

**BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA**

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<b>Re: Nonresident Pharmacy License of RX AMERICA, INC. License No. 3010 Mark Skaar, R.Ph., Pharmacist in charge, Respondent</b>	} } } } } } }	<b>COMPLAINT AND STATEMENT OF CHARGES AND NOTICE OF HEARING</b>
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COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 5th day of October, 1993, and files this Complaint and Statement of Charge and Notice of Hearing against Rx America, Inc., a nonresident pharmacy licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

2. Respondent is licensed to operate a nonresident pharmacy at 369 Billy Mitchell Road in Salt Lake City, Utah, and holds nonresident pharmacy license number 3010.

3. Nonresident pharmacy license number 3010, issued in the name of Rx America, Inc., with Mark Skaar as pharmacist in charge was issued on November 9, 1992, and is current until December 31, 1993.

4. Respondent also holds a Non-Resident Pharmacy Permit in the State of Missouri (Permit No. 5232).

5. On April 19, 1993, the Board received a certified copy of a Disciplinary Agreement titled Agreement Between the Board of Pharmacy and Rx America, Inc. Regarding Discipline of the Non-resident Pharmacy Permit of Rx America, Inc. from the Missouri State Board of Pharmacy.

a. The Disciplinary Agreement, effective December 23, 1992, provides, in part, the following:

...II. Permit Owner hereby stipulates with the Board of Pharmacy to the following facts:...

2. The Permit Owner is permitted by the Board of Pharmacy as a non-resident pharmacy, Permit No. 5232. The Permit Owner's Missouri permit is not current.

3. The Permit Owner operated as a non-resident pharmacy and provided prescription items to Missouri residents between November 1, 1991, and the date of this Agreement is executed without having a current permit. In June 1992, the Permit Owner filed with the Board an application to renew its permit, which had expired on October 31, 1991. The Board rejected that application because it was not timely filed.

4. Cause exists for discipline against Permit Owner's pharmacy permit...

III. In light of the foregoing stipulation of facts, Permit Owner and the Board of Pharmacy hereby consent and agree to the following disciplinary action to be imposed against Permit No. 5232.

By agreement of the parties, Permit No. 5232 of Rx America, Inc., is placed on probation for a period of one year...

b. As evidenced in the Disciplinary Agreement, Respondent's Missouri Non-Resident Pharmacy Permit No. 5232 was placed on probation for one year effective December 23, 1992.

6. A copy of the Missouri Board's Disciplinary Agreement is attached hereto as Exhibit 1 and is incorporated by reference into the Complaint and Statement of Charges and Notice of Hearing as if fully set forth herein.

7. Respondent failed to report to the Board that disciplinary action had been taken by the Missouri State Board of Pharmacy against its Missouri Non-Resident Pharmacy Permit No. 5232.

8. Respondent is guilty of violating 1993 Iowa Code section 155A.13A(3) by virtue of the allegations in paragraphs 5, 6, and 7 above.

**1993 Iowa Code section 155A.13A provides, in part, the following:**

3. Discipline. The Board may deny, suspend, or revoke a nonresident pharmacy license for any violation of this section, section 155A.15, subsection 2, paragraph "a", "b", "d", "e", "f", "g", "h", or "i", chapter 124, 124A, 124B, 126, or 205, or a rule of the board.

9. Respondent is guilty of violating 657 Iowa Administrative Code sections 9.1(4)(j), 9.1(4)(k), and 9.1(4)(u) by virtue of the allegations in paragraphs 5, 6, and 7 above.

**657 Iowa Administrative Code section 9.1(4) provides, in part, the following:**

The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

j. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy.

k. Failure to report a license revocation, suspension or other disciplinary action taken by another state, territory or country.

....

u. Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections 147.55, 155A.12 and 155A.15.

The Iowa Board of Pharmacy Examiners finds that paragraphs 8 and 9 constitute grounds for which Respondent's Iowa Nonresident Pharmacy License can be suspended or revoked.

WHEREFORE, the undersigned charges that Respondent Rx America, Inc., has violated 1993 Iowa Code section 155A.13A(3) and 657 Iowa Administrative Code sections 9.1(4)(c), 9.1(4)(j), and 9.1(4)(u).

IT IS HEREBY ORDERED, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2(1), that Mark Skaar appear on behalf of Rx America, Inc., before the Iowa Board of Pharmacy Examiners on Tuesday, January 11, 1994, at 4:00 p.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

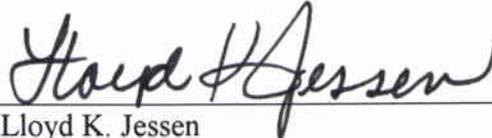
The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to suspend, revoke, or not renew the nonresident pharmacy license issued to Rx America, Inc., on November 9, 1992, and take whatever additional action that they deem necessary and appropriate.

Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of its own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision may be rendered. The failure of Respondent to appear could result in the permanent suspension or revocation of its license.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department of Inspections and Appeals. The office of the Attorney General is responsible for the public interest in these proceedings.

Information regarding the hearing may be obtained from Theresa O'Connell Weeg, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-6858). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS

A handwritten signature in cursive script, reading "Lloyd K. Jessen", written over a horizontal line.

Lloyd K. Jessen  
Executive Secretary/Director

Exhibit 1

AGREEMENT BETWEEN THE BOARD OF PHARMACY AND RX AMERICA,  
INC. REGARDING DISCIPLINE OF THE NON-RESIDENT  
PHARMACY PERMIT OF RX AMERICA, INC.

I

Come now Rx America, Inc. and the Board of Pharmacy and enter into this Agreement for the purpose of resolving the question of whether Rx America, Inc.'s non-resident pharmacy permit will be subject to discipline.

Rx America, Inc. (hereinafter "Permit Owner") understands that this Agreement is in lieu of a trial-type hearing of the charges by the Administrative Hearing Commission where it would have the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending and, subsequently, the right to a disciplinary hearing before the Board of Pharmacy at which time evidence in mitigation of discipline may be presented; and the right to a claim for attorneys' fees and expenses. Being aware of these rights, the parties knowingly and voluntarily waive each and every one of these rights and agree to abide by the terms of this document, in lieu of proceedings before the Administrative Hearing Commission.

II

Permit Owner hereby stipulates with the Board of Pharmacy to the following facts:

1. The Board of Pharmacy (hereinafter the "Board") is an agency of the state of Missouri created and established pursuant to § 338.110, RSMo 1986, for the purpose of executing and enforcing the provisions of Chapter 338, RSMo.

2. The Permit Owner is permitted by the Board of Pharmacy as a non-resident pharmacy, Permit No. 5232. The Permit Owner's Missouri permit is not current.

3. The Permit Owner operated as a non-resident pharmacy and provided prescription items to Missouri residents between November 1, 1991, and the date this Agreement is executed without having a current permit. In June 1992, the Permit Owner filed with the Board an application to renew its permit, which had expired on October 31, 1991. The Board rejected that application because it was not timely filed.

4. Cause exists for discipline against Permit Owner's pharmacy permit pursuant to § 338.055.2(6), RSMo 1986.

### III

In light of the foregoing stipulation of facts, Permit Owner and the Board of Pharmacy hereby consent and agree to the following disciplinary action to be imposed against Permit No. 5232.

By agreement of the parties, Permit No. 5232 of Rx America, Inc. is placed on probation for a period of one year under the following terms and conditions.

A. The Permit Owner shall keep the Board apprised of licensed pharmacists and their current home and work addresses

and telephone numbers employed by Permit Owner during its probation.

B. The Permit Owner shall pay all required fees for permitting to the Board and shall renew its permit prior to October 31 for each permitting year.

C. The Permit Owner shall comply with all provisions of Chapters 338 and 195; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.

D. The Permit Owner shall not serve as an intern training facility for internship credit for initial licensure in Missouri during its period of probation.

E. The Permit Owner shall report to the Board in writing once every six months, beginning six months after this Agreement becomes effective, stating truthfully whether or not he has complied with all the terms and conditions of his disciplinary agreement.

F. During the disciplinary period, the Permit Owner shall obey all provisions of Chapter 338, RSMo, governing the practice of pharmacy in this state and all lawful rules and regulations promulgated pursuant thereto.

G. Upon the expiration of the one-year period of probation, the Permit Owner's permit as a pharmacy in Missouri shall be fully restored, provided all provisions of this Agreement and all other requirements of law have been satisfied.

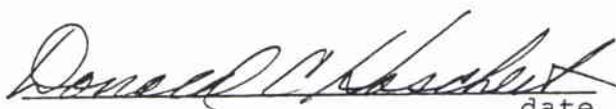
H. If the Board of Pharmacy determines that the Permit Owner has violated a term or condition of its probation, or has otherwise failed to comply with the provisions of Chapter 338, RSMo, which violation would be actionable in a proceeding before the Board of Pharmacy or before the Administrative Hearing Commission or in a circuit court, the Board of Pharmacy may elect to pursue any lawful remedies or procedures afforded to it, and is not bound by this Agreement in its selection of remedies concerning such violation.

I. The parties to this Agreement understand that the Board of Pharmacy will maintain this Agreement as an open record of the Board as provided in Chapters 338, 610, and 620, RSMo.

J. The disciplinary period shall become effective ten days from the date the this Agreement is entered by the Executive Director.

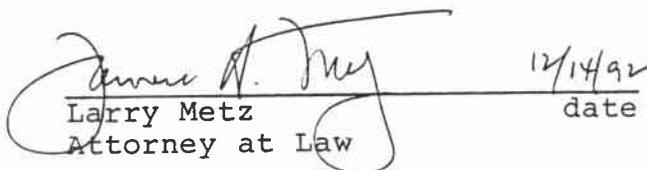
RX AMERICA, INC.

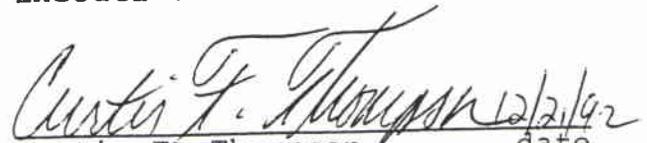
BOARD OF PHARMACY

  
\_\_\_\_\_ date

Donald C. Hoscheit  
Vice President

  
\_\_\_\_\_ date  
Kevin Kinkade, R.Ph.  
Executive Director

  
\_\_\_\_\_ date  
Larry Metz  
Attorney at Law

  
\_\_\_\_\_ date  
Curtis F. Thompson  
Assistant Attorney General

Effective this 23rd day of December 1992.  
(Effective date to be filled in by Executive Director.)

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re: Nonresident :  
Pharmacy License of :  
**RX AMERICA, INC.** : **STIPULATION**  
License No. 3010 : **AND**  
Mark Skaar, R.Ph., : **INFORMAL SETTLEMENT**  
Pharmacist in charge, :  
Respondent :

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COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and Rx America, Inc., (Respondent) and, pursuant to Iowa Code sections 17A.10 and 272C.3(4), enter into the following Stipulation and Informal Settlement of the contested case currently on file:

1. Respondent was issued a nonresident Iowa pharmacy license on November 9, 1992. Respondent's license was renewed on January 7, 1994. The license and renewal were issued in the name of Rx America, Inc., with Mark Skaar as pharmacist in charge.

2. Respondent's license to operate a nonresident pharmacy at 369 Billy Mitchell Road in Salt Lake City, Utah, is current until December 31, 1994.

3. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on October 5, 1993.

4. The Board has jurisdiction of the parties and the subject matter.

5. Respondent does not contest the allegations set forth in the complaint and agrees that the Board may treat the allegations as true.

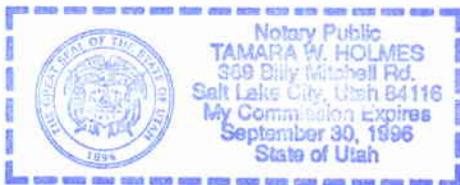
6. Respondent agrees to accept a citation and warning for failing to notify the Iowa Board of Pharmacy Examiners that disciplinary action had been taken by the Missouri State Board of Pharmacy against its Missouri Non-Resident Pharmacy Permit No. 5232 on December 23, 1992.

7. This Stipulation and Informal Settlement is subject to approval of the Board. If the Board approves this Stipulation and Informal Settlement, it becomes the final disposition of this matter. If the Board fails to approve this Stipulation and Informal Settlement, it shall be of no force or effect to either party.

8. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 24<sup>th</sup> day of February, 1994.

Mark Skaar  
Mark Skaar, R.Ph.,  
Pharmacist in charge,  
RX AMERICA, INC.,  
Respondent

Signed and sworn to before me this 24<sup>th</sup> day of February, 1994.



Tamara W. Holmes  
NOTARY PUBLIC IN AND FOR THE  
STATE OF UTAH

\* \* \* \* \*

9. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 15th day of March, 1994.



PHYLLIS A. OLSON, Vice-Chairperson  
Iowa Board of Pharmacy Examiners