes as the pharmacist in charge.
2. As of July 2003 Monty's Drug had ceased to maintain inventory records of schedule III, IV and V controlled substances. Other records at Monty's Drug are in a state of disarray, making an audit of drug inventories nearly impossible. No policies and procedures for nursing home work or a unit dose system exist.
3. An earlier August 2002 DEA audit of controlled substances identified shortages, including a 3404 dosage unit shortage of vicoprofen and a 2459 capsule shortage of alprazolam.
4. Those records which do exist at Monty's Drug indicate, in numerous instances, that the pharmacy does not possess copies of prescriptions authorizing the dispensing of controlled substances to particular customers.
5. Respondent has distributed, without prescription, medications to employees, and members of employee households.

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 31 day of Decmber 2003, 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
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

Monty's Drug SOC 3c

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

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| Re: |) | Case No. 2003-56 |
| Pharmacy License of |) | |
| MONTY'S DRUG, INC., |) | STIPULATION |
| License No. 1133 |) | AND |
| Respondent |) | CONSENT ORDER |

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2005), The Iowa Board of Pharmacy Examiners (hereinafter, the "Board") and Monty's Drug, Inc. (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 December 31, 2003, 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 license to operate a pharmacy was renewed on January 3, 2005, as evidenced by Pharmacy License Number 1133, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. General Pharmacy License Number 1133 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 December 31, 2003.
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* pharmacy policies and procedures for the following: (1) controlled substances record-keeping, including completion of the required biennial controlled substances inventory, controlled substances security, handling and disposal, (2) documentation of new prescriptions and refills, (3) utilization of pharmacy technicians and other support personnel, (4) final verification of prescriptions by a pharmacist and (5) unit drug distribution and long-term-care pharmacy practice.

Following review and approval by the Board, Respondent agrees to adopt, implement and adhere to these policies and procedures.

b. During probation, Respondent shall file sworn reports with the Board every other month attesting to Respondent's compliance with the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than the fifth day of every month during which a report is due. Respondent's bi-monthly reports shall identify the current pharmacist in charge, all staff pharmacists, *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.

c. During probation, Respondent shall adopt enhanced controlled substance

recordkeeping procedures, including maintenance of a perpetual inventory of all controlled substances – to be taken and maintained not less often than daily – followed by recorded and documented monthly self-audits of controlled substances. Self-audit information shall be submitted to the Board by the 5th day every other month, in accord with paragraph b above. Inventory information shall be submitted to the Board every six months, beginning on the fifth day of the sixth month following execution of this Stipulation and Consent Order.

d. During probation, Respondent shall submit to and pass a comprehensive inspection by the Board every six months, with the first comprehensive inspection to occur one month after the commencement of the probationary license period.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$1000. 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.

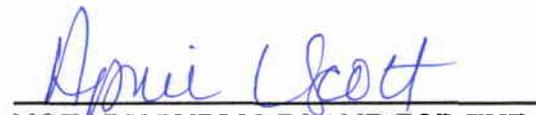
12. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary action.

This Stipulation and Consent Order is voluntarily submitted by Monty's Drug, Inc., to the Iowa Board of Pharmacy Examiners for its consideration on this 30 day of June 2005.



Monty's Drug, Inc., Respondent
By Monty Crowdes, R.Ph.
Pharmacist in Charge

Subscribed and sworn to before me by Monty Crowdes, who has stated to me that he is the pharmacist in charge of Monty's Drug, Inc., and is authorized to sign this Stipulation and Consent Order on behalf of Monty's Drug, Inc., on this 30 day of June 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 September, 2005.


MICHAEL J. SEIFERT, Chairperson
Iowa Board of Pharmacy Examiners
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