

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2016-150
Pharmacist License of)	
)	
RAJAN DEVAN)	SETTLEMENT AGREEMENT
License No.19490)	AND FINAL ORDER
Respondent.)	

COME NOW the Iowa Board of Pharmacy and Rajan Devan ("Respondent") and enter into this Settlement Agreement and Final Order ("Order") pursuant to Iowa Code sections 17A.12(5) and 272C.3(4) (2015), and 657 Iowa Administrative Code rule 36.6, to settle a license disciplinary proceeding currently pending before the Board.

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

1. Respondent holds Iowa pharmacist license 19490, which is currently active.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. The Board issued a Statement of Charges concerning Respondent's pharmacist license on January 4, 2017.
4. With the exception of Count IV, Respondent has chosen not to contest the charges, but acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
5. Should Respondent violate the terms of this Settlement Agreement and Final Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and Iowa Administrative Code chapter 657—36.
6. 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. This Agreement shall constitute the final order of the Board in this case and shall have the force and effect of a disciplinary order entered following a contested case hearing.

7. Respondent is freely and voluntarily entering into this Agreement. Respondent further 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.

8. 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.

9. 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.

10. 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.

11. Respondent acknowledges that he has a right to be represented by counsel in these proceedings and indeed is represented by attorney Thomas Crabb.

12. Respondent understands the Board is required by federal law to report any adverse action to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank.

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.

IT IS THEREFORE ORDERED:

1. Count IV, Failing to Maintain an Accurate Perpetual Inventory is hereby **DISMISSED**.
2. Respondent's license to practice pharmacy in the State of Iowa is hereby **SUSPENDED** effective immediately.
3. Respondent may not request reinstatement for at least one year from the date of this Order. Respondent may request reinstatement of his Iowa pharmacist license by filing an application for reinstatement under 657 Iowa Administrative Code rule 36.13. Respondent's license shall not be reinstated except upon a showing by Respondent that the basis for

revocation of his license no longer exists, and that it is in the public interest for the license to be reinstated.

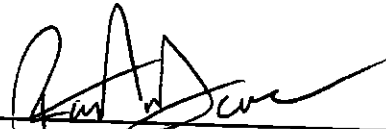
4. Respondent agrees not to work in a pharmacy in any capacity in Iowa unless and until his pharmacist license is reinstated.

5. Respondent shall have no involvement, directly or indirectly, in the ownership, management, direction, or control of any business engaged in the practice of the pharmacy without the express, written consent of the Board.

6. Respondent shall not serve as a pharmacist-in-charge without the express, written consent of the Board.

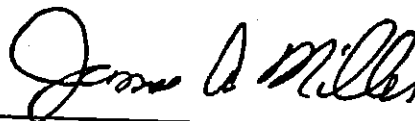
7. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 147, 155A, and 272C and 657 Iowa Administrative Code chapter 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 24 day of February, 2017.



RAJAN DEVAN
Respondent

This Settlement Agreement and Final Order is approved by the Iowa Board of Pharmacy on the 7th day of March, 2017.



Chairperson
Iowa Board of Pharmacy

Copy to:

Meghan L. Gavin
Assistant Attorney General

Licensing & Administrative Law Division
Iowa Department of Justice
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

Thomas G. Crabb
418 6th Ave. Ste. 200
Des Moines, IA 50309
ATTORNEY FOR RESPONDENT

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2016-150
Pharmacist License of)	
)	NOTICE OF HEARING AND
RAJAN DEVAN)	STATEMENT OF CHARGES
License No.19490)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Rajan Devan pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 272C.3(1)(e), and 657 Iowa Administrative Code rules 35.5 and 36.5. Respondent's Iowa pharmacist license number 19490.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on March 7, 2017 before the Board. The hearing shall begin at 9:00 am and shall be located in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges, you may file an Answer pursuant to 657 Iowa Administrative Code rule 35.11. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Pharmacy, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

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.

Pre-hearing Conference. Any party may request a prehearing conference in accordance with 657 Iowa Administrative Code rule 35.15 to discuss issues related to the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code chapter 35. 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:

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 by e-mail at Meghan.Gavin@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 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 147, 155A, 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 ENGAGING IN 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 sections 147.55(3) and 155A.12(2) and 657 Iowa Administrative Code rules 36.1(4)(c).

COUNT II
FAILING TO MAINTAIN SECURITY

Respondent is charged with failing to maintain pharmacy security in violation of Iowa Code sections 147.55(9) and 155A.12(3) and 657 Iowa Administrative Code rules 6.7 and 36.1(4)(u).

COUNT III
FAILING TO PROPERLY TRANSFER PRESCRIPTIONS

Respondent is charged with violating rules of the Board by failing to properly transfer prescriptions in violation of Iowa Code sections 147.55(9) and 155A.12(3) and 657 Iowa Administrative Code rules 6.9(3) and 36.1(4)(u).

COUNT IV
FAILING TO MAINTAIN AN ACCURATE PERPETUAL INVENTORY

Respondent is charged with violating rules of the Board by failing to maintain an accurate perpetual inventory of schedule II controlled substances in violation of Iowa Code sections 147.55(9) and 155A.12(3) and 657 Iowa Administrative Code rules 10.33 and 36.1(4)(u).

COUNT V
KNOWINGLY ADVISING ANOTHER PERSON TO UNLAWFULLY PRACTICE PHARMACY

Respondent is charged with knowingly advising another person to unlawfully practice pharmacy in violation of Iowa Code sections 147.55(9) and 155A.12(3),(6) and 657 Iowa Administrative Code rules 36.1(4)(l).

COUNT VI
ATTEMPTING TO CIRCUMVENT PATIENT COUNSELING REQUIREMENTS

Respondent is charged with attempting to circumvent patient counseling requirements in violation of Iowa Code sections 147.55(9) and 155A.12(3) and 657 Iowa Administrative Code rule 36.1(4)(w).

COUNT VII
FAILING TO MAINTAIN COMPLETE AND ACCURATE RECORDS

Respondent is charged with failing to maintain complete and accurate records in violation of Iowa Code sections 147.55(9) and 155A.12(4) and 657 Iowa Administrative Code rule 36.1(4)(ac).

D. FACTUAL CIRCUMSTANCES

1. The Board received a complaint concerning the operation of Oskey Pharmacy in Oskaloosa, Iowa. Respondent serves as the pharmacist-in-charge of Oskey Pharmacy.

2. On numerous occasions, Respondent has arrived at the pharmacy hours after the scheduled opening, fallen asleep at the pharmacy, or closed the pharmacy with no notice to staff or patients. As a result, the pharmacy has been frequently open without a pharmacist present.

3. On several occasions, Respondent directed a certified technician to open the pharmacy in his absence and dispense prescriptions, including prescriptions for controlled substances. Respondent has given a technician the keys, alarm code, and combination to the controlled substances safe.

4. Respondent filled and dispensed prescriptions that had no refills before contacting the prescriber.

5. Respondent filled prescriptions in advance of the request of the patient, left them in a crude file, and did not order the medication. If the patient did not request the medication, the claims were shredded and not reversed.

6. On numerous occasions, Respondent filled controlled substances earlier than the permissive fill date.

7. Respondent failed to record several prescriptions and invoices for Schedule II controlled substances in the perpetual inventory log.

8. Unclaimed prescriptions in the will-call area were not reversed in the system, Respondent simply put them back on the shelf. Respondent did not reverse insurance claims.

9. Patients were not counseled on new prescriptions because Respondent was not present when prescriptions were dispensed.

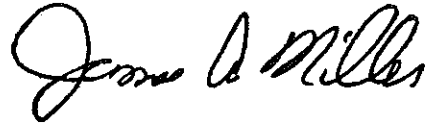
10. Respondent instructed staff to transfer prescriptions by faxing the screen shot when the pharmacist was absent.

D. 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 Meghan Gavin at (515) 281-6736.

E. FINDING OF PROBABLE CAUSE

On this 4th day of January 2017, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



Chairperson
Iowa Board of Pharmacy

Copy to:

Meghan L. Gavin
Assistant Attorney General
Licensing & Administrative Law Division
Iowa Department of Justice
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

Tom Crab
ATTORNEY FOR RESPONDENT