

**BEFORE THE IOWA BOARD OF PHARMACY**

Re:	)	
Pharmacist License of	)	Case No. 2012-174
<b>KIMBERLY R. ROBERTSON</b>	)	
License No. 15845,	)	<b>STATEMENT OF CHARGES</b>
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 26, 1981, the Board issued KIMBERLY R. ROBERTSON ("Respondent"), after examination, a license to engage in the practice of pharmacy as evidenced by license number 15845, 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, 2014.
5. Respondent's address of record is 430 NW 50th Place, Des Moines, Iowa 50313.
6. At all times material to this statement of charges, Respondent was self-employed as a pharmacist and co-owner of Bauder Pharmacy, Inc., 3802 Ingersoll Avenue, Des Moines, Iowa 50312.

**A. CHARGES**

COUNT I

Respondent is charged under Iowa Code §§ 124.308(3), 124.402(1), 155A.12(4) and 155A.12(5) (2011) and 657 Iowa Administrative Code § 36.1(4)(ac) with failing to maintain adequate control over and accountability for controlled substances.

COUNT II

Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code § 10.15 with inadequate security and failure to establish effective controls against diversion of controlled substances.

COUNT III

Respondent is charged under Iowa Code §§ 124,306 and 155A.12(1), and 657 Iowa Administrative Code § 10.34, with failure to keep and maintain records as required by the Controlled Substances Act.

COUNT IV

Respondent is charged under Iowa Code §§ 155A.12(1), 155A.12(4) and 155A.12(5) and 657 Iowa Administrative Code § 8.9 with failure to properly sign and date invoices for controlled substances.

COUNT V

Respondent is charged under Iowa Code §§ 155A.12(1), 155A.12(4) and 155A.12(5) and 657 Iowa Administrative Code § 10.23 with failure to comply with requirements for the partial filling of Schedule II controlled substances.

COUNT VI

Respondent is charged under Iowa Code §§ 155A.12(1), 155A.12(4) and 155A.12(5) and 657 Iowa Administrative Code § 10.33 with failure to maintain complete and accurate perpetual inventories of Schedule II controlled substances.

COUNT VII

Respondent is charged under Iowa Code §§ 155A.12(1), 155A.12(4) and 155A.12(5) and 657 Iowa Administrative Code § 10.35 with failure to maintain a complete and accurate inventory of controlled substances.

COUNT VIII

Respondent is charged under Iowa Code §§ 155A.12(1), 155A.12(4) and 155A.12(5) and 657 Iowa Administrative Code § 21.5 with failure to document verification of controlled substance refills.

COUNT IX

Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code § 3.20 with failure to properly supervise dispensing functions that are delegated to non-pharmacists.

COUNT X

Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code § 6.13 with failure to maintain complete patient records.

COUNT XI

Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code § 6.7 with failure to provide proper security for prescription medications and pharmacy records stored in the basement.

COUNT XII

Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code § 8.26 with failure to have a continuous quality improvement program.

COUNT XIII

Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code § 22.5 with failure to provide labeling and record keeping for patient med paks.

COUNT XIV

Respondent is charged under Iowa Code §§ 155A.12(1), 155A.12(4) and 155A.12(5) and 657 Iowa Administrative Code § 36.1(4)(w) with failure to provide adequate patient counseling to patients.

COUNT XV

Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code 8.19 for failing to comply with the rules of the Board regarding the manner of issuance of a prescription drug or medication order.

COUNT XVI

Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code § 10.21 with failing to comply with the rules of the Board regarding prescription requirements.

COUNT XVII

Respondent is charged under Iowa Code § 155A.12(1) and 657 Iowa Administrative Code §§ 21.9 and 21.3 with failing to comply with the rules of the Board regarding faxed prescriptions.

### COUNT XVIII

Respondent is charged under § 155A.12(1) and 657 Iowa Administrative Code § 6.8 with failing to comply with the rules of the Board regarding prescription processing documentation.

### COUNT XIX

Respondent is charged under Iowa Code §§ 155A.12(1) and 155A.12(4), and 657 Iowa Administrative Code § 8.9, with failing to comply with the rules of the Board regarding record retention requirements.

### COUNT XX

Respondent is charged under Iowa Code §§ 155A.12(1) and 124.308(4) with dispensing controlled substances without a prescription.

## **B. CIRCUMSTANCES**

An investigation was commenced on March 9, 2012, which revealed the following:

- 1) At all times material to this Statement of Charges, Respondent was self-employed as a pharmacist and co-owner of Bauder Pharmacy, 3802 Ingersoll Avenue, Des Moines, Iowa 50312.
- 2) An audit of controlled substances handled by Bauder Pharmacy between January 1, 2008, and March 21, 2012, revealed a shortage of approximately 740,888 tablets of various strengths of hydrocodone APAP, a Schedule III controlled substance. This shortage was determined by obtaining information from the Automation of Reports and Consolidated Orders System (ARCOS) maintained by the U.S. Department of Justice, Drug Enforcement Administration. ARCOS is an automated, comprehensive drug reporting system which monitors the flow of certain DEA controlled substances from their point of manufacture through commercial distribution channels to point of sale or distribution at the dispensing/retail level. Bauder Pharmacy acquired hydrocodone products from 14 different drug wholesalers between 2008 and 2012.
- 3) For the audit period of January 1, 2008 through March 21, 2012, ARCOS records indicate that Bauder Pharmacy ordered and received a total of 1,098,900 hydrocodone APAP tablets (all brands, all strengths). The majority of these hydrocodone products were of one strength; hydrocodone APAP 7.5mg/500mg (593,700 tablets).
- 4) For the same audit period (January 1, 2008 through March 21, 2012), prescription monitoring program (PMP) records submitted by Bauder Pharmacy indicate that Bauder Pharmacy dispensed 358,012 hydrocodone APAP tablets (all brands, all strengths) to customers.

- 5) For the audit period January 1, 2008 through March 21, 2012, a total of 740,888 hydrocodone APAP tablets are not accounted for in Bauder Pharmacy's PMP dispensing records. Bauder Pharmacy has received, from wholesalers, 740,888 more tablets of hydrocodone APAP than Bauder Pharmacy has reported selling.
- 6) Shortages of hydrocodone products at Bauder Pharmacy occurred as follows:
  - Calendar Year 2008: 229,846 tablets;
  - Calendar Year 2009: 163,185 tablets;
  - Calendar Year 2010: 155,436 tablets;
  - Calendar Year 2011: 182,732 tablets
  - January-March, 2012: 9,689 tablets.
- 7) Two shopper surveys in which prescriptions were filled at Bauder Pharmacy on March 8, 2012, and March 14, 2012, revealed numerous deficiencies including inadequate patient counseling, lack of patient privacy, failing to obtain required patient information, mislabeling of a prescription vial, and dispensing prescription medication in non-childproof prescription containers.
- 8) An inspection of Bauder Pharmacy on March 16, 2012, revealed the following additional deficiencies:
  - a) Technician Higgins' registration expired on September 30, 2010, and was not renewed in a timely manner.
  - b) Bauder Pharmacy has no pertinent policies and procedures as required by Board rules.
  - c) Security at Bauder Pharmacy for medications and records stored in the basement was found to be inadequate (second notice).
  - d) Bauder Pharmacy's controlled substance invoices were not signed and dated.
  - e) Bauder Pharmacy has no policy or documentation of technician training.
  - f) Bauder Pharmacy has no continuous quality improvement program
  - g) Bauder Pharmacy dispensed a Schedule II prescription in a quantity larger than what was authorized.
  - h) Bauder Pharmacy partially filled schedule II prescriptions past the 72 hour limitation.
  - i) Bauder Pharmacy's Schedule II perpetual inventory does not accurately reflect dispensing, resulting in negative balances.
  - j) Bauder Pharmacy's Schedule II invoices were not kept separate from Schedule III, IV and V invoices.
  - k) Bauder Pharmacy's annual controlled substance inventory was missing the quantity for hydrocodone w/APAP 2.5/500mg
  - l) Carisoprodol was not inventoried by Bauder Pharmacy when it became a Schedule IV controlled substance on January 11, 2012.
  - m) Bauder Pharmacy had no policies and procedures for sterile compounding.
  - n) Bauder Pharmacy had no quality assurance program for sterile compounding.
  - o) Bauder Pharmacy had no training documentation for personnel involved with sterile compounding.
  - p) Bauder Pharmacy had no batch records for sterile compounding and no labeling of product.

- q) Bauder Pharmacy gave a longer expiration date to low risk compounded products than allowed.
  - r) Bauder Pharmacy has never conducted media fill testing.
  - s) Bauder Pharmacy's sterile compounding room has areas that need repair.
  - t) Bauder Pharmacy has no written cleaning procedures and no documentation of cleaning for sterile compounding areas.
  - u) The sterile compounding areas at Bauder Pharmacy have only been certified once a year instead of twice a year (second notice); microbial sampling has never been conducted; there were no pressure differential monitors; and there were no procedures concerning environmental requirements.
  - v) Bauder Pharmacy had failed to document verification of controlled substance refills for the past two years.
  - w) Bauder Pharmacy had no labeling or record keeping for patient med paks.
  - x) Bauder Pharmacy has dispensed prescriptions in containers with non child-resistant packaging without proper authorization.
  - y) Bauder Pharmacy has reused prescription vials.
- 9) A second audit was performed utilizing wholesaler invoices and Respondent's computerized drug usage reports to verify previous audit results. The date range of the audits was January 1, 2008, through March 21, 2012. One wholesaler was unable to provide data for the period prior to November 4, 2009.
- a) For this audit period, a total of 689,987 hydrocodone APAP tablets are not accounted for in Respondent's records. Respondent has received, from wholesalers, 689,987 more hydrocodone APAP tablets than Respondent has reported selling.
  - b) In 2010-2011, a pharmacist working for Respondent signed invoices for the purchase of 98,519 more tablets of hydrocodone APAP 7.5-500mg than Respondent's records show were dispensed.
  - c) Based on information obtained from wholesalers, from 2010-2012, Respondent is missing 137 invoices, totaling 144,000 doses of hydrocodone APAP 7.5-500mg.
  - d) Respondent is missing numerous annual inventories of hydrocodone products.
  - e) Following this audit, shortages of hydrocodone APAP products at Bauder Pharmacy were verified as follows:

Calendar Year 2008: 200,936 tablets  
Calendar Year 2009: 130,265 tablets  
Calendar Year 2010: 157,524 tablets  
Calendar Year 2011: 181,263 tablets  
January-March, 2012: 19,999 tablets

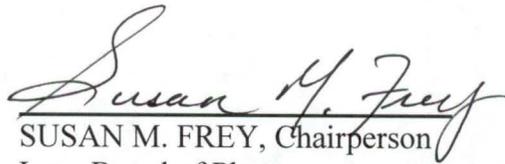
- 10) The following additional deficiencies have been identified:
- a) A Board review of 612 randomly-selected prescriptions from 2008-2012 revealed that only 166 fulfilled the legal requirements of a prescription. The deficiencies included:
    - i) Wrong patient

- ii) Wrong prescriber
  - iii) Wrong medication
  - iv) No prescriber signature or verification
  - v) Wrong number of refills
  - vi) Wrong directions
  - vii) No prescriber DEA number for controlled substances
  - viii) Faxed prescription not signed by prescriber
- b) A review of 95 prescriptions for Androgel (testosterone), a Schedule III controlled substance, revealed only three fulfilled the legal requirements of a prescription. The deficiencies included:
- i) No prescriber DEA number
  - ii) No hardcopy in the file
  - iii) No prescriber signature
  - iv) Stamped prescriber signature
  - v) Unauthorized refills dispensed
  - vi) Prescription refilled beyond six months
  - vii) Prescription initially filled after prescription had expired
  - viii) No patient name on hard copy of prescription
  - ix) No notation of verbal authorization
  - x) No prescription number on prescription
  - xi) Sender information cut off from fax
  - xii) Wrong dosage form of medication
  - xiii) Prescription filled prior to receipt of fax authorization
- c) Androgel prescriptions of three patients were reviewed with their prescribers. Of the 22 prescriptions, only 11 were identified as authorized, resulting in Respondent dispensing 1200 unauthorized doses of a controlled substance.
- d) The controlled substance dispensing history of one patient was reviewed with the patient's prescriber. Only two of the seven prescriptions for Lortab, hydrocodone and acetaminophen 7.5/500mg), a schedule III controlled substance, were authorized, resulting in Respondent dispensing 820 unauthorized doses of a controlled substance in a one year period.

**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 9<sup>th</sup> day of November 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: Julie Burger  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	Case Nos. 2012-52 & 2012-174
Pharmacist License of	)	
<b>KIMBERLEY R. ROBERTSON</b>	)	<b>AMENDED STATEMENT</b>
License No. 15845,	)	<b>OF CHARGES</b>
Respondent.	)	

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**COMES NOW**, the Board of Pharmacy and adopts the following Amended Statement of Charges.

**A. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction over this matter pursuant to Iowa Code chapters 17A, 147, 155A, and 272C.

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 17A, 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.

**B. CHARGES**

**Count I**

**PROFESSIONAL INCOMPETENCY**

Respondent is charged with failing to exercise in a substantial respect that degree of care which is ordinarily exercised by the average pharmacist in the State of Iowa acting under the same or similar circumstances in violation of Iowa Code sections 147.55(2) and 155A.12(1) and 657 Iowa Administrative Code rule 36.1(4)(b)(3).

**Count II**

**UNETHICAL BEHAVIOR OR**

**PRACTICE HARMFUL OR DETRIMENTAL TO THE PUBLIC**

Respondent is charged with engaging in unethical behavior or practice harmful or detrimental to the public in violation of Iowa Code sections 147.55(3) and 155A.12(2) and 657 Iowa Administrative Code rules 8.11(4); (8) and 36.1(4)(c).

**Count III**

**AIDING THE UNLAWFUL PRACTICE OF PHARMACY**

Respondent is charged with knowingly aiding, assisting, procuring, or advising another

person to unlawfully practice pharmacy in violation of Iowa Code sections 147.55(9) and 155A.12(1) and 657 Iowa Administrative Code rule. 36.1(4)(l).

**Count IV**  
**FAILURE TO REPORT**

Respondent is charged with failing to report the acts or omissions committed by another licensee in violation of Iowa Code sections 147.55(9) and 155A.12(1) and 657 Iowa Administrative Code rules 36.1(4)(q) and 36.2(3).

**Count V**  
**FAILURE TO MAINTAIN SECURITY**

Respondent is charged with failing to maintain 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 sections 147.55(9) and 155A.12(1) and 657 Iowa Administrative Code rules 6.7, 8.5(3), and 36.1(4)(u).

**Count VI**  
**VIOLATING THE DUTIES OF A PHARMACIST-IN-CHARGE**

Respondent is charged with violating the duties of a pharmacist-in-charge in violation of Iowa Code sections 147.55(9) and 155A.12(1) and 657 Iowa Administrative Code rules 6.2(15), 8.3(1), and 36.1(4)(u).

**C. FACTUAL CIRCUMSTANCES**

1. At all times material to this Amended Statement of Charges, Respondent was self-employed as a pharmacist and co-owner of Bauder Pharmacy in Des Moines, Iowa.
2. An audit of controlled substances handled by Bauder Pharmacy between January 1, 2008, and March 21, 2012, revealed a shortage of approximately 740,888 tablets of various strengths of hydrocodone APAP tablets or hydrocodone-containing products, Schedule III controlled substances. This shortage was determined by obtaining information from the Automation of Reports and Consolidated Orders System (ARCOS) maintained by the U.S. Department of Justice, Drug Enforcement Administration and comparing it with data from the State prescription monitoring program (PMP). ARCOS is an automated, comprehensive drug reporting system which monitors the flow of certain DEA controlled substances from their point of manufacture through commercial distribution channels to point of sale or distribution at the dispensing/retail level.
3. For the same audit period (January 1, 2008 through March 21, 2012), prescription monitoring program (PMP) records submitted by Bauder Pharmacy indicate that the pharmacy dispensed 358,012 tablets of hydrocodone-containing products to customers. ARCOS data, comparatively, revealed that during the same audit period, Bauder Pharmacy had ordered more than 1.1 million tablets of hydrocodone-containing products from various wholesalers.

4. For the audit period January 1, 2008 through March 21, 2012, a total of 740,888 tablets of hydrocodone-containing products are not accounted for in the pharmacy's PMP dispensing records. The pharmacy has received, from wholesalers, 740,888 more tablets of hydrocodone-containing products than the pharmacy had dispensed.

5. Shortages of tablets of hydrocodone-containing products at Bauder Pharmacy occurred as follows:

Calendar Year 2008: 229,846 tablets;  
Calendar Year 2009: 163,185 tablets;  
Calendar Year 2010: 155,436 tablets;  
Calendar Year 2011: 182,732 tablets;  
January-March 21, 2012: 9,689 tablets.

6. Following a contested case, the Board issued its Findings of Fact, Conclusions of Law, Decision, and Order in a disciplinary case against Bauder Pharmacy and Mark Graziano. The Board found that Bauder Pharmacy and Mark Graziano could not account for at least 689,987 tablets of hydrocodone-containing products during the audit period.

7. During the audit period, Respondent was responsible for signing controlled substances invoices. Many of the controlled substance invoices for the audit period are unaccounted for or were unsigned. Of the invoices that were signed, all were signed by the Respondent.

8. In 2010 and 2011, Respondent signed invoices for approximately 121,000 tablets of hydrocodone APAP 7.5-500mg, almost a hundred thousand *more* tablets than the pharmacy dispensed during the same period. For example, the Respondent signed invoices for 11,500 hydrocodone APAP 7.5-500mg tablets in March 2011, while the PMP records provide that Bauder Pharmacy lawfully dispenses only 802 tablets of the drug.

9. A typical pharmacy would not order five times the number of tablets it was dispensing.

10. Respondent has worked at Bauder Pharmacy for more than a decade as a staff pharmacist.

11. Annual inventories from 2010 and 2011 are missing entries for most hydrocodone-containing products. No documented annual controlled substance inventory was completed by the pharmacy in 2012. Respondent conducted and signed each of the annual inventories.

12. On multiple occasions, the Respondent was personally informed by an individual of the hydrocodone diversion at Bauder Pharmacy.

13. In a signed statement to the Board, Respondent reported that Bauder used three wholesalers for purchases of controlled substances. During the audit period, Bauder used fourteen wholesalers for purchases of controlled substances, including numerous instances where

the pharmacy used multiple wholesalers on the same day for the same commercially available product. In 2011, the Respondent signed invoices from nine different wholesalers for tablets of hydrocodone-containing products.

14. An average pharmacist with the Respondent's experience, knowledge of the number of hydrocodone tablets received by Bauder Pharmacy, knowledge of the number of hydrocodone tablets legally dispensed, knowledge of the number of wholesalers used by the pharmacy, and knowledge of the allegations of diversion would have a reasonable belief that diversion had been or was occurring.

15. At no time did the Respondent inform the Board of the diversion allegations or the large amount of hydrocodone being ordered by the pharmacy.

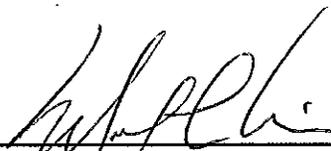
16. On April 5, 2013, the Board issued its Findings of Fact, Conclusions of Law, Decision, and Order in a disciplinary case against Bauder Pharmacy and Mark Graziano. Under the Order, Bauder Pharmacy's license was placed on indefinite probation subject to numerous terms and conditions.

17. Respondent assumed the position of Pharmacist-in-Charge at Bauder Pharmacy in late 2013.

18. Bauder Pharmacy has failed to comply with several requirements of the Board's April 5<sup>th</sup> Order, including prohibiting Mark Graziano from having access to the pharmacy department and prescription drugs, complying with all the recommendations of the Board-approved consultant, and submitting quarterly reports by the pharmacy and the consultant. Mark Graziano has access to the pharmacy department by virtue of his access to the keys and alarm codes for the building because there is no secure, physical barrier between the pharmacy and the drug store/soda fountain.

#### **D. PROBABLE CAUSE FINDING**

On this the 19th day of November, 2014, the Iowa Board of Pharmacy found probable cause to file this Amended Statement of Charges.



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

cc: Meghan Gavin  
Assistant Attorney General

Hoover State Office Building  
Des Moines, Iowa

David L. Brown  
Hansen McClintock & Riley  
520 Walnut St.  
Des Moines, IA 50309  
ATTORNEY FOR THE RESPONDENT

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	Case Nos. 2012-52 & 2012-174
Pharmacist License of	)	
<b>KIMBERLY R. ROBERTSON</b>	)	<b>SETTLEMENT AGREEMENT</b>
Pharmacist No. 15845	)	<b>AND</b>
Respondent	)	<b>FINAL ORDER</b>

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**COME NOW** the Iowa Board of Pharmacy (“Board”) and Kimberly R. Robertson (“Respondent”), and enter into this Settlement Agreement and Final Order (“Agreement”) pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) (2013) to settle a licensee disciplinary proceeding currently pending before the Board.

The allegations contained in the Amended Statement of Charges against the Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent holds Iowa pharmacist license number 15845, which is currently active.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. An Amended Statement of Charges was filed against the Respondent on November 19, 2014.
4. Respondent expressly denies the charges, but acknowledges that the charges, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
5. Should Respondent violate the terms of this Settlement Agreement and Final Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and Iowa Administrative Code chapter 657—36.
6. Execution of this Settlement Agreement and Final Order constitutes the resolution of a contested case. Respondent has a right to hearing before the Board on the charges, but Respondent waives the right to hearing and all attendant rights, including the right to appeal or seek judicial review of the Board’s actions, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in this case and shall have the force and effect of a disciplinary order entered following a contested case hearing.
7. Respondent is freely and voluntarily entering into this Agreement. This agreement is a resolution of the disputed claims and the Respondent’s agreement to the terms does not constitute any admission of wrongdoing. Respondent agrees that the State’s counsel may present

this Agreement to the Board and may have *ex parte* communications with the Board while presenting it.

8. This Agreement shall be part of Respondent's permanent record 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. Respondent possesses the requisite character and qualifications to be a licensed Iowa pharmacist in accordance with this agreement.

9. This Agreement is subject to approval by the Board. If the Board does not approve this Agreement, it shall be of no force or effect on either party, and shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Agreement, it shall be the full and final resolution of this matter.

10. This Agreement, 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.

11. This Agreement shall be reported to the national database in conformance with the Board's policies and procedures.

12. This Agreement shall not be binding as to any new complaints received by the Board.

13. The Board's approval of this Agreement shall constitute a **FINAL ORDER** of the Board.

**IT IS THEREFORE ORDERED:**

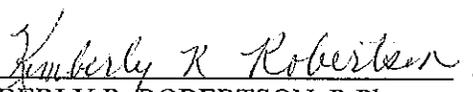
14. On the date of the Board's approval of this Settlement Agreement and Final Order, Respondent's license shall be placed on **PROBATION** for a period of five (5) years subject to the following terms and conditions:

- a. Respondent shall agree to comply with the terms of probation.
- b. Only those time periods during which Respondent is employed as a pharmacist shall count toward exhaustion of the probationary term.
- c. Respondent can apply for early release after successfully completing two (2) years of probation.
- d. Respondent shall not serve as a Pharmacist-in-Charge (PIC) for two (2) years. Respondent may apply, however, for release from this restriction after one (1) year of successful completion of probation.
- e. Within one (1) year of Board's approval of this Settlement Agreement and Final Order, the Respondent shall provide proof to the Board of the completion of twenty (20) hours of continuing education in the areas of record keeping, policies and procedures, Iowa laws and rules, and controlled substances. These hours

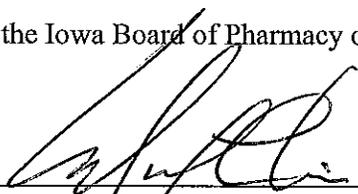
shall not count towards Respondent's annual continuing education requirement. Respondent is responsible for all costs associated with obtaining these continuing education hours.

- f. Within one (1) year of the Board's approval of this Settlement Agreement and Final Order, the Respondent shall retake and successful pass the Iowa edition of the MPJE. Should Respondent attempt but fail to pass the MPJE within the timeframe allotted, Respondent may petition the Board to allow additional time for her to pass the MPJE.
- g. Respondent agrees to abide by the Board's decision on Bauder Pharmacy's appeal of the Board's Preliminary Notice of Intent to Deny Renewal. This, however, does not waive Respondent's ability as owner of Bauder Pharmacy to seek judicial review of the Board's decision.
- h. Respondent shall inform the Board, in writing, of any change of home address, place of employment, home telephone number, or work telephone number, within ten (10) days of such a change.
- i. Respondent shall submit written quarterly reports to the Board, said reports being due on March 1, June 1, September 1, and December 1 during each calendar year of the probationary period. The quarterly report shall include Respondent's place of employment, current address, *Respondent's most recent efforts to implement the provisions of this Settlement Agreement and Final Order, by date*, and any further information requested by the Board from time to time.
- j. Respondent shall notify all employers and prospective employers (no later than at the time of an employment interview), including any pharmacist-in-charge, of the resolution of this case and the terms, conditions and restrictions imposed on Respondent by this Settlement Agreement and Final Order.
- k. Within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause her pharmacy employer, and any pharmacist-in-charge she works under, to report to the Board a written acknowledgment that the employer and the pharmacist-in-charge have read this document and understand it.
- l. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing her performance as a pharmacist during Respondent's probationary period. Respondent shall be given reasonable notice of the date, time, and place for such appearances.
- m. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
- n. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 15 day of April, 2015.

  
KIMBERLY R. ROBERTSON, R.Ph.  
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 29<sup>th</sup> day of April, 2015.

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

cc: Meghan Gavin  
Assistant Attorney General  
Office of the Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

Guy Cook  
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ATTORNEYS FOR THE RESPONDENT