

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	Case No. 2013-6
Pharmacy License of	)	
<b>MEDICAP PHARMACY</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 836,	)	<b>&amp; NOTICE OF HEARING</b>
Respondent.	)	

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**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 license 836. Respondent's license is currently inactive.

**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. 8<sup>th</sup> 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  
2<sup>nd</sup> 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](mailto: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 PROVIDE NOTICE OF PHARMACY CLOSING**

Respondent is charged with failing to provide notice of the closing of its pharmacy in violation of Iowa Code section 155A.15(2)(c) and 657 Iowa Administrative Code rules 8.35(7), and 36.1(4)(u).

## **D. FACTUAL CIRCUMSTANCES**

1. Gary Brammer, owner and pharmacist-in-charge, of Medicap Pharmacy in Mount Pleasant, Iowa, closed the pharmacy on December 29, 2012.

2. Mr. Brammer sent the pharmacy license and CSA back to the board office. It was received on January 7, 2013.

3. Although Mr. Brammer claims he sent the Board notice of the closing of his pharmacy prior to November 23, 2012, the Board has no record of that notification.

4. The Board also has no record that notification was provided to the Drug Enforcement Administration (DEA).

5. Mr. Brammer did notify customers that the pharmacy was sold to HyVee by letter. A sign was also posted on the window at Medicap Pharmacy on November 27, 2012.

### 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 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

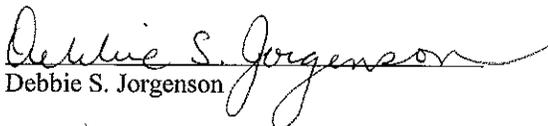
### PROOF OF SERVICE

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>9171999991703104136766</u>                                 | <input type="checkbox"/> other _____      |

on the 29th 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. 2013-6
Pharmacy License of	)	
<b>MEDICAP PHARMACY,</b>	)	<b>SETTLEMENT AGREEMENT</b>
	)	<b>AND</b>
License No. 836,	)	<b>FINAL ORDER</b>
	)	
Respondent.	)	
	)	

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy and Medicap Pharmacy Respondent, have agreed to settle a contested case 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. Respondent was issued Pharmacy License No. 836.
2. At all times relevant to the Statement of Charges, Respondent operated a pharmacy in Mount Pleasant, Iowa. The pharmacy was closed on December 29, 2012.
3. The Board has jurisdiction over the parties and the subject matter of these proceedings.
4. A Statement of Charges was filed against Respondent on August 28, 2013. The Statement of Charges contained one charge: Count 1, "Failure to Notify the Board

5. Respondent denies the allegations in the Statement of Charges and hereby enters into this Settlement Agreement and Final Order to resolve the charges without making any admission against its interests. Respondent acknowledges, however, that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
6. Respondent is hereby CITED for failing to notify the Board in writing more than thirty days in advance of closing the pharmacy, and is hereby WARNED that future violations of the law could result in further disciplinary action.
7. Respondent agrees to pay a civil penalty in the amount of \$500. 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.
8. 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.
9. The State's legal counsel may present this Settlement Agreement and Final Order to the Board.
10. 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.

11. 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 4<sup>th</sup> day of November, 2013.



For Respondent

By this signature, Gary Brammer acknowledges s/he is the owner of Medicap Pharmacy and is authorized to sign this Settlement Agreement and Final Order on behalf of Medicap Pharmacy.

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 5<sup>th</sup> day of November 2013.



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  
HooverStateOfficeBuilding  
Des Moines, Iowa 50319