

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2014-102
Pharmacist License of)	
)	
DAVID TRACEY KING)	NOTICE OF HEARING AND
License No. 19586)	STATEMENT OF CHARGES
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (“Board”) and files this Notice of Hearing and Statement of Charges against David Tracey King (“Respondent”), 837 Monticello Drive, Burlington, IA 52601 pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2013). Respondent’s Iowa pharmacist license number 19586 is currently active and expires on June 30, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on January 6, 2015, before the Board. 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 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
2nd 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.

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 (2013).

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

FAILURE TO MEET THE REQUIREMENTS OF EMERGENCY PRESCRIPTIONS

Respondent is charged with failing to meet the requirements for emergency prescriptions in violation of 657 IAC 10.22(2), pursuant to Iowa Code sections 147.55(9), 155A.12(1) and (5), and 657 IAC 6.2(12), 6.2(15), 36.1(4)“u” and “ac”.

D. FACTUAL CIRCUMSTANCES

1. At all relevant times, Respondent was the pharmacist-in-charge at Rashid LTC Pharmacy.
2. From May to July 2014, several doses of Schedule II controlled substances were removed from a StatSafe machine at a long-term care facility serviced by Rashid LTC Pharmacy.
3. Rashid LTC Pharmacy could not produce temporary written records or written prescriptions for the Schedule II controlled substances removed from the StatSafe machine.

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 the 19th day of November, 2014, 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, 2nd Floor
Des Moines, IA 50319

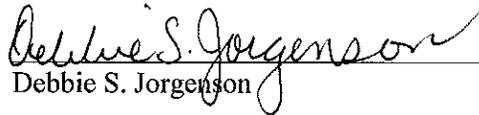
PROOF OF SERVICE

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 917199999170310675743 | <input type="checkbox"/> other _____ |

on the 19th day of November, 2014.

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:)	CASE NO. 2014-102
Pharmacist License of)	
DAVID TRACEY KING)	SETTLEMENT AGREEMENT
License No. 19586)	AND FINAL ORDER
Respondent.)	

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and David Tracey King ("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:

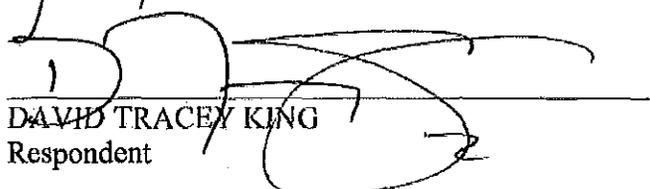
1. Respondent's license #19586 is currently active and expires on June 30, 2015.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. A Statement of Charges was filed against Respondent on November 19, 2014. A contested case hearing in this matter is scheduled for January 6, 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.
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:

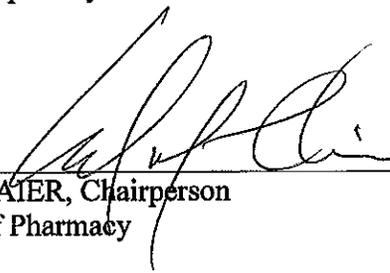
14. Respondent is hereby **CITED** for failing to meet the requirements of emergency prescriptions and **WARNED** that Respondent's failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.
15. Respondent agrees to pay a civil penalty in the amount of two-hundred fifty dollars (\$250). This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Iowa Board of Pharmacy, Attn: Lloyd Jessen, 400 SW Eighth Street, Suite E, Des Moines, IA 50309, within sixty (60) 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 written policies and procedures that address the filling and documentation of emergency prescriptions within sixty (60) days of the Board's approval of this Settlement Agreement and Final Order.
17. 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 10th day of January, 2015.



DAVID TRACEY KING
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.



EDWARD MATER, Chairperson
Iowa Board of Pharmacy

cc: Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

Guy Cook and Adam Zenor
Grefe & Sidney, P.L.C.
500 East Court Avenue, Suite 200
Des Moines, IA 50309
ATTORNEYS FOR RESPONDENT