

BEFORE THE IOWA BOARD OF PHARMACY

Re:)
Pharmacy License of)
RICK'S PHARMACY)
License No. 818,)
Respondent.)

Case No. 2011-176

STATEMENT OF CHARGES

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. Effective December 21, 2011, the Board renewed Respondent's general pharmacy license number 818 for Rick's Pharmacy (hereinafter, "Respondent"), with Richard Grote as the pharmacist in charge, allowing Respondent to engage in the operation of a pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 818 is current until December 31, 2012.
5. At all times material to this statement of charges, Respondent was operating a general pharmacy at 6 First Street NW, Hampton, Iowa 50441, with Richard Grote as the pharmacist in charge.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.15(2)(c) (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 pharmacies, (b) failure to exercise in a substantial respect that degree of care which is ordinarily exercised by an Iowa pharmacy 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, as evidenced by Respondent's failure to maintain adequate controlled substance records.

COUNT II – FAILURE TO MAINTAIN AND PROVIDE RECORDS

Respondent is charged with failure to keep and maintain required pharmacy records, and with a failure to provide records to the Board, in violation of Iowa Code § 155A.15(2)(h) (2011), and 657 Iowa Administrative Code §§ 8.4(3), 10.34, 10.35, 21.5, 36.1(4)(ac) and 36.1(4)(ag).

COUNT III – VIOLATIONS OF CONTROLLED SUBSTANCE LAWS

Respondent is charged with failing to comply with laws relating to controlled substance record keeping, and with failure to provide records to the Board, in violation of Iowa Code §§ 124.306 and 155A.15(2)(h) (2011), and 657 Iowa Administrative Code §§ 8.4(3), 10.34, 10.35, 21.5, 36.1(4)(ac) and 36.1(4)(ag).

B. CIRCUMSTANCES

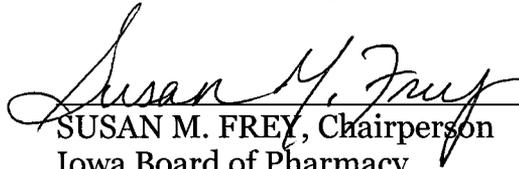
An investigation was commenced on December 2, 2011, which revealed the following:

1. At all times material to this Statement of Charges, Respondent was operating a general pharmacy at 6 First Street NW, Hampton, Iowa 50441, with Richard Grote as the pharmacist in charge.
2. A routine inspection on December 2, 2011 revealed the following:
 - a. Respondent's most recent controlled substance inventory was more than a year old. Respondent could not produce a current controlled substance inventory.
 - b. Respondent was more than 5 months behind in entering schedule II controlled substance sales into the appropriate log book.
 - c. Schedule II controlled substances were being dispensed from medication orders (received from wholesalers) prior to being checked into Respondent's inventory.

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 27th day of June 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: Theresa Weeg
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa

Rick's Pharmacy SOC 6-12.doc

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE)	Case No. 2011-176
STATEMENT OF CHARGES AGAINST)	
RICK'S PHARMACY,)	SETTLEMENT AGREEMENT
Pharmacy No. 818)	AND
RESPONDENT.)	FINAL ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Rick's Pharmacy (Respondent) enter into the following Settlement Agreement and Final 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 agree:

1. Respondent was issued Pharmacy License No. 818. Effective December 21, 2011, the Board renewed Respondent's general pharmacy license number 818 for Rick's Pharmacy, with Richard Grote as the pharmacist in charge, allowing Respondent to engage in the operation of a pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
2. General pharmacy license number 818 is current until December 31, 2012. At all times material hereto, Respondent was operating a general pharmacy at 6 First Street NW, Hampton, Iowa 50441, with Richard Grote as the pharmacist in charge.

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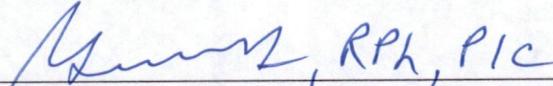
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IOWA BOARD OF PHARMACY

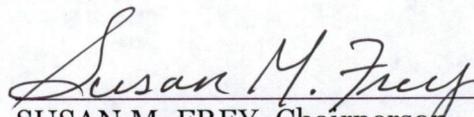
3. The Board has jurisdiction over the parties and subject matter in this case.
4. A Statement of Charges was filed against the Respondent on June 27, 2012.
5. Respondent has chosen not to contest the allegations in the Statement of Charges. Respondent acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
6. Respondent is **CITED** for failing to maintain a current controlled substance inventory, failing to enter schedule II controlled substance sales into the appropriate log book, and dispensing from medication orders prior to checking the medication into inventory. Respondent is **WARNED** that its failure to comply with the laws governing the practice of pharmacy in Iowa could result in further discipline against his license.
7. Respondent agrees that its license to operate a general pharmacy in the State of Iowa shall be placed on **PROBATION** for a period of one (1) year from Board's approval of this Settlement Agreement and Final Order.
8. Respondent agrees to provide the Board written Policies and Procedures for receiving, handling, and dispensing controlled substances, including the proper receipt of Schedule II controlled substances within thirty (30) days of the Board's approval of this Settlement Agreement and Final Order.
9. Respondent agrees to pay a civil penalty in the amount of \$500. This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board within ten (10) 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.
10. 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 pharmacy license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2011) and 657 IAC 36.
 11. 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.
 12. The State's legal counsel may present this Settlement Agreement and Final Order to the Board *ex parte*.
 13. 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.
 14. 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 OCTOBER 2012.


Richard Grote, Pharmacist in Charge of
RICK'S PHARMACY
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: Theresa O'Connell Weeg
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

Daniel F. Wiechmann, Jr.
114 3rd Street N.E.
P.O. Box 513
Hampton, IA 50441-0513