

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2013-4034 & 2014-21
Nonresident Pharmacy License of	)	
	)	
<b>TRI-COAST</b>	)	<b>NOTICE OF HEARING AND</b>
<b>PHARMACY, INC.,</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 4034	)	
Respondent.	)	

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**COMES NOW** the Iowa Board of Pharmacy (“Board”) and files this Notice of Hearing and Statement of Charges against Tri-Coast Pharmacy, Inc. (“Respondent”), 14141 US Highway 1, Juno Beach, Florida 33408, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent’s Iowa nonresident pharmacy license number 4034 is currently delinquent, having expired on December 31, 2013.

**A. TIME, PLACE, AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on July 1, 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. 8<sup>th</sup> 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  
2<sup>nd</sup> 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](mailto: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**

#### **FAILURE TO ENSURE VALID PATIENT-PRACTITIONER RELATIONSHIP**

Respondent is charged with failing to ensure prescription drug orders have been issued pursuant to a valid patient-practitioner relationship and are not issued solely on the basis of an internet-based questionnaire, internet-based consultation, or telephonic consultation, in violation of 657 Iowa Administrative Code rule 8.19(5), pursuant to Iowa Code section 155A.13A(3) and 657 Iowa Administrative Code rules 19.10 and 36.1(4)(u).

### **Count II**

#### **FAILURE TO REPORT TO THE IOWA PMP**

Respondent is charged with failure to report to the Iowa Prescription Monitoring Program (PMP) in violation of Iowa Code section 124.552 and 657 Iowa Administrative Code rule 37.3, pursuant to Iowa Code section 155A.13A(3) and 657 Iowa Administrative Code rules 19.10, 36.1(4)(u), and 37.9(2)

### **Count III**

#### **FAILURE TO SUBMIT APPLICATION FOR NEW PHARMACIST-IN-CHARGE**

Respondent is charged with failing to submit a nonresident pharmacy license application upon the change of pharmacist-in-charge in violation of 657 Iowa Administrative Code rule 8.35(6), pursuant to Iowa Code section 155A.13A(3) and 657 Iowa Administrative Code rules 19.10 and 36.1(4)(u).

**Count IV**  
**PROVIDING PHARMACY SERVICES WITHOUT A LICENSE**

Respondent is charged with providing pharmacy services to Iowa residents without an Iowa pharmacy license in violation of 657 Iowa Administrative Code rule 19.2, pursuant to Iowa Code section 155A.13A(3) and 657 Iowa Administrative Code rule 36.1(4)(v).

**D. FACTUAL CIRCUMSTANCES**

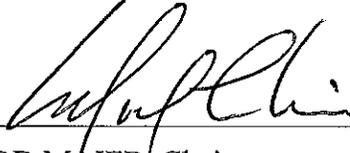
1. Respondent holds Iowa nonresident pharmacy license number 4034, which is currently delinquent having expired on December 31, 2013.
2. On April 10, 2013, Respondent was inspected by an authorized agent of the Board.
3. The inspection report indicated that Iowa patients received prescriptions that were prescribed by Florida practitioners.
4. During the inspection, Respondent indicated it verifies the legitimacy of a prescription by verifying the prescriber's license and address.
5. More than one Iowa patient confirmed that they had never seen the prescribers, but had instead engaged in telephonic or internet consultation.
6. Respondent has failed to make any zero reports or prescription reports to the Iowa PMP from July 2013 through March 2014.
7. In response to the allegations above, Respondent indicated that the pharmacist-in-charge had changed since the inspection by the Board.
8. The Board did not receive an application to change Respondent's pharmacist-in-charge during the required time period.
9. Respondent has shipped prescriptions to Iowa patients in 2014 while its license has been in delinquent status.

**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 30<sup>th</sup> 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, 2<sup>nd</sup> Floor  
Des Moines, IA 50319

PROOF OF SERVICE

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

- personal service
- certified mail, return receipt requested
- Article Number 9171999991703239255097
- first class mail
- facsimile
- other \_\_\_\_\_

on the 1<sup>st</sup> 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**

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Re:	)	CASE NO. 2013-4034 & 2014-21
Nonresident Pharmacy License of	)	
	)	<b>SETTLEMENT AGREEMENT AND</b>
<b>TRI-COAST</b>	)	<b>FINAL ORDER</b>
<b>PHARMACY, INC.</b>	)	
License No. 4034	)	
Respondent.	)	

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Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Tri-Coast Pharmacy, Inc. ("Respondent") enter into the following Settlement Agreement and Final Order ("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 stipulate as follows:

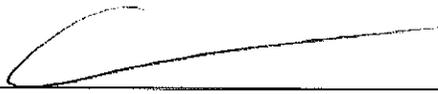
1. Respondent was issued Iowa nonresident pharmacy license number 4034, which is currently delinquent, having expired on December 31, 2013.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. A Statement of Charges was filed against Respondent on April 30, 2014.
4. Respondent admits the allegations in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for discipline.
5. Execution of this Order constitutes the resolution of a contested case. Respondent has a right to a hearing on the charges, but waives its right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.
6. Respondent is freely and voluntarily entering into this Order.
7. Respondent acknowledges that it has a right to be represented by counsel on this matter.
8. The State's legal counsel may present this Order to the Board *ex parte*.
9. This Order is subject to approval by a majority of the full Board. If the Board fails to approve this Order, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Order, it shall be the full and final resolution of this matter.

10. This Order shall be part of the permanent record of Respondent 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.
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:**

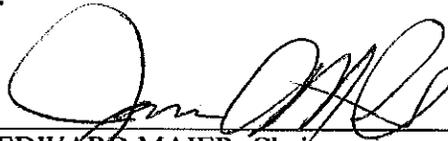
13. Respondent agrees to **VOLUNTARILY SURRENDER** its Iowa nonresident pharmacy license to resolve this matter.
14. This voluntary surrender, when accepted by the Board, has the same force and effect as an order of revocation under 657 Iowa Administrative Code rule 36.15 for purposes of reinstatement. Respondent may not request reinstatement for at least three years from the date of Board approval of this Settlement Agreement. Reinstatement requests are governed by 657 Iowa Administrative Code rule 36.13.
15. Respondent shall surrender its Iowa nonresident pharmacy license to the Board within ten (10) days of the Board's approval of this Order.
16. Respondent agrees not to perform any activities that would require an Iowa nonresident pharmacy license unless its license is reinstated.
17. Should Respondent violate the terms of this Settlement Agreement, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 Iowa Administrative Code chapter 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 20 day of August, 2014.

  
\_\_\_\_\_  
TRI-COAST PHARMACY, INC.  
Respondent

By this signature, Debra Patel acknowledges s/he is the General Manager for Tri-Coast Pharmacy, Inc. and is authorized to sign this Settlement Agreement and Final Order on behalf of Tri-Coast Pharmacy, Inc.

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 26th day of August, 2014.



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

cc: Laura Cathelyn  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> Floor  
Des Moines, IA 50319  
[laura.cathelyn@iowa.gov](mailto:laura.cathelyn@iowa.gov)