

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2013-117
Pharmacist License of	)	
	)	<b>NOTICE OF HEARING AND</b>
<b>KELLIE BYRD</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 20755	)	
Respondent.	)	

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COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Kellie Byrd ("Respondent"), 10985 150<sup>th</sup> Street, Davenport, Iowa 52804 pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent's Iowa pharmacist license number 20755 is currently active and expires on June 30, 2014.

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

Hearing. A disciplinary contested case hearing shall be held on March 11, 2014, before the Board. 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 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 Iowa Administrative Code rule 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 Iowa Administrative Code rule 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 Cathelyn  
Assistant Attorney General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor, Hoover State Office Building  
Des Moines, Iowa 50319

Ms. Cathelyn can also be reached by phone at (515) 281-6690 or by e-mail at [laura.cathelyn@iowa.gov](mailto:laura.cathelyn@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 (2013) and under 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**

#### **FAILURE TO VERIFY PRESCRIPTION DRUGS**

Respondent is charged with failing to verify prescription drugs prior to dispensing, in violation of 657 Iowa Administrative Code rules 3.21(1) and 8.3(3), pursuant to Iowa Code section 155A.12(1) and 657 Iowa Administrative Code rule 36.1(4)(u).

## **D. FACTUAL CIRCUMSTANCES**

1. Respondent holds Iowa pharmacist license number 20755, which is currently active and expires on June 30, 2014.
2. Respondent was, at all material times, employed as the pharmacist-in-charge at CVS Pharmacy #8658, located at 1655 W. Kimberly Road, Davenport, IA 52806.
3. On April 21, 2013, a prescription for felodipine was transferred to CVS Pharmacy #8658.
4. The transferred prescription was incorrectly entered as Feldene, which was substituted for the generic piroxicam.
5. On April 22, 2013, a pharmacist dispensed the piroxicam to the patient.
6. The patient took the incorrect medication and experienced adverse effects.

**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 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Laura Cathelyn at (515) 281-6690.

**F. FINDING OF PROBABLE CAUSE**

On this 14<sup>th</sup> day of January, 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 Eight Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Laura Cathelyn  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> 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 type="checkbox"/> personal service                                    | <input type="checkbox"/> first class mail |
| <input checked="" type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile        |
| Article Number 917199999170339553247   | <input type="checkbox"/> other _____      |
- on the 15th day of January, 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. 2013-117
Pharmacist license of	)	
	)	<b>SETTLEMENT AGREEMENT</b>
<b>KELLIE BYRD</b>	)	<b>AND FINAL ORDER</b>
License No. 20755,	)	
Respondent.	)	

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Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Kellie Byrd ("Respondent") enter into the following Settlement Agreement to settle a disciplinary proceeding 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. Respondent was issued Iowa pharmacist license #20755, which is currently active and expires on June 30, 2014.
3. A Statement of Charges was filed against Respondent on January 14, 2014.
4. Respondent has chosen not to contest the allegations, and acknowledges that, if proven in a contested case proceeding, the allegations would constitute grounds for the discipline described herein.
5. Upon the Board's approval of this Settlement Agreement and Final Order, Respondent is hereby **CITED** for failing to verify a prescription and **WARNED** that Respondent's failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.
6. Respondent agrees to pay a civil penalty in the amount of five-hundred dollars (\$500). 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.
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.

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9. Respondent acknowledges that she 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. 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.
13. 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 30<sup>th</sup> day of May, 2014.

  
\_\_\_\_\_  
KELLIE BYRD, Pharmacist

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

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

cc: Laura Cathelyn  
Assistant Attorney General  
Iowa Attorney General's Office  
Hoover State Office Building, 2<sup>nd</sup> Floor  
Des Moines, Iowa 50319