

BEFORE THE IOWA BOARD OF PHARMACY

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| <p>RE: Pharmacy License of</p> <p>HY-VEE PHARMACY 1013 License No. 516 Respondent</p> | <p>CASE NOS. 2022-0094 & 2022-0120</p> <p>COMBINED STATEMENT OF CHARGES, SETTLEMENT AGREEMENT, AND FINAL ORDER</p> |
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COME NOW the Iowa Board of Pharmacy (“Board”) and Hy-Vee Pharmacy 1013 (“Respondent”), 3800 W Lincoln Way, Ames IA 50014, 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 Iowa Administrative Code (IAC) 35.5. The Board has the authority to take disciplinary action pursuant to Iowa Code sections 155A.15(2) and 272C.3, and 657 IAC 8.3 and 36.

A. STATEMENT OF CHARGES

COUNT I

1. Respondent is charged under 657 IAC 36.6(21) with violating a board rule, specifically 657 IAC 6.14(1), which requires patient counseling for a new prescription.

B. FACTUAL CIRCUMSTANCES

1. Respondent’s pharmacy license number 516 is currently active through December 31, 2022.

2022-0094

2. In May 2022, Respondent dispensed 2 bottles of amoxicillin suspension for a pediatric patient.

3. Respondent did not provide counseling because it did not consider the prescription to be new based on the patient’s prior receipt of the drug approximately 5 months prior. However, there was a change in dose and directions for the May dispensation that required counseling.

4. The patient did not have enough medication to complete the 10 day course of treatment, which may have been caused, in part, by Respondent’s failure to provide adequate instructions to ensure proper dosing.

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5. In May 2022, Respondent dispensed a phenobarbital prescription for a canine patient.

6. The pharmacy changed the strength of the tablet generally used to fill the prescription, which resulted in an adjustment in the directions for use from 1.5 tablets twice daily to 1 tablet twice daily.

7. Respondent failed to provide counseling on the change in directions for use, which resulted in the canine patient receiving an excessive dose for several days.

C. SETTLEMENT AGREEMENT AND FINAL ORDER

8. The Board has jurisdiction over Respondent and the subject matter of this proceeding.

9. 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.

10. Execution of this Order constitutes the resolution of a contested case. Respondent has a right to a hearing before the Board on the charges, but Respondent waives the right to a 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.

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

12. 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.

13. 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.

14. 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.

15. This Order only resolves the pending complaint numbers identified above and does not resolve any other pending complaints that may exist.

16. 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.

17. 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.

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

IT IS THEREFORE ORDERED:

19. Respondent is hereby **CITED** for failing to provide required patient counseling and **WARNED** that future violations of the laws and rules governing pharmacies may result in further disciplinary action.

20. Within thirty (30) days, Respondent shall pay a **CIVIL PENALTY** in the amount of five thousand dollars (\$5,000). 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.

21. Within thirty (30) days, Respondent shall provide training to all staff regarding patient counseling requirements and submit documentation of completion to the Board via email to amanda.woltz@iowa.gov.

22. Within sixty (60) days, Respondent must require all permanent pharmacists and technicians on staff to complete two (2) hours of continuing education related to patient safety. Respondent shall submit certificates of completion to the Board via email to amanda.woltz@iowa.gov.

23. 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, signatory acknowledges they are authorized to sign this Combined Statement of Charges, Settlement Agreement, and Final Order on behalf of Respondent.

10/4/2022
Date

Jessica Lavelle, PharmD
HY-VEE PHARMACY 1013
Respondent

This Combined Statement of Charges, Settlement Agreement, and Final Order is approved by the Iowa Board of Pharmacy on _____ October 25, 2022 .

Kathryn Stone
Chairperson
Iowa Board of Pharmacy