
BEFORE THE IOWA BOARD OF PHARMACY

Re:) CASE NO. 2013-3677
Nonresident Pharmacy License of)
)
PCM VENTURE I LLC) **NOTICE OF HEARING AND**
) **STATEMENT OF CHARGES**
License No. 3677)
Respondent.)

COMES NOW the Iowa Board of Pharmacy (“Board”) and files this Notice of Hearing and Statement of Charges against PCM Venture I LLC (“Respondent”), 9836 S Jordan Gateway, Sandy, UT 84070 pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent’s Iowa nonresident pharmacy license number 3677 is currently active and will expire on December 31, 2014.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on March 11, 2014, before the Board. The hearing shall be held during the afternoon session beginning at 1:00 p.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:

Laura Cathelyn
Assistant Attorney General
Iowa Attorney General’s Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Cathelyn can also be reached by phone at (515) 281-6690 or by e-mail at laura.cathelyn@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

DISPENSING PRESCRIPTIONS BASED ON INTERNET-BASED QUESTIONNAIRES

Respondent is charged with dispensing prescription drugs when the pharmacist knew or should have known that the prescription was issued solely on the basis of an Internet-based questionnaire, an Internet-based consultation, or a telephonic consultation and without a valid preexisting patient-practitioner relationship in violation of 657 Iowa Administrative Code rule 8.19(5), pursuant to Iowa Code section 155A.13A(3) and 657 Iowa Administrative Code rule 36.1(4)(u).

D. FACTUAL CIRCUMSTANCES

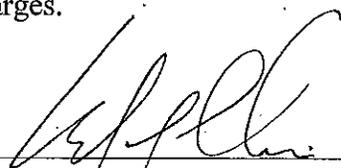
1. Respondent holds Iowa nonresident pharmacy license number 3677, which is currently active and will expire on December 31, 2014.
2. On August 21, 2013, Respondent was inspected by an authorized agent of the Board.
3. The inspector determined that the pharmacy's primary business was to provide internet sales of erectile dysfunction medications based upon an internet-questionnaire.
4. Approximately 332 prescriptions were dispensed to Iowa patients using this practice between January 1, 2013 and September 28, 2013.
5. The pharmacist-in-charge indicated to the inspector that the pharmacy did not ship into states that do not allow prescribing and dispensing based on internet surveys, but did not mention Iowa as a state that did not allow this practice.

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 Laura Cathelyn at (515) 281-6690.

F. FINDING OF PROBABLE CAUSE

On this 14th day of January, 2014, 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: Laura Cathelyn
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

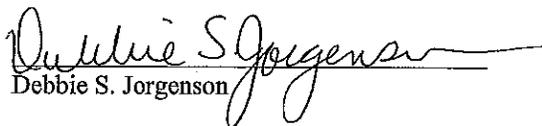
PROOF OF SERVICE

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 9171999991703239553308 | <input type="checkbox"/> other _____ |

on the 15th day of January, 2014.

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. 2013-3677
Nonresident Pharmacy License of)	
)	SETTLEMENT AGREEMENT AND
PCM VENTURE I LLC,)	FINAL ORDER
License No. 3677)	
Respondent.)	

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and PCM Venture I LLC, d/b/a KwikMed ("Respondent") enter into the following Settlement Agreement and Final Order ("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 stipulate as follows:

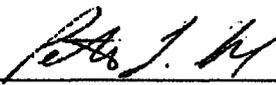
1. Respondent was issued Iowa nonresident pharmacy license number 3677, which is currently active and expires on December 31, 2015.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. A Notice of Hearing and Statement of Charges was filed against Respondent on January 14, 2014. A contested case hearing in this matter is scheduled to begin January 28, 2015.
4. Respondent admits the allegations in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for discipline.
5. Execution of this Order constitutes the resolution of a contested case. Respondent has a right to a hearing on the charges, but waives its right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.
6. Respondent is freely and voluntarily entering into this Order.
7. Respondent acknowledges that it has a right to be represented by counsel on this matter.
8. The State's legal counsel may present this Order to the Board *ex parte*.
9. This Order is subject to approval by a majority of the full Board. If the Board fails to approve this Order, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Order, it shall be the full and final resolution of this matter.

10. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.
11. This Order, 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.
12. Respondent acknowledges that this Order may be reported to National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank, as applicable.
13. The Board's approval of this Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

14. Respondent agrees to **VOLUNTARILY SURRENDER** its Iowa nonresident pharmacy license to resolve this matter.
15. This voluntary surrender, when accepted by the Board, has the same force and effect as an order of revocation under 657 IAC 36.15 for purposes of reinstatement. Reinstatement requests are governed by 657 IAC 36.13.
16. Respondent shall surrender its Iowa nonresident pharmacy license to the Board within ten (10) days of the Board's approval of this Order.
17. Respondent agrees not to perform any activities that would require an Iowa nonresident pharmacy license unless its license is reinstated.
18. Should Respondent violate the terms of this Settlement Agreement, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 Iowa Administrative Code chapter 36.

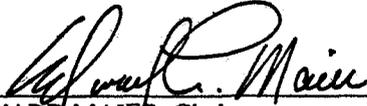
This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 22nd day of JANUARY, 2015.



PCM Venture I, LLC
Respondent

By this signature, Peter Ax acknowledges s/he is the Manager/Member for PCM Venture I, LLC and is authorized to sign this Settlement Agreement and Final Order on behalf of PCM Venture I, LLC.

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 12th day of February, 2015.



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

cc: Laura Steffensmeier
Sara Scott
Assistant Attorney Generals
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEYS FOR THE STATE

Kevin H. Marino
Marino, Tortorella & Boyle, P.C.
437 Southern Blvd.
Chatham, NJ 07928-1488
ATTORNEY FOR RESPONDENT

Thomas G. Crabb
418 6th Avenue, #200
Des Moines, IA 50309
ATTORNEY FOR RESPONDENT