

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	Case No. 2012-19
Nonresident Pharmacy License of	)	
<b>EXPRESS SCRIPTS INC</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 3155,	)	<b>&amp; NOTICE OF HEARING</b>
Respondent.	)	

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**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 nonresident pharmacy license number 3155 is currently active and will expire on December 31, 2013.

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

Hearing. A disciplinary contested case hearing shall be held on August 27, 2013, before the Iowa Board of Pharmacy. The hearing shall be held during the morning hearing 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 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 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:

Theresa O'Connell Weeg  
Assistant Attorney General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor Hoover State Office Building  
Des Moines, Iowa 50319.

Ms. Weeg may also be reached by phone at (515)281-5328 or by e-mail at Theresa.Weeg@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 Theresa O'Connell Weeg at (515)281-5328 or at Theresa.Weeg@iowa.gov.

## **B. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 155A, and 272C (2011).

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 (2011) 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 VIOLATING LAWS OF ANOTHER STATE**

Respondent is charged pursuant to Iowa Code § 155A.15(2)(c) (2013), and 657 Iowa Administrative Code §§ 36.1(4)(j) and 36.1(4)(ad), with violating the laws of Hawaii, which laws relate to the practice of pharmacy.

## **D. FACTUAL CIRCUMSTANCES**

1. Respondent is a licensed nonresident pharmacy in the State of Iowa. Respondent's nonresident pharmacy license is active and will expire on December 31, 2013.
2. At all times relevant to this Statement of Charges, Respondent operated a nonresident pharmacy at 3684 Marshall Lane, Bensalem, Pennsylvania 19020.

3. On July 15, 2012, Respondent was disciplined by the Hawaii Board of Pharmacy and required to pay a \$1000.00 fine for failure to report within thirty days that:  
a) disciplinary action had been taken against it in Pennsylvania on March 17, 2004; b) disciplinary action had been taken against it in Louisiana on May 12, 2005; and c) disciplinary action had been taken against it in Florida on February 27, 2006.

#### 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 36.3. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Theresa Weeg.

#### F. PROBABLE CAUSE FINDING

On this 23rd day of April, 2013, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



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

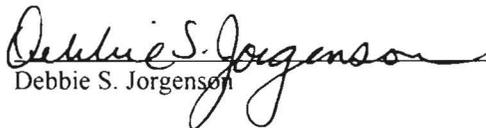
cc: Theresa Weeg  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa

#### PROOF OF SERVICE

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

personal service  
 certified mail, return receipt requested  
Article Number 9171999991703106849978  
on the 26th day of April, 2013.  
 first class mail  
 facsimile  
 other \_\_\_\_\_

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. 2012-19
Nonresident Pharmacy License of	)	
<b>EXPRESS SCRIPTS INC,</b>	)	<b>SETTLEMENT AGREEMENT</b>
	)	<b>AND</b>
	)	<b>FINAL ORDER</b>
License No. 3155,	)	
Respondent.	)	

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Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy and Express Scripts Inc., Respondent, enter into this Settlement Agreement and Final Order to settle the licensee disciplinary proceeding currently pending before the Board.

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

1. Respondent was issued Nonresident Pharmacy License No. 3155. That license is active and will expire on December 31, 2013.
2. A Statement of Charges was filed against Respondent on April 23, 2013.
3. At all times relevant to the Statement of Charges, Respondent operated a nonresident pharmacy at 3684 Marshall Lane, Bensalem, Pennsylvania 19020.
4. The Board has jurisdiction over the parties and the subject matter of these proceedings.

5. Respondent has closed the Bensalem pharmacy, and has chosen not to contest the allegations in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
6. Respondent states in mitigation that the Hawaii disciplinary order that provides the basis for this Settlement Agreement and Final Order was not based on a failure to report discipline as required under pharmacy laws and regulations, but was based on the Hawaii Board of Pharmacy's view that Respondent's notice was late, under notice requirements under a separate, general Hawaii licensing statute.
7. Respondent is hereby CITED for having disciplinary action taken against it by another state licensing board, and is hereby WARNED that future violations of the law governing the practice of pharmacy in Iowa could result in further disciplinary action.
8. Respondent agrees to pay a civil penalty in the amount of \$1000. This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board within twenty (20) 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.
9. This Settlement Agreement and Final Order is the resolution of a contested case. By entering into this Settlement Agreement and Final Order, 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.

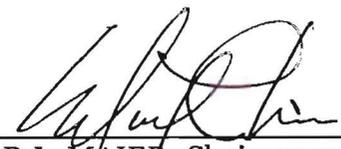
10. The State's legal counsel may present this Settlement Agreement and Final Order to the Board.
11. This Settlement Agreement and Final Order is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Settlement Agreement and Final Order, it shall be the full and final resolution of this matter.
12. The Board's approval of this Settlement Agreement and Final Order 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 4<sup>th</sup> day of November, 2013.

  
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For Respondent

By this signature, Celeste Player acknowledges s/he is the VP of Pharmacy Practice for Express Scripts Inc. and is authorized to sign this Settlement Agreement and Final Order on behalf of Express Scripts Inc.

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 5<sup>th</sup> day of November 2013.

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

cc: Meghan Gavin  
Assistant Attorney General  
Office of the Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

Edward D. Rickert  
Krieg DeVault LLP  
30 N. LaSalle St., Suite 2800  
Chicago, IL 60602