BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	CASE NO. 2016-73
Pharmacy License of	)	
	)	**NOTICE OF HEARING AND**
PETERSON DRUG COMPANY	)	**STATEMENT OF CHARGES**
License No. 24	)	
Respondent.	)	

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Peterson Drug Company pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 272C.3(1)(*e*), and 657 Iowa Administrative Code rules 35.5 and 36.5. Respondent's Iowa pharmacy license number 24 is currently active through December 31, 2016.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on March 7, 2017, before the Board. The hearing shall begin at 9:00 am and shall be located in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges, you may file an Answer pursuant to 657 Iowa Administrative Code rule 35.11. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Pharmacy, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

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.

Pre-hearing Conference. Any party may request a prehearing conference in accordance with 657 Iowa Administrative Code rule 35.15 to discuss issues related to the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code chapter 35. 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
2nd 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.

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 17A, 147, 155A, and 272C (2015).

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, 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 III
FAILURE TO MAINTAIN ANNUAL INVENTORY OF CONTROLLED SUBSTANCES

Respondent is charged with failing to maintain an annual inventory of controlled substances in violation of Iowa Code section 147.55(9) and 155A.15(2)(*c*), (*h*) and 657 Iowa Administrative Code rules 8.3(5), 10.35, and 36.1(4)(*u*), (*ac*).

COUNT IV

FAILURE TO MAINTAIN ADEQUATE SECURITY

Respondent is charged with failing to maintain adequate security of the prescription department, including provisions for effective control against theft of, diversion of, or unauthorized access to prescription drugs in violation of Iowa Code section 147.55(9) and 155A.15(2)(*c*) and 657 Iowa Administrative Code rules 6.7, 8.3(5)(b), and 36.1(4)(*u*).

D. FACTUAL CIRCUMSTANCES

1. Respondent is an Iowa-licensed pharmacy doing business in Williamsburg, Iowa.

2. Peterson Drug Company is open 9am to 5pm Monday through Friday.

3. A pharmacist is only present at Peterson Drug Company from approximately 1pm to 5pm each day.

4. There is no ability to secure the pharmacy in absence of the pharmacist.

5. Peterson Drug Company was cited for the lack of security and deficiency in pharmacist hours during routine inspections in 2012, 2014, and 2016.

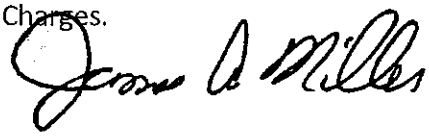
6. During the 2012, 2014, and 2016 inspections, Peterson Drug Company was also cited for failure to conduct an annual controlled substance inventory.

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. FINDING OF PROBABLE CAUSE

On this 4th day of January 2017, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



Chairperson
Iowa Board of Pharmacy

Copy to:

Meghan Gavin
Assistant Attorney General

Hoover Building, 2nd Floor
Des Moines, IA 50319

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-5944. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).