BEFORE THE IOWA BOARD OF PHARMACY

RE: Pharmacy License of **CVS PHARMACY #10032** License No. 1421 Respondent	CASE NO. 2019-0037 **COMBINED STATEMENT OF CHARGES, SETTLEMENT AGREEMENT, AND FINAL ORDER**

COME NOW the Iowa Board of Pharmacy ("Board") and CVS Pharmacy #10032 ("Respondent"), 3495 7th Ave, Marion IA 52302, and enter into this Combined Statement of Charges, Settlement Agreement, and Final Order ("Order") pursuant to Iowa Code sections 17A.10 and 272C.3(4), and 657 IAC 35.5. The Board has jurisdiction over Respondent and the subject matter of this case pursuant to Iowa Code chapters 17A, 155A, and 272C (2018), and 657 IAC 36.

A. STATEMENT OF CHARGES

COUNT I
FAILING TO COMPLY WITH PIC CHANGE RULES

1. Respondent is charged with failing to comply with 657 IAC 8.35(6)"d" and 10.19(4) pertaining to a change of pharmacist in charge, and may be disciplined pursuant to Iowa Code section 155A.15(2)(c) and 657 IAC 36.6(21).

COUNT II
FRAUD IN PROCURING A LICENSE

2. Respondent is charged with fraud in procuring a license, and may be disciplined pursuant to Iowa Code section 155A.15(2)(c) and 657 IAC 36.6(1).

B. FACTUAL CIRCUMSTANCES

3. Respondent's pharmacy license is currently active through December 31, 2019.

4. On or around January 8, 2018, Respondent had a change of pharmacist in charge in which a new permanent pharmacist in charge was identified and a complete inventory of all controlled substances was performed.

5. Iowa law requires that an application identifying the new permanent pharmacist in charge be submitted to the Board within ten days of the change.

6. The Board did not receive an application from Respondent identifying the new permanent pharmacist in charge.

7. The pharmacist in charge served in this role until approximately October 22, 2018.

8. Iowa law requires a temporary pharmacist in charge to be identified and submitted to the Board within ten days of a vacancy.

9. Iowa law requires that an application identifying a new pharmacist in charge be submitted to the Board within ninety days of a vacancy.

10. Respondent did not identify a new temporary or permanent pharmacist in charge until approximately February 26, 2019.

11. In March 2019, the Board received two back-dated applications from Respondent identifying two pharmacists in charge that purportedly served in the role as pharmacist in charge during the time period of January 2019 through March 2019.

12. One of the individuals identified by Respondent as a pharmacist in charge never held the position of pharmacist in charge.

13. Iowa law requires a pharmacy to complete an inventory of all controlled substances when a pharmacist in charge vacates the position.

14. Respondent did not perform a controlled substances inventory until February 26, 2019.

C. SETTLEMENT AGREEMENT AND FINAL ORDER

15. The Board has jurisdiction over the parties and the subject matter of this proceeding.

16. Respondent acknowledges that the allegations in the Statement of Charges, if proven in a contested case hearing, would constitute grounds for the discipline agreed to in this Order.

17. Execution of this Order constitutes the resolution of a contested case. Respondent has a right to hearing before the Board on the charges, but Respondent waives the right to hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's action, by freely and voluntarily entering into this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

18. Respondent acknowledges that it has the right to be represented by counsel on this matter.

19. Respondent agrees that the State's counsel may present this Order to the Board and may have *ex parte* communications with the Board while presenting it.

20. This Order is subject to approval by a majority of the full Board. If the Board does not approve this Order, it shall be of no force or effect to either party, and shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Order, it shall be the full and final resolution of this matter.

21. This Order shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

22. Respondent understands the Board is required by federal law to report any adverse action to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank.

23. This Order, when fully executed, is a public record and is available for inspection and copying in accordance with the requirements of Iowa Code chapters 22 and 272C.

24. The Board's approval of this Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

25. Respondent is hereby **CITED** for violating the rules pertaining to a change of pharmacist in charge and for fraud in procuring a license and **WARNED** that future violations of the laws and rules governing pharmacies can result in further disciplinary action.

26. Respondent shall pay a **CIVIL PENALTY** in the amount of five thousand dollars ($5,000) within sixty (60) days of Board approval of this Order. The check shall be made payable to the "Treasurer of Iowa" and shall be deposited in the general fund. The civil penalty should be mailed to the Iowa Board of Pharmacy, Attn: Amanda Woltz, 400 SW 8th St, Ste E, Des Moines IA 50309.

27. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 155A and 272C and 657 IAC 36.

By the signature below, Leo LARIVIERE acknowledges s/he is the Director of Regulatory Affairs for Respondent and is authorized to sign this Combined Statement of Charges, Settlement Agreement, and Final Order on behalf of Respondent.

6/24/19
Date

CVS PHARMACY #10032
Respondent

This Combined Statement of Charges, Settlement Agreement, and Final Order is approved by the Iowa Board of Pharmacy on the 9th day of July, 2019.

Chairperson
Iowa Board of Pharmacy