

**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:	)	Case No. 2001-16963
Pharmacist License of)	
INIE CLEMENT	)	STATEMENT OF CHARGES
License No. 16963)	
Respondent)	

COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (2001).
3. On September 15, 1987, the Board issued Respondent, Inie Clement, a license to engage in the practice of pharmacy by examination as evidenced by license number 16963, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 16963 is current and active until June 30, 2003.
5. Respondent's current address is P.O. Box 139, Des Moines, Iowa 50301-0139.
6. Upon information and belief, the Respondent is not currently employed as a pharmacist. The Respondent was employed as a pharmacist at Mercy Medical Center during all times relevant to this statement of charges.

COUNT I

The Respondent is charged under Iowa Code § 155A.12(1) (2001) and 657 Iowa Administrative Code § 36.1(4)(b)(4) with professional incompetency, including repeated departure from, or failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the State of Iowa.

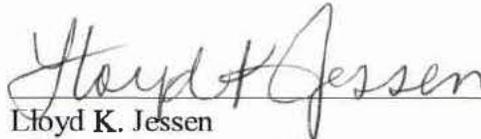
THE CIRCUMSTANCES

1. On or about January 1, 2001, the Board information that the Respondent was

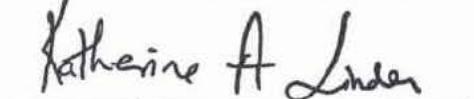
terminated from her position as a pharmacist at the Mercy Inpatient Pharmacy because of numerous dispensing error committed by the Respondent.

2. The Respondent had received extensive training in the Mercy Inpatient Pharmacy after transferring from the Mercy outpatient pharmacy to the Mercy Inpatient Pharmacy.
3. In spite of the extensive training the Respondent received, the Respondent continued to make multiple medication errors.
4. The Respondent's employer documented 97 medication errors made by the Respondent between September 1, 2000 and October 17, 2000.

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it may deem to be appropriate under the law.


Eloyd K. Jessen
Executive Secretary/Director

On this 18th day of June, 2002, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Katherine A. Linder, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Shauna Russell Shields
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:	)	Case No. 2001-16936
Pharmacist License of)	
INIE CLEMENT	)	STIPULATION
License No. 16936	)	AND
Respondent	)	CONSENT ORDER
)	

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2003), the Iowa Board of Pharmacy Examiners (hereinafter, "Board") and Imie Clement (hereinafter, "Respondent"), enter into this Stipulation and Consent Order settling a pending contested case. The pending contested case is a licensee disciplinary proceeding before the Iowa Board of Pharmacy Examiners based on allegations specified in a Statement of Charges filed June 18, 2002. The Board and Respondent, who hereby agree that the contested case shall be resolved without proceeding to hearing, stipulate to the following:

1. Respondent was issued a license to practice pharmacy in Iowa on September 15, 1987, after examination, as evidenced by Pharmacist License Number 16963, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. Iowa Pharmacist License Number 16963, issued to and held by Respondent is active and current until June 30, 2004.
3. Respondent is not currently employed as a pharmacist.
4. A Statement of Charges was filed against Respondent on June 18, 2002.
5. The Board has jurisdiction over Respondent and the subject matter herein.
6. This Stipulation and Consent Order is entered into for the resolution of disputed claims. Respondent affirmatively denies each and every allegation of the Statement of

Charges, and this Stipulation and Consent Order shall not constitute an admission on the part of the Respondent.

7. Respondent asserts certain allegations and evidence received by the Board in the course of the Board's investigation were incorrect, misleading, adulterated or false. Respondent currently wishes to file a complaint with the Board regarding evidence received by the Board in the course of the Board's investigation of Respondent. To the extent Respondent submits a complaint to the Board regarding matters within the Board's jurisdiction, the Board agrees to investigate and adjudicate the complaint in the ordinary course of the Board's business. Notwithstanding the preceding provisions of this paragraph, the Board shall retain, in its sole discretion, all authority relating to the exercise of its investigative and adjudicative powers.

8. Respondent shall not practice pharmacy in a hospital setting until she demonstrates to the satisfaction of the Board that she is competent to practice pharmacy in a hospital setting. In the event Respondent wishes to seek the Board's approval to work in a hospital setting, she shall bear the burden of demonstrating to the Board that she is competent to work in that setting. Evidence of competency may include, *but shall not be limited to*, (1) completion of relevant academic course work, (2) training in a hospital setting, or (3) an internship in a hospital pharmacy. Respondent understands that the Board has sole discretion to determine whether to permit her to practice pharmacy in a hospital setting.

9. Upon the date of the Board's approval of this Stipulation and Consent Order, Respondent's license shall be placed on probation for a period of two years, under the

following terms and conditions:

- a. Respondent shall file written, sworn quarterly reports with the Board attesting to her compliance with all the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than March 5, June 5, September 5 and December 5 of each year of Respondent's probation. The quarterly reports shall include Respondent's place of employment, current home address, home telephone number or work telephone number, and any further information deemed necessary by the Board from time to time.
 - b. Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.
 - c. Respondent shall not serve as the pharmacist in charge of a pharmacy.
 - d. Respondent shall inform the Board in writing within ten (10) days of any change of home address, place of employment, home telephone number or work telephone number.
10. Should the Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend the Respondent's Iowa pharmacist license, or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2003), and 657 IAC 36.
11. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, the Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent Order.

12. This proposed settlement is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

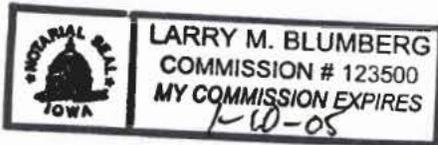
13. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary action.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 24 day of September 2003.

Inie Clement

Inie Clement, R.Ph.
Respondent

Subscribed and sworn to before me by Inie Clement on this 24 day of September 2003.



Larry M. Blumberg
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 23 day of Sept. 2003

Katherine A Linder

KATHERINE A. LINDER, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

Larry Blumberg
Attorney
505 5th Avenue, Suite 535
Des Moines, IA 50309

Clement settlement2.doc

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2015-25
Pharmacist License of)	
INIE CLEMENT	)	NOTICE OF HEARING AND
License No. 16963,	)	STATEMENT OF CHARGES
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges concerning the pharmacist license of Inie Clement pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent was issued Iowa pharmacist license number 16963. Respondent's license is currently active and will expire on June 30, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on September 1, 2015, 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 (2015).

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 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

FAILURE TO NOTIFY THE BOARD OF A CHANGE OF ADDRESS

Respondent is charged with failing to notify the Board within ten days of a change in address in violation of Iowa Code sections 147.55(9) and 155A.12(1),(3) and 657 Iowa Administrative Code rules 2.15 and 36.1(4)(u); .

D. FACTUAL CIRCUMSTANCES

1. Respondent is an Iowa-licensed pharmacist. Her pharmacist license is active and will expire on June 30, 2015
2. The Iowa Department of Revenue notified this Board that Respondent has unpaid liability. Pursuant to Iowa Code section 272D.8 and 657 Iowa Administrative Code chapter 32, a Notice of Intent to Suspend License was issued to the Respondent.
3. The Board order was sent to Respondent's address on file.
4. The Board order returned documenting the address as vacate.
5. Service was attempted at various other addresses utilizing information obtained through an Accurant report, the Polk County Assessor's website, and Facebook. Personal service

was never completed.

6. Respondent has been noticed of three prior Intents to Suspend License for unpaid liability—twice in 2011 and once in 2012.

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 23rd day of June, 2015, the Iowa Board of Pharmacy found probable cause to file this 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

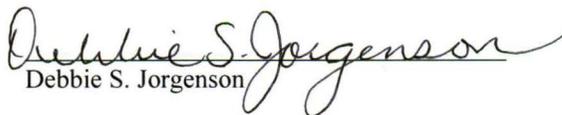
PROOF OF SERVICE

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

- | | |
|--|---|
| <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 9171999991703106714740 | <input type="checkbox"/> other _____ |

on the 7th day of ~~June~~ ^{July}, 2015.

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

IN THE MATTER OF THE
STATEMENT OF CHARGES AGAINST:

CASE NO. 2015-25
DIA NO. 15PHB016

INIE CLEMENT
License No. 16963

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER

RESPONDENT

On June 23, 2015, the Iowa Board of Pharmacy (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Inie Clement (Respondent), which alleged a violation of Iowa Code sections 147.55(9), 155A.12(1), (3) and 657 IAC 2.15 and 36.1(4)(u) by failing to notify the Board within ten days of a change of address. The hearing was held on November 3, 2015. The following members of the Board presided at the hearing: James Miller, Chairperson; Edward Maier; Edward McKenna; Sharon Meyer; Jason Hansel; and LaDonna Gratiyas. Assistant Attorney General Meghan Gavin represented the state. Respondent failed to appear for hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1), and was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with its deliberations.

THE RECORD

The record includes the testimony of Jennifer O'Toole, R.Ph., Debbie Jorgenson, two Notices of Hearing and Statement of Charges, and State Exhibits 1-7 (See Exhibit List for description).

FINDINGS OF FACT

1. The Board has issued Inie Clement (Respondent) license number 16963 to engage in the practice of pharmacy in the state of Iowa, subject to the statutes and rules of the Board. Respondent's license is current and will expire on June 30, 2017. Respondent has provided the Board with the following address of record for her license: 1168 22nd Street, Des Moines, Iowa 50311. Respondent's last known employment as a pharmacist was through RPh on the Go in 2012. (State Exhibits 1, 3, 4)

2. Respondent is the owner of multiple rental properties in Des Moines. The Iowa Department of Revenue has contacted the Board on four occasions to serve Respondent with license sanction certificates of non-compliance. The first two license sanctions were both issued in 2011 and were later withdrawn after Respondent paid the debt.

In 2012, the Board was unable to serve Respondent with the Department of Revenue's license sanction. The notice of license sanction was sent to Respondent by certified mail at her address of record at 1168 22nd Street, but the notice was returned to the Board marked "unclaimed." One of the Board's compliance officers, Jennifer O'Toole, then attempted to personally serve Respondent. Respondent's daughter answered the door at 1168 22nd Street and told Ms. O'Toole that her mother had moved out of state months earlier, and she did not know where she was. Respondent's daughter stated, however, that Respondent continued to receive her mail at 1168 22nd Street. Ms. O'Toole left a message asking Respondent to contact her, but Respondent never did. The Department of Revenue later withdrew the notice of sanction. (O'Toole testimony; State Exhibit 3)

3. In early 2015, the Board received the fourth Notice of Intention to Suspend License from the Iowa Department of Revenue. This notice stated that Respondent's license would be suspended effective 60 days following service of the notice. The notice of license sanction was sent to Respondent at 1168 22nd Street in Des Moines by certified mail, restricted delivery. On February 2, 2015, the notice of license sanction was returned to the Board by the United States Postal Service marked "Return to Sender, Vacant, Unable to Forward." (O'Toole testimony; State Exhibits 3, 7)

After the notice was returned, Jennifer O'Toole conducted an internet search (via Accurint) in an attempt to identify another address for Respondent. Ms. O'Toole also reviewed the Polk County Assessor's page in an attempt to identify properties that were owned by Respondent. Ms. O'Toole identified several possible addresses but none of them could be verified. Ms. O'Toole sent letters to all of the possible addresses for Respondent, none of which were returned to the Board by the postal service. Ms. O'Toole also followed up on information she obtained indicating that Respondent might be a Zumba instructor, but she was unable to identify any location where Respondent was listed as a Zumba instructor (O'Toole testimony; State Exhibits 3, 5)

4. On June 23, 2015, the Board issued a Notice of Hearing and Statement of Charges charging Respondent with failure to notify the Board of her change of address. The hearing was scheduled for September 1, 2015. The Notice of Hearing and Statement of Charges was initially sent to Respondent by restricted certified mail and by first-class

mail 1168 22nd Street, but the notice that was sent by certified mail was returned to the Board by the postal service. (O'Toole, Jorgenson testimony; State Exhibits 1, 4)

5. In late June or early July 2015, Respondent renewed her pharmacist license. She once again listed the mailing address of 1168 22nd Street in Des Moines on her renewal application. (State Exhibit 4)

6. The Board unsuccessfully attempted to personally serve Respondent with the Notice of Hearing and Statement of Charges for the September 1, 2015 hearing. The Board planned to reschedule the hearing and serve Respondent by publication. On September 1, 2015, however, Respondent appeared at the Board's office for her hearing. The state was not prepared to go forward with the hearing at that time. The Board's Administrative Assistant, Debbie Jorgenson, met with Respondent at that time and served Respondent with notice of the rescheduled hearing. Respondent signed an Acceptance of Service for this new notice, which scheduled the hearing for November 3, 2015 at 9:00 a.m. Respondent failed to appear for the hearing on November 3, 2015. (Jorgenson testimony; Notice of Hearing issued September 1, 2015; State Exhibit 2)

CONCLUSIONS OF LAW

I. Failure to Appear

657 IAC 35.5(1) allows a Notice of Hearing and Statement of Charges to be served on a licensee by personal service, certified mail return receipt requested, or publication, as provided in the Iowa Rules of Civil Procedure. In this case, Respondent was personally served with the Notice of Hearing and Statement of Charges on September 1, 2015 but failed to appear for hearing.

657 IAC 35.21 allows the Board to proceed with the hearing and render a decision in the absence of the licensee if the licensee fails to appear after proper service of notice. The Board was authorized to proceed with the hearing when Respondent failed to appear.

II. Failure to Report Change of Address to the Board

Pursuant to Iowa Code section 147.55(9), 155A.12(1), (3)(2015) and 657 IAC 36.1(4)"u," the Board is authorized to discipline a licensee for any violation of the Board's rules. 657 IAC 2.15 requires a pharmacist to report to the Board a change of the pharmacist's name, address, or pharmacy employment within ten days.

The preponderance of the evidence established that Respondent violated Iowa Code sections 147.55(9), 155A.12(1), (3), and 657 IAC 36.1(4)“u” when she failed to timely notify the Board of an address change, as required by 657 IAC 2.15. When licensees fail to notify the Board of an address change, it becomes more difficult or even impossible for the Board to carry out its regulatory functions, such as contacting a licensee when a complaint is received and serving essential notices on the licensee. In this case, Respondent’s failure to keep the Board informed of her current address prevented Board staff from timely serving her with a Department of Revenue notice of license sanction and with the Board’s Notice of Hearing and Statement of Charges. As a result of Respondent’s violation, the Board’s staff was required to expend extraordinary time and resources locating and serving Respondent. Moreover, Respondent failed to appear for the hearing before the Board, even though she had been personally served with the Notice of Hearing and Statement of Charges. The Board believes that the circumstances of the violation warrants suspending Respondent’s license to practice pharmacy until she has paid a civil penalty, has provided the Board with a verified current address, and has appeared before the Board for reinstatement.

DECISION AND ORDER

IT IS THEREFORE ORDERED that license number 16963, issued to Respondent Inie Clement, is hereby suspended effective immediately upon service of this Decision and Order.

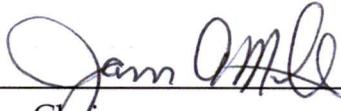
IT IS FURTHER ORDERED that Respondent shall pay a civil penalty of one thousand dollars (\$1000), within thirty (30) days of service of this Decision and Order.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 36.18(2), that Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing, within thirty (30) days of service of this Decision and Order.

IT IS FURTHER ORDERED that the suspension of Respondent’s license shall continue until:

- 1) Respondent has paid the \$1000 civil penalty and hearing fee in full;
- 2) Respondent has provided the Board with a verified current address; and
- 3) Respondent appears before the Board for a reinstatement hearing. *See* 657 Iowa Administrative Code (IAC) 36.13.

Dated this 12th day of January, 2016.



James Miller, Chairperson
Iowa Board of Pharmacy

cc: Meghan Gavin, Assistant Attorney General

A default decision or decision rendered on the merits after a party has failed to appear or participate in a contested case hearing shall become final board action unless within 15 days after the date of notification or mailing of the decision a motion to vacate is filed and served on all parties or unless an appeal of a decision is timely initiated within the time provided by rule 35.26. A motion to vacate must state all facts relied upon by the moving party which establish good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated shall be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) shall be attached to the motion. 657 IAC 35.21. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 657 IAC 35.21(4).

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2015-25
Pharmacist License of)	
INIE CLEMENT)	NOTICE OF HEARING AND
License No. 16963,)	STATEMENT OF CHARGES
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COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges concerning the pharmacist license of Inie Clement pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent was issued Iowa pharmacist license number 16963. Respondent's license is currently active and will expire on June 30, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on September 1, 2015, 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 (2015).

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 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

FAILURE TO NOTIFY THE BOARD OF A CHANGE OF ADDRESS

Respondent is charged with failing to notify the Board within ten days of a change in address in violation of Iowa Code sections 147.55(9) and 155A.12(1),(3) and 657 Iowa Administrative Code rules 2.15 and 36.1(4)(u); .

D. FACTUAL CIRCUMSTANCES

1. Respondent is an Iowa-licensed pharmacist. Her pharmacist license is active and will expire on June 30, 2015
2. The Iowa Department of Revenue notified this Board that Respondent has unpaid liability. Pursuant to Iowa Code section 272D.8 and 657 Iowa Administrative Code chapter 32, a Notice of Intent to Suspend License was issued to the Respondent.
3. The Board order was sent to Respondent's address on file.
4. The Board order returned documenting the address as vacate.
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was never completed.

6. Respondent has been noticed of three prior Intents to Suspend License for unpaid liability—twice in 2011 and once in 2012.

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 23rd day of June, 2015, the Iowa Board of Pharmacy found probable cause to file this 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:

- | | |
|--|---|
| <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 9171999991703106714740 | <input type="checkbox"/> other _____ |

on the 7th day of ~~June~~ ^{July}, 2015.

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:)	
Pharmacist License of	)	Docket No. 2015-25
INIE CLEMENT	)	DIA No. 16PHB007
License No. 16963,)	
	)	ORDER GRANTING
Respondent.	)	PETITION TO VACATE
)	

Procedural History: The Board of Pharmacy filed a Statement of Charges concerning the pharmacist license of Respondent Inie Clement on June 23, 2015. A contested case hearing was scheduled for September 1, 2015. The Board attempted to serve Respondent by restricted certified mail and by first class mail. When the certified mail was returned to the Board unclaimed, the Board rescheduled the hearing for November 3, 2015.

Respondent appeared for the hearing on September 1, 2015, having received notice of the hearing by regular mail. On that date, the Board personally served Respondent with the Statement of Charges with the November 3, 2015 hearing date.

Respondent failed to appear for the November 3, 2015 hearing. The Board elected to proceed in her absence. On January 12, 2016, the Board issued Findings of Fact, Conclusions of Law, Decision and Order. The Board found that Respondent failed to notify the Board of a change in her address and, as a result, indefinitely suspended her license and ordered her to pay a civil penalty in the amount of \$1,000. While the Board left a copy of the Order at Respondent's last known address, it also served the Order through publication in the Des Moines Register on February 2, 9, and 16, 2016.

Respondent filed a Petition to Vacate on March 11, 2016. The State filed State's Response to Petition to Vacate on March 21, 2016. The Board took up the Petition to Vacate at its meeting on May 3, 2016.

Petition to Vacate: In her motion to vacate, Respondent alleges that she did not appear at the November 3, 2015 hearing because she was recovering from a severe car accident that occurred on October 17, 2015. Since the accident, Respondent has been living with her daughter in Minnesota as she is unable to physically care for herself without assistance and is not able to work. When Respondent returned to Iowa on March 6, 2016 for appointments, she found the Board's Order taped to the door at her home.

Respondent asserts in her petition that she disputes the allegations in the Statement of Charges and wishes to have an opportunity to present evidence to the Board on these issues.

State's Response to Petition to Vacate: In its response to the petition, the State concedes that Respondent has established good cause for her failure to appear at the contested case hearing pursuant to 657 Iowa Administrative Code 35.21(6). The State does not resist the Petition to Vacate, asserting that neither fundamental fairness nor the public interest is served by refusing to vacate the January 16, 2016 Order.

ORDER

IT IS THEREFORE ORDERED that the Petition to Vacate is granted. The Board's Findings of Fact, Conclusions of Law, Decision and Order issued January 16, 2016 is vacated. A new hearing on the June 23, 2015 Statement of Charges shall take place on **June 29, 2016 during the afternoon session beginning at 1:00 PM.** The hearing will be held in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa 50309.

Dated this 4th day of May, 2016.

A handwritten signature in black ink, appearing to read 'James Miller', written over a large, faint circular stamp or watermark.

James Miller
Chairperson, Iowa Board of Pharmacy

cc: Patricia Hulting, Attorney for Respondent
Meghan Gavin, Assistant Attorney General

mail was returned to the Board by the United States Postal Service, with "RETURN TO SENDER[;] VACANT[;] UNABLE TO FORWARD" noted on the envelope. The Board resent the letter by regular mail and that mailing did not come back as undeliverable. (O'Toole testimony; Exh. 3, 7).

After receiving the returned correspondence, Board compliance officer Jennifer O'Toole attempted to personally serve the notification on Clement at the 22nd Street address. O'Toole left a message with the person who answered the door requesting that Respondent contact O'Toole. Respondent never contacted O'Toole. (O'Toole testimony; Exh. 3).

O'Toole did online research to attempt to find another address for Respondent. She found information on the Polk County assessor's website showing two other residences for which Respondent was listed as the owner. O'Toole sent letters to Respondent at those two addresses, but received no return contact. (O'Toole testimony).

On June 23, 2015, the Board found probable cause to issue a Statement of Charges against Respondent alleging that she failed to notify the Board within 10 days of a change in address. The Board cited its failed attempts to serve Respondent with the notice of Department of Revenue license sanctions.

Respondent's most recent employer is RPH on the Go, a temporary agency that places traveling pharmacists outside of the Des Moines area. Respondent received a W-2 from RPH on the Go for the 2015 tax year. (O'Toole testimony).

CONCLUSIONS OF LAW

Pursuant to Iowa Code section 155A.12(1), the Board may impose discipline on a pharmacist's license in the event that the licensee violates any provision of Chapter 155A or any rules of the Board adopted under Chapter 155A. Under the Board's rules, a pharmacist is required to report to the Board within 10 days a change of the pharmacist's name, address, or pharmacy employment.²

Under these circumstances, the State has not shown by a preponderance of the evidence that Respondent violated the Board rule requiring her to report a change of address within 10 days. There is no evidence of another address at which Respondent resides and there is evidence in the record that she works for a company that places pharmacists in traveling assignments, explaining her temporary absence from her residence for more lengthy periods of time.

² 657 Iowa Administrative Code (IAC) 2.15.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the Statement of Charges filed against Inie Clement on June 23, 2015 is hereby DISMISSED.

Dated this 30th day of August, 2016.


James Miller
Chairperson, Iowa Board of Pharmacy

cc: Meghan Gavin, Assistant Attorney General
Patricia Hulting, Attorney for Respondent

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.