

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2014-14
Pharmacy License of)	
)	NOTICE OF HEARING AND
SHOPKO PHARMACY)	STATEMENT OF CHARGES
License No. 1429)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (“Board”) and files this Notice of Hearing and Statement of Charges against Shopko Pharmacy (“Respondent”), 1006 S Country Rd., Tama, IA 52342, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent’s Iowa pharmacy license number 1429 is currently active and expires on December 31, 2014.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on August 26, 2014, before the Board. The hearing shall be held during the morning session beginning at 9:00 a.m. and shall be located in the Board conference room located at 400 S.W. 8th Street, Des Moines, Iowa.

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 pre-hearing matters, and be present to assist and advise the Board at the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code rule 35.19. 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:

Laura Cathelyn
Assistant Attorney General
Iowa Attorney General’s Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Cathelyn can also be reached by phone at (515) 281-6690 or by e-mail at laura.cathelyn@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 147, 155A, and 272C (2013).

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 (2013) and under 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 I

EMPLOYING AN UNCERTIFIED TECHNICIAN

Respondent is charged with employing or continuing to employ a person to assist a pharmacist with technical functions associated with the practice of pharmacy who is not properly registered or certified as a pharmacy technician in violation of 657 Iowa Administrative Code rules 3.6 and 3.12, pursuant to Iowa Code section 155A.15(2)(c) and 657 Iowa Administrative Code rules 36.1(4)(u) and 36.1(4)(aa).

D. FACTUAL CIRCUMSTANCES

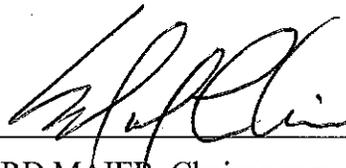
1. Respondent holds Iowa pharmacy license number 1429, which is currently active and expires on December 31, 2014.
2. A routine inspection performed on January 24, 2014, at Respondent's pharmacy revealed that Angelic Strommer, registration number 9421, was employed as an uncertified technician.
3. All uncertified technicians were required to become certified no later than December 31, 2013.
4. Prior to December 31, 2013, the Board communicated to Ms. Strommer that she must be certified by December 31, 2013, or she would need to register as a pharmacy support person.

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 Laura Cathelyn at (515) 281-6690.

F. FINDING OF PROBABLE CAUSE

On this 30th day of April, 2014, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



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

cc: Laura Cathelyn
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

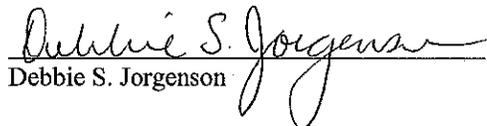
PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon Respondent to the above cause by:

- | | |
|--|---|
| <input type="checkbox"/> personal service | <input type="checkbox"/> first class mail |
| <input checked="" type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile |
| <input checked="" type="checkbox"/> Article Number <u>9171999991703239255127</u> | <input type="checkbox"/> other _____ |

on the 1st day of May, 2014.

I declare that the statements above are true to the best of my information, knowledge and belief.



Debbie S. Jorgenson

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2014-14
Pharmacy license of)	
SHOPKO PHARMACY)	SETTLEMENT AGREEMENT
License No. 1429,)	AND FINAL ORDER
Respondent.)	

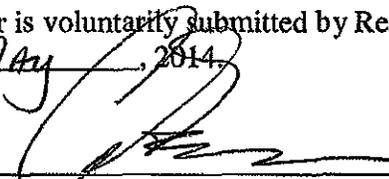
Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Shopko Pharmacy ("Respondent"), 1006 S Country Rd., Tama, IA 52342, enter into the following Settlement Agreement to settle a disciplinary proceeding currently pending before the Board.

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

1. The Board has jurisdiction over the parties and the subject matter of these proceedings.
2. Respondent's license #1429 is currently active and expires on December 31, 2014.
3. A Statement of Charges was filed against Respondent on April 30, 2014.
4. Respondent has chosen not to contest the allegations, and acknowledges that, if proven in a contested case proceeding, the allegations would constitute grounds for the discipline described herein.
5. Upon the Board's approval of this Settlement Agreement and Final Order, Respondent is hereby **CITED** for employing an uncertified technician and **WARNED** that Respondent's failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.
6. Respondent agrees to pay a civil penalty in the amount of seven-hundred fifty dollars (\$750). This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board within thirty (30) 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.
7. Respondent shall submit to the Board a written policy or procedure that addresses how it ensures its employees are properly licensed, registered, and certified, within sixty (60) days of the Board's approval of this Settlement Agreement and Final Order.
8. This Settlement Agreement is the resolution of a contested case. By entering into this Settlement Agreement, 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.

9. Respondent is freely and voluntarily entering into this Settlement Agreement.
10. Respondent acknowledges that it has a right to be represented by counsel on this matter.
11. The State's legal counsel may present this Settlement Agreement to the Board *ex parte*.
12. This Settlement Agreement is subject to approval by a majority of the full Board. If the Board fails to approve this Settlement Agreement, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Settlement Agreement, it shall be the full and final resolution of this matter.
13. This Settlement 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.
14. The Board's approval of this Settlement Agreement shall constitute a **FINAL ORDER** of the Board.

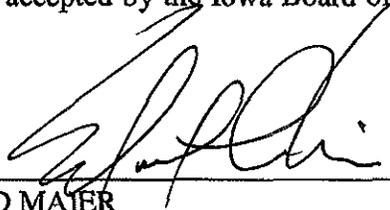
This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 14th day of May, 2014.



For Respondent

By this signature, CARMEN AFANSELMAN acknowledges s/he is the DIRECTOR OF PHARMACY for Shopko Pharmacy and is authorized to sign this Settlement Agreement and Final Order on behalf of Shopko Pharmacy.

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 2nd day of July, 2014.



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

cc: Laura Cathelyn
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa