

BEFORE THE IOWA BOARD OF PHARMACY

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| Re: |) | Case No. 2010-56 |
| Pharmacist License of |) | |
| MARY PEHLING |) | STATEMENT OF CHARGES |
| License No. 16232, |) | |
| Respondent. |) | |

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

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter, "Board") 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 February 22, 1983, the Board issued Mary Pehling ("Respondent"), by reciprocity, a license to engage in the practice of pharmacy as evidenced by license number 16232, 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, 2012.
5. Respondent's address of record is P.O. Box 718, Elk Point, South Dakota 57025.
6. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at Walgreens Pharmacy, 100 Pierce Street, Sioux City, Iowa 51101.

A. CHARGES

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.

COUNT II -- FAILURE TO PROVIDE COUNSELING

Respondent is charged under Iowa Code § 155A.12(1) (2011), and 657 Iowa Administrative Code §§ 6.14(1) and 36.1(4)(w), with failing to provide counseling to patients and engaging in business practices intended to circumvent requirements for patient counseling.

COUNT III – FAILURE TO MAINTAIN ADEQUATE RECORDS

Respondent is charged under Iowa Code §§ 155A.12(1) and 155A.12(4) (2011), and 657 Iowa Administrative Code §§ 6.14(6) and 36.1(4)(ac), with failing to maintain complete and accurate records; specifically, creation of a false record of counseling refusal.

B. CIRCUMSTANCES

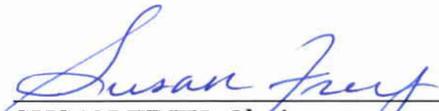
An investigation was commenced on May 10, 2010, which revealed the following:

1. At all material times, Respondent was employed as the pharmacist in charge at Walgreens Pharmacy, 100 Pierce Street, Sioux City, Iowa 51101.
2. On May 9, 2010 a patient had two new prescriptions filled at Respondent's pharmacy. While he waited for the medications to be prepared, the patient read signage in the pharmacy regarding patient counseling. When his order was ready, the patient paid one of Walgreens' employees for the medication, but no attempt to counsel occurred.
3. The patient then asked the employee if a pharmacist should counsel him [the patient] regarding the prescription, to which the employee responded that he didn't know. Despite the patient's inquiry, the employee did not call for a pharmacist. The patient left the store without any attempt at counseling having been made by Walgreens.
4. A review of Walgreens' records confirms that the patient's prescriptions were new. However, Walgreens' records inaccurately state that the patient refused counseling.
5. On June 8, 2010 a compliance officer witnessed employees – at the Walgreens where Respondent serves as pharmacist in charge – fail to counsel on 5 new prescriptions.

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 29 day of June 2011, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.



SUSAN 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, Iowa 50319

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BEFORE THE IOWA BOARD OF PHARMACY

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| Re: |) | Case No. 2010-56 |
| Pharmacist License of |) | |
| MARY PEHLING, |) | SETTLEMENT AGREEMENT |
| License No. 16232 |) | AND |
| Respondent. |) | FINAL ORDER |

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Mary Pehling, Respondent, enter into the following Settlement Agreement and Final Order to settle a licensee 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 Pharmacist License No. 16232. That license is active and current until June 30, 2014.
2. A Statement of Charges was filed against Respondent on June 29, 2011.
3. At all times relevant to the Statement of Charges, Respondent was employed as a pharmacist at Walgreens Pharmacy, 100 Pierce Street, Sioux City, Iowa.
4. The Board has jurisdiction over the parties and the subject matter of these proceedings.
5. Respondent has chosen not to contest the allegations in the Statements of Charges and acknowledges 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 provide counseling to a patient on a new prescription, as described in the Statement of Charges, and is hereby WARNED that future violations of the law governing the practice of pharmacy in Iowa could result in further disciplinary action.
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 twenty (20) 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. Within 60 days of the date this Settlement Agreement is approved by the Board, Respondent shall complete an additional two (2) hours of continuing pharmacy education (CPE) on patient counseling and ethics which is pre-approved by the Board. Documentation of satisfactory completion of this CPE shall be promptly submitted to the Board. The CPE shall be in addition to the thirty (30) hours of CPE required every two years for license renewal.
9. Should Respondent violate or fail to comply with any of the terms and conditions of this Settlement Agreement and Final Order, 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 (2011) and 657 IAC 36.
10. This Settlement Agreement and Final Order is the resolution of a contested case. By entering into this Settlement Agreement and Final Order, Respondent waives

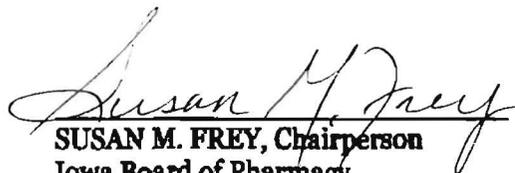
all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Final Order.

11. The State's legal counsel may present this Settlement Agreement and Final Order to the Board.
12. 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.
13. 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 13th day of February 2013.


MARY PEHLING, RPh
Respondent

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 13th day of March 2013.


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

cc: Theresa O=Connell Weeg
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