

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2012-190
Pharmacy License of)	
)	NOTICE OF HEARING AND
MED-EQUIP HOMECARE)	STATEMENT OF CHARGES
PHARMACY)	
License No. 1107)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges against Med-Equip Homecare Pharmacy, 141 South Central, Hartley, Iowa 51346, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent's Iowa pharmacy license number 1107 has been cancelled.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on January 13, 2014, before the Board. 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 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 Iowa Administrative Code rule 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 Iowa Administrative Code rule 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:

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 by e-mail at Meghan.Gavin@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 (2013) and under 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 CONTROL OVER PRESCRIPTION DRUGS

Respondent is charged with failing to maintain control over, and preventing the diversion of, prescription drugs, including controlled substances, in violation of Iowa Code section 124.308(4), pursuant to Iowa Code section 155A.15(2)(i) and 657 Iowa Administrative Code rule 36.1(4)(h).

D. FACTUAL CIRCUMSTANCES

1. Respondent holds Iowa pharmacy license number 1107, which is currently active and expires on December 31, 2013.
2. On November 29, 2012, the Board received a letter self-reporting the diversion of controlled substances.
3. In the diversion, approximately 835 tablets of hydrocodone/APAP, a Schedule III controlled substance, were diverted, of which 257 tablets were recovered. Approximately 386 tablets of clonazepam and alprazolam, Schedule IV controlled substances, were also diverted, of which 344 tablets were recovered.
4. The self-report attributed the diversions to an employee.

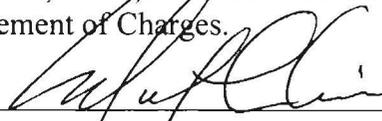
5. Respondent has had prior disciplinary action for failure to maintain control over prescription drugs, including controlled substances.

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 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Meghan Gavin at (515) 281-6736.

F. FINDING OF PROBABLE CAUSE

On this 5th day of November, 2013, 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

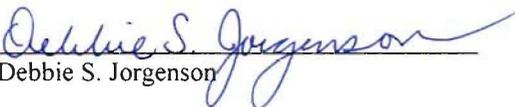
cc: Meghan Gavin
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

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 <u>917199991703239553032</u> | <input type="checkbox"/> other _____ |
- on the 7th day of November, 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. 2012-190
Pharmacy License of)	
)	SETTLEMENT AGREEMENT
MED-EQUIP HOMECARE)	AND FINAL ORDER
PHARMACY)	
License No. 1107)	
Respondent.)	

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy and Med-Equip Homecare Pharmacy (Respondent), have agreed to settle a contested case currently pending before the Board. The allegations contained in the Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follow:

1. Respondent holds Iowa pharmacy license number 1107. Respondent's license expired on September 23, 2013.
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 6, 2013. The Statement of Charges contained one count: Failure to Maintain Control Over Prescription Drugs.
4. The Respondent self-reported the incident underlying the Statement of Charges.
5. Respondent is hereby CITED for failing to maintain control over prescription drugs and WARNED that future violations of the law could result in further disciplinary action.
6. Respondent agrees to pay a civil penalty in the amount of \$750 within thirty (30) days of the date of this Settlement Agreement and Final Order. The check shall be made payable to the "Treasurer of Iowa" and mailed to executive director of the Board. The civil penalty shall be deposited in the State of Iowa General Fund.

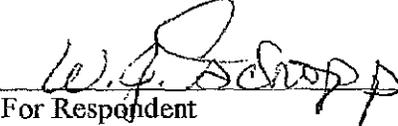
7. This Settlement Agreement and Final Order is the resolution of a contested case. By entering into this Settlement Agreement and Final Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Final Order.

8. The State's legal counsel may present this Settlement Agreement and Final Order to the Board.

9. 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.

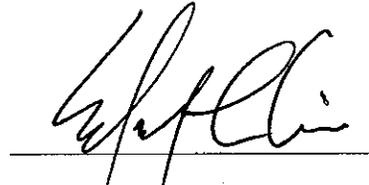
10. The Board's approval of this Settlement Agreement and Final Order shall constitute a FINAL ORDER of the Board.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 5th day of March, 2014.


For Respondent

By this signature, WALTER TSCHOPP acknowledges s/he is the PHARMACIST-IN-CHARGE for Med-Equip Homecare Pharmacy and is authorized to sign this Settlement Agreement and Final Order on behalf of Med-Equip Homecare Pharmacy.

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



EDWARD L. 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

Tom Crab
ATTORNEY FOR RESPONDENT