

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	Case No. 2014-53
Pharmacist Technician	)	
<b>PEGGY ASHBY</b>	)	<b>NOTICE OF HEARING</b>
Registration No.: 15487	)	<b>&amp; STATEMENT OF CHARGES</b>
Respondent.	)	

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**COMES NOW** the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent was issued Iowa pharmacist technician registration number 154871. Respondent's registration is currently active.

**A. TIME, PLACE, AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on November 18 2014, before the Iowa Board of Pharmacy. The hearing shall be held during the morning session, beginning at 9:00 a.m. and shall be located in the Board conference room located at 400 S.W. 8<sup>th</sup> Street, Des Moines, Iowa.

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.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code rule 35.19. At hearing you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address.

Meghan Gavin  
Assistant Attorney General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor Hoover State Office Building  
Des Moines, Iowa 50319.

Ms. Gavin can also be reached by phone at (515)281-6736 or e-mail at [Meghan.Gavin@iowa.gov](mailto:Meghan.Gavin@iowa.gov).

Communications. You may contact the Board office (515)281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. However, you may NOT contact individual members of the Board to discuss these proceedings by phone, letter, facsimile, email, or in person. Board members can only receive information about the case when all parties have notice and an 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. You may also direct questions relating to settlement of these proceedings to Assistance Attorney General Meghan Gavin at (515)281-6736.

## **B. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 155A, and 272C (2013).

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 17A, 147, 148C, and 272C (2013) and 657 Iowa Administrative Code chapter 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 Iowa Administrative Code rule 35.21.

## **C. CHARGES**

### **Count I UNETHICAL CONDUCT OR PRACTICE HARMFUL OR DETRIMENTAL TO THE PUBLIC**

Respondent is charged with engaging in unethical conduct or practice harmful or detrimental to the public in violation of Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rule 3.28(4).

### **Count II MISREPRESENTATIVE DEEDS**

Respondent is charged with undertaking misrepresentative deeds in violation of Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rule 3.28(1).

## **D. FACTUAL CIRCUMSTANCES**

1. Respondent is an Iowa-licensed pharmacy technician previously employed at Liberty Pharmacy in North Liberty, IA. Among other duties, she handled bookkeeping and personally delivered the daily deposits to the pharmacy's bank, even on days when she was on vacation.

2. Around February 2014, Respondent was away from work for a funeral. The bank called Liberty Pharmacy regarding the day's deposit because it seemed to be missing a check. The bank and pharmacy discovered the deposit amounts reported to accounting and actually deposited did not match. Further investigation revealed that every deposit from the pharmacy had such a discrepancy.
3. Liberty Pharmacy estimates close to \$100,000 was diverted. The Respondent initially admitted during the North Liberty Police Department's investigation that she had taken some of the missing money, but not all of it. In a later statement, she recanted the admission.
4. Respondent was terminated from Liberty Pharmacy.
5. Following the North Liberty Police Department's investigation, respondent was arrested for the theft and charged for 1<sup>st</sup> Degree Theft and Ongoing Criminal Conduct, a Class B Felony. Trial is currently scheduled for November 4, 2014.

#### **E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 Iowa Administrative Code rule 36.3. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Meghan Gavin.

#### **F. PROBABLE CAUSE FINDING**

On this the 26<sup>th</sup> day August 2014, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



JAMES MILLER, Vice Chairperson  
Iowa Board of Pharmacy  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Meghan Gavin  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa

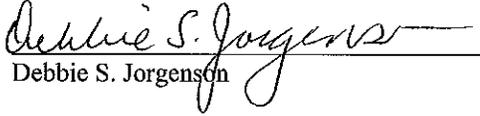
PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon Respondent to the above cause by:

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|--|--|
| <input type="checkbox"/> personal service                                    | <input checked="" type="checkbox"/> first class mail |
| <input checked="" type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile                   |
| Article Number <u>9171999991703239255479</u>                                 | <input type="checkbox"/> other _____                 |

on the 27th day of August, 2014.

I declare that the statements above are true to the best of my information, knowledge and belief.

  
Debbie S. Jorgenson

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	Case No. 2014-53
Pharmacy Technician	)	
<b>PEGGY ASHBY</b>	)	<b>SETTLEMENT AGREEMENT AND</b>
Registration No.: 15487	)	<b>FINAL ORDER</b>
Respondent.	)	

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Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Peggy Ashby ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case currently pending before the Board.

The allegations contained in a Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent holds Iowa Pharmacy Technician Registration No. 15487, which is currently active and expires on October 31, 2015.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. A Statement of Charges was filed against Respondent on August 26, 2014. A contested case hearing in this matter is scheduled for November 18, 2014.
4. Respondent admits the allegations in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
5. 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 actions, by freely and voluntarily entering into this Settlement Agreement. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.
6. Respondent is freely and voluntarily entering into this Order.
7. Respondent acknowledges that she has the right to be represented by counsel on this matter.
8. 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.
9. This Order is subject to approval by a majority of the full Board. If the Board fails to approve this Order, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Order, it shall be the full and final resolution of this matter.

10. This Order shall be part of the permanent record of Respondent 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.
11. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse.
12. 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.
13. The Board's approval of this Order shall constitute a **FINAL ORDER** of the Board.

**IT IS THEREFORE ORDERED:**

14. Respondent agrees to **VOLUNTARILY SURRENDER** her pharmacy technician registration to resolve this matter.
15. This voluntary surrender is considered a revocation under 657 IAC 36.15 for purposes of reinstatement. Respondent may not request reinstatement for at least one year from the date of this Order.
16. Respondent may request reinstatement of her Iowa pharmacy technician registration by filing an application for reinstatement under 657 IAC 36.13. Respondent's registration shall not be reinstated except upon a showing by Respondent that the basis for suspension of her registration no longer exists, and that it is in the public interest for the registration to be reinstated.
17. Respondent agrees not to work in a pharmacy in any capacity unless her registration is reinstated.
18. Respondent shall immediately surrender her pharmacy technician registration to the Board.
19. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 17<sup>th</sup> day of November, 2014.

  
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PEGG ASHBY  
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the  
19 day of November, 2014.



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EDWARD MAJER, Chairperson  
Iowa Board of Pharmacy  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Laura Steffensmeier  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> Floor  
Des Moines, IA 50319