

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Case No. 2012-3
Pharmacist License of)
KIM MALICHKY) **STATEMENT OF CHARGES**
License No. 19646,)
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 June 7, 2002, the Board issued Kim Malichky ("Respondent"), after examination, a license to engage in the practice of pharmacy as evidenced by license number 19646, 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 2426 280th Street, Washington, Iowa 52353.
6. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at Hy-Vee Pharmacy #1850, 528 South Highway #1, Washington, Iowa 52253.

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 departure from, and a failure to conform to, the minimal standard and acceptable and prevailing practice of pharmacy in the state of Iowa.

COUNT II – FAILURE TO IMPLEMENT CQI

Respondent is charged under Iowa Code §§ 155A.12(1) and 155A.12(4) (2011), and 657 Iowa Administrative Code §§ 8.26 and 36.1(4)(u), with failing to implement and properly utilize a continuous quality improvement program.

B. CIRCUMSTANCES

An investigation was commenced on January 12, 2012, which revealed the following:

1. At all times material to this Statement of Charges, Respondent was employed as the pharmacist in charge at Hy-Vee Pharmacy #1850, 528 South Highway #1, Washington, Iowa 52253.
2. Hy-Vee Pharmacy #1850 received a prescription for Chlorpromazine 10mg. Respondent incorrectly entered the prescription into the pharmacy's records.
3. The pharmacy dispensed Chlorpromazine 100mg tablets to the patient instead of Chlorpromazine 10 mg tablets.
4. Subsequent to discovery of the error, no entry regarding the error was made in the pharmacy's continuous quality improvement log.

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 27th day of June 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: Theresa Weeg
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE)
STATEMENT OF CHARGES AGAINST)
KIM MALICHKY,)
Pharmacist No. 19646)
Respondent.)

Case No. 2012-3

**SETTLEMENT AGREEMENT
AND
FINAL ORDER**

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Richard Grote (Respondent) enter into the following Settlement Agreement and Final Order 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 agree:

1. Respondent was issued Pharmacist License No. 19646.
2. Iowa Pharmacist License Number 19646 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 June 27, 2012.
5. Respondent denies the allegations in the Statement of Charges, but wishes to settle this matter without hearing. Respondent acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
6. Count I of the Statement of Charges—Lack of Professional Competency—is hereby

DISMISSED.

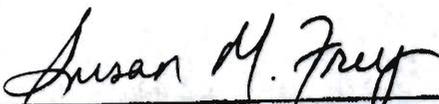
7. Respondent is **CITED** for failing to implement and properly utilize a continuous quality improvement program. Respondent is **WARNED** that her failure to comply with the laws governing the practice of pharmacy in Iowa could result in further discipline against her license.
8. Respondent agrees to take two (2) contact hours of continuing pharmacy education in patient safety and/or the prevention of medication dispensing error within three (3) months of the Board's approval of Settlement Agreement and Final Order. Respondent will provide the Board proof of completion. These continuing education hours will not count towards the Respondent's continuing education requirements for licensure renewal. Respondent is responsible for all costs associated with the continuing education.
9. If Respondent violates or fail 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.
10. 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.
11. The State's legal counsel may present this Settlement Agreement and Final Order to the Board *ex parte*.

12. 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.
13. 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 12 day of November 2012.


KIM MALICHKY, Pharmacist
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 6th day of December 2012.


SUSAN M. FREY, Chairperson
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cc: Meghan Gavin
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