

BEFORE THE IOWA BOARD OF PHARMACY

<p>RE: Pharmacy License and Controlled Substances Registration of</p> <p>STONER DRUG CO. INC., License No. 371 Registration No. 1106060 Respondent</p>	<p>CASE NO. 2017-26</p> <p>NOTICE OF HEARING, STATEMENT OF CHARGES, AND ORDER TO SHOW CAUSE</p>
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COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Stoner Drug Co. Inc. ("Respondent"), 1105 Main St, Hamburg IA 51640, pursuant to Iowa Code sections 17A.12(2), 17A.18(3), 124.305, 272C.3(1)"e", and 657 IAC 10.12, 35.5, and 36.5. Respondent's Iowa wholesale drug license number 5456 is currently active through December 31, 2017, and Respondent's controlled substances registration number 1106060 is currently active through February 28, 2018.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on October 31, 2017, before the Board. The hearing shall begin at 9:00 a.m. and shall be located in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges, you may file an Answer pursuant to 657 IAC 35.11. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Pharmacy, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge from the Department of Inspections and Appeals make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing.

Pre-hearing Conference. Any party may request a prehearing conference in accordance with 657 IAC 35.15 to discuss issues related to the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 IAC chapter 35. At the hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges

against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at the hearing. If you need to request an alternative time or date for the hearing, you must comply with the requirements in 657 IAC 35.16. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Laura Steffensmeier
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Steffensmeier can also be reached by phone at (515) 281-6690 or by e-mail at laura.steffensmeier@iowa.gov.

Communications. You may contact the Board office at (515) 281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. You may not contact individual Board members in any manner, including by phone, letter, or e-mail, regarding this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and the opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 124, 155A, and 272C (2017).

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 124, 155A, and 272C, and 657 IAC chapters 10 and 36.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 657 IAC 35.21.

C. STATEMENT OF CHARGES

COUNT I

FAILURE TO PERFORM ANNUAL INVENTORY

Respondent is charged with failing to take a new inventory of all stocks of controlled substances on hand at least annually in violation of 657 IAC 10.35(3), and may be disciplined

pursuant to Iowa Code sections 124.304(1)(d), 155A.15(2)(c), and (h), and 657 IAC 10.12(1)"d", 36.1(4)"u", and "ac".

COUNT II

FAILURE TO MAINTAIN RECEIPT AND DISBURSEMENT RECORDS

Respondent is charged with failing to maintain records of receipt or disbursement of controlled substances as required by 657 IAC 10.34(4), and may be disciplined pursuant to Iowa Code sections 124.304(1)(d), 155A.15(2)(c), and (h), and 657 IAC 10.12(1)"d", 36.1(4)"u", and "ac".

COUNT III

IMPROPER DISPOSAL OF CONTROLLED SUBSTANCES

Respondent is charged with disposing of controlled substances in a manner inconsistent with 657 IAC 10.18(1), and may be disciplined pursuant to Iowa Code sections 124.304(1)(d) and 155A.15(2)(c), and 657 IAC 10.12(1)"d" and 36.1(4)"u".

COUNT IV

FAILURE TO MAINTAIN DRUG SUPPLIER INVOICES

Respondent is charged with failing to maintain supplier invoices with the date of receipt and responsible person clearly recorded in violation of 657 IAC 8.9(1), and may be disciplined pursuant to Iowa Code sections 155A.15(2)(c) and (h), and 657 IAC 36.1(4)"u" and "ac".

D. FACTUAL CIRCUMSTANCES

In March of 2017, Respondent underwent an inspection. The following deficiencies were discovered during the inspection:

- a. The pharmacy lacked a pseudoephedrine inventory for 2015.
- b. The pharmacy lacked a controlled substances inventory for 2016.
- c. The controlled substances inventory for 2015 appeared to have been changed.
- d. The pharmacy sold pseudoephedrine to other pharmacies without providing invoices.
- e. The pharmacy destroyed its own stock supply of pseudoephedrine.
- f. The pharmacy's invoices for its receipt of pseudoephedrine were not signed or dated.

E. ORDER TO SHOW CAUSE

1. Pursuant to Iowa Code section 124.304(1)(d) and 657 IAC 10.12(1)"d", the Board may suspend, revoke, or restrict a controlled substances registration upon a finding that the

registrant has committed such acts as would render the registrant's registration under Iowa Code section 124.303 inconsistent with the public interest as determined under that section.

2. A registrant's compliance with applicable state and local laws is a factor to be considered when determining whether a registration is inconsistent with the public interest, pursuant to Iowa Code section 124.303(1)(b) and 657 IAC 10.12(4)"b".

3. The Statement of Charges and Factual Circumstances described in sections C and D above render Respondent's registration inconsistent with the public interest and serve as the basis for this Order to Show Cause.

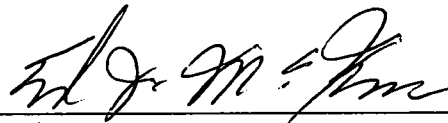
4. Respondent is ordered to show cause why its controlled substances registration should not be suspended, revoked, or restricted at the hearing described in section A above.

F. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 IAC 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Laura Steffensmeier at (515) 281-6690.

G. FINDING OF PROBABLE CAUSE

On this 29th day of August, 2017, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing, Statement of Charges, and Order to Show Cause.



Chairperson
Iowa Board of Pharmacy

Copy to:

Laura Steffensmeier
Assistant Attorney General
Office of the Attorney General of Iowa
1305 E. Walnut St.
Des Moines, IA 50319
ATTORNEY FOR THE STATE

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-5944. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).