

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2013-142
Pharmacist License of	)	
	)	<b>NOTICE OF HEARING AND</b>
<b>DONNA MORAGUES</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 20635	)	
Respondent.	)	

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COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges against Donna Moragues, 8583 N 161<sup>st</sup> Court, Bennington, Nebraska 68007 pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent's Iowa pharmacist license number 20635 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 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. 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 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  
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 by e-mail at [Meghan.Gavin@iowa.gov](mailto: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 COMPLY WITH THE LAWS AND RULES OF THE HOME STATE**

Respondent is charged with failing to comply with the laws and rules of the home state of Nebraska pursuant to Iowa Code sections 147.55(9) and 155A.12(8) and 657 Iowa Administrative Code rule and 36.1(4)(ad).

## **D. FACTUAL CIRCUMSTANCES**

1. Respondent holds Iowa pharmacist license number 20635, which is currently active and expires on June 30, 2015.
2. On July 17, 2013, the State of Nebraska settled a pending disciplinary petition against Respondent related to substance abuse.
3. The settlement agreement placed Respondent's license on probation for a period of five years, subject to several restrictions.

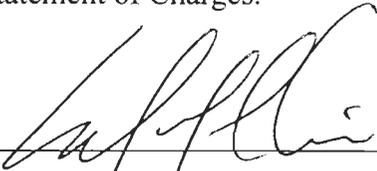
## **E. SETTLEMENT**

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.**

**G. 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.

  
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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, 2<sup>nd</sup> Floor  
Des Moines, IA 50319

Inspections and Appeals 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>9171999991703239553094</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**

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Re:	)	Case No. 2013-142
Pharmacist license of	)	
<b>DONNA MORAGUES</b>	)	<b>SETTLEMENT AGREEMENT</b>
License No. 20635,	)	<b>AND FINAL ORDER</b>
Respondent.	)	

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Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Donna Moragues ("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 was issued Iowa pharmacist license #20635 on August 1, 2007.
3. Iowa pharmacist license #20635 is currently active and expires on June 30, 2015.
4. A Statement of Charges was filed against Respondent on November 5, 2013.
5. 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.
6. Upon the Board's approval of this Settlement Agreement and Final Order, Respondent's license is hereby placed on PROBATION for the entirety of Respondent's probationary period in Nebraska, which is expected to last until approximately July 17, 2018. Respondent shall comply with all terms of the Nebraska settlement agreement, which currently include:
  - a. Abstaining from the use of alcohol and from the personal use or possession of controlled substances and all other prescription drugs, unless prescribed for or administered by a licensed physician or authorized licensed practitioner for a diagnosed medical condition.
  - b. Subjecting to random body fluid or chemical testing at Respondent's expense.
  - c. Reporting the use of any controlled substances and prescription drugs as directed.
  - d. Advising all personal treating physicians and other treating practitioners of Respondent's history of chemical dependency and abuse and of all medications being taken at the time of treatment.

- e. Complying with all treatment recommendations of Respondent's chemical dependency treatment providers.

7. In accordance with the Nebraska settlement agreement, the following conditions are placed on Respondent during her probationary period:

- a. Respondent shall not be a pharmacist-in-charge.
- b. Respondent shall not provide supervision of any pharmacy interns or students.
- c. Respondent shall work under the direct supervision of a licensed pharmacist. This condition does not apply when the Respondent is providing pharmaceutical care in a public health clinic.

8. Respondent authorizes the release of all information and records related to the Nebraska settlement agreement, including results of body fluid or chemical testing, in possession of the Nebraska Board of Pharmacy or its agent to the Iowa Board of Pharmacy upon request, in order to verify compliance to this Settlement Agreement.

9. Any submissions or reports that Respondent is required to submit to the Nebraska Board of Pharmacy under the Nebraska settlement agreement shall simultaneously be submitted to the Iowa Board of Pharmacy.

10. This Settlement Agreement is intended to mirror the Nebraska settlement agreement. If any conditions or restrictions are added or removed by the Nebraska Board of Pharmacy, those changes will be incorporated into this Settlement Agreement. If Respondent is granted early release from her Nebraska probation, Respondent's Iowa pharmacist license shall also be released from probation. Any changes to the Nebraska probationary conditions or terms shall be promptly reported to the Iowa Board of Pharmacy.

11. Respondent shall report any violations of her Nebraska probation, or any positive results from body fluid or chemical testing, to the Iowa Board of Pharmacy immediately.

12. Should Respondent violate or fail to comply with any of the terms and conditions of this Agreement, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 Iowa Administrative Code chapter 36.

13. 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.

14. Respondent is freely and voluntarily entering into this Settlement Agreement.

15. Respondent acknowledges that she has a right to be represented by counsel on this matter.

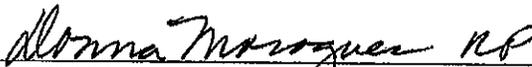
16. The State's legal counsel may present this Settlement Agreement to the Board *ex parte*.

17. 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.

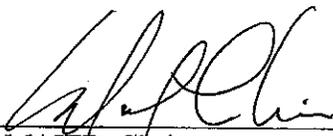
18. This Settlement Agreement, when fully executed, is a public record and is available for inspection and copying in accordance with the requirements of Iowa Code chapters 22 and 272C.

19. 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 1 day of January, 2014.

  
DONNA MORAGUES, Pharmacist

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 14th day of January, 2014.

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

cc: Meghan Gavin  
Assistant Attorney General  
Iowa Attorney General's Office  
Hoover State Office Building, 2<sup>nd</sup> Floor  
Des Moines, Iowa 50319