

BEFORE THE IOWA BOARD OF PHARMACY

Re:)
Pharmacy License of)
WALGREENS PHARMACY)
License No. 276,)
Respondent.)

Case No. 2010-56

STATEMENT OF CHARGES

COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Director for the Iowa Board of Pharmacy 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 December 17, 2011, the Board renewed general pharmacy license number 276 for Walgreens Pharmacy (hereinafter, "Respondent"), allowing Respondent to engage in the operation of a pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
4. At all times material to this statement of charges, Respondent was operating a general pharmacy at 100 Pierce Street, Sioux City, Iowa 51101 with Mary Pehling as the pharmacist in charge.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.15(2)(c) (2011) and 657 Iowa Administrative Code § 36.1(4)(b) with a lack of professional competency as demonstrated by Respondent's (a) substantial deviation from the standards of learning and skill ordinarily possessed and applied by other Iowa pharmacies, (b) failure to exercise in a substantial respect that degree of care which is ordinarily exercised by an Iowa pharmacy and (c) willful and repeated departures from, and a failure to conform to, the minimal standard and acceptable and prevailing practice of pharmacy in the state of Iowa, as evidenced by Respondent's failure to provide patient counseling.

COUNT II -- FAILURE TO PROVIDE COUNSELING

Respondent is charged under Iowa Code § 155A.15(2)(c) (2011), and 657 Iowa Administrative Code §§ 6.14(1) and 36.1(4)(w), with failing to provide counseling to

patients and engaging in business practices intended to circumvent requirements for patient counseling.

COUNT III – FAILURE TO MAINTAIN ADEQUATE RECORDS

Respondent is charged under Iowa Code § 155A.15(2)(c) (2011), and 657 Iowa Administrative Code §§ 6.14(6) and 36.1(4)(ac), with failing to maintain complete and accurate records; specifically, Respondent is charged with creation of a false record of counseling refusal.

B. CIRCUMSTANCES

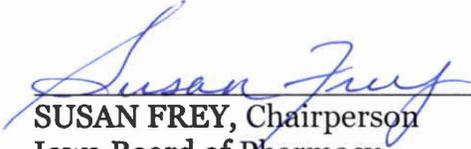
An investigation was commenced on May 10, 2010, which revealed the following:

1. Respondent operates a general pharmacy at 100 Pierce Street, Sioux City, Iowa 51101 with Mary Pehling as the pharmacist in charge.
2. On May 9, 2010 a patient had two new prescriptions filled at Respondent Pharmacy. While he waited for the medications to be prepared, the patient read signage in the pharmacy regarding patient counseling. When his order was ready, the patient paid one of Respondent's employees for the medication, but no attempt to counsel the patient occurred.
3. The patient then asked the employee if a pharmacist should speak with him [the patient] regarding his prescription. The employee responded that he didn't know. Despite the patient's inquiry, the employee did not call for a pharmacist. The patient left the store without any attempt at counseling having been made by Respondent.
4. A review of Respondent's records confirms that the patient's prescriptions were new. However, Respondent's records inaccurately state that the patient refused counseling.
5. On June 8, 2010 a compliance officer witnessed Respondent's employees fail to counsel on 5 new prescriptions.

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 29 day of June 2011, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


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

cc: Scott M. Galenbeck
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa

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BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2010-56
Pharmacy License of)	
WALGREENS #00910)	SETTLEMENT AGREEMENT
License No. 276,)	AND
Respondent.)	FINAL ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy and Walgreens Pharmacy #00910, Respondent, enter into the following Settlement Agreement and Final Order to settle a licensee 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 Pharmacy License No. 276. That license is active and current until December 31, 2013.
2. A Statement of Charges was filed against Respondent on June 29, 2011.
3. Respondent at all times relevant to the Statement of Charges operated a general pharmacy at 100 Pierce Street, Sioux City, Iowa, with Mary Pehling as the pharmacist in charge.
4. The Board has jurisdiction over the parties and the subject matter of these proceedings.

5. Respondent has chosen not to contest the allegations in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline agreed to in this Order.
6. Respondent is hereby CITED for failure to provide counseling as identified in the Statement of Charges, and is hereby WARNED that future violations of the law governing the practice of pharmacy in Iowa could result in further disciplinary action.
7. Respondent agrees to pay a civil penalty in the amount of \$1000. This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board within twenty (20) 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.
8. This Settlement Agreement and Final Order is the resolution of a contested case. By entering into this Settlement Agreement and Final Order, 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. The State's legal counsel may present this Settlement Agreement and Final Order to the Board.
10. This Settlement Agreement and Final Order is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Settlement Agreement and Final Order, it shall be the full and final resolution of this matter.

11. The Board's approval of this Settlement Agreement and Final Order shall constitute a FINAL ORDER of the Board.

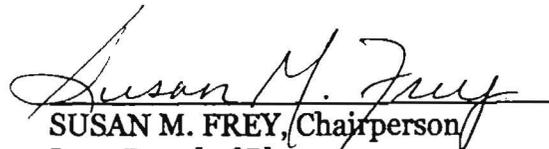
This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 8th day of February 2013.



For Respondent

By his signature Joshua VanVeltre acknowledges he is the Pharmacy Supervisor for Walgreens Pharmacy and is authorized to sign this Settlement Agreement and Final Order on behalf of Walgreens Pharmacy #00910.

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 13th day of March 2013.



SUSAN M. FREY, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Theresa O=Connell Weeg
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