

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2016-57
Pharmacy License of	)	
	)	<b>NOTICE OF HEARING AND</b>
<b>WALGREENS #4405</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 719	)	
Respondent.	)	

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**COMES NOW** the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Walgreens #4405 ("Respondent"), 2508 W Broadway, Council Bluffs, IA 51501, pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 272C.3(1)"e", and 657 IAC 35.5 and 36.5. Respondent's Iowa pharmacy license number 719 is currently active through December 31, 2016.

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

Hearing. A disciplinary contested case hearing shall be held on August 30, 2016, before the Board. The hearing shall be held during the afternoon session beginning at 1:00 p.m. and shall be located in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8<sup>th</sup> Street, Suite E, Des Moines, Iowa, 50309-4688.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges, you may file an Answer pursuant to 657 IAC 35.11. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Pharmacy, 400 S.W. 8<sup>th</sup> 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 prehearing matters, and be present to assist and advise the Board at hearing.

Pre-hearing Conference. Any party may request a prehearing conference in accordance with 657 IAC 35.15 to discuss issues related to the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 IAC 35. 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 IAC 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 Steffensmeier  
Assistant Attorney General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor, Hoover State Office Building  
Des Moines, Iowa 50319

Ms. Steffensmeier can also be reached by phone at (515) 281-6690 or by e-mail at [laura.steffensmeier@iowa.gov](mailto:laura.steffensmeier@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 17A, 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 657 IAC 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 IAC 35.21.

## **C. CHARGES**

### **COUNT I**

#### **EMPLOYING TECHNICIANS WITHOUT PROPER REGISTRATIONS**

Respondent is charged with violating rules 657 IAC 3.3, 8.3(2), 8.3(3)"a", which require pharmacy technicians to maintain current registrations and place responsibility on the pharmacy for ensuring compliance, pursuant to Iowa Code sections 147.55(9) and 155A.15(2)"c", and 657 IAC 36.1(4)"u".

**D. FACTUAL CIRCUMSTANCES**

1. On April 6, 2016, Respondent underwent a routine pharmacy inspection.
2. The inspection uncovered the following as it relates to technician registrations:
  - One technician on duty with an expired registration since November 30, 2013;
  - One technician on duty with an expired registration since March 31, 2014;
  - One technician on duty with an expired registration since March 31, 2016;
  - One technician on duty who had never registered with the Board, yet had worked at the pharmacy for approximately two years; and
  - One technician who was not on duty with an expired registration since April 30, 2014.

**E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 IAC 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Laura Steffensmeier at (515) 281-6690.

**F. FINDING OF PROBABLE CAUSE**

On this 30<sup>th</sup> day of June, 2016, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.

  
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Chairperson  
Iowa Board of Pharmacy

Copy to:

Laura Steffensmeier  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> 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).

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2016-57
Pharmacy License of	)	
	)	<b>SETTLEMENT AGREEMENT</b>
<b>WALGREENS #4405</b>	)	<b>AND FINAL ORDER</b>
License No. 719	)	
Respondent.	)	

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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 Walgreens #4405 ("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 June 30, 2016.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. Respondent neither admits nor denies the allegations in the Statement of Charges, but does not contest that the allegations, if proven in a contested case proceeding, may 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 it 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 full 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 employing technicians without proper registrations 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.

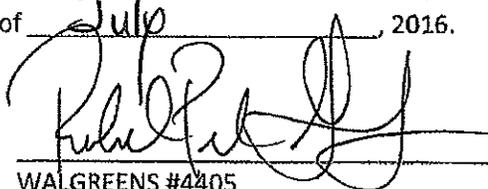
14. Respondent shall pay a **CIVIL PENALTY** in the amount of one thousand dollars (\$1000) within thirty (30) days of Board approval of this Order. The check shall be made payable to the "Treasurer of Iowa" and shall be deposited in the general fund.

15. Respondent shall submit a copy of its policy or procedure for ensuring its employees are properly licensed or registered to the Board within thirty (30) days of Board approval of this Order.

16. The items required to be submitted pursuant to paragraphs 14 and 15 should be mailed to the Iowa Board of Pharmacy, Attn: Debbie Jorgenson, 400 SW Eighth Street, Suite E, Des Moines, IA 50309.

17. 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 29 day of July, 2016.

  
\_\_\_\_\_  
WALGREENS #4405  
Respondent

By this signature, Rubel Paul III acknowledges s/he is the  
VP Pharmacy Operations for Walgreens #4405 and is authorized to sign this  
Settlement Agreement and Final Order on behalf of Walgreens #4405.

This Settlement Agreement and Final Order is approved by the Iowa Board of Pharmacy on the  
30 day of August, 2016.

Jan Miller  
Chairperson  
Iowa Board of Pharmacy

Copy to:

Laura Steffensmeier  
Assistant Attorney General  
Office of the Attorney General of Iowa  
1305 E. Walnut St.  
Des Moines, IA 50319  
ATTORNEY FOR THE STATE