

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case Nos. 2013-218
Pharmacist License)	
DANIEL A. BRUST)	NOTICE OF HEARING
License No. 17166,)	& STATEMENT OF CHARGES
Respondent.)	

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 license number 17166. Respondent's license expired on June 30, 2012.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 29, 2014, before the Iowa Board of Pharmacy. The hearing shall be held during the afternoon session, beginning at 1:00 p.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 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
2nd 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.

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.12(1) and 657 Iowa Administrative Code rule 36.1(4)(c).

Count II

VIOLATING THE LAWS AND RULES OF ANOTHER STATE

Respondent is charged with violating the pharmacy or drug laws or rules of another state in violation of Iowa Code section 155A.12(1) and 657 Iowa Administrative Code rule 36.1(4)(ad).

Count III

FAILURE TO NOTIFY THE BOARD OF OTHER DISCIPLINE

Respondent is charged with failing to notify the Board within thirty days after a final decision entered by a licensing authority of another state or country which resulted in disciplinary sanction in violation of Iowa Code section 155A.12(1) and 657 Iowa Administrative Code rule 36.1(4)(k).

D. FACTUAL CIRCUMSTANCES

1. On November 29, 2013 the Board received communication from the Office of Inspector General that the Respondent, an Iowa licensed pharmacist, had been excluded from participating in any capacity from Medicare, Medicaid, and all federal health care programs as the result of action taken by the Missouri Division of Professional Regulation.

2. On May 14, 2013, the Respondent entered into a Settlement Agreement with the Missouri Board of Pharmacy.

3. Under the terms of the Agreement, Respondent surrendered his pharmacist license. Respondent cannot apply for reinstatement of his license for at least seven years.

4. In the Agreement, Respondent admitted to violating numerous state and federal laws related to the practice of pharmacy, including but not limited to diverting controlled and noncontrolled substances, violating his duties as a pharmacist-in-charge, and altering prescriptions.

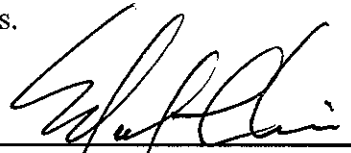
5. The Respondent did not inform the Board of the Missouri Agreement.

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 12th day of March, 2014, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



EDWARD MAIER, 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

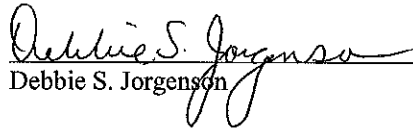
PROOF OF SERVICE

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

personal service first class mail
 certified mail, return receipt requested facsimile
Article Number 9171999991703239553377 other _____

on the 13th day of March, 2014.

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


Debbie S. Jorgenson

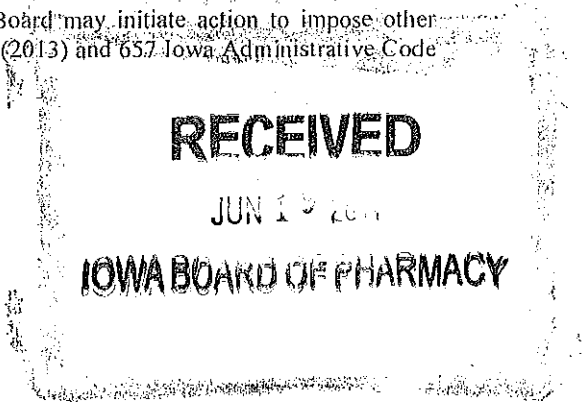
BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case Nos. 2013-218
Pharmacist License)	
DANIEL A. BRUST)	SETTLEMENT AGREEMENT
License No. 17166,)	AND FINAL ORDER
Respondent.)	

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy and Daniel Brust (hereinafter, "Respondent"), enter into the following Settlement Agreement and Final Order settling a licensee disciplinary proceeding currently pending before the Board.

Allegations contained in Statements of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent holds Iowa pharmacist license number 17166, which expired on June 30, 2012.
2. The Board issued a Statement of Charges against the Respondent in March 2014. The matter is awaiting hearing.
3. The Board has jurisdiction over the parties and jurisdiction over the subject matter of these proceedings.
4. Respondent has chosen not to contest the allegations set forth in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline described herein.
5. Respondent agrees to **VOLUNTARILY SURRENDER** his Iowa pharmacist license to resolve this matter.
6. Respondent shall surrender his Iowa pharmacist license to the Board within ten (10) days of the Board's approval of this Agreement.
7. This voluntary surrender is considered a revocation under 657 Iowa Administrative Code rule 36.15 for purposes of reinstatement. Respondent may not request reinstatement for at least one year from the date of Board approval of this Settlement Agreement. Reinstatement requests are governed by 657 Iowa Administrative Code rule 36.13 and are at the sole discretion of the Board.
8. Respondent agrees not to perform any activities that would require an Iowa pharmacist license until such time as his license is reinstated.
9. This Agreement 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.
10. Should Respondent violate the terms of this Agreement, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 Iowa Administrative Code chapter 36.



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

12. This 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.

13. This Agreement shall not be binding as to any new complaints received by the Board.

14. The Board's approval of this Agreement shall constitute a FINAL ORDER of the Board and shall have the force and effect of a disciplinary order entered following a contested case hearing. Execution of this Settlement Agreement and Final 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 Agreement.

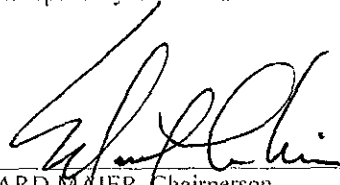
15. Respondent agrees that the State's counsel may present this Agreement to the Board and may have *ex parte* communications with the Board while presenting it.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 12 day of June, 2014.



DANIEL BRUST
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 2nd day of July, 2014.



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

Copies to:

Meghan Gavin
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

Tom Crabb *RA, JD*
ATTORNEY FOR RESPONDENT