

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2014-204
Pharmacist License of	)	
	)	
<b>MARK FRAHM</b>	)	<b>NOTICE OF HEARING AND</b>
License No. 15271	)	<b>STATEMENT OF CHARGES</b>
Respondent.	)	

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**COMES NOW** the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Mark Frahm ("Respondent"), 1137 N Court Street, Ottumwa, Iowa 52501, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2015). Respondent's Iowa pharmacist license number 15271 is currently active and expires on June 30, 2016.

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

Hearing. A disciplinary contested case hearing shall be held on April 28, 2015, before the Board. The hearing shall be held in the afternoon session beginning at 1:00 p.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 IAC 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 IAC 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 Steffensmeier  
Assistant Attorney General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor, Hoover State Office Building  
Des Moines, Iowa 50319

Ms. Steffensmeier can also be reached by phone at (515) 281-6690 or by e-mail at [laura.steffensmeier@iowa.gov](mailto:laura.steffensmeier@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 (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 under 657 IAC 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 IAC 35.21.

## **C. CHARGES**

### **Count I**

#### **PROFESSIONAL INCOMPETENCY**

Respondent is charged with professional incompetency for failing to report to the clozapine registry, pursuant to Iowa Code sections 147.55(2) and 155A.12(3) and 657 IAC 36.1(4)"b".

## **D. FACTUAL CIRCUMSTANCES**

1. At all relevant times, Respondent was the pharmacist-in-charge at South Side Drug Inc.
2. South Side Drug Inc. has multiple patients receiving clozapine.
3. The prescribing information for clozapine requires pharmacies to report patient information to a clozapine registry.
4. Since 2006, Respondent and South Side Drug Inc. have not been reporting to any clozapine registries.

## **E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 IAC 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Laura Steffensmeier at (515) 281-6690.

**F. FINDING OF PROBABLE CAUSE**

On this 10<sup>th</sup> day of March, 2015, 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 Steffensmeier  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> Floor  
Des Moines, IA 50319

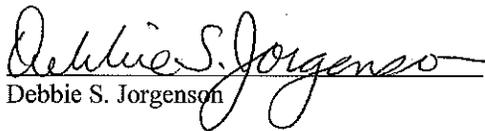
PROOF OF SERVICE

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 <u>9171999991703106714559</u>                                 | <input type="checkbox"/> other _____      |

on the 10<sup>th</sup> day of March, 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**

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Re:	)	CASE NO. 2014-204
Pharmacist License of	)	
	)	<b>SETTLEMENT AGREEMENT</b>
<b>MARK FRAHM</b>	)	<b>AND FINAL ORDER</b>
License No. 15271	)	
Respondent.	)	

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Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2015), the Iowa Board of Pharmacy ("Board") and Mark Frahm ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case 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. Respondent's license #15271 is currently active and expires on June 30, 2016.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. A Statement of Charges was filed against Respondent on March 10, 2015.
4. Respondent admits the allegations contained 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.
5. Execution of this 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 Settlement Agreement. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.
6. Respondent is freely and voluntarily entering into this Order.
7. Respondent acknowledges that he has the right to be represented by counsel on this matter.
8. Respondent agrees that the State's counsel may present this Order to the Board and may have *ex parte* communications with the Board while presenting it.
9. This Order is subject to approval by a majority of the full Board. If the Board fails to approve this Order, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Order, it shall be the full and final resolution of this matter.

10. This Order shall be part of the permanent record of Respondent 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.
11. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse, as applicable.
12. This Order, 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 Order shall constitute a **FINAL ORDER** of the Board.

**IT IS THEREFORE ORDERED:**

14. Respondent is hereby **CITED** for failing to report to the clozapine registry and **WARNED** that Respondent's failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.
15. Respondent agrees to pay a civil penalty in the amount of one-thousand dollars (\$1000). This civil penalty shall be made payable to the Treasurer of Iowa and paid 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.
16. Respondent agrees to provide the Board with proof of registration with the clozapine registry within thirty (30) days of the Board's approval of this Settlement Agreement and Final Order.
17. Respondent agrees to provide the Board a written policy or procedure for South Side Drug Inc. that addresses reporting to the clozapine registry within thirty (30) days of the Board's approval of this Settlement Agreement and Final Order.
18. Respondent agrees to provide the Board with proof of reporting to the clozapine registry within sixty (60) days of the Board's approval of this Settlement Agreement and Final Order.
19. The civil penalty and the documentation required to be submitted to the Board under paragraphs 16, 17, and 18, should be mailed to the Iowa Board of Pharmacy, Attn: Debbie Jorgenson, 400 SW Eighth Street, Suite E, Des Moines, IA 50309.
20. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A 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 14<sup>th</sup> day of April, 2015.

*Mark L Frahm*

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MARK FRAHM  
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the  
29<sup>th</sup> day of April, 2015.

*[Signature]*

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

cc: Laura Steffensmeier  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> Floor  
Des Moines, IA 50319