

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2013-39 & 2013-50
Pharmacy License of)	
LONG DRUG)	STATEMENT OF CHARGES
License No. 131,)	& NOTICE OF HEARING
Respondent.)	

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 pharmacy license number 131. Respondent's license is currently active.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on November 5, 2013, before the Iowa Board of Pharmacy. The hearing shall be held during the morning session, beginning at 9:00 a.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 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 rule 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.

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 e-mail at Meghan.Gavin@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 Meghan Gavin at (515)281-6736.

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 FAILURE TO MAINTAIN A CQI PROGRAM

The Respondent is charged with failing to maintain a continuous quality improvement program in violation of Iowa Code section 155A.15(2)(c) and 657 Iowa Administrative Code rules 6.3(1), 8.26, and 36.1(4)(u).

Count II FAILURE TO COUNSEL PATIENT

The Respondent is charged with failing to ensure a patient is counseled on a new medication in violation of Iowa Code section 155A.15(2)(c) and 657 Iowa Administrative Code rules 6.14(1), 8.3(1), and 36.1(4)(u).

Count III
FAILURE TO PROVIDE AND DOCUMENT FINAL VERIFICATION

The Respondent is charged with failing to provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative in violation of Iowa Code section 155A.15(2)(c) and Iowa Administrative Code rules 657—8.3(1), 8.3(3), 36.1(4)(u).

D. FACTUAL CIRCUMSTANCES

Case No. 2013-39

1. On March 6, 2013, a patient went to Long Drug Pharmacy to pick up a prescription for Moviprep and four Ducolax tablets for a scheduled colonoscopy.
2. The patient received a prescription for Moviprep and four Ducolax suppositories, not tablets. The suppositories are supplied as 10mg and the tablets are 5mg each.
3. A Long Drug pharmacist dispensed the prescription, which was stapled shut. No counseling was performed.
4. The patient became slightly ill from ingesting the suppositories.
5. A Long Drug pharmacist did not complete an incident report or have any notes of the mistake.

Case No. 2013-50

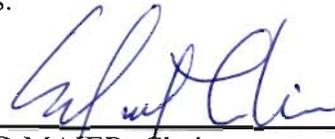
1. On January 21, 2013, a patient presented a prescription for Tracrolimus 0.5mg at Long Drug Pharmacy.
2. Tracrolimus is a medication used to prevent the body from rejecting a transplanted organ. The patient had recently undergone a kidney transplant.
3. The prescription was misfilled with Flomax, a medication used to improve urination in men with benign prostatic hyperplasia.
4. The error was not discovered for 27 days.
5. The patient has not exhibited adverse affects as a result of the misfill.

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 rule 36.3. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Meghan Gavin.

F. PROBABLE CAUSE FINDING

On this 28th day of August, 2013, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



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

cc: Meghan Gavin
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 9171999991703104136797
- first class mail
- facsimile
- other _____

on the 28th day of August, 2013.

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. 2013-39 & 2013-50
Pharmacy license of)	
LONG DRUG)	SETTLEMENT AGREEMENT
License No. 131,)	AND FINAL ORDER
Respondent.)	

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy (“Board”) and Long Drug (“Respondent”) enter into the following Settlement Agreement to settle a disciplinary proceeding currently 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. The Board has jurisdiction over the parties and the subject matter of these proceedings.
2. Respondent’s license #131 is currently active and expires on December 31, 2013.
3. A Statement of Charges was filed against Respondent on August 28, 2013.
4. Respondent 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 discipline.
5. Upon the Board’s approval of this Settlement Agreement and Final Order, Respondent is hereby CITED for failing to maintain a continuous quality improvement program, failing to counsel a patient, and failing to provide and document final verification, and WARNED that Respondent’s failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.
6. Respondent agrees to pay a civil penalty in the amount of one-thousand dollars (\$1,000). 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.
7. Respondent agrees to provide the Board written policies and procedures that address a continuous quality improvement program, patient counseling, and final verification within sixty (60) days of the Board’s approval of this Settlement Agreement and Final Order.
8. This Settlement Agreement is the resolution of a contested case. By entering into this Settlement Agreement, 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.
9. Respondent is freely and voluntarily entering into this Settlement Agreement.

10. Respondent acknowledges that it has a right to be represented by counsel on this matter.

11. The State's legal counsel may present this Settlement Agreement to the Board *ex parte*.

12. This Settlement Agreement is subject to approval by a majority of the full Board. If the Board fails to approve this Settlement Agreement, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Settlement Agreement, it shall be the full and final resolution of this matter.

13. This Settlement 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.

14. The Board's approval of this Settlement Agreement 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 31st day of October, 2013.



For Respondent

By this signature, CHRIS TUETKEN acknowledges s/he is the OWNER/PIC for Long Drug and is authorized to sign this Settlement Agreement and Final Order on behalf of Long Drug.

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 5th day of November, 2013.



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

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