

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Pharmacist License of) MIKE STEIN) License No. 17382) Respondent.))	CASE NO. 2015-108 SETTLEMENT AGREEMENT AND FINAL ORDER
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Pursuant to Iowa Code sections 17A.12(5) and 272C.3(4) (2015), and 657 IAC 36.6, the Iowa Board of Pharmacy ("Board") and Mike Stein ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case currently pending before the Board.

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

1. The Board filed a Notice of Hearing and Statement of Charges on May 4, 2016.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. Respondent has chosen not to contest the allegations in the Notice of Hearing and Statement of Charges, but acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
4. Execution of this 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 Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.
5. Respondent acknowledges that he has the right to be represented by counsel on this matter.
6. Respondent agrees that the State's counsel may present this Order to the Board and may have *ex parte* communications with the Board while presenting it.
7. This Order is subject to approval by a majority of the Board. If the Board does not approve this Order, it shall be of no force or effect to either party, and shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Order, it shall be the full and final resolution of this matter.
8. This Order 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.
9. This Order shall not be binding as to any new complaints received by the Board.

10. Respondent understands the Board is required by federal law to report any adverse action to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank.

11. This Order, 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.

12. The Board's approval of this Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

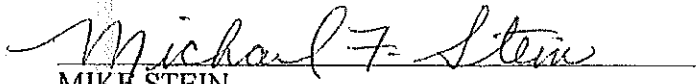
13. Respondent is hereby **CITED** for violating the duties of a pharmacist in charge, and **WARNED** that Respondent's failure to comply with the laws and rules governing the practice of pharmacy in the future could result in further discipline.

14. Respondent shall pay a **CIVIL PENALTY** in the amount of one thousand dollars (\$1000) within sixty (60) days of Board approval of this Order. The check shall be made payable to the "Treasurer of Iowa" and shall be deposited in the general fund. The civil penalty should be mailed to the Iowa Board of Pharmacy, Attn: Debbie Jorgenson, 400 SW Eighth Street, Suite E, Des Moines, IA 50309.


15. So long as Respondent remains in the position as pharmacist in charge at Pharmacy Matters, Respondent is responsible for ensuring Pharmacy Matters complies with the terms of its probation. Respondent's failure to ensure Pharmacy Matters complies with the terms of its probation while Respondent is pharmacist in charge shall be considered a violation of this Order.

16. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 147, 155A, and 272C and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 22 day of December, 2016.


MIKE STEIN
Respondent

This Settlement Agreement and Final Order is approved by the Iowa Board of Pharmacy on the 4th day of January, ~~2016~~ 2017.


Chairperson

Iowa Board of Pharmacy

Copies to:

Meghan Gavin
Assistant Attorney General
Licensing & Administrative Law Division
Iowa Department of Justice
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

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1251 Avenue of the Americas
Ninth Floor
New York, NY 10020
ATTORNEY FOR RESPONDENT

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2015-108
Pharmacist License of)	
)	NOTICE OF HEARING AND
MIKE STEIN)	STATEMENT OF CHARGES
License No.17382)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Mike Stein pursuant to Iowa Code sections 17A.12(2) and 17A.18(3), and 272C.3(1)(e), and Iowa Administrative Code rules 657—35.5 and 36.5. Respondent's Iowa pharmacist license number 17382 is currently active and expires on June 30, 2017.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on June 29, 2016, 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 the Iowa Board of Pharmacy Office, 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 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 Iowa Administrative Code rule 657—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 Iowa Administrative Code rule 657—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 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 under Iowa Administrative Code chapter 657—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 Iowa Administrative Code rule 657—35.21.

C. CHARGES

Count I

VIOLATING RESPONSIBILITIES OF PHARMACIST-IN-CHARGE

Respondent is charged with violating the responsibilities of the pharmacist-in-charge, specifically failing to ensure the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy in violation of Iowa Administrative Code rule 657—6.2(15), pursuant to Iowa Code sections 147.55(9) and 155A.12(1), and Iowa Administrative Code rule 657—36.1(4)(u).

D. FACTUAL CIRCUMSTANCES

1. At all relevant times, Respondent was the pharmacist-in-charge and owner of Pharmacy Matters LTC, 3526 Dolphin Dr. SE, Iowa City, IA 52244.
2. A routine inspection of Pharmacy Matters LTC was conducted on May 26, 2015.
3. During the inspection, a number of deficiencies were noted, including failure to have a permanent log, operating with an expired controlled substance registration, failing to mark schedule III, IV, and V controlled substances as to who received them, failure to maintain a bulk compounding log, failure to have policies and procedures on delivery, not properly handling returns of unit dose medications, and failure to properly handle emergency schedule II controlled substances prescriptions.
4. A follow-up visit on June 2, 2015 revealed that the pharmacy had not established a continuous quality improvement program.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at Iowa Administrative Code rule 657—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 ^{May}~~April~~, 2016, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



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

cc: 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).