

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2011-34
Pharmacist License of)	
LINDA J. NIGHTINGALE)	STATEMENT OF CHARGES
License No. 14351)	
Respondent.)	

COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Director for the Iowa Board of Pharmacy 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 April 20, 1974, the Board issued Respondent, Linda J. Nightingale, by examination, a license to engage in the practice of pharmacy as evidenced by license number 14351, 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 current address is 212 Fourth Street SE, Dyersville, Iowa.

A. CHARGE

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

B. CIRCUMSTANCES

On March 31, 2011, an investigation was commenced which revealed the following:

1. At all times material to this Statement of Charges, Respondent was the owner of Union Family Pharmacy in Dubuque. On or about March 29, 2011 Respondent brought her dog into the Union Family Pharmacy with her. Respondent acknowledged that the dog spent the day in the pharmacy.

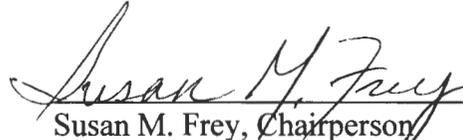
2. Respondent had previously been made aware of the Board's regulation prohibiting animals in a pharmacy, except under specified conditions. Respondent's dog is not a service animal, nor does the pharmacy exclusively serve animals.
3. On November 30, 2011, Respondent signed a statement in which she represented to the Board that she would not "keep my dog in any pharmacy."

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 7th day of March 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: Scott M. Galenbeck
Assistant Attorney General
Hoover State Office Building
Des Moines, IA 50319

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BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE)	Case No. 2011-34
STATEMENT OF CHARGES AGAINST)	
LINDA J. NIGHTINGALE,)	SETTLEMENT AGREEMENT
Pharmacist No. 14351)	AND
Respondent.)	FINAL ORDER

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Linda J. Nightingale (Respondent) enter into the following Settlement Agreement and Final Order to settle a disciplinary proceeding currently pending before the Board.

The factual 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. 14351.
2. Iowa Pharmacist License Number 14351 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 March 7, 2012.
5. Respondent has chosen not to contest the factual allegations in the Statement of Charges. Respondent acknowledges that the factual allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
6. Respondent is **CITED** for bringing an animal into a licensed pharmacy in

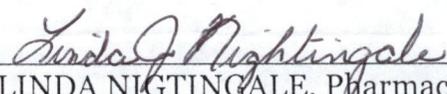
violation of 657 Iowa Administrative Code rule 8.5(4). Respondent is **WARNED** that her failure to comply with the laws governing the practice of pharmacy in Iowa could result in further discipline against her license.

7. Respondent agrees to pay a civil penalty in the amount of \$250. 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. 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.
9. 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.
10. The State's legal counsel may present this Settlement Agreement and Final Order to the Board *ex parte*.
11. 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.

12. 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 24 day of November 2012.


LINDA NIGHTINGALE, Pharmacist
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 9 day of November 2012.


SUSAN M. FREY, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Meghan Gavin
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ATTORNEY FOR THE RESPONDENT