

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2010-79
Pharmacist License of)	
MISTY FRENTRESS)	STATEMENT OF CHARGES
License No. 20232,)	
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter, "Board") 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 (2011).
3. On July 20, 2005, the Board issued Misty Frentress ("Respondent"), after examination, a license to engage in the practice of pharmacy as evidenced by license number 20232, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's pharmacist license is current and active until June 30, 2013.
5. Respondent's address of record is 2916 Sadona Hills North, LeMars, Iowa 51031.
6. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at the Hy-Vee Pharmacy, 1201 12th Avenue Southwest, LeMars, Iowa 51031.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.12(1) (2011) and 657 Iowa Administrative Code § 36.1(4)(b) with lack of professional competency as demonstrated by Respondent's (a) substantial deviation from the standards of learning and skill ordinarily possessed and applied by other Iowa pharmacists, (b) failure to exercise in a substantial respect that degree of care which is ordinarily exercised by an Iowa pharmacist and (c) willful and repeated departures from, and a failure to conform to, the minimal standard and acceptable and prevailing practice of pharmacy in the state of Iowa.

COUNT II – VIOLATION OF CONTROLLED SUBSTANCES LAWS

Respondent is charged under Iowa Code §§ 124.212A, 124.212B, 124.306, 124.402(c), 155A.12(1) and 155A.12(5) (2011), and 657 Iowa Administrative Code §§ 10.32, 36.1(4)(i) and 36.1(4)(j), with violating controlled substances laws.

COUNT III – FAILURE TO MAINTAIN AND PROVIDE RECORDS

Respondent is charged under Iowa Code §§ 155A.12(1) and 155A.12(4) (2011) and 657 Iowa Administrative Code §§ 8.4(3), 10.34, 10.35, 21.5, 36.1(4)(ac), 36.1(4)(ag) and 36.1(4)(i), with failure to maintain and provide to the Board pharmacy records, including records relating to controlled substances.

COUNT IV – FAILURE TO MAINTAIN ADEQUATE CONTROLS

Respondent is charged under Iowa Code § 155A.12(1) (2011), and 657 Iowa Administrative Code § 6.7 and 36.1(4)(i), with failing to maintain adequate control over and accountability for controlled substances.

COUNT V – PROCURING PERSONS TO PERFORM AS TECHNICIAN

Respondent is charged under Iowa Code § 155A.12(1) and 155A.12(6) (2011), and 657 Iowa Administrative Code §§ 36.1(4)(i) and 36.1(4)(l), with knowingly aiding, assisting and procuring non-technicians to perform the functions of a pharmacy technician.

COUNT VI – ATTEMPTING TO SUBVERT AN INVESTIGATION

Respondent is charged under Iowa Code §§ 155A.12(1) (2011), and 657 Iowa Administrative Code §§ 36.1(4)(i) and 36.1(4)(z), with attempting to subvert a Board investigation.

COUNT VII – CIRCUMVENTING COUNSELING REQUIREMENT

Respondent is charged under Iowa Code §§ 155A.12(1) (2011), and 657 Iowa Administrative Code §§ 36.1(4)(i) and 36.1(4)(w), with attempting to circumvent patient counseling requirements.

COUNT VIII – UNETHICAL CONDUCT

Respondent is charged under Iowa Code §§ 155A.12(1) (2011), and 657 Iowa Administrative Code §§ 8.11(1) and 36.1(4)(i), with unethical conduct; specifically, falsification of information provided in response to an insurance company audit.

COUNT IX – OBTAINING A FEE BY MISREPRESENTATION

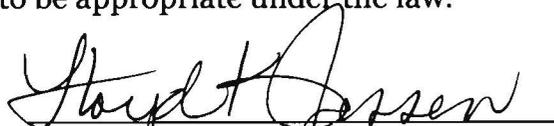
Respondent is charged under Iowa Code §§ 155A.12(1) (2011) and 657 Iowa Administrative Code § 36.1(4)(t) with obtaining a fee by misrepresentation.

B. CIRCUMSTANCES

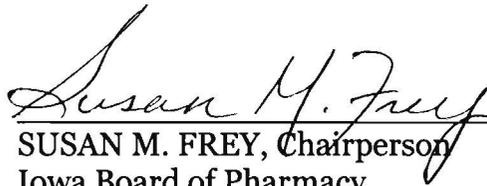
An investigation was commenced on July 27, 2010 which revealed the following:

1. At all times material to this Statement of Charges, Respondent was the pharmacist in charge at the Hy-Vee Pharmacy located at 1201 12th Avenue Southwest, LeMars, Iowa 51031.
2. Respondent did not maintain complete and accurate records relating to sales of products containing pseudoephedrine.
3. Cashiers and pharmacy support personnel were directed by Respondent to bag prescription medications, reconstitute liquid oral antibiotics, open the pharmacy without a pharmacist present and perform other duties outside the scope of their authorized activities.
4. Respondent directed a pharmacy support person to lie to the Board regarding, among other things, the scope of the support person's activities.
5. Respondent directed an employee to falsify signatures in response to an insurance company audit.
6. The pharmacy alarm system was not used when the pharmacy was closed.
7. Respondent assigned pharmacy prescriptions a new number after a year had passed, as a basis for dispensing additional refills.
8. The pharmacy's annual controlled substance inventory was incomplete.
9. At Respondent's direction, counseling relating to all new prescriptions was not performed.
10. An inspection of the pharmacy, conducted August 4, 2010, revealed the following deficiencies:
 - a. Prescription labels did not contain identification of the checking pharmacist.
 - b. Pharmacy records were being stored outside the pharmacy.
 - c. Inventory records were incomplete; some lacked beginning and ending dates.
 - d. Records relating to temporary personnel were incomplete.

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.


LLOYD K. JESSEN
Executive Director

On this 7th day of March 2012, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.



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

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

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BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE)	Case No. 2010-79
STATEMENT OF CHARGES AGAINST)	
MISTY FRENTRESS,)	SETTLEMENT AGREEMENT
Pharmacist No. 20232)	AND
Respondent.)	FINAL ORDER

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Misty Frentress (Respondent) enter into the following Settlement Agreement and Final Order to settle a disciplinary proceeding currently pending before the Board.

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

1. Respondent was issued Pharmacist License No. 20232.
2. Iowa Pharmacist License Number 20232 is currently active.
3. The Board has jurisdiction over the parties and subject matter in this case.
4. A Statement of Charges was filed against the Respondent on March 7, 2012.
5. Respondent has chosen not to contest the allegations in the Statement of Charges. Respondent acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
6. Respondent is **CITED** for violation of the controlled substance laws, failing to

maintain and provide records, failing to maintain adequate controls, and circumventing the counseling requirement. Respondent is **WARNED** that her failure to comply with the laws governing the practice of pharmacy in Iowa could result in further discipline against her license.

7. Upon the Board's approval of this Settlement Agreement and Final Order, Respondent's Iowa pharmacist license shall be placed on **PROBATION**. Probation is granted under the following conditions, which the Respondent agrees to follow:
 - a. The period of probation shall be two (2) years, provided, however, that only those time periods during which Respondent is employed as a pharmacist shall count toward exhaustion of the probationary term.
 - b. During Respondent's probationary period she shall file sworn quarterly reports with the Board attesting to Respondent's compliance with the terms and conditions of this Settlement Agreement and Final Order. The reports shall be filed not later than January 5, April 5, July 5, and October 5 of each calendar year—until the probationary period has expired.
 - c. Respondent shall inform the Board, in writing, of any change of home address, place of employment, home telephone number, or work telephone number, within (10) days of such a change.
 - d. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing her performance as a pharmacist during Respondent's probationary period. Respondent shall be given reasonable notice

of the date, time, and place for the appearances.

e. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.

8. Respondent shall be assessed a civil penalty in the amount of \$2500.00. 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.
9. Respondent agrees to provide the Board typewritten Policies and Procedures for (1) pseudoephedrine sales, (2) utilization of pharmacy support persons, (3) utilization of pharmacy technicians, (4) controlled substance record keeping, inventory, and disposal (5) pharmacy security, (6) prescription record keeping, and (7) patient counseling within thirty (30) days of the Board's approval of this Settlement Agreement and Final Order. If Respondent fails to implement or abide by these policies, the Board may initiate action to revoke or suspend Respondent's pharmacy license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2011) and 657 Iowa Administrative Code chapter 36.
10. If Respondent violates or fails to comply with any of the terms of this Settlement Agreement and Final Order, the Board may initiate action to revoke or suspend Respondent's pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2011) and 657 Iowa

Administrative Code chapter 36.

11. 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 in the Statement of Charges, and waives any objections to this Final Order.
12. The State's legal counsel may present this Settlement Agreement and Final Order to the Board *ex parte*.
13. 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.
14. The Board's approval of this Settlement Agreement and Final Order shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 17 day of February 2014.


MISTY FRENTRESS, Pharmacist
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 12th day of March 2014.


EDWARD 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

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