

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2014-85
Nonresident Pharmacy License of)	
)	NOTICE OF HEARING AND
BELMAR PHARMACY)	STATEMENT OF CHARGES
License No. 3975)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (“Board”) and files this Notice of Hearing and Statement of Charges against Belmar Pharmacy (“Respondent”), 12860 W Cedar Dr., Ste. 210, Lakewood, CO 80228, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2013). Respondent’s Iowa nonresident pharmacy license number 3975 is currently active and expires on December 31, 2014.

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. 8th 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 pre-hearing matters, and be present to assist and advise the Board at the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 IAC 35.19. 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 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 147, 155A, and 272C and under 657 IAC 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. CHARGES

Count I OUT-OF-STATE DISCIPLINE

Respondent is charged with violating the pharmacy or drug laws or rules of another state while under the jurisdiction of that state, pursuant to Iowa Code section 155A.13A(3) and 657 IAC 19.10 and 36.1(4)“ad”.

Count II FAILURE TO REPORT DISCIPLINE

Respondent is charged with failing to report discipline within thirty days as required by 657 IAC 36.1(4)“k”, pursuant to Iowa Code section 155A.13A(3) and 657 IAC 19.10.

D. FACTUAL CIRCUMSTANCES

1. Respondent holds Iowa nonresident pharmacy license number 3975, which is currently active and expires on December 31, 2014.

2. In August, 2013, Respondent entered into a consent agreement with the Louisiana Board of Pharmacy imposing discipline for dispensing prescriptions to Louisiana residents prior to licensure.

3. Respondent was issued a Letter of Warning and ordered to pay a \$5,000.00 fine.

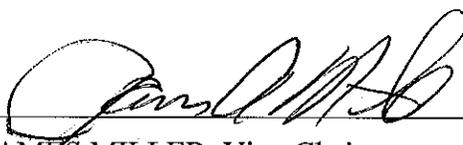
4. Respondent did not report the Louisiana discipline to the Board.

E. 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.

F. FINDING OF PROBABLE CAUSE

On this 26th day of 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 Eight Street, Suite E
Des Moines, Iowa 50309-4688

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

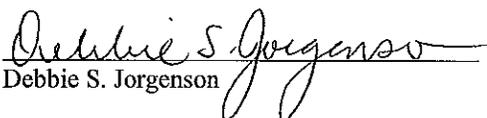
PROOF OF SERVICE

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

- | | |
|------------------------------------------------------------------------------|------------------------------------------------------|
| <input checked="" 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 9171999991703239255349 | <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

Re:) CASE NO. 2014-85
Nonresident Pharmacy License of)
)
BELMAR PHARMACY) **SETTLEMENT AGREEMENT**
) **AND FINAL ORDER**
License No. 3975,)
Respondent.)

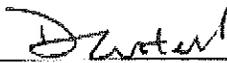
Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Belmar Pharmacy ("Respondent") enter into the following Settlement Agreement to settle a contested case currently pending before the Board.

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. The Board has jurisdiction over the parties and the subject matter of these proceedings.
2. A Statement of Charges was filed against Respondent on August 26, 2014. A contested case hearing on the matter is currently set for November 18, 2014.
3. Respondent admits the allegations, and acknowledges that, if proven in a contested case proceeding, the allegations would constitute grounds for the discipline described herein.
4. Upon the Board's approval of this Settlement Agreement and Final Order, Respondent is hereby **CITED** for out-of-state discipline and failing to report out-of-state discipline and **WARNED** that Respondent's failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.
5. Respondent agrees to pay a civil penalty in the amount of one-thousand dollars (\$1000). This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Executive Director of the Board within thirty (30) days of the Board's approval of this Settlement Agreement and Final Order. All civil penalty payments shall be deposited into the State of Iowa general fund.
6. Respondent agrees to report any discipline to the Board within thirty (30) days, as required by 657 IAC 36.1(4)"k".
7. This Settlement Agreement is the resolution of a contested case. By entering into this Settlement Agreement, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Final Order.
8. Respondent is freely and voluntarily entering into this Settlement Agreement.
9. Respondent acknowledges that it has a right to be represented by counsel on this matter.
10. The State's legal counsel may present this Settlement Agreement to the Board *ex parte*.

11. This Settlement Agreement is subject to approval by a majority of the full Board. If the Board fails to approve this Settlement Agreement, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Settlement Agreement, it shall be the full and final resolution of this matter.
12. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse.
13. This Settlement Agreement, 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.
14. The Board's approval of this Settlement Agreement shall constitute a **FINAL ORDER** of the Board.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 8 day of September, 2014.



BELMAR PHARMACY
Respondent

By this signature, Dave Hill acknowledges s/he is the Managing member for Belmar Pharmacy and is authorized to sign this Settlement Agreement and Final Order on behalf of Belmar Pharmacy.

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



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

cc: Laura Steffensmeier
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa