State of Iowa
Board of Pharmacy

RiverPoint Business Park
400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688
http://www.iowa.gov/ibpe
Telephone: (515) 281-5944 Facsimile: (515) 281-4609

BOARD MEMBERS
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Villisca

JAMES MILLER, R. Ph.
Dubuque

JUDITH M. TRUMPY
Ames

EDWARD L. MAIER, R. Ph., Mapleton
Chairperson

LLOYD K. JESSEN, R. Ph., JD., West Des Moines
Executive Director

BOARD MEMBERS
SHARON K. MEYER, Pharm. D.
Urbandale

LADONNA GRATIAS
Clive

EDWARD J. McKENNA, R. Ph.
Storm Lake

MINUTES

March 9-11, 2015

The Iowa Board of Pharmacy met on March 9-11, 2015, in the conference room at 400 SW Eighth Street, Des Moines, Iowa.

MEMBERS PRESENT
Edward L. Maier, Chairperson
James Miller, Vice-Chair
Susan M. Frey
LaDonna Gratias
Edward J. McKenna
Sharon K. Meyer

MEMBERS ABSENT
Judith M. Trumpy

SPEAKERS
Carl Olsen, Des Moines
Connie Nogart, West Des Moines
Sally Gaer, West Des Moines
Kari Sckerl, Waterloo
Ned Milenkovich, FLAVORx
Chad Baker, FLAVORx
Megan Myers, IPA
Cheri Schmit, Medicap/GRX Holdings
Anthony Pudlo, IPA
Katy Brown, Telligen

STAFF PRESENT
Lloyd Jessen, Executive Director
Meghan Gavin, Esq., Assistant Attorney General
Laura Steffensmeier, Esq., Assistant Attorney General
Therese Witkowski, Executive Officer
Debbie Jorgenson, Administrative Assistant
Becky Hall, Secretary
Andrew Funk, Compliance Officer
Curt Gerhold, Compliance Officer
Mark Mather, Compliance Officer
Sue Mears, Compliance Officer
Jean Rhodes, Compliance Officer
Jennifer Tiffany, Compliance Officer
Jennifer O'Toole, Compliance Officer
Jim Wolfe, Compliance Officer

At 1:00 p.m., Edward Maier, Chairperson, called the meeting of the Iowa Board of Pharmacy to order on Monday, March 9, 2015.

Approval of Open Session Minutes

The minutes of the January 5-6, 2015, meeting; the January 16, 2015, teleconference meeting; and the February 12, 2015, teleconference meeting were reviewed.

Motion by Susan Frey, seconded by LaDonna Gratias, to approve the open session minutes of the January 5-6, 2015, meeting as presented. Motion approved unanimously.

Motion by James Miller seconded by Edward McKenna, to approve the open session minutes of the January 16, 2015, teleconference meeting as presented. Motion approved unanimously.

Motion by Edward McKenna, seconded by LaDonna Gratias, to approve the open session minutes of the February 12, 2015, teleconference meeting as presented. Motion approved unanimously.

Requests

1. Marijuana Scheduling Petition for Reconsideration – Carl Olsen, Des Moines.

   Motion by James Miller, seconded by Susan Frey, to deny the Petition for Reconsideration. Motion approved unanimously.

2. Approval to Continue Participation in Amicare Pharmacy Anticoagulation Clinic as an Authorized Pharmacist – Kari A. Sckerl, Iowa Pharmacist License No. 18670, Waterloo.

   Motion by James Miller, seconded by Sharon Meyer, to approve Kari Sckerl as a qualified pharmacist to participate in the collaborative practice agreement. Motion approved unanimously.

3. Authorization to Participate in Unity Point at Home Infusion Pharmacy's Vancomycin Collaborative Practice Agreement – Patrick J. Walter.

   Motion by Susan Frey, seconded by Edward McKenna, to approve the request. Motion approved unanimously.

4. Authorization to Participate in Unity Point at Home Infusion Pharmacy's Vancomycin Collaborative Practice Agreement – Jill Swallow.

   Motion by James Miller, seconded by Edward McKenna, to approve the request. Motion approved unanimously.

5. Authorization to Participate in Unity Point at Home Infusion Pharmacy's Vancomycin Collaborative Practice Agreement – Melissa Wessels.

   Motion by James Miller, seconded by Susan Frey, to approve the request. Motion approved unanimously.

6. Authorization to Participate in Unity Point at Home Infusion Pharmacy's Vancomycin Collaborative Practice Agreement – Tracy McVey.

   Motion by Susan Frey, seconded by James Miller, to approve the request. Motion approved unanimously.

7. Request for Waiver – 657 I.A.C. Records – HyVee Pharmacy Clinic #1504, Bloomfield.

   Motion by James Miller, seconded by Susan Frey to approve the request for two years with the condition Bloomfield Hy-Vee Pharmacy Clinic keep their records separate from the

Ottumwa Pharmacy and the records are secured in a location that only the Bloomfield employees have access to. Motion approved unanimously.

8. Request for Waiver – 657 I.A.C. 6.16 Records – Hy-Vee Drugstore # 7057, Mount Pleasant.

   Motion by Susan Frey, seconded by James Miller, to deny the request for waiver due to the storage facility not meeting board criteria. Motion approved unanimously.

9. Request for Internship Credit – Rania Abdelwahed, Cedar Rapids.

   Motion by Susan Frey, seconded by LaDonna Gratias, to approve the request granting credit for 1,200 hours of internship in lieu of life experience requiring Ms. Abdelwahed to complete an additional 300 hours of internship. Motion approved unanimously.

Rules/Legislation

1. Bill to Help Pharmacists Provide Medical Services to Older Americans in Under-served Areas – The Honorable Charles Grassley Press Release.

   Informational item.

2. Iowa Board of Medicine Seeks Legislation to Expedite Multiple-State Licensure.

   Informational item.

3. Comments on Pharmacy Compounding Rules – Ned Milenkovich, Much Shelist, P.C., Illinois.

   Ned Milenkovich and Chad Baker addressed the Board regarding the proposed changes to Chapter 20, "Pharmacy Compounding Practices," which would define compounding as including the flavoring of prescriptions, believing the proposed change would impact patient care and supports removing flavoring from the definition of compounding.

4. Adopted and Filed: Amends Chapter 3, "Pharmacy Technicians," Chapter 6, "General Pharmacy Practice," and Chapter 7, "Hospital Pharmacy Practice"; to rescind Chapter 13, "Sterile Compounding Practices"; and to rescind Chapter 20, "Pharmacy Compounding Practices," and adopt a new Chapter 20, "Compounding Practices," Iowa Administrative Code.

   Motion by James Miller, seconded by Edward McKenna, to terminate current Notice of Intended Action based on comments and suggestions from the public and file a new proposed Notice of Intended Action. Motion approved unanimously. Copies are attached as Addendum A (Notice of Termination) and Addendum B (Notice of Intended Action.)

5. Adopted and Filed: Amends Chapter 8, "Universal Practice Standards."

   Motion by Susan Frey, seconded by LaDonna Gratias, to approve for Adoption and Filing. Motion approved unanimously. A copy is attached as Addendum C.

Closed Session

At 2:22 p.m., motion by Susan Frey, seconded by LaDonna Gratias, the Board voted unanimously by roll call vote to move into closed session pursuant to Iowa Code Section § 21.5(1)(a) to review records required by state or federal law to be kept confidential.

At 2:30 p.m., while still in closed session, Edward McKenna moved that the Board go into open session, seconded by James Miller. Motion approved unanimously.

In open session, the following action was taken:

Motion by Susan Frey, seconded by James Miller, to grant request modifying October 10, 2013, Board Order by extending the time requirement for an additional 18 months starting March 9, 2015, for Janet Rote McEvoy. Motion approved unanimously.

Rules/Legislation

1. Adopted and Filed: Amends Chapter 36, "Discipline."

   Motion by Susan Frey, seconded by LaDonna Gratias, to approve for Adoption and Filing as amended. Motion passed by roll call vote. James Miller and Edward McKenna voted nay. A copy is attached as Addendum D.

2. Adopted and Filed: Amends Chapter 6, "General Pharmacy Practice," Chapter 7, "Hospital Pharmacy Practice," Chapter 8, "Universal Practice Standards," Chapter 9, "Automated Medication Distribution Systems and Telepharmacy Services," Chapter 15, "Correctional Pharmacy Practice," Chapter 18, "Centralized Prescription Filling and Processing," Chapter 19, "Nonresident Pharmacy Practice, Chapter 22, "Unit Dose, Alternative Packaging, and Emergency Boxes," and Chapter 23, "Long Term Care Pharmacy Practice."

   Motion by Susan Frey, seconded by James Miller, to approve for Adoption and Filing. Motion approved unanimously. A copy is attached as Addendum E.

3. A Bill For an Act Creating the Medical Cannabis Act and Providing for Civil and Criminal Penalties and Fees.

   Informational item.

Reports

Executive Director's Report.

1. Edward McKenna has been reappointed to a second term on the Board. Mr. McKenna's new term will be May 1, 2015, to April 30, 2018.
2. Jason Hansel of Bettendorf has been appointed to the Board effective May 1, 2015. Mr. Hansel will replace Susan Frey when Ms. Frey retires from the Board on April 30, 2015.
3. 50-Year Pharmacist List – Iowa Pharmacists Licensed in 1965.

   A list of 26 pharmacists was provided for review.

4. Financial.

   FY15 as of 02/28/15 (66.67% of FY completed)

Revenue Anticipated:	$ 3,833,933	
Revenue Y-T-D	$ 2,945,063	(77%)
Carry-over from FY14	$ 1,504,637	

FY15 Fee Receipts	$ 1,440,426	
Budget Allocation	$ 3,833,933	
Obligations Y-T-D	$ 1,996,524	(52%)
Cash Fund Balance	$ 1,445,069	
$ 850,000 reserved for database		
Fines/Civil Penalties Collected	$ 43,250	

5. Meetings and Travel.
   A. The Rules Committee has a meeting with a committee from the Iowa Board of Podiatry on March 10, 2015, to continue discussion relating to the sale of diabetic shoes and related items by pharmacies.
   B. The Iowa Pharmacy Recovery Network (IPRN) will hold its Spring Meeting on April 20, 2015, from 3:00 to 5:00 pm in Iowa City.
   C. The April Board Meeting is scheduled for April 28-29, 2015, at the Board office in Des Moines.
   D. A retirement dinner for Susan Frey will be held on Tuesday evening, April 28, 2015, in Des Moines.
   E. The 111th Annual Meeting of the National Association of Boards of Pharmacy (NABP) will be held in New Orleans, Louisiana on May 16-19, 2015.
   F. The Iowa Pharmacy Association (IPA) Annual Meeting will be held in Coralville on June 11-13, 2015.
   G. The June Board Meeting is scheduled for June 23-24, 2015, at the Board office in Des Moines.
   H. The 78th Annual Meeting of District Five NABP/AACP will be held in Fargo, North Dakota on August 6-8, 2015.
   I. The September Board Meeting is scheduled for September 1-2, 2015, at the Board office in Des Moines.
6. Iowa Pharmacist Recovery Network (IPRN) Report.

   The IPRN Report was submitted for review.
7. NuCara Pharmacy #29, License No. 1450, Telepharmacy Quarterly Report.

   NuCara Pharmacy submitted their Telepharmacy Quarterly Report for review.
8. Allen Hospital – Tech-Check-Tech Program Quarterly Report.

   Allen Hospital submitted their Tech-Check-Tech Quarterly Report for review.
9. Baum Harmon Mercy Hospital – Quarterly Waiver Report.

   Baum Harmon Mercy Hospital submitted their Quarterly Waiver Report for review.
10. Hy-Vee Pharmacy Fulfillment Center's 2014 Fourth Quarterly Error Report.

Hy-Vee Pharmacy Fulfillment Center submitted their Fourth Quarterly Error Report for review.

11. Phase One – Third Quarterly Report- New Practice Model – Megan Myers, Iowa Pharmacy Association.

    Megan Myers provided the third Quarterly New Practice Model Report.

12. Job Licenses in Spotlight as Uber Rises – New York Times (January 27, 2015 – online.)

    Informational item.

13. Job Licensing Laws Need Thorough Review – Des Moines Register (February 20, 2015 – online.)

    Informational item.

14. Iowa Prescription Monitoring Program (PMP) Conference – February 10, 2015.

    A list of findings and recommendations from PMP conference attendees was provided for review. Changes to the PMP may be accomplished in three ways: (1) internal or administrative program changes; (2) rule revision to 657 Iowa Administrative Code Chapter 37; or (3) legislative changes to Iowa Code §124.551. A majority of attendees supported providing access to the PMP via "auto registration" for prescribers and pharmacists administratively by the Board and encouraged the Board to explore the possibility of providing that service. Discussion was held regarding auto registration; adding personnel to the board staff for the purpose of providing more services to providers and pharmacists; and the future funding needs of the PMP. Recommendations will be referred to the Rules Committee for further discussion. The Rules Committee will plan to meet with the PMP Advisory Council to discuss the recommendations. The Board will continue with the current system they are using and send a letter to registrants reminding them the PMP is available as an important clinical tool.

15. The Expanding Role of Pharmacists in a Transformed Health Care System – National Governors Association Center for Best Practices.

    Board staff and Anthony Pudlo will meet with the Health Department to have dialogue about collaborative practice between pharmacists and non-physician prescribing practitioners.

16. State Board of Pharmacy Update.

    The Pharmacy Technician Certification Board (PTCB) administers an accredited certification program for pharmacy technicians. This year marks the twentieth anniversary of the founding of PTCB.

Medication Safety and Adverse Drug Event Prevention Presentation – Katy Brown, Telligen

Katie Brown provided a presentation on Medication Safety and Adverse Drug Event Prevention. Telligen is a Quality Improvement Organization (QIO) for the states of Iowa, Colorado, and Illinois, contracted by the Centers for Medicare and Medicaid Services. QIO activities include direct technical assistance to physicians, clinical pharmacists, hospitals, nursing homes, and home health agencies to improve the outcomes of health care services. QIO's mission is better care for individuals; better health for populations; and lower cost through improvement (affordable care.)

Licensure/Registration

1. Premier Kids Care Inc., Hollywood, Florida, and Premier Kids Care Inc., Monroe, Georgia.

   Motion by James Miller, seconded by Susan Frey, to approve the applications for Nonresident Iowa Pharmacy License. Motion approved unanimously.

2. Ashley Steele, West Burlington.

   Motion by James Miller, seconded by Edward McKenna, to approve the Application for Pharmacy Technician Trainee Registration without restrictions. Motion approved unanimously.

Closed Session

At 4:40 p.m., motion by Susan Frey, seconded by Edward McKenna, the Board voted unanimously by roll call vote to move into closed session pursuant to Iowa Code Section § 21.5(1)(a) to review records required by state or federal law to be kept confidential.

At 5:02 p.m., while still in closed session, James Miller moved that the Board go into open session, seconded by Susan Frey. Motion approved unanimously.

In open session, the following actions were taken:

Motion by Susan Frey, seconded by Sharon Meyer, to approve request for license transfer for Benjamin Grote. Motion approved unanimously.

Motion by LaDonna Gratias, seconded by James Miller, to approve request to extend validation of internship hours until May 31, 2015, for Veronica Montefusco. Motion approved unanimously.

Motion by James Miller, seconded by LaDonna Gratias, to approve request to extend validation of internship hours until May 31, 2015, for Sharon Rosal. Motion approved unanimously.

Motion by James Miller, seconded by Susan Frey, to approve request to extend validation of internship hours and to retake the NAPLEX and MPJE examinations with a deadline of September 9, 2015, for B.M. Motion approved unanimously.

Complaints Against Non-Licensees

2015-05 Aetna Inc.

Motion by Susan Frey, seconded by Ed McKenna, to close with a referral to the Insurance Commissioner. Motion approved unanimously.

Executive Director's Retirement

Lloyd Jessen announced his retirement from the Executive Director's position at the Iowa Board of Pharmacy. Meghan Gavin provided the Board with information on how to proceed with filling the position. The Board may hire a National Search Firm or select a three board member committee to serve as the Board's Search Committee. The Board discussed the options of hiring a National Search Firm or selecting a three board member committee to serve as the Board's Search Committee to fill the Executive Director's position. Discussion was held regarding salary, position description, timeline, Request for Proposal, posting the position, transition, and an

Interim Director. Edward Maier, Sharon Meyer, and James Miller will serve on the Board's Search Committee. The Search Committee and board staff will meet with a representative from the Department of Administrative Services on Wednesday afternoon, March 11, 2015, to discuss the Board's options for hiring a new Executive Director.

Closed Session

At 6:15 p.m., motion by Susan Frey, seconded by LaDonna Gratias, the Board voted unanimously by roll call vote to move into closed session for the following reasons:

For review of Closed Session Minutes pursuant to Iowa Code § 21.5(1)(a) because closed session minutes are confidential under Iowa Code § 21.5(4).

For Follow-Up Investigative Information pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigation or proceedings and § 21.5(1)(a) because complaints and investigative reports are confidential under Iowa Code § 272C.6(4).

For Settlement Agreement and Final Orders pursuant to Iowa Code § 21.5(1)(f) to discuss the decision to be rendered in a contested case.

For Combined Statement of Charges, Settlement Agreement, and Final Orders pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigations or proceedings and § 21.5(1)(f) to discuss the decision to be rendered in a contested case.

For Notice of Hearings and Statement of Charges pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigations or proceedings.

For Orders to Show Cause pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigations or proceedings.

For Complaints and Investigative Reports pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigations or proceedings and § 21.5(1)(a) because complaints and investigative reports are confidential under Iowa Code § 272C.6(4).

At 7:58 p.m., while still in closed session, Edward McKenna moved that the Board go into open session, seconded by James Miller. Motion approved unanimously.

At 8:00 p.m., the Board went to recess.

The meeting reconvened in open session on Tuesday, March 10, 2015, at 9:00 a.m.

TUESDAY, MARCH 10, 2015

MEMBERS PRESENT
Edward L. Maier, Chairperson
James Miller, Vice-Chair
Susan M. Frey
LaDonna Gratias
Edward J. McKenna
Sharon K. Meyer

STAFF PRESENT
Lloyd Jessen, Executive Director
Laura Steffensmeier, Esq., Assistant
Therese Witkowski, Executive Officer
Debbie Jorgenson, Administrative Assistant
Becky Hall, Secretary
Andrew Funk, Compliance Officer
Curt Gerhold, Compliance Officer

MEMBERS ABSENT
Judith M. Trumpy

Mark Mather Compliance Officer
Sue Mears, Compliance Officer
Jean Rhodes, Compliance Officer
Jennifer Tiffany, Compliance Officer
Jennifer O'Toole, Compliance Officer
Jim Wolfe, Compliance Officer

At 9:10 a.m., Edward Maier, Chairperson, called the meeting of the Iowa Board of Pharmacy to order.

Administrative Hearing

Case 2013-167 John Doe II

At 9:10 a.m., Margaret LaMarche, Administrative Law Judge, Department of Inspections and Appeals opened the record. Assistant Attorney General Laura Steffensmeier represented the State. Mr. Doe appeared without counsel. The hearing was conducted in the presence of the Board. The hearing was closed to the public.

The Board heard testimony of witnesses and examined exhibits.

At 9:52 a.m., the record was closed.

At 9:53 a.m., motion by Susan Frey, seconded by LaDonna Gratias, the Board voted unanimously by roll call vote to move into closed session in accordance with Iowa Code Section 21.5(1)(f) to discuss the decision to be rendered in a contested case.

At 10:05 a.m., James Miller moved that the Board go into open session, seconded by LaDonna Gratias. Motion approved unanimously.

Motion by Susan Frey, seconded by LaDonna Gratias, to direct Administrative Law Judge Margaret LaMarche to draft the Order consistent with the Board's deliberations for case 2014-167 John Doe II. Motion approve unanimously.

Closed Session

At 10:20 a.m., motion by Susan Frey, seconded by LaDonna Gratias, the Board voted unanimously by roll call vote to move into closed session for Complaints and Investigative Reports pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigations or proceedings and § 21.5(1)(a) because complaints and investigative reports are confidential under Iowa Code § 272C.6(4).

At 11:02 a.m., Edward McKenna moved that the Board go into open session, seconded by Sharon Meyer. Motion approved unanimously.

In open session, the following actions were taken:

1. Settlement Agreement and Final Order.

   Motion by James Miller, seconded by Edward McKenna, to approve the Settlement Agreement and Final Order in the following cases. Motion approved unanimously.

   A. Daniel Ashton, Jr., Pharmacist License No. 13182 of Effingham, Illinois. A copy of the Settlement Agreement and Final Order is attached as Addendum F.
   B. Olufemi Omodara, Pharmacist License No. 17817 of Goodyear, Arizona. A copy of the

Settlement Agreement and Final Order is attached as Addendum G.

C. Mary McMillian, Pharmacist License No. 19740 of Elgin. A copy of the Settlement Agreement and Final Order is attached as Addendum H.
D. Rashid LTC Pharmacy, Pharmacy License No. 1129 of Fort Madison. A copy of the Settlement Agreement and Final Order is attached as Addendum I.
E. David Tracey King, Pharmacist License No. 19586 of Burlington. A copy of the Settlement Agreement and Final Order is attached as Addendum J.
F. Gwen Rugger, Pharmacy Support Person Registration No. 2675 of Coralville. A copy of the Settlement and Final Order is attached as Addendum K.
G. Brady Rolfes, Pharmacy Technician Registration No. 18729 of Iowa City. A copy of the Settlement Agreement and Final Order is attached as Addendum L.
H. Amanda Knouse, Pharmacy Technician Registration No. 20304 of Des Moines. A copy of the Settlement Agreement and Final Order is attached as Addendum M.
I. Stacy Jahlas, Pharmacy Technician Registration No. 14928 of Belle Plaine. A copy of The Settlement Agreement and Final Order is attached as Addendum N.
J. John E. Guck, Pharmacist License No. 18556 of Libertyville. A copy of the Settlement Agreement and Final Order is attached as Addendum O.
K. Stephen Scott, Pharmacist License No. 18067 of Tipton. A copy of the Settlement Agreement and Final Order is attached as Addendum P.

2. Combined Statement of Charges, Settlement Agreement, and Final Order.

Motion by Susan Frey, seconded by James Miller, to approve the Combined Statement of Charges Settlement Agreement and Final Order in the case of Village Fertility Pharmacy, Nonresident Pharmacy License No. 4230 of Waltham, Massachusetts. Motion approved unanimously. A copy of the Combined Statement of Charges, Settlement Agreement, and Final Order is attached as Addendum Q.

3. Combined Notice of Hearing and Statement of Charges.

Motion by James Miller, seconded by LaDonna Gratias, to approve Notice of Hearing and Statement of Charges in the following cases. Motion approved unanimously.

A. Weatherford Compounding Pharmacy, Nonresident Pharmacy License No. 4075 of Weatherford, Texas. A copy of the Notice of Hearing and Statement of Charges is attached as Addendum R.
B. Donald Versluys, Pharmacist License No. 15600 of Pella. A copy of the Notice of Hearing and Statement of Charges is attached as Addendum S.
C. Marquaisha Haygood, Pharmacy Technician Registration No. 19605 of Des Moines. A copy of the Notice of Hearing and Statement of Charges is attached as Addendum T.
D. Sherri Marshall, Pharmacy Technician Registration No. 18129 of Des Moines. A copy of the Notice of Hearing and Statement of Charges is attached as Addendum U.
E. Mark Frahm, Pharmacist License No. 15271 of Ottumwa. A copy of the Notice of Hearing and Statement of Charges is attached as Addendum V.
F. Mary Mosher, Pharmacist License No. 20661 of Cedar Rapids. A copy of the Notice of Hearing and Statement of Charges is attached as Addendum W.

4. Close With No Action.

Motion by James Miller, seconded by Edward McKenna, to close with no further action the investigative file in complaint numbers: 2013-3579, 2013-4048, 2014-158, 2014-173, 2014-200, 2015-28, 2015-30, 2015-33, 2014-211, 2014-209, 2014-210, 2015-1, 2015-16, 2014-188, 2014-198, 2015-7, 2014-159, 2014-207, 2015-11, 2014-124, 2014-180, 2015-9, 2015-18, 2015-21, 2014-203, 2014-212, 2015-2, 2015-3, and 2015-4. Motion approved unanimously.

5. Letter of Education.

   Motion by Susan Frey, seconded by Edward McKenna, to issue a Letter of Education to the pharmacy in 2014-204; pharmacist in 2014-119; and pharmacist in charge in 2014-2013. Motion approved unanimously.

6. Administrative Warning.

   Motion by James Miller, seconded by Sharon Meyer, to issue an Administrative Warning to the pharmacist in 2015-29; pharmacy in 2014-214; and Controlled Substance Registrant in 2015-8. Motion approved unanimously.

7. Draft Statement of Charges.

   Motion by James Miller, seconded by Edward McKenna, to draft Statement of Charges against the pharmacy in 2015-31; pharmacy in 2015-34; pharmacy and pharmacist in charge in 2015-10; technician in 2014-205; and technician in 2014-208. Motion approved unanimously.

8. Intent to Deny.

   Motion by Edward McKenna, seconded by Ladonna Gratias, to issue Preliminary Notice of Intent to Deny License in case 2015-34. Motion approved unanimously. A copy of the Preliminary Notice of Intent to Deny License is attached as Addendum X.

9. Closed Minutes.

   Motion by Susan Frey, seconded by James Miller, to approve the Closed Minutes of the February 12, 2015, teleconference meeting. Motion approved unanimously.

Assistant Attorney General Laura Steffensmeier left the room.

Closed Session

At 11:12 a.m., motion by Susan Frey, seconded by Sharon Meyer, the Board voted unanimously by roll call vote to move into closed session pursuant to Iowa Code § 21.5(1)(a) because ongoing investigations are confidential under Iowa Code § 272C.6(4).

At 11:14 a.m., James Miller moved that the Board go into open session, seconded by Edward McKenna. Motion approved unanimously.

In open session, the following action was taken:

Motion by James Miller, seconded by LaDonna Gratias, to approve Order Denying Motion to Quash Subpoena for Walgreens Pharmacy 05721, Pharmacy License No. 355. Motion approved unanimously. A copy of the Order Denying Motion to Quash Subpoena is attached as Addendum Y.

Closed Session

At 11:15 a.m., motion by Susan Frey, seconded by James Miller, the Board voted unanimously by roll call vote to move into closed session pursuant to Iowa Code § 21.5(1)(f) to discuss the decision to be rendered in a contested case.

At 11:23 a.m., James Miller moved that the Board go into open session, seconded by LaDonna Gratias. Motion approved unanimously.

In open session, the following action was taken:

Motion by James Miller, seconded by Susan Frey, to approve the Findings of Fact, Conclusions of Law, Decision and Order for Robert Osborn, Pharmacist License No. 19079 of Rock Island, Illinois. A copy of the Findings of Fact, Conclusions of Law, Decision and Order is attached as Addendum Z.

Legislation – Senate File 453

The Board reviewed Senate File 453 a bill for an Act relating to the Board of Pharmacy, including nonresident pharmacy and outsourcing facility licensure, pharmacist supervision of pharmacy technicians, alternate board members, and enforcement authority has passed the Committee and is now in the Senate.

Administrative Hearing

Matthew Biggerstaff, D.O., CSA Registration No. 1306092 of Ankeny.

At 1:00 p.m. Margaret LaMarche, Administrative Law Judge, Department of Inspections and Appeals opened the record. Assistant Attorney General Laura Steffensmeier represented the State. Mr. Biggerstaff was represented by Michael Sellers. The hearing was conducted in the presence of the Board. The hearing was closed to the public.

At 1:10 p.m., the record was closed.

At 1:11 p.m., motion by Susan Frey, seconded by Edward McKenna, the Board voted unanimously by roll call vote to move into closed session in accordance with Iowa Code Section 21.5(1)(f) to discuss the decision to be rendered in a contested case.

At 2:00 p.m., Susan Frey moved that the Board go into open session, seconded by Edward McKenna. Motion approved unanimously.

Motion by Susan Frey, seconded by Sharon Meyer, to deny Request for Stay and direct Administrative Law Judge Margaret LaMarche to draft the Order consistent with the Board's deliberations for the Chair's signature in the Matthew Biggerstaff case. Motion passed by roll call vote. James Miller and Edward McKenna voted nay. A copy of Order Denying Motion for Stay is attached as Addendum AA.

Motion to Dismiss - Ameridose, LLC., License Nos. 3828, 3829, 6859, 6569

Motion by James Miller, seconded by Susan Frey to dismiss. Motion approved unanimously. A copy of the Order is attached as Addendum BB.

At 3:00 p.m., the Board went to recess.

The meeting reconvened in open session on Wednesday, March 11, 2015, at 9:00 a.m.

WEDNESDAY, MARCH 11, 2015

MEMBERS PRESENT
Edward L. Maier, Chairperson
James Miller, Vice-Chair
LaDonna Gratias
Edward J. McKenna
Sharon K. Meyer

STAFF PRESENT
Meghan Gavin, Esq., Assistant Attorney General
Laura Steffensmeier, Esq., Assistant Attorney General
Becky Hall, Secretary

MEMBERS ABSENT
Susan M. Frey
Judith M. Trumpy

At 9:00 a.m., Edward Maier, Chairperson, called the meeting of the Iowa Board of Pharmacy to order.

Administrative Hearing

Bauder Pharmacy, Inc., Pharmacy License No. 222, Des Moines.

At 9:00 a.m., Margaret LaMarche, Administrative Law Judge, Department of Inspections and Appeals opened the record. Assistant Attorney General Meghan Gavin represented the State. Bauder Pharmacy was represented by Guy Cook and Adam Zenor. The hearing was conducted in the presence of the Board. The hearing was open to the public.

The Board heard testimony of witnesses and examined exhibits.

At 11:24 a.m., the record was closed.

At 11:25 a.m., motion by LaDonna Gratias, seconded by Edward McKenna, the Board voted unanimously by roll call vote to move into closed session in accordance with Iowa Code Section 21.5(1)(f) to discuss the decision to be rendered in a contested case.

At 11:55 a.m., Edward McKenna moved that the Board go into open session, seconded by James Miller. Motion approved unanimously.

Motion by James Miller, seconded by Edward McKenna, to direct Administrative Law Judge Margaret LaMarche to draft the Order consistent with the Board's deliberations in the Bauder case. Motion approved unanimously.

Motion by James Miller, seconded by Sharon Meyer, to adjourn at 11:58 a.m. on March 11, 2015.

Becky Hall

Becky Hall
Recording Secretary

Therese Witkowski
Executive Officer

Edward L. Maier
Board Chair

APPROVED THIS 28th DAY OF April, 2015.

ADDENDUM A

NOTICE OF TERMINATION

CHAPTER 3, "PHARMACY TECHNICIANS,"
CHAPTER 6, "GENERAL PHARMACY PRACTICE,"
CHAPTER 7, "HOSPITAL PHARMACY PRACTICE,"
RESCIND CHAPTER 13, "STERILE COMPOUNDING PRACTICES,"
RESCIND CHAPTER 20, "PHARMACY COMPOUNDING PRACTICES," AND ADOPT NEW
CHAPTER 20, "COMPOUNDING PRACTICES

MARCH 9, 2015

PHARMACY BOARD [657]

Notice of Termination

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 10, 2014, as ARC 1791C, proposing to amend Chapter 3, "Pharmacy Technicians," Chapter 6, "General Pharmacy Practice," and Chapter 7, "Hospital Pharmacy Practice"; to rescind Chapter 13, "Sterile Compounding Practices"; and to rescind Chapter 20, "Pharmacy Compounding Practices," and adopt a new Chapter 20, "Compounding Practices," Iowa Administrative Code.

The Notice proposed to combine the requirements currently in Chapters 13 and 20 for the compounding of drug products into a single chapter, Chapter 20, which would fully adopt national minimum practice standards for compounding found in General Chapters 795 and 797 of the United States Pharmacopeia (USP). The amendments would have also incorporated new federal regulations as established in the Drug Quality and Security Act of 2013, also known as the Compounding Quality Act, with respect to compounding and outsourcing facilities. Current Chapter 13 would have been rescinded and reserved.

The Board is terminating the rule making commenced in ARC 1791C based on comments and objections received from members of the public, health care professional organizations, and the pharmaceutical industry. The majority of the comments received objected to including the addition of flavoring to a drug product as a function constituting compounding. Notice of Intended Action, published herein as ARC [insert ARC #], incorporates amendments and clarifications made to the originally proposed amendments as a result of the comments received.

ADDENDUM B

NOTICE OF INTENDED ACTION

CHAPTER 3, "PHARMACY TECHNICIANS," CHAPTER 6, "GENERAL PHARMACY PRACTICE," CHAPTER 7, "HOSPITAL PHARMACY PRACTICE," RESCIND CHAPTER 13, "STERILE COMPOUNDING PRACTICES," RESCIND CHAPTER 20, "PHARMACY COMPOUNDING PRACTICES," AND ADOPT NEW CHAPTER 20, "COMPOUNDING PRACTICES

MARCH 9, 2015

PHARMACY BOARD [657]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 3, "Pharmacy Technicians," Chapter 6, "General Pharmacy Practice," and Chapter 7, "Hospital Pharmacy Practice"; to rescind Chapter 13, "Sterile Compounding Practices"; and to rescind Chapter 20, "Pharmacy Compounding Practices," and adopt a new Chapter 20, "Compounding Practices," Iowa Administrative Code.

The amendments were approved at the March 9, 2015, regular meeting of the Board of Pharmacy.

The proposed amendments are intended to combine the requirements currently in Chapters 13 and 20 for the compounding of drug products into a single chapter, Chapter 20, that fully adopts national minimum practice standards for compounding found in General Chapters 795 and 797 of the United States Pharmacopeia (USP). The proposed amendments also incorporate new federal regulations as established in the Drug Quality and Security Act of 2013, also known as the Compounding Quality Act, with respect to compounding and outsourcing facilities. Current Chapter 13 will be rescinded and reserved.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on May 15, 2015. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

After analysis and review of this rule making, the Board has been unable to determine any impact on jobs.

These amendments are intended to implement Iowa Code sections 124.302, 124.303, 124.306, 124.308, 124.501, 126.9, 126.10, 126.18, 155A.2, 155A.13, 155A.28, 155A.33, and 155A.35.

The following amendments are proposed.

ITEM 1. Amend rule 657—3.22(155A) as follows:

657—3.22(155A) Technical functions. At the discretion of the supervising pharmacist, the following technical functions, in addition to any of the functions authorized for a pharmacy support person pursuant to 657—Chapter 5, may be delegated to a pharmacy technician as specified in the following subrules.

3.22(1) *Certified pharmacy technician.* Under the supervision of a pharmacist, a certified pharmacy technician may perform technical functions delegated by the supervising pharmacist including, but not limited to, the following:

a. to *h.* No change.

i. Perform drug compounding processes ~~for nonsterile compounding~~ as provided in 657—Chapter 20.

~~*j.* Perform drug compounding processes for sterile compounding as provided in 657—Chapter 13.~~

~~*k.*~~ *j.* As provided in rule 657—3.24(155A), accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or by the prescriber's agent.

3.22(2) *Pharmacy technician trainee.* Under the supervision of a pharmacist, a pharmacy technician trainee may perform only the following technical functions delegated by the supervising pharmacist:

a. to *g.* No change.

h. Under the supervision of a pharmacist who provides training and evaluates and monitors trainee competence in the compounding processes, perform drug compounding processes ~~for nonsterile compounding~~ as provided in 657—Chapter 20.

~~*i.* Under the supervision of a pharmacist who provides training and evaluates and monitors trainees, and contingent on successful completion of appropriate media fill testing processes, perform drug compounding processes for sterile compounding as provided in 657—Chapter 13.~~

ITEM 2. Amend subrule 6.10(2) as follows:

6.10(2) *Exceptions.* The requirements of subrule 6.10(1) do not apply to unit dose dispensing systems, 657—22.1(155A)~~; sterile products, 657—Chapter 13;~~, and patient med paks, 657—22.5(126,155A).

ITEM 3. Amend paragraph **7.8(1)"b"** as follows:

b. Pharmacy personnel shall, except as specified in policies and procedures, prepare all sterile products in conformance with 657—Chapter ~~13~~ 20.

ITEM 4. Rescind and reserve **657—Chapter 13**.

ITEM 5. Rescind 657—Chapter 20 and adopt the following **new** chapter in lieu thereof:

CHAPTER 20

COMPOUNDING PRACTICES

657—20.1(124,126,155A) Purpose and scope. The requirements of this chapter apply to compounded preparations that are dispensed, distributed, or administered to an ultimate user in the state of Iowa, regardless of the location of the pharmacy or outsourcing facility where the preparation was compounded. This chapter applies to compounded preparations intended for humans and animals. In addition to the requirements in this chapter, all pharmacies and outsourcing facilities engaged in compounding shall comply with all applicable federal laws and regulations governing compounding and all applicable state laws, rules and regulations governing the practice of pharmacy. In the event the requirements in this chapter directly conflict with any federal law or regulation, the federal law or regulation shall supersede the requirements in this chapter. The requirements of 657—Chapter 16 apply to the compounding of radiopharmaceuticals.

657—20.2(124,126,155A) Definitions. For purposes of this chapter, the following definitions

apply:

"Anticipatory compounding" means the compounding of preparations in advance of receiving a patient-specific prescription.

"Batch preparation compounding" means anticipatory compounding, compounding preparations intended for multiple disbursements or compounding preparations in a multiple-dose container for administration to more than one patient.

"Beyond-use date" means the date after which a compounded preparation should not be used, determined from the date that the preparation is compounded.

"Bulk drug substance" means any substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug. The term does not include intermediates used in the synthesis of such substances.

"Compounding" means the combining, mixing, diluting, pooling, flavoring, or otherwise altering of a drug or bulk drug substance to create a drug. Compounding includes the preparation of drugs or devices in which all bulk drug substances and components are nonprescription products. Compounding does not include the use of a flavoring agent to flavor a drug, nor does it include mixing or reconstituting a drug according to the product's manufacturer label.

"FDA" means the Food and Drug Administration of the U.S. Department of Health and Human Services.

"Flavoring agent" means a therapeutically inert, nonallergenic substance consisting of inactive ingredients that is added to a drug to improve the drug's taste and palatability.

"Outsourcing facility" means a facility that is located at a single geographic location and has registered with the FDA in accordance with Section 503B of the Federal Food, Drug, and Cosmetic Act as an outsourcing facility.

"USP" means United States Pharmacopeia.

657—20.3(124,126,155A) Nonsterile compounding. Iowa-licensed pharmacies that compound nonsterile preparations for ultimate users in the state of Iowa shall follow the current revision of USP Chapter 795 standards. Additional USP chapters incorporated by reference into USP Chapter 795 shall also be followed.

657—20.4(124,126,155A) Sterile compounding. Iowa-licensed pharmacies that compound sterile preparations for ultimate users in the state of Iowa shall follow the current revision of USP Chapter 797 standards. Additional USP chapters incorporated by reference into USP Chapter 797 shall also be followed.

657—20.5(126,155A) Delayed compliance. A pharmacy that is unable to meet full compliance with these rules and with USP Chapter 795 or USP Chapter 797 by [six months following the effective date of these rules] shall, prior to that date, request and obtain from the board a waiver of the specific requirement or requirements that the pharmacy is unable to meet. A pharmacy that cannot meet full compliance with these rules, including applicable USP chapters, and that has not obtained from the board a waiver of the specific requirement or requirements shall not engage in compounding until the pharmacy is in full compliance with all requirements or the board has approved a waiver of the specific requirement or requirements.

657—20.6(126,155A) Compounding standards for outsourcing facilities. An FDA-registered outsourcing facility shall be properly licensed in Iowa and shall follow the FDA's current good manufacturing practices (cGMPs) for outsourcing facilities when compounding preparations for hospitals, practitioners, or patients in the state of Iowa.

657—20.7 and **20.8** Reserved.

657—20.9(124,155A) Prescriber/patient/pharmacist relationship. All compounded preparations shall be dispensed pursuant to a patient-specific prescription unless the compounded preparation is distributed pursuant to rule 657— 20.15(124,126,155A) or 657—20.16(124,126,155A). A

prescription for a compounded preparation shall be authorized by the prescriber for a specific patient. Prescriptions for all compounded preparations shall be maintained on file at the dispensing pharmacy.

657—20.10(126,155A) Anticipatory compounding.

20.10(1) *Outsourcing facilities.* Outsourcing facilities are authorized to engage in anticipatory compounding. Outsourcing facilities are not required to obtain patient-specific prescriptions in order to distribute compounded preparations.

20.10(2) *Pharmacies.* Pharmacies may engage in anticipatory compounding only if the anticipatory compounding is based on a history of receiving valid prescriptions generated solely within an established prescriber/patient/pharmacist relationship, so long as each compounded preparation is dispensed pursuant to a patient-specific prescription.

657—20.11(126,155A) Prohibition on resale of compounded preparations. The sale of compounded preparations to other pharmacies, prescribers, or facilities, except as explicitly authorized by this chapter, is considered manufacturing.

657—20.12(126,155A) Compounding copies of an approved drug. A pharmacy or outsourcing facility may only compound preparations that are essentially copies of approved drugs if the compounded preparation is changed to produce for an individual patient a clinically significant difference to meet a medical need as determined and authorized by the prescriber. A pharmacy or outsourcing facility may compound a preparation that is essentially a copy of an approved drug if the approved drug is identified as currently in shortage on the FDA drug shortages database published on the FDA Web site http://www.accessdata.fda.gov/scripts/drugshortages/default.cfm.

657—20.13(124,126,155A) Use of flavoring agents. A flavoring agent may be added to a drug at the discretion of the pharmacist or upon the request of the prescriber, the patient, or the patient's agent. The pharmacist may add flavoring agents not to exceed five percent of the total volume of

the drug to which the flavoring agents are added. The pharmacist shall label the flavored drug with a beyond-use date no greater than 14 days past the date the flavoring agent is added if the drug is required to be stored in a refrigerator. A different beyond-use date or alternate storage conditions may be indicated if such variation is supported by peer-reviewed medical literature. The pharmacist shall electronically or manually document that a flavoring agent was added to a drug and such documentation shall be made available for inspection and copying upon the request of the board or an agent of the board.

657—20.14 Reserved.

657—20.15(124,126,155A) Compounding for office use.

20.15(1) *Human compounded preparations.* Only an FDA-registered outsourcing facility properly licensed in Iowa may distribute to a practitioner for office use human compounded preparations without a patient-specific prescription.

20.15(2) *Veterinary compounded preparations.* Veterinary compounded preparations may be sold to a practitioner for office use if compounded by an Iowa-licensed pharmacy and sold directly to the practitioner by the compounding pharmacy.

20.15(3) *Office administration.* Compounded preparations distributed for office use pursuant to subrule 20.15(1) or 20.15(2) and in accordance with the labeling requirements of subrule 20.15(4) do not require a patient-specific prescription but do require that the compounded preparation be administered to an individual patient in the practitioner's office. Compounded preparations distributed for office use pursuant to this rule shall not be further distributed to other practitioners or to patients for administration outside of the office.

20.15(4) *Labeling.* Compounded preparations for office use, in addition to the labeling requirements specified in rule 657—20.19(124,126,155A), shall include on the prescription label the practitioner's name in place of the patient's name. The label shall state "For Office Use Only—Not for Resale." If the sterility or integrity of the compounded preparation cannot be maintained

after the initial opening of the container, the label shall state "Single-Dose Only."

657—20.16(124,126,155A) Compounding for hospital use. Compounded preparations distributed or dispensed to a hospital or hospital pharmacy pursuant to this rule shall be administered to an individual patient in the hospital.

20.16(1) *By an FDA-registered outsourcing facility.* Only an FDA-registered outsourcing facility properly licensed in Iowa may distribute human compounded preparations to a hospital or hospital pharmacy in the absence of a patient-specific prescription. The compounded preparation shall be labeled in compliance with subrule 20.19(3).

20.16(2) *By a pharmacy that is not an FDA-registered outsourcing facility.* Human compounded preparations that are not compounded at an FDA-registered outsourcing facility may be dispensed to a hospital or hospital pharmacy by an Iowa-licensed pharmacy pursuant to a prescriber's authorization for administration to a specific patient. The compounded preparation shall be labeled in compliance with subrule 20.19(2).

657—20.17 and **20.18** Reserved.

657—20.19(124,126,155A) Labeling. The label, or attached auxiliary labeling if necessary, affixed to the container of any compounded preparation dispensed or distributed into or within Iowa shall contain at least the information identified in one of the following subrules, as applicable.

20.19(1) *General pharmacy or outpatient dispensing.* The label shall meet the labeling requirements of 657—subrule 6.10(1) and shall include the following additional information:

a. The name and concentration of each active ingredient.

b. The date that the preparation was compounded.

c. The beyond-use date of the compounded preparation.

d. Special storage and handling instructions, if applicable.

e. FDA contact information (www.fda.gov/medwatch and 1-800-FDA-1088 or successor Web site or telephone number) to facilitate adverse event reporting.

f. The statement "COMPOUNDED PREPARATION" or a reasonable comparable alternative statement that prominently identifies the drug as a compounded preparation.

g. If the compounded preparation is sterile, the word "STERILE."

h. If the compounded preparation was prepared from batch preparation compounding, the batch identification or control number.

20.19(2) *Hospital pharmacy or inpatient administration.* The label shall meet the labeling requirements of 657—subrule 22.1(3) and shall include the following additional information:

a. The name and concentration of each active ingredient.

b. The date that the preparation was compounded.

c. The beyond-use date of the compounded preparation.

d. If the compounded preparation was prepared from batch preparation compounding, the batch identification or control number.

e. Special storage and handling instructions, if applicable.

20.19(3) *Outsourcing facility distribution or dispensing.* The label, or auxiliary labeling if necessary, shall include the following information:

a. The statement "THIS IS A COMPOUNDED DRUG" or a reasonable comparable alternative statement that prominently identifies the drug as a compounded preparation.

b. The name, address, and telephone number of the outsourcing facility that compounded the preparation.

c. The established name of the preparation.

d. The dosage form and strength.

e. The quantity of the preparation.

f. The date that the preparation was compounded.

g. The beyond-use date of the compounded preparation.

h. Storage and handling instructions.

i. The lot or batch identification or control number.

j. The national drug code number, if available.

k. The statement "Not for resale" and, if the preparation is dispensed or distributed other than pursuant to a prescription for an individual identified patient, the statement "OFFICE USE ONLY."

l. The following additional information, which can be included on the labeling of a container (such as a plastic bag containing individual product syringes) from which individual units of the drug are removed for dispensing or for administration if there is not space on the label for such information :

(1) Directions for use including, as appropriate, dosage and administration;

(2) A list of the active and inactive ingredients, identified by established name and quantity or proportion of each ingredient;

(3) FDA contact information (www.fda.gov/medwatch and 1-800-FDA-1088 or successor Web site or telephone number) to facilitate adverse event reporting.

m. If the preparation is compounded pursuant to a prescription for a specific patient, the label shall also include the label requirements in 657—subrule 6.10(1).

n. If the preparation is compounded for office use, the label shall also include the label requirements in subrule 20.15(4).

657—20.20(126,155A) Labeling for batch preparation compounding. Compounded preparations resulting from batch preparation compounding shall be labeled with the following information until such time as they are labeled pursuant to rule 657—20.19(124,126,155A) for distribution to hospitals or practitioners or for dispensing or administration to patients:

1. The date that the preparation was compounded.
2. Compounded preparation name or formula.
3. Dosage form.
4. Strength.
5. Quantity per container.

6. Unique internal batch identification or control number.

7. Beyond-use date.

8. Special storage and handling instructions, if applicable.

657—20.21 and **20.22** Reserved.

657—20.23(124,126,155A) Records. All records required by this chapter shall be retained as original records of the pharmacy or outsourcing facility and shall be readily available for inspection and photocopying by agents of the board or other authorized authorities for at least two years following the date of the record. Records shall allow for the identification of all ingredients used in compounding, all personnel involved in compounding, and all personnel involved in reviewing compounded preparations. The pharmacy or outsourcing facility shall maintain records documenting the disbursements from each batch of a compounded preparation.

These rules are intended to implement Iowa Code sections 124.302, 124.303, 124.306, 124.308, 124.501, 126.9, 126.10, 126.18, 155A.2, 155A.13, 155A.28, 155A.33, and 155A.35.

ADDENDUM C

ADOPTED AND FILED

CHAPTER 8, "UNIVERSAL PRACTICE STANDARDS"

MARCH 9, 2015

PHARMACY BOARD [657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendment requires the pharmacy owner or the owner's authorized representative and the temporary pharmacist in charge to provide written notification to the Board in the event that a pharmacist in charge has been identified to fill a temporary need. The amendment also removes the requirement for a signature of the owner or corporate officer on the notification.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the December 10, 2014, Iowa Administrative Bulletin as ARC 1792C. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the March 9, 2015, meeting of the Board of Pharmacy.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 155A.13, 155A.13A, 155A.13B, 155A.15, and 155A.19.

This amendment will become effective on May 20, 2015.

The following amendment is adopted.

Amend subrule 8.35(6) as follows:

8.35(6) *Pharmacy license changes.* When a pharmacy changes its name, location, ownership, or pharmacist in charge, a new pharmacy license application with a license fee as provided in subrule 8.35(4) shall be submitted to the board office. Upon receipt of the fee and properly completed

application, the board will issue a new pharmacy license certificate. The old license certificate shall be returned to the board office within ten days of the change of name, location, ownership, or pharmacist in charge.

a. and *b.* No change.

c. Pharmacist in charge. A change of pharmacist in charge shall require completion and submission of the application and fee for a new pharmacy license.

(1) If a permanent pharmacist in charge has not been identified by the time of the vacancy, a temporary pharmacist in charge shall be identified. Written notification identifying the temporary pharmacist in charge~~, signed by the pharmacy owner or corporate officer and the temporary pharmacist in charge,~~ shall be submitted to the board by the pharmacy owner or the pharmacy owner's authorized representative and by the temporary pharmacist in charge within 10 days following the vacancy.

(2) Within 90 days following the vacancy, a permanent pharmacist in charge shall be identified, and an application for pharmacy license, including the license fee as provided in subrule 8.35(4), shall be submitted to the board office.

ADDENDUM C

ADOPTED AND FILED

CHAPTER 36, "DISCIPLINE"

MARCH 9, 2015

PHARMACY BOARD [657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 36, "Discipline," Iowa Administrative Code.

The amendment provides clearer and more direct references to certain common violations by licensees or registrants for use by the Board when initiating and hearing disciplinary action. With respect to the addition of the submission of a false certification of continuing education as a ground for discipline, pharmacist licensees are now required to utilize the CPE Monitor for documenting the completion of continuing education requirements for licensure, and upon license renewal, pharmacists may now submit a certification of completion in lieu of reporting each educational program completed.

This rule does not provide for waiver or variance. The Board simply, by means of deciding not to initiate disciplinary action against a licensee or registrant based on any of the listed grounds for disciplinary action, implies a waiver or variance of the specific ground for disciplinary action.

Notice of Intended Action was published in the December 10, 2014, Iowa Administrative Bulletin as ARC 1790C. The Board received no written comments regarding the proposed amendment. A member of the Board did, however, request reconsideration of proposed new paragraph "ai" and the Board agreed to change that paragraph to require reporting only of a criminal conviction relating to the practice of pharmacy or the distribution of drugs.

The amendment was approved during the March 9, 2015, meeting of the Board of Pharmacy.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 147.55, 272C.3, 272C.5, 155A.15, 155A.23, 126.3, 124.304, and 124.401 to 124.407.

This amendment will become effective on May 20, 2015.

The following amendment is adopted.

Amend subrule 36.1(4) as follows:

36.1(4) *Grounds for discipline.* The board may impose any of the disciplinary sanctions set out in subrule 36.1(2) when the board determines that the licensee, registrant, or permittee is guilty of the following acts or offenses:

a. to *n.* No change.

o. Submission of a false report of continuing education, submission of a false certification of completion of continuing education, or failure to submit biennial reports of continuing education as directed by the board.

p. to *t.* No change.

u. Violating any of the grounds for revocation or suspension of a license or registration listed in Iowa Code sections section 147.55, ~~155A.12, and 155A.15~~ Iowa Code chapter 155A, or any of the rules of the board.

v. to *ah.* No change.

ai. Failure to notify the board of a criminal conviction relating to the practice of pharmacy or to the distribution of drugs within 30 days of the action, regardless of the jurisdiction where it occurred.

aj. Obtaining, possessing, or attempting to obtain or possess prescription drugs without lawful authority.

ak. Diverting prescription drugs from a pharmacy for personal use or for distribution.

al. Practicing pharmacy, or assisting in the practice of pharmacy, while under the influence of alcohol or illicit substances.

am. Practicing pharmacy, or assisting in the practice of pharmacy, while under the influence of

prescription drugs or substances for which the licensee or registrant does not have a lawful prescription or while impaired by the use of legitimately prescribed pharmacological agents, drugs, or substances.

an. Forging or altering a prescription.

ao. Practicing outside the scope of the profession.

ap. Dispensing, or contributing to the dispensing of, an incorrect prescription, which includes, but is not limited to, the incorrect drug, the incorrect strength, the incorrect patient or prescriber, or the incorrect or incomplete directions.

aq. Failing to comply with a confidential order for evaluation.

ADDENDUM E

ADOPTED AND FILED

CHAPTER 6, "GENERAL PHARMACY PRACTICE,"
CHAPTER 7, "HOSPITAL PHARMACY PRACTICE,"
CHAPTER 8, "UNIVERSAL PRACTICE STANDARDS,"
CHAPTER 9, "AUTOMATED MEDICATION DISTRIBUTION SYSTEMS AND TELEPHARMACY SERVICES,"
CHAPTER 15, "CORRECTIONAL PHARMACY PRACTICE,"
CHAPTER 18, "CENTRALIZED PRESCRIPTION FILLING AND PROCESSING,"
CHAPTER 19, "NONRESIDENT PHARMACY PRACTICE,"
CHAPTER 22, "UNIT DOSE, ALTERNATIVE PACKAGING, AND EMERGENCY BOXES,"
AND
CHAPTER 23, "LONG-TERM CARE PHARM ACY PRACTICE"

MARCH 9, 2015

PHARMACY BOARD [657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 6, "General Pharmacy Practice," Chapter 7, "Hospital Pharmacy Practice," Chapter 8, "Universal Practice Standards," Chapter 9, "Automated Medication Distribution Systems and Telepharmacy Services," Chapter 15, "Correctional Pharmacy Practice," Chapter 18, "Centralized Prescription Filling and Processing," Chapter 19, "Nonresident Pharmacy Practice," Chapter 22, "Unit Dose, Alternative Packaging, and Emergency Boxes," and Chapter 23, "Long-Term Care Pharmacy Practice,"Iowa Administrative Code.

The amendments update and clarify the persons responsible for various activities required by Board rules including responsibilities shared by a pharmacy, by and through its owner or license holder, the pharmacist in charge (PIC), and staff pharmacists. The purpose for the proposed amendments is to assign responsibility for pharmacy activities and functions to the party or parties that have the ability to control those activities and functions. The proposed amendments are a result of recommendations made by the 2014 PIC Task Force. The PIC Task Force was established at the recommendation of the 2013 Patient Safety Task Force. In developing its recommendations to the Board, the PIC Task Force reviewed current Board rules and the rules and regulations of other state licensing authorities, in addition to discussing responsibility issues and current pharmacy management and practice issues and standards.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the December 10, 2014, Iowa Administrative Bulletin as ARC 1793C. The Board received written comments from two organizations regarding the

proposed amendments. The adopted amendments are identical to those published under Notice. Once commenter supported the amendments. The other commenter suggested that requiring staff pharmacists to share the responsibility for ensuring the legal operation of the pharmacy was placing responsibility on staff pharmacists for practices for which the pharmacist may have no control. The Board does not agree and believes that any pharmacist practicing at a pharmacy should be responsible for the legal operation of the pharmacy.

The amendments were approved during the March 9, 2015, meeting of the Board of Pharmacy.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 124.301, 126.11, 147.107, 155A.13, 155A.13A, 155A.15, 155A.19, and 155A.33.

These amendments will become effective on May 20, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 657—6.2(155A) as follows:

657—6.2(155A) Pharmacist in charge. One professionally competent, legally qualified pharmacist in charge in each pharmacy shall be responsible for, at a minimum, ~~the following:~~ the responsibilities identified in rule 657—8.3(155A).

~~1. Ensuring that the pharmacy utilizes an ongoing, systematic program for achieving performance improvement and ensuring the quality of pharmaceutical services.~~

~~2. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy.~~

~~3. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy.~~

~~4. Ensuring that a pharmacist performs prospective drug use review as specified in rule 657—~~

~~8.21(155A).~~

~~5. Ensuring that a pharmacist provides patient counseling as specified in rule 657—6.14(155A).~~

~~6. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel.~~

~~7. Delivering drugs to the patient or the patient's agent.~~

~~8. Ensuring that patient medication records are maintained as specified in rule 657—6.13(155A).~~

~~9. Training pharmacy technicians and pharmacy support persons.~~

~~10. Procuring and storing prescription drugs and devices and other products dispensed from the pharmacy.~~

~~11. Distributing and disposing of drugs from the pharmacy.~~

~~12. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations.~~

~~13. Establishing and maintaining effective controls against the theft or diversion of prescription drugs and records for such drugs.~~

~~14. Establishing, implementing, and periodically reviewing and revising written policies and procedures to reflect changes in processes, organization, and other functions for all operations of the pharmacy and ensuring that all pharmacy personnel are familiar with those policies and procedures.~~

~~15. Ensuring 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.~~

~~16. Ensuring that there is adequate space within the prescription department or a locked room not accessible to the public for the storage of prescription drugs, devices, and controlled substances and~~

~~to support the operations of the pharmacy.~~

ITEM 2. Amend rule 657—7.2(155A) as follows:

657—7.2(155A) Pharmacist in charge. One professionally competent, legally qualified pharmacist in charge in each pharmacy shall be responsible for, at a minimum, the ~~items identified in this rule~~ responsibilities identified in rule 657—8.3(155A). ~~A part-time pharmacist in charge has the same obligations and responsibilities as a full-time pharmacist in charge.~~ Where 24-hour operation of the pharmacy is not feasible, a pharmacist shall be available on an "on call" basis. ~~The pharmacist in charge, at a minimum, shall be responsible for:~~

~~1. Ensuring that the pharmacy utilizes an ongoing, systematic program for achieving performance improvement and ensuring the quality of pharmaceutical services.~~

~~2. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy and sufficient to ensure adequate levels of quality patient care services. Drug dispensing by nonpharmacists shall be minimized and eliminated wherever possible.~~

~~3. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy.~~

~~4. Ensuring that a pharmacist performs therapeutic drug monitoring and drug use evaluation.~~

~~5. Ensuring that a pharmacist provides drug information to other health professionals and to patients.~~

~~6. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel.~~

~~7. Delivering drugs to the patient or the patient's agent.~~

~~8. Ensuring that patient medication records are maintained as specified in rule 657—~~

~~7.10(124,155A).~~

~~9. Training pharmacy technicians and pharmacy support persons.~~

~~10. Ensuring adequate and appropriate pharmacist oversight and supervision of pharmacy technicians and pharmacy support persons.~~

~~11. Procuring and storing prescription drugs and devices and other products dispensed from the pharmacy.~~

~~12. Distributing and disposing of drugs from the pharmacy.~~

~~13. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations.~~

~~14. Establishing and maintaining effective controls against the theft or diversion of prescription drugs, controlled substances, and records for such drugs.~~

~~15. Preparing a written operations manual governing pharmacy functions; periodically reviewing and revising those policies and procedures to reflect changes in processes, organization, and other pharmacy functions; and ensuring that all pharmacy personnel are familiar with the contents of the manual.~~

~~16. Ensuring 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.~~

ITEM 3. Amend rule 657—7.8(124,126,155A) as follows:

657—7.8(124,126,155A) Drug distribution and control. Policies and procedures governing drug distribution and control shall be ~~developed by the pharmacist in charge~~ <u>established pursuant to rule 657—8.3(155A)</u> with input from other involved hospital staff such as physicians and nurses, from committees such as the pharmacy and therapeutics committee or its equivalent, and from any related

patient care committee. It is essential that the pharmacist in charge or designee routinely be available to or on all patient care areas to establish rapport with the personnel and to become familiar with and contribute to medical and nursing procedures relating to drugs.

7.8(1) *Drug preparation.* ~~The pharmacist shall institute the control~~ Control and adequate quality assurance procedures needed to ensure that patients receive the correct drugs at the proper times shall be established pursuant to rule 657—8.3(155A). ~~Adequate quality assurance procedures shall be developed.~~

a. Hospitals shall utilize a unit dose dispensing system pursuant to rule 657—22.1(155A). All drugs dispensed by the ~~pharmacist~~ pharmacy for administration to patients shall be in single unit or unit dose packages if practicable unless the dosage form or drug delivery device makes it impracticable to package the drug in a unit dose or single unit package.

(1) ~~The pharmacist in charge shall establish~~ Established policies and procedures ~~that~~ shall identify situations when drugs may be dispensed in other than unit dose or single unit packages outside the unit dose dispensing system.

(2) The need for nurses to manipulate drugs prior to their administration shall be minimized.

b. Pharmacy personnel shall, except as specified in policies and procedures, prepare all sterile products in conformance with 657—Chapter ~~13~~ 20.

c. Pharmacy personnel shall compound or prepare drug formulations, strengths, dosage forms, and packages useful in the care of patients.

7.8(2) *Drug formulary.* ~~The pharmacist in charge shall maintain~~ Established policies and procedures shall include a current formulary of drug products approved for use in the institution and shall ~~be responsible for~~ include specifications for those drug products ~~and for selecting their source of supply~~.

7.8(3) to **7.8(6)** No change.

7.8(7) *Drugs brought into the institution.* ~~The pharmacist in charge~~ Established policies and procedures shall determine those circumstances when patient-owned drugs brought into the institution may be administered to a hospital patient and shall ~~establish policies and~~ identify procedures governing the use and security of drugs brought into the institution. Procedures shall address identification of the drug and methods for ensuring the integrity of the product prior to permitting its use by the patient. The use of patient-owned drugs shall be minimized to the greatest extent possible.

7.8(8) and **7.8(9)** No change.

7.8(10) *Hazardous drugs and chemicals.* ~~The pharmacist, in cooperation with other hospital staff, shall establish policies~~ Policies and procedures for handling drugs and chemicals that are known occupational hazards shall be established pursuant to rule 657—8.3(155A). The procedures shall maintain the integrity of the drug or chemical and protect hospital personnel.

7.8(11) *Leave meds.* Labeling of prescription drugs for a patient on leave from the facility for a period in excess of 24 hours shall comply with 657—subrule 6.10(1). The dispensing ~~pharmacy~~ pharmacist shall be responsible for packaging and labeling leave meds in compliance with this subrule.

7.8(12) *Discharge meds.* Drugs authorized for a patient being discharged from the facility shall be labeled in compliance with 657—subrule 6.10(1) before the patient removes those drugs from the facility premises. The dispensing ~~pharmacy~~ pharmacist shall be responsible for packaging and labeling discharge meds in compliance with this subrule.

7.8(13) *Own-use outpatient prescriptions.* If the hospital pharmacy dispenses own-use outpatient prescriptions, the ~~pharmacy~~ pharmacist shall comply with all requirements of 657—Chapter 6 except

rule 657—6.1(155A).

7.8(14) No change.

ITEM 4. Amend rule 657—7.9(124,155A) as follows:

657—7.9(124,155A) Drug information. ~~The pharmacy is responsible for providing the institution's staff and patients with~~ Established policies and procedures shall include the provision to the institution's staff and patients of accurate, comprehensive information about drugs and their use ~~and shall serve as its center for drug information~~. The pharmacy shall serve as the institution's center for drug information.

7.9(1) and **7.9(2)** No change.

ITEM 5. Amend rule 657—7.10(124,155A) as follows:

657—7.10(124,155A) Ensuring rational drug therapy. An important aspect of pharmaceutical services is that of maximizing rational drug use. ~~The pharmacist, in concert with the medical staff, shall develop policies~~ Policies and procedures for ensuring the quality of drug therapy shall be established pursuant to rule 657—8.3(155A).

7.10(1) No change.

7.10(2) *Adverse drug events.* ~~The pharmacist, in cooperation with the appropriate patient care committee, shall develop~~ Established policies and procedures shall include a mechanism for the reporting and review, by the committee or other appropriate medical group, of adverse drug events. The pharmacist shall be informed of all reported adverse drug events occurring in the facility. Adverse drug events include but need not be limited to adverse drug reactions and medication errors.

ITEM 6. Amend rule 657—7.11(124,126,155A) as follows:

657—7.11(124,126,155A) Outpatient services. No prescription drugs shall be dispensed to patients

in a hospital outpatient setting. If a need is established for the dispensing of a prescription drug to an outpatient, a prescription drug order shall be provided to the patient to be filled at a pharmacy of the patient's choice.

7.11(1) No change.

7.11(2) *Administration in the outpatient setting.* Drugs shall be administered only to outpatients who have been examined and evaluated by a prescriber who determined the patient's need for the drug therapy ordered.

a. Accountability. ~~A~~ Established policies and procedures shall include a system of drug control and accountability ~~shall be developed and supervised by the pharmacist in charge and the facility's outpatient services committee, or a similar group or person responsible for policy~~ in the outpatient setting. The system shall ensure accountability of drugs incidental to outpatient nonemergency therapy or treatment. Drugs shall be administered only in accordance with the system.

b. and *c.* No change.

ITEM 7. Amend rule 657—7.12(124,126,155A) as follows:

657—7.12(124,126,155A) Drugs in the emergency department. Drugs maintained in the emergency department are kept for use by or at the direction of prescribers in the emergency department. Drugs shall be administered or dispensed only to emergency department patients. For the purposes of this rule, "emergency department patient" means an individual who is examined and evaluated in the emergency department.

7.12(1) *Accountability.* ~~A~~ Established policies and procedures shall include a system of drug control and accountability ~~shall be developed and supervised by the pharmacist in charge and the facility's emergency department committee, or a similar group or person responsible for policy~~ in the

emergency department. The system shall identify drugs of the nature and type to meet the immediate needs of emergency department patients. Drugs shall be administered or dispensed only in accordance with the system.

7.12(2) No change.

7.12(3) *Drug dispensing.* In those facilities with 24-hour pharmacy services, only a pharmacist or prescriber may dispense any drugs to an emergency department patient. In those facilities located in an area of the state where 24-hour outpatient or 24-hour on-call pharmacy services are not available within 15 miles of the hospital, and which facilities are without 24-hour outpatient pharmacy services, the provisions of this rule shall apply.

a. ~~*Pharmacist in charge responsibility*~~ *Responsibility*. ~~The pharmacist in charge is responsible for maintaining~~ Pursuant to rule 657—8.3(155A), the accuracy and labeling of prepackaged drugs shall be ensured and accurate records of dispensing of drugs from the emergency department ~~and for ensuring the accuracy of prepackaged drugs and the complete and accurate labeling of prepackaged drugs pursuant to this paragraph~~ shall be maintained.

(1) and (2) No change.

b. No change.

7.12(4) No change.

ITEM 8. Amend rule 657—8.3(155A) as follows:

657—8.3(155A) ~~Responsibility~~ Responsible parties.

~~**8.3(1)** *Pharmacy operations.* The pharmacy and the pharmacist in charge share responsibility for ensuring that all operations of the pharmacy are in compliance with federal and state laws, rules, and regulations relating to pharmacy operations and the practice of pharmacy.~~

8.3(1) *Pharmacist in charge.* One professionally competent, legally qualified pharmacist in charge in each pharmacy shall work cooperatively with the pharmacy, by and through its owner or license holder, and with all staff pharmacists 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. A part-time pharmacist in charge has the same obligations and responsibilities as a full-time pharmacist in charge.

8.3(2) *Pharmacy.* Each pharmacy, by and through its owner or license holder, shall work cooperatively with the pharmacist in charge and with all staff pharmacists 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. The pharmacy, by and through its owner or license holder, shall be responsible for employing a professionally competent, legally qualified pharmacist in charge.

8.3(3) *Pharmacy and pharmacist in charge.* The pharmacist in charge and the pharmacy, by and through its owner or license holder, shall share responsibility for, at a minimum, the following:

a. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy.

b. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy.

c. Ensuring that there is adequate space within the prescription department or a locked room not accessible to the public for the storage of prescription drugs, including controlled substances, devices, and pharmacy records, and to support the operations of the pharmacy.

8.3(4) *Pharmacist in charge and staff pharmacists.* The pharmacist in charge and staff pharmacists shall share responsibility for, at a minimum, the following:

a. Ensuring that a pharmacist performs prospective drug use review as specified in rule 657—8.21(155A).

b. Ensuring that a pharmacist provides patient counseling as specified in rule 657—6.14(155A).

c. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel.

d. Delivering drugs to the patient or the patient's agent.

e. Ensuring that patient medication records are maintained as specified in rule 657—6.13(155A).

f. Training and supervising pharmacist-interns, pharmacy technicians, pharmacy support persons, and other pharmacy employees.

g. Procuring and storing prescription drugs and devices and other products dispensed from the pharmacy.

h. Distributing and disposing of drugs from the pharmacy.

i. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations.

j. Ensuring 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.

8.3(5) *Pharmacy, pharmacist in charge, and staff pharmacists.* The pharmacy, by and through its owner or license holder, the pharmacist in charge, and all staff pharmacists shall share responsibility for, at a minimum, the following:

a. Establishing and periodically reviewing (by the pharmacy and the pharmacist in charge), implementing (by the pharmacist in charge), and complying with (by the pharmacist in charge and

staff pharmacists) policies and procedures for all operations of the pharmacy. The policies and procedures shall identify the frequency of review.

b. Establishing and maintaining effective controls against the theft or diversion of prescription drugs, including controlled substances, and records for such drugs.

c. Establishing (by the pharmacy and the pharmacist in charge), implementing (by the pharmacist in charge), and utilizing (by the pharmacist in charge and staff pharmacists) an ongoing, systematic program of continuous quality improvement for achieving performance enhancement and ensuring the quality of pharmaceutical services.

~~8.3(2)~~ 8.3(6) *Practice functions.* The pharmacist is responsible for all functions performed in the practice of pharmacy. The pharmacist maintains responsibility for any and all delegated functions including functions delegated to pharmacist-interns, pharmacy technicians, and pharmacy support persons.

~~8.3(3)~~ 8.3(7) *Pharmacist-documented verification.* The pharmacist shall provide, document, and retain a record of the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.

ITEM 9. Amend rule 657—8.5(155A) as follows:

657—8.5(155A) Environment and equipment requirements. There shall be adequate space, equipment, and supplies for the professional and administrative functions of the pharmacy pursuant to rule 657—8.3(155A). Space and equipment in an amount and type to provide secure, environmentally controlled storage of drugs shall be available.

8.5(1) to **8.5(6)** No change.

8.5(7) *Other equipment.* The pharmacist in charge and the pharmacy, by and through its owner or license holder, shall ~~ensure~~ share the responsibility for ensuring the availability of any other equipment necessary for the particular practice of pharmacy and to meet the needs of the patients served by the pharmacy.

8.5(8) *Bulk counting machines.* Unless bar-code scanning is required and utilized to verify the identity of each stock container of drugs utilized to restock a counting machine cell or bin, a pharmacist shall verify the accuracy of the drugs to be restocked prior to filling the counting machine cell or bin. A record identifying the individual who verified the drugs to be restocked, the individual who restocked the counting machine cell or bin, and the date shall be maintained. ~~The pharmacy~~ Established policies and procedures shall ~~have~~ include a method to calibrate and verify the accuracy of the counting device. ~~and~~ The pharmacy shall, at least quarterly, verify the accuracy of the device and maintain a dated record identifying the individual who performed the quarterly verification.

ITEM 10. Amend rule 657—8.14(155A) as follows:

657—8.14(155A) Training and utilization of pharmacy technicians or pharmacy support persons. ~~All~~ Pursuant to rule 657—8.3(155A), all Iowa-licensed pharmacies utilizing pharmacy technicians or pharmacy support persons shall ~~develop, implement, and periodically review~~ have written policies and procedures for the training and utilization of pharmacy technicians and pharmacy support persons appropriate to the practice of pharmacy at that licensed location. ~~Pharmacy policies shall specify the frequency of review.~~ Pharmacy technician and pharmacy support person training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of pharmacy technician and pharmacy support person training shall be available for inspection by the board or an agent of the board.

ITEM 11. Amend subrule 8.15(2) as follows:

8.15(2) *Policies and procedures required.* ~~Every~~ Pursuant to rule 657—8.3(155A), every pharmacy shipping or otherwise delivering prescription drugs or devices to Iowa patients shall ~~develop and implement~~ have policies and procedures to ensure accountability, safe delivery, and compliance with temperature requirements as defined by subrule 8.7(4).

ITEM 12. Amend rule 657—8.26(155A) as follows:

657—8.26(155A) Continuous quality improvement program. ~~Each~~ Pursuant to rule 657—8.3(155A), each pharmacy licensed to provide pharmaceutical services to patients in Iowa shall implement or participate in a continuous quality improvement program ~~or~~ (CQI program). The CQI program is intended to be an ongoing, systematic program of standards and procedures to detect, identify, evaluate, and prevent medication errors, thereby improving medication therapy and the quality of patient care. A pharmacy that participates as an active member of a hospital or corporate CQI program that meets the objectives of this rule shall not be required to implement a new program pursuant to this rule.

8.26(1) No change.

8.26(2) *Responsibility.* ~~The pharmacist in charge is responsible for ensuring that the pharmacy utilizes a CQI program consistent with the requirements of this rule.~~ The pharmacist in charge may delegate program administration and monitoring, but the pharmacist in charge maintains ultimate responsibility for the validity and consistency of program activities.

8.26(3) *Policies and procedures.* ~~Each~~ Pursuant to rule 657—8.3(155A), each pharmacy shall ~~develop, implement, and adhere to~~ have written policies and procedures for the operation and management of the pharmacy's CQI program. A copy of the pharmacy's CQI program description

and policies and procedures shall be maintained and readily available to all pharmacy personnel. The policies and procedures shall address, at a minimum, a planned process to:

a. to *f.* No change.

8.26(4) to **8.26(6)** No change.

ITEM 13. Amend rule 657—9.3(147,155A) as follows:

657—9.3(147,155A) ~~Pharmacist in charge responsibilities~~ Responsibilities.

9.3(1) *AMDS.* ~~The pharmacist in charge of~~ In any pharmacy utilizing an AMDS, the following responsibilities, which are in addition to the responsibilities required by all applicable federal and state laws, rules and regulations and the responsibilities described in rule 657—8.3(155A), shall be ~~responsible for the following in addition to other responsibilities~~ assigned ~~under federal and state laws and regulations~~ as follows:

a. ~~Implementing~~ The pharmacy and the pharmacist in charge shall share responsibility for establishing, the pharmacist in charge shall be responsible for implementing, and the pharmacist in charge and staff pharmacists shall share responsibility for utilizing an ongoing quality assurance program the purpose of which ~~purpose~~ is to monitor and improve performance of each AMDS as provided in rule 657—9.10(147,155A).

~~*b.* Establishing and ensuring compliance with all policies and procedures relating to the AMDS.~~

~~*c.*~~ *b.* ~~Assigning~~ The pharmacist in charge shall be responsible for assigning, discontinuing, or changing drug and information access to the AMDS.

~~*d.*~~ *c.* The pharmacist in charge and staff pharmacists shall share responsibility for:

(1) Ensuring that drug access, including access to controlled substances, is in compliance with state and federal laws, rules and regulations.

(2) Ensuring that each AMDS component is filled or stocked accurately and in accordance with established, written policies and procedures.

(3) Ensuring that each AMDS component is in good working order and performs its designated tasks, including ensuring the correct strength, dosage form, and quantity of the prescribed drug.

(4) Ensuring that confidentiality of patient-specific information is maintained.

(5) Ensuring that all personnel utilizing or accessing the AMDS or any component of the AMDS have been appropriately trained.

~~*e.* Ensuring that each AMDS component is filled or stocked accurately and in accordance with established, written policies and procedures.~~

~~*f.* Ensuring that each AMDS component is in good working order and performs its designated tasks, including ensuring the correct strength, dosage form, and quantity of the prescribed drug.~~

~~*g.*~~ *d.* ~~Ensuring~~ The pharmacy, by and through its owner or license holder, pharmacist in charge, and staff pharmacists shall share responsibility for ensuring that the AMDS has adequate security safeguards regarding drug ~~access~~ and information access.

~~*h.* Ensuring that confidentiality of patient-specific information is maintained.~~

~~*i.* Ensuring that all personnel utilizing or accessing the AMDS or any component of the AMDS have been appropriately trained.~~

~~*j.*~~ *e.* ~~Ensuring that the board is provided~~ The pharmacy shall provide the board with written notice at least 30 days prior to an installation, removal, or upgrade that significantly changes the operation of an AMDS. The notice shall include:

(1) to (6) No change.

9.3(2) No change.

ITEM 14. Amend rule 657—9.10(147,155A) as follows:

657—9.10(147,155A) Quality assurance and performance improvement. The goal of any AMDS is the accurate dispensing of drugs. In all dispensing activities, the pharmacy shall strive for 100 percent accuracy. Quality assurance data shall be utilized to monitor and improve systems.

9.10(1) *AMDS.* Pharmacies utilizing an AMDS shall ~~develop~~ have a written quality assurance and monitoring plan pursuant to rule 657—9.3(147,155A) prior to implementation of the AMDS. The quality assurance plan shall target the preparation, delivery, and verification of AMDS unit contents during fill and refill processes and shall include, but not be limited to, the following:

a. to *d.* No change.

9.10(2) to **9.10(4)** No change.

ITEM 15. Amend rule 657—9.11(147,155A) as follows:

657—9.11(147,155A) Policies and procedures. Notwithstanding rule 657—8.3(155A), policies and procedures for an AMDS shall be required pursuant to this chapter. All policies and procedures shall be in writing and shall be maintained in the pharmacy responsible for the AMDS or, if a telepharmacy practice, shall be maintained at both the managing pharmacy and the remote site. All policies and procedures shall be reviewed at least annually and revised as necessary, and the review shall be documented. Additions, deletions, amendments, and other changes to policies and procedures shall be signed or initialed by the pharmacist in charge, shall include the date on which the change was approved, and shall be maintained for a minimum of two years following the date of the change. The policy and procedure manual and retained changes shall be available for inspection and copying by the board or an agent of the board.

9.11(1) *AMDS.* ~~All pharmacies utilizing AMDS shall develop, implement, and adhere to policies and procedures that address~~ Pursuant to rule 657—8.3(155A) and this chapter, a pharmacy shall have

policies and procedures for an AMDS that provide, at a minimum, the following:

a. to *k.* No change.

9.11(2) No change.

ITEM 16. Amend rule 657—15.3(155A) as follows:

657—15.3(155A) ~~Pharmacist in charge~~ Responsibilities. ~~One professionally competent, legally qualified pharmacist who is licensed to practice pharmacy in Iowa shall be the pharmacist in charge of the~~ In any correctional pharmacy ~~and~~, the following responsibilities, which are in addition to the responsibilities required by all applicable federal and state laws, rules and regulations and the responsibilities as described in rule 657—8.3(155A), shall be ~~responsible for, at a minimum, the following~~ assigned as follows:

~~1. Ensuring that the pharmacy utilizes an ongoing, systematic program for achieving performance improvement and ensuring the quality of pharmaceutical services;~~

~~2. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy;~~

~~3.~~ 1. ~~Ensuring~~ The pharmacist in charge or designee shall ensure that a quarterly inspection of all pharmaceuticals located at the correctional facility, including any emergency/first dose drug supply located outside the confines of the pharmacy, is completed and documented~~;~~.

~~4. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy;~~

~~5. Preparing written policies and procedures governing pharmacy functions; periodically reviewing and revising those policies and procedures to reflect changes in processes, organization, and other pharmacy functions; ensuring that policies and procedures are consistent with board rules;~~

~~and ensuring that all pharmacy personnel are familiar with the policies and procedures;~~

~~6. Ensuring that a pharmacist performs prospective drug use reviews as specified in rule 657—8.21(155A);~~

~~7.~~ 2. ~~Ensuring that~~ The pharmacist in charge or a pharmacist ~~provides~~ shall provide drug information to other health professionals, to other caregivers, and to patients as required or requested~~;~~.

~~8. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel;~~

~~9. Delivering drugs to the patient or the patient's agent;~~

~~10. Ensuring that patient drug records are maintained as specified in rule 657—15.8(124,126,155A);~~

~~11. Training pharmacy technicians and pharmacy support persons;~~

~~12. Establishing policies and procedures for the procurement and storage of prescription drugs and devices and other products dispensed from the pharmacy;~~

~~13. Disposing of and distributing drugs from the pharmacy;~~

~~14. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations;~~

~~15. Establishing and maintaining effective controls against the theft or diversion of prescription drugs and records for such drugs;~~

~~16. Ensuring 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.~~

ITEM 17. Amend subrule 15.5(2) as follows:

15.5(2) *Access when pharmacist absent.* ~~The pharmacist in charge, with the concurrence of the department, shall establish and implement~~ Pursuant to rule 657—8.3(155A), the pharmacy shall have policies and procedures for the security of the correctional pharmacy. Policies and procedures shall identify who will have access to the pharmacy, what areas may be accessed, and the procedures to be followed for obtaining drugs and chemicals when the pharmacist is absent from the pharmacy.

ITEM 18. Amend rule 657—15.7(124,126,155A) as follows:

657—15.7(124,126,155A) Training and utilization of pharmacy technicians or pharmacy support persons. ~~All correctional pharmacies utilizing pharmacy technicians or pharmacy support persons shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy technicians and pharmacy support persons appropriate to the practice of pharmacy at that licensed location. Pharmacy policies shall specify the frequency of the review.~~ Pharmacy technician and pharmacy support person training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of pharmacy technician and pharmacy support person training shall be available for inspection by the board or an agent of the board.

ITEM 19. Amend rule 657—15.10(124,126,155A) as follows:

657—15.10(124,126,155A) Policies and procedures. ~~The pharmacist in charge shall develop and implement written policies and procedures for the pharmacy drug distribution system consistent with board rules and department policies and procedures pertaining to pharmaceutical services.~~ Pharmacy policies and procedures, established, implemented, and complied with pursuant to rule 657—8.3(155A), shall address, but not be limited to, the following:

1. to 22. No change.

ITEM 20. Amend rule 657—18.10(155A) as follows:

657—18.10(155A) Policy and procedures.

18.10(1) *Manual maintained.* ~~A~~ Pursuant to rule 657—8.3(155A), a policy and procedure manual relating to centralized filling or centralized processing activities shall be maintained at all pharmacies involved in centralized filling or centralized processing and shall be available for inspection and copying by the board or an agent of the board.

18.10(2) No change.

ITEM 21. Amend rule 657—19.7(155A) as follows:

657—19.7(155A) Confidential data. ~~The pharmacist in charge shall be responsible for developing, implementing, and enforcing~~ Pursuant to rule 657—8.3(155A), each nonresident pharmacy shall have policies and procedures to ensure patient confidentiality and to protect patient identity and patient-specific information from inappropriate or nonessential access, use, or distribution pursuant to the requirements of 657—8.16(124,155A).

ITEM 22. Amend rule 657—19.8(124,155A) as follows:

657—19.8(124,155A) Storage and shipment of drugs and devices. ~~The pharmacist in charge shall be responsible for developing, implementing, and enforcing~~ Pursuant to rule 657—8.3(155A), each nonresident pharmacy shall have policies and procedures to ensure compliance with rules 657—8.7(155A) and 657—8.15(155A) and USP standards for the storage and shipment of drugs and devices. Policies and procedures shall provide for the shipment of controlled substances via a secure and traceable method, and all records of such shipment and delivery to Iowa patients shall be maintained for a minimum of two years from date of delivery.

ITEM 23. Amend rule 657—19.9(155A) as follows:

657—19.9(155A) Patient record system, prospective drug use review, and patient counseling.

19.9(1) and **19.9(2)** No change.

19.9(3) *Patient counseling.* ~~The pharmacist in charge shall be responsible for developing, implementing, and enforcing~~ Pursuant to rule 657—8.3(155A), each nonresident pharmacy shall have policies and procedures to ensure that Iowa patients receive appropriate counseling pursuant to the requirements of rule 657—6.14(155A).

ITEM 24. Amend subrule 22.7(6) as follows:

22.7(6) *Notifications.* Whenever an emergency/first dose drug supply is opened or has expired, the provider pharmacy shall be notified and the pharmacist shall be responsible for replacing the drug within 72 hours to prevent risk of harm to patients. ~~Policy must be developed by the provider pharmacist to~~ Pursuant to rule 657—8.3(155A), established policies and procedures shall address notification, record keeping, and documentation procedures for use of the supply.

ITEM 25. Amend subrule 22.7(7) as follows:

22.7(7) *Procedures.*

a. ~~The consultant or provider pharmacist~~ The pharmacy shall, in communication with the director of nursing of the facility and the medical director of the facility, or their respective designees, ~~develop and implement~~ and as provided in rule 657—8.3(155A), have written policies and procedures to ensure compliance with this rule.

b. to *d.* No change.

ITEM 26. Amend subrule 22.9(6) as follows:

22.9(6) *Policies and procedures.* ~~The pharmacist in charge of the provider pharmacy and~~ The pharmacy, pursuant to rule 657—8.3(155A) and in coordination with the home health agency or hospice, shall ~~develop~~ have policies and procedures to address storage conditions and security for

drugs and kit maintenance. Outdated, expired drugs shall be properly disposed of by the pharmacy.

ITEM 27. Amend subrule 22.9(7) as follows:

22.9(7) *Responsibility for compliance.* ~~The provider pharmacy is responsible to ensure~~ The pharmacist in charge and staff pharmacists shall share responsibility for compliance with this rule, and any abuse or misuse of the intent of this rule shall be immediately reported to the board.

ITEM 28. Amend rule 657—23.4(124,155A) as follows:

657—23.4(124,155A) ~~Pharmacy responsibilities~~ Responsibilities. The ~~long-term care pharmacy~~ pharmacist in charge and staff pharmacists in any pharmacy providing pharmaceutical services to long-term care facility patients shall ~~be responsible~~ share responsibility for:

1. to 4. No change.

5. ~~Developing~~ Complying with a drug recall procedure, established pursuant to rule 657—8.3(155A), that protects the health and safety of residents including immediate discontinuation of any recalled drug or device and subsequent notification of the prescriber and director of nursing of the facility.

6. Providing ~~a~~ 24-hour emergency service ~~procedure~~ either directly or by contract with another pharmacy.

7. to 9. No change.

ITEM 29. Amend rule 657—23.6(124,155A) as follows:

657—23.6(124,155A) Space, equipment, and supplies. ~~Each~~ Pursuant to rule 657—8.3(155A), each pharmacy serving a long-term care facility shall have adequate space, equipment, and supplies for the professional and administrative functions of the pharmacy and to meet the needs of the residents served. The pharmacy shall also comply with all reference, environment, and equipment

requirements contained in rules 657—6.3(155A) and 657—8.5(155A).

ITEM 30. Amend rule 657—23.7(124,155A) as follows:

657—23.7(124,155A) Policies and procedures. ~~Policies and procedures shall be formulated to cover the provider~~ Pursuant to rule 657—8.3(155A), each pharmacy shall have policies and procedures related to all aspects of the pharmacy's packaging and dispensing responsibilities to the residents of the long-term care facility. The policies and procedures shall be maintained at the provider pharmacy and shall be available to the facility and the consultant pharmacist. Policies and procedures shall include, at a minimum:

1. to 4. No change.

ITEM 31. Amend rule 657—23.10(124,155A) as follows:

657—23.10(124,155A) Stop orders. ~~The consultant pharmacist, in consultation with the provider pharmacist, the medical director, and the appropriate committee or representative of the facility, shall develop and implement an automatic stop order policy.~~ To ensure that drug orders are not continued inappropriately, ~~drugs~~ the pharmacy's policies and procedures, established pursuant to rule 657—8.3(155A) and in consultation with the medical director and the appropriate committee or representative of the facility, shall include an automatic stop order policy. Drugs not specifically limited when ordered as to duration of therapy or number of doses shall be controlled by the automatic stop order policy in accordance with the status of the patient.

ITEM 32. Amend subrule 23.13(4) as follows:

23.13(4) *Leave meds.* Labeling of prescription drugs for residents on leave from the facility for a period in excess of 24 hours shall comply with 657—subrule 6.10(1). The dispensing ~~pharmacy~~ pharmacist shall be responsible for packaging and labeling leave meds in compliance with this

subrule.

ITEM 33. Amend subrule 23.13(5) as follows:

23.13(5) *Discharge meds.* Drugs authorized for a resident being discharged from the facility shall be labeled in compliance with 657—subrule 6.10(1) before the resident removes those drugs from the facility premises. The dispensing ~~pharmacy~~ pharmacist shall be responsible for packaging and labeling discharge meds in compliance with this subrule.

ITEM 34. Amend rule 657—23.16(124,155A) as follows:

657—23.16(124,155A) Destruction of outdated and improperly labeled drugs. ~~The consultant pharmacist, in consultation with the provider pharmacist and a facility representative, shall develop and implement~~ The pharmacy shall, pursuant to rule 657—8.3(155A) and in consultation with a facility representative, have written policies and procedures to ensure that all discontinued, outdated, deteriorated, or improperly labeled drugs and all containers with worn, illegible or missing labels are destroyed or disposed of so as to render them unusable. Drugs shall be destroyed by means that will ensure protection against unauthorized possession or use.

ADDENDUM F

SETTLEMENT AGREEMENT
AND
FINAL ORDER

DANIEL ASHTON, JR
PHARMACIST LICENSE NO. 13182
EFFINGHAM, ILLINOIS

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacist License of **DANIEL ASHTON, JR.** License No. 13182 Respondent.	)))))	Case No. 2012-173 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy ("Board") and Daniel Ashton, Jr. ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case 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's license #13182 is currently active and expires on June 30, 2016.

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 March 13, 2013.

4. Respondent admits the allegations contained 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.

5. 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 Settlement Agreement. 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 he has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and National Practitioner Databank, as applicable.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent is hereby **CITED** for violating pharmacy laws and rules of another state and **WARNED** that Respondent's failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the ___ day of _____, 2015.

Daniel Ashton, Jr.
DANIEL ASHTON, JR.
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.

EDWARD MAIER, Chairperson
Iowa Board of Pharmacy

cc: Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

ADDENDUM G

SETTLEMENT AGREEMENT
AND
FINAL ORDER

OLUFEMI OMODARA
PHARMACIST LICENSE NO. 17817
GOODYEAR, ARIZONA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacist License of **OLUFEMI OMODARA** License No. 17817 Respondent.	))))))	CASE NO. 2013-74 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Olufemi Omodara ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case 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's license #17817 is currently inactive, having expired on June 30, 2012.

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 January 14, 2014.

4. Respondent admits the allegations contained 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.

5. 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 Settlement Agreement. 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 she has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent is hereby **CITED** for violating pharmacy laws and rules of another state and for failure to report out-of-state discipline and **WARNED** that Respondent's failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 17 day of February, 2015.

OLUFEMI OMODARA
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.

EDWARD MAIER, Chairperson
Iowa Board of Pharmacy

cc: Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

ADDENDUM H

SETTLEMENT AGREEMENT
AND
FINAL ORDER

MARY MCMILLIAN
PHARMACIST LICENSE NO. 19740
ELGIN, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacist License of **MARY MCMILLAN** License No. 19740 Respondent.	))))))	CASE NO. 2014-57 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Mary McMillan ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case 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's license #19740 is currently active and expires on June 30, 2016.

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 August 26, 2014.

4. Respondent admits the allegations contained 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.

5. 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 Settlement Agreement. 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 she has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and National Practitioner Databank, as applicable.

12. 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.

13. The Board=s approval of this Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

14. Respondent's license shall be **INDEFINITELY SUSPENDED**. Respondent shall not be permitted to apply for reinstatement of her pharmacist license until all of the following conditions have been satisfied:

    a. A minimum of six months has passed from the date of the Board's approval of this Agreement.

    b. Respondent obtains a complete mental health and substance abuse evaluation from a treatment provider pre-approved by the Board. It is Respondent's responsibility to seek prior approval of the evaluator, ensure the Board is notified at least five days prior to the evaluation, and ensure that the Board's disciplinary file, including Board orders and investigative reports, are provided to the evaluator prior to the evaluation. Failure to comply with any of these requirements automatically renders the evaluation noncompliant. Respondent will not be permitted to seek reinstatement based upon a noncompliant evaluation.

    c. Respondent delivers to the Board a current, comprehensive, and fully documented mental health and substance abuse evaluation of Respondent performed in accordance with the preceding paragraph "b". The evaluation must conclude that Respondent is fit to practice pharmacy. Any conclusion that Respondent is fit to return to the practice of pharmacy must include an assessment of Respondent's ability to cope with the presence of controlled substances in the pharmacy setting. The evaluation must include any recommendations for treatment.

    d. Respondent permits the Board to have complete access to Respondent's medical records, including records of substance abuse treatment, as necessary to fully evaluate Respondent's reinstatement request.

15. At such time as Respondent satisfies all of the requirements set forth in paragraph 14, Respondent may petition the Board for reinstatement of Respondent's license and commencement of a period of probation. Reinstatement of Respondent's license shall be at the discretion of the Board.

16. In the event the Board determines that Respondent's license should be reinstated, Respondent's license to practice pharmacy shall be placed on **PROBATION** for a period of five (5) years. The terms of probation include the following:

    a. Respondent must be employed as a pharmacist for a minimum of forty (40) hours per month for at least thirty (30) months of the probationary term. If Respondent cannot satisfy this requirement, the probationary period will extend beyond five (5) years until such time as Respondent can satisfy this requirement.

    b. Respondent shall not possess or use any controlled substance or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for Respondent by a licensed treating physician or other qualified health care provider. Respondent shall inform all treating physicians and other health care providers of her medical history, including all history of chemical dependency. Respondent shall provide the Board a copy of this notification upon request.

    c. Respondent shall provide witnessed blood, hair, or urine specimens on demand by the Board or its agents. Respondent shall provide such witnessed blood, hair, or urine specimens within the timeframe specified on the day of notice from the Board or the Board's chemical screening program requesting that Respondent provide a specimen. The specimens shall be used for alcohol and drug screening to verify Respondent's compliance with this Agreement. All costs related to the analysis of such specimens shall be paid by Respondent.

    d. To facilitate the preceding paragraph "c", Respondent shall participate in the Board's chemical screening program. Respondent shall complete enrollment in the Board's chemical screening program within thirty (30) days of the date his license is placed on probation. Respondent agrees to comply with all requirements of the chemical screening program and shall be responsible for all costs associated with the program. Respondent consents to disclosure to the Board, by the chemical screening program, of all medical information, including test results, generated by Respondent's contact with the chemical screening program.

    e. Respondent must comply with all treatment recommendations in the evaluation described in paragraph 14"c". Respondent's treatment providers shall submit quarterly reports to the Board documenting Respondent's compliance with treatment for the duration of the treatment. Said quarterly reports are due on March 1, June 1, September 1, and December 1 of each calendar year Respondent is undergoing treatment. Treatment providers shall indicate in the report if treatment is completed and indicate that no further quarterly reports will be submitted as a result.

    f. Respondent permits the Board to have complete access to Respondent's medical records, including records of substance abuse treatment, as necessary to fully evaluate Respondent's compliance with probationary terms.

g. Respondent shall participate in the Iowa Recovery Network (IPRN) program under the direct support of a pharmacist advocate. Respondent shall comply with all requirements of the IPRN program.

h. Respondent shall not serve as a pharmacist-in-charge while on probation. Respondent shall not supervise any registered pharmacist-interns or perform any duties of a pharmacy preceptor while on probation.

i. Respondent shall notify all employers and prospective employers (no later than at the time of an employment interview), including any pharmacist-in-charge, of the resolution of this case and the terms imposed on Respondent by this Agreement. Within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause her pharmacy employer/s, and any pharmacist-in-charge she works under, to send to the Board a written acknowledgment that the employer and pharmacist-in-charge have read this document and understand the terms.

j. Respondent shall appear before the Board upon request, for the purpose of reviewing her performance as a pharmacist during Respondent's probationary period. Respondent shall be given reasonable notice of the date, time, and place for such appearances.

k. Respondent shall inform the Board, in writing, of any change of home address, telephone number, or place of employment within ten (10) days of such a change.

l. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.

m. Respondent understands the Board may impose other terms as a condition of reinstatement Respondent's license.

n. Respondent shall submit written quarterly reports to the Board, said reports being due on March 1, June 1, September 1, and December 1 during each calendar year of the probationary period. Each quarterly report shall include Respondent's place of employment, current address, Respondent's most recent efforts to implement the provisions of this Agreement (by date), and any further information requested by the Board.

17. Should Respondent violate the terms of this 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 ___ day of _____, 2015.

_____

MARY MCMILLAN

MARY MCMILLAN
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.

EDWARD MAIER, Chairperson
Iowa Board of Pharmacy

cc: Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

David L. Brown
HANSEN, McCLINTOCK & RILEY
U. S. Bank Building, 5th Floor
520 Walnut Street
Des Moines, IA 50309-4119
ATTORNEY FOR RESPONDENT

Mary McMillan
MAP
3/02/15

ADDENDUM I

SETTLEMENT AGREEMENT
AND
FINAL ORDER

RASHID LTC PHARMACY
PHARMACY LICENSE NO. 1129
FORT MADISON, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacy License of **RASHID LTC PHARMACY** License No. 1129 Respondent.	))))))	CASE NO. 2014-102 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Rashid LTC PHarmacy ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case 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's license #1129 is currently active and expires on December 31, 2015.

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 November 19, 2014. A contested case hearing in this matter is scheduled for January 6, 2015.

4. Respondent admits the allegations contained 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.

5. 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 Settlement Agreement. 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 the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent is hereby **CITED** for failing to meet the requirements of emergency prescriptions and **WARNED** that Respondent's failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.

15. Respondent agrees to pay a civil penalty in the amount of one-thousand dollars ($1000). This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Iowa Board of Pharmacy, Attn: Lloyd Jessen, 400 SW Eighth Street, Suite E, Des Moines, IA 50309, within sixty (60) 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.

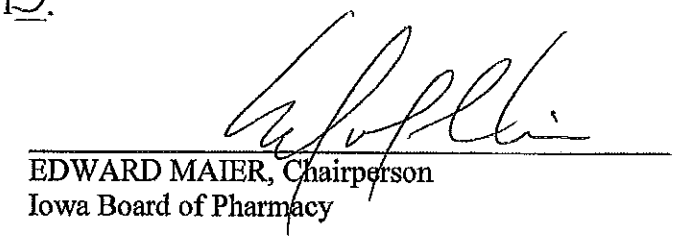
16. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 Iowa Administrative Code chapter 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 28 day of January, 2015.

RASHID LTC PHARMACY
Respondent

By this signature, _____ acknowledges s/he is the Owner for Rashid LTC Pharmacy and is authorized to sign this Settlement Agreement and Final Order on behalf of Rashid LTC Pharmacy.

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.



EDWARD MAIER, Chairperson
Iowa Board of Pharmacy

cc: Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

Guy Cook and Adam Zenor
Grefe & Sidney, P.L.C.
500 East Court Avenue, Suite 200
Des Moines, IA 50309
ATTORNEYS FOR RESPONDENT

ADDENDUM J

SETTLEMENT AGREEMENT
AND
FINAL ORDER

DAVID TRACEY KING
PHARMACIST LICENSE NO. 19586
BURLINGTON, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacist License of **DAVID TRACEY KING** License No. 19586 Respondent.	))))))	CASE NO. 2014-102 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and David Tracey King ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case 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's license #19586 is currently active and expires on June 30, 2015.

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 November 19, 2014. A contested case hearing in this matter is scheduled for January 6, 2015.

4. Respondent admits the allegations contained 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.

5. 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 Settlement Agreement. 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 he has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent is hereby **CITED** for failing to meet the requirements of emergency prescriptions and **WARNED** that Respondent's failure to comply with the laws governing the practice of pharmacy in the future could result in further discipline.

15. Respondent agrees to pay a civil penalty in the amount of two-hundred fifty dollars ($250). This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Iowa Board of Pharmacy, Attn: Lloyd Jessen, 400 SW Eighth Street, Suite E, Des Moines, IA 50309, within sixty (60) 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.

16. Respondent agrees to provide the Board written policies and procedures that address the filling and documentation of emergency prescriptions within sixty (60) days of the Board's approval of this Settlement Agreement and Final Order.

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 272C and 155A 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 19th day of January, 2015.

DAVID TRACEY KING
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.

EDWARD MAIER, Chairperson
Iowa Board of Pharmacy

cc: Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

Guy Cook and Adam Zenor
Grefe & Sidney, P.L.C.
500 East Court Avenue, Suite 200
Des Moines, IA 50309
ATTORNEYS FOR RESPONDENT

ADDENDUM K

SETTLEMENT AGREEMENT
AND
FINAL ORDER

GWEN RUGGER
PHARMACY SUPPORT PERSON
REGISTRATION NO. 2675
CORALVILLE, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacy Support Person Registration of **GWEN RUGGER** Registration No. 2675 Respondent.	))))))	CASE NO. 2014-106 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Gwen Rugger ("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 a Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent holds Iowa Pharmacy Support Person Registration No. 2675, which is currently active and expires on August 31, 2015.

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 August 26, 2014. A contested case hearing in this matter is scheduled for November 18, 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 the discipline agreed to in this Order.

5. 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 Settlement Agreement. 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 she has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank, as applicable.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent agrees to **VOLUNTARILY SURRENDER** her pharmacy support person registration to resolve this matter.

15. This voluntary surrender is considered a revocation under 657 IAC 36.15 for purposes of reinstatement. Respondent may not request reinstatement for at least one year from the date of this Order.

16. Respondent may request reinstatement of her Iowa pharmacy support person registration by filing an application for reinstatement under 657 IAC 36.13. Respondent's registration shall not be reinstated except upon a showing by Respondent that the basis for suspension of her registration no longer exists, and that it is in the public interest for the registration to be reinstated.

17. Respondent agrees not to work in a pharmacy in any capacity unless her registration is reinstated.

18. Respondent shall immediately surrender her pharmacy support person registration to the Board.

19. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 26 day of Jan, 2015

GWEN RUGGER
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.

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

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

ADDENDUM L

SETTLEMENT AGREEMENT
AND
FINAL ORDER

BRADY ROLFES
PHARMACY TECHNICIAN REGISTRATION NO. 18729
IOWA CITY, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacy Technician Registration of **BRADY ROLFES** License No. 18729 Respondent.	))))))	CASE NO. 2014-109 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Brady Rolfes ("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 a Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent holds Iowa Pharmacy Technician Registration No. 18729, which is currently active and expires on June 30, 2016.

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 November 19, 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 the discipline agreed to in this Order.

5. 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 Settlement Agreement. 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 he has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank, as applicable.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent agrees to **VOLUNTARILY SURRENDER** his pharmacy technician registration to resolve this matter.

15. This voluntary surrender is considered a revocation under 657 IAC 36.15 for purposes of reinstatement. Respondent may not request reinstatement for at least one year from the date of this Order.

16. Respondent may request reinstatement of his Iowa pharmacy technician registration by filing an application for reinstatement under 657 IAC 36.13. Respondent's registration shall not be reinstated except upon a showing by Respondent that the basis for suspension of his registration no longer exists, and that it is in the public interest for the registration to be reinstated.

17. Respondent agrees not to work in a pharmacy in any capacity in Iowa unless his registration is reinstated.

18. Respondent shall immediately surrender his pharmacy technician registration to the Board.

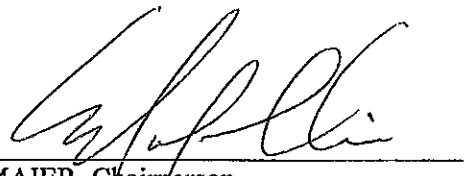
19. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the ___ day of _____, 2015.

Brady Rolfes

BRADY ROLFES
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.



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

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

ADDENDUM M

SETTLEMENT AGREEMENT
AND
FINAL ORDER

AMANDA KNOUSE
PHARMACY TECHNICIAN REGISTRATION NO. 20304
DES MOINES, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Technician Trainee Registration of **AMANDA KNOUSE** Registration No. 20304, Respondent.	)))))	CASE NO. 2014-116 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Amanda Knouse ("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 a Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent holds Iowa Pharmacy Technician Trainee Registration No. 20304, which is currently inactive, having expired on December 31, 2014.

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 January 6, 2015.

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 the discipline agreed to in this Order.

5. 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 Settlement Agreement. 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 she has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank, as applicable.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent agrees to **VOLUNTARILY SURRENDER** her pharmacy technician trainee registration to resolve this matter.

15. This voluntary surrender is considered a revocation under 657 IAC 36.15 for purposes of reinstatement. Reinstatement requests are governed by 657 IAC 36.13.

16. Respondent agrees not to work in a pharmacy in any capacity in Iowa unless her registration is reinstated.

17. Respondent shall immediately surrender her pharmacy technician trainee registration to the Board.

18. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 5 day of February, 2015.

AMANDA KNOUSE
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.

EDWARD MAIER, Chairperson

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

cc: Meghan Gavin
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

ADDENDUM N

SETTLEMENT AGREEMENT
AND
FINAL ORDER

STACY JAHLAS
PHARMACY TECHNICIAN REGISTRATION NO. 14928
BELLE PLAINE, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Certified Technician Registration of **STACY JAHLAS** Registration No. 14928, Respondent.	)))))	CASE NO. 2014-147 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Stacey Jahlas ("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 a Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent holds Iowa Pharmacy Technician Registration No. 14928, which is currently active and expires on January 31, 2016.

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 January 6, 2015.

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 the discipline agreed to in this Order.

5. 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 Settlement Agreement. 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 she has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank, as applicable.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent agrees to **VOLUNTARILY SURRENDER** her pharmacy technician registration to resolve this matter.

15. This voluntary surrender is considered a revocation under 657 IAC 36.15 for purposes of reinstatement. Reinstatement requests are governed by 657 IAC 36.13.

16. Respondent agrees not to work in a pharmacy in any capacity in Iowa unless her registration is reinstated.

17. Respondent shall immediately surrender her pharmacy technician registration to the Board.

18. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 3rd day of Feb, 2015.

Stacy Jahlas

STACY JAHLAS
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.

EDWARD MAIER, Chairperson

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

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

ADDENDUM O

SETTLEMENT AGREEMENT
AND
FINAL ORDER

JOHN E. GUCK
PHARMACIST LICENSE NO. 18556
LIBERTYVILLE, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacist License of **JOHN E. GUCK** License No. 18556 Respondent.	)))))	Case Nos. 2006-25 & 2014-150 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and John E. Guck ("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 Amended Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent holds Iowa pharmacist license number 18556, which is currently suspended and expires on June 30, 2015.

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 August 26, 2014. An Emergency Adjudicative Order and an Amended Statement of Charges was filed against Respondent on September 18, 2014.

4. Respondent admits the allegations in the Amended 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.

5. 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 Settlement Agreement. 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 he has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank, as applicable.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent agrees to **VOLUNTARILY SURRENDER** his pharmacist license to resolve this matter.

15. This voluntary surrender is considered a revocation under 657 IAC 36.15 for purposes of reinstatement. Respondent may not request reinstatement for at least three years from the date of this Order.

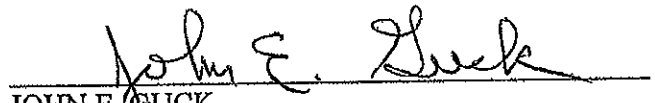
16. Respondent may request reinstatement of his Iowa pharmacist license by filing an application for reinstatement under 657 IAC 36.13. Respondent's license shall not be reinstated except upon a showing by Respondent that the basis for revocation of his license no longer exists, and that it is in the public interest for the license to be reinstated.

17. Respondent agrees not to work in a pharmacy in any capacity unless his pharmacist license is reinstated.

18. Respondent shall immediately surrender his pharmacist license to the Board.

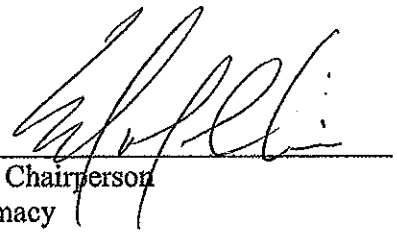
19. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 26 day of January, 2015.



JOHN E. GUCK
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.



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

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

ADDENDUM P

SETTLEMENT AGREEMENT
AND
FINAL ORDER

STEPHEN SCOTT
PHARMACIST LICENSE NO. 18067
TIPTON, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	CASE NO. 2014-156
Pharmacist License of	)	
STEPHEN SCOTT	)	**SETTLEMENT AGREEMENT**
License No. 18067	)	**AND FINAL ORDER**
Respondent.	)	

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Stephen Scott ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case 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's license #18067 is currently active and expires on June 30, 2015.

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 January 6, 2015.

4. Respondent admits the allegations contained 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.

5. 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 Settlement Agreement. 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 he has the right to be represented by counsel on this matter.

8. 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.

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. Respondent acknowledges and understands that this Order will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and National Practitioner Databank, as applicable.

12. 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.

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

IT IS THEREFORE ORDERED:

14. Respondent's license shall be **INDEFINITELY SUSPENDED**. Respondent shall not be permitted to apply for reinstatement of his pharmacist license until all of the following conditions have been satisfied:

    a. A minimum of one year has passed from the date of the Board's approval of this Agreement.

    b. Respondent obtains a complete mental health and substance abuse evaluation from a treatment provider pre-approved by the Board. It is Respondent's responsibility to seek prior approval of the evaluator, ensure the Board is notified at least five days prior to the evaluation, and ensure that the Board's disciplinary file, including Board orders and investigative reports, are provided to the evaluator prior to the evaluation. Failure to comply with any of these requirements automatically renders the evaluation noncompliant. Respondent will not be permitted to seek reinstatement based upon a noncompliant evaluation.

    c. Respondent delivers to the Board a current, comprehensive, and fully documented mental health and substance abuse evaluation of Respondent performed in accordance with the preceding paragraph "b". The evaluation must conclude the Respondent is fit to practice pharmacy. Any conclusion that Respondent is fit to return to the practice of pharmacy must include an assessment of Respondent's ability to cope with the presence of controlled substances in the pharmacy setting. The evaluation must include any recommendations for treatment.

    d. Respondent permits the Board to have complete access to Respondent's medical records, including records of substance abuse treatment, as necessary to fully evaluate Respondent's reinstatement request.

15. At such time as Respondent satisfies all of the requirements set forth in paragraph 14, Respondent may petition the Board for reinstatement of Respondent's license and commencement of a period of probation. Reinstatement of Respondent's license shall be at the discretion of the Board.

16. In the event the Board determines that Respondent's license should be reinstated, Respondent's license to practice pharmacy shall be placed on **PROBATION** for a period of five (5) years. The terms of probation include the following:

    a. Respondent must be employed as a pharmacist for a minimum of forty (40) hours per month for at least thirty (30) months of the probationary term. If Respondent cannot satisfy this requirement, the probationary period will extend beyond five (5) years until such time as Respondent can satisfy this requirement.

    b. Respondent shall not possess or use any controlled substance or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for Respondent by a licensed treating physician or other qualified health care provider. Respondent shall inform all treating physicians and other health care providers of his medical history, including all history of chemical dependency. Respondent shall provide the Board a copy of this notification upon request.

    c. Respondent shall provide witnessed blood, hair, or urine specimens on demand by the Board or its agents. Respondent shall provide such witnessed blood, hair, or urine specimens within the timeframe specified on the day of notice from the Board or the Board's chemical screening program requesting that Respondent provide a specimen. The specimens shall be used for alcohol and drug screening to verify Respondent's compliance with this Agreement. All costs related to the analysis of such specimens shall be paid by Respondent.

    d. To facilitate the preceding paragraph "c", Respondent shall participate in the Board's chemical screening program. Respondent shall complete enrollment in the Board's chemical screening program within thirty (30) days of the date his license is placed on probation. Respondent agrees to comply with all requirements of the chemical screening program and shall be responsible for all costs associated with the program. Respondent consents to disclosure to the Board, by the chemical screening program, of all medical information, including test results, generated by Respondent's contact with the chemical screening program.

    e. Respondent must comply with all treatment recommendations in the evaluation described in paragraph 14"c". Respondent's treatment providers shall submit quarterly reports to the Board documenting Respondent's compliance with treatment for the duration of the treatment. Said quarterly reports are due on March 1, June 1, September 1, and December 1 of each calendar year Respondent is undergoing treatment. Treatment providers shall indicate in the report if treatment is completed and indicate that no further quarterly reports will be submitted as a result.

    f. Respondent permits the Board to have complete access to Respondent's medical records, including records of substance abuse treatment, as necessary to fully evaluate Respondent's compliance with probationary terms.

g. Respondent shall participate in the Iowa Recovery Network (IPRN) program under the direct support of a pharmacist advocate. Respondent shall comply with all requirements of the IPRN program.

h. Respondent shall not serve as a pharmacist-in-charge while on probation. Respondent shall not supervise any registered pharmacist-interns or perform any duties of a pharmacy preceptor while on probation.

i. Respondent shall notify all employers and prospective employers (no later than at the time of an employment interview), including any pharmacist-in-charge, of the resolution of this case and the terms imposed on Respondent by this Agreement. Within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his pharmacy employer/s, and any pharmacist-in-charge he works under, to send to the Board a written acknowledgment that the employer and pharmacist-in-charge have read this document and understand the terms.

j. Respondent shall appear before the Board upon request, for the purpose of reviewing his performance as a pharmacist during Respondent's probationary period. Respondent shall be given reasonable notice of the date, time, and place for such appearances.

k. Respondent shall inform the Board, in writing, of any change of home address, telephone number, or place of employment within ten (10) days of such a change.

l. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.

m. Respondent understands the Board may impose other terms as a condition of reinstatement Respondent's license.

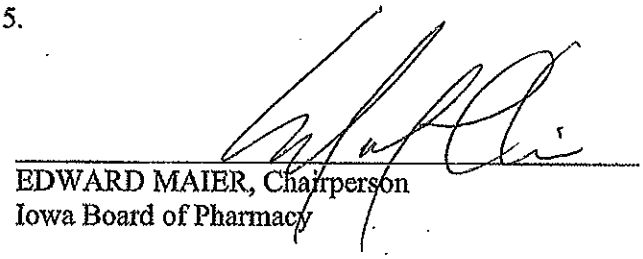
n. Respondent shall submit written quarterly reports to the Board, said reports being due on March 1, June 1, September 1, and December 1 during each calendar year of the probationary period. Each quarterly report shall include Respondent's place of employment, current address, Respondent's most recent efforts to implement the provisions of this Agreement (by date), and any further information requested by the Board.

17. Should Respondent violate the terms of this 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 19 day of February, 2015.

STEPHEN SCOTT
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.



EDWARD MAIER, Chairperson
Iowa Board of Pharmacy

cc: Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319
ATTORNEY FOR THE STATE

ADDENDUM Q

COMBINED STATEMENT OF CHARGES, SETTLEMENT AGREEMENT AND FINAL ORDER

VILLAGE FERTILITY PHARMACY
NONRESIDENT PHARMACY LICENSE NO. 4230
WALTHAM, MASSACHUSETTS

BEFORE THE IOWA BOARD OF PHARMACY

Re: Nonresident Pharmacy License of **VILLAGE FERTILITY PHARMACY** License No. 4230 Respondent.	))))))	CASE NO. 2014-182 **COMBINED STATEMENT OF CHARGES, SETTLEMENT AGREEMENT, AND FINAL ORDER**

COMES NOW the Iowa Board of Pharmacy ("Board") and Village Fertility Pharmacy ("Respondent"), 335 Bear Hill Road, Waltham, MA 02451, and enter into this Combined Statement of Charges, Settlement Agreement, and Final Order ("Agreement") pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) (2015), stating the following:

1. Respondent holds Iowa nonresident pharmacy license number 4230, which is currently active and expires on December 31, 2015.

2. The Board has jurisdiction over the parties and the subject matter of these proceedings.

A. STATEMENT OF CHARGES

Count I
OUT-OF-STATE DISCIPLINE

3. Respondent is charged with violating the pharmacy or drug laws or rules of another state while under the jurisdiction of that state, pursuant to Iowa Code section 155A.13A(3) and 657 IAC 19.10 and 36.1(4)"ad".

Count II
PROVIDING PHARMACY SERVICES WITHOUT A LICENSE

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

B. FACTUAL CIRCUMSTANCES

5. On October 19, 2013, Respondent's Massachusetts pharmacy license was put on probation pursuant to a consent agreement. The probation extends until October 19, 2016.

6. Respondent shipped prescriptions to Iowa patients in 2012. Respondent did not become licensed as a nonresident pharmacy in Iowa until 2014.

C. SETTLEMENT AGREEMENT AND FINAL ORDER

7. Execution of this Combined Statement of Charges, Settlement Agreement, and Final 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 action, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in this case and shall have the force and effect of a disciplinary order entered following a contested case hearing.

8. Respondent acknowledges that the allegations, if proven in a contested case hearing, would constitute grounds for the discipline agreed to in this Combined Statement of Charges, Settlement Agreement, and Final Order.

9. Respondent is freely and voluntarily entering into this Agreement.

10. Respondent acknowledges that it has the right to be represented by counsel on this matter.

11. Respondent agrees that the State's counsel may present this Agreement to the Board and may have *ex parte* communications with the Board while presenting it.

12. This Agreement is subject to approval by the Board. If the Board does not approve this Agreement, it shall be of no force or effect on either party, and shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Agreement, it shall be the full and final resolution of this matter.

13. This 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. This Agreement shall not be binding as to any new complaints received by the Board.

15. This Agreement 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.

16. Respondent acknowledges and understands that this Agreement will be reported to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse.

17. The Board's approval of this Agreement shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

18. Respondent's license is hereby placed on **PROBATION** for the entirety of Respondent's probationary period in Massachusetts, which is expected to last until August 19, 2016. The following conditions apply during the probation period:

a. Respondent shall comply with all terms of the Massachusetts Consent Agreement for Probation, which include a restriction from medium-risk and high-risk sterile compounding until approved to do so by the Massachusetts Board of Registration in Pharmacy.

b. Respondent authorizes the release of all information and records related to the Massachusetts probationary period in possession of the Massachusetts Board of Registration in Pharmacy or its agent to the Iowa Board of Pharmacy upon request, in order to verify compliance with this Agreement.

c. This Agreement is intended to mirror the Massachusetts Consent Agreement for Probation. If any conditions or restrictions are added or removed by the Massachusetts Board of Registration in Pharmacy, those changes will be incorporated into this Agreement. If Respondent is granted early release from Massachusetts probation, Respondent's Iowa nonresident pharmacy license shall also be released from probation. Any changes to the Massachusetts probationary conditions or terms shall be promptly reported to the Iowa Board of Pharmacy.

d. Respondent shall report any violations of its Massachusetts probation to the Iowa Board of Pharmacy immediately.

19. Respondent agrees to pay a civil penalty in the amount of one thousand dollars ($1000). This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Executive Director of the Board within sixty (60) days of the Board's approval of this Agreement. All civil penalty payments shall be deposited into the State of Iowa general fund.

20. Should Respondent violate the terms of this Agreement, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2015) and 657 Iowa Administrative Code chapter 36.

This Combined Statement of Charges, Settlement Agreement, and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 16 day of FEBRUARY, 2015.

VILLAGE FERTILITY PHARMACY
Respondent

By this signature, STUART COVINE acknowledges s/he is the PRESIDENT for Village Fertility Pharmacy and is authorized to sign this Combined Statement of Charges, Settlement Agreement, and Final Order on behalf of Village Fertility Pharmacy.

This Combined Statement of Charges, Settlement Agreement, and Final Order is accepted by the Iowa Board of Pharmacy on the 10th day of March, 2015.

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

Copy to:

Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

ADDENDUM R

COMBINED NOTICE OF HEARING
AND
STATEMENT OF CHARGES

WEATHERFORD COMPOUNDING PHARMACY
NONRESIDENT PHARMACY LICENSE NO. 4075
WEATHERFORD, TEXAS

BEFORE THE IOWA BOARD OF PHARMACY

Re: Nonresident Pharmacy License of **WEATHERFORD COMPOUNDING PHARMACY** License No. 4075 Respondent.	)))))))	CASE NOS. 2013-4075 & 2014-100 **NOTICE OF HEARING AND STATEMENT OF CHARGES**

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Weatherford Compounding Pharmacy ("Respondent"), 2005 Fort Worth Highway #100, Weatherford, Texas 76086, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2015). Respondent's Iowa nonresident pharmacy license number 4075 is currently active and expires on December 31, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 28, 2015, before the Board. The hearing shall be held in the afternoon session beginning at 1:00 p.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 IAC 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 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
2nd 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.

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 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
ADULTERATED DRUGS

Respondent is charged with the introduction or delivery for introduction into commerce of adulterated drugs in violation of Iowa Code sections 126.3 and 155A.23(1)"f", pursuant to Iowa Code section 155A.13A(3) and 657 IAC 36.1(4)"h".

Count II
IMPROPER LABELING

Respondent is charged with failing to have the following information on the label of dispensed compounded sterile preparations: name and quantity of all contents, patient's name, preparer's and reviewing pharmacist's initials or unique identifiers, and stability (beyond-use date) as set forth in the pharmacy's policy and procedure manual, in violation of 657 IAC 13.7(1)"a", "b", "d", and "e", pursuant to Iowa Code section 155A.13A(3) and 657 IAC 36.1(4)"u".

Count III
INCOMPLETE PRODUCTION RECORDS

Respondent is charged with failing to have the following information on the production records of compounded sterile preparations: initials or unique identification of each person involved in each of the compounding steps and the initials or unique identification of each pharmacist verifying each of the compounding steps, in violation of 657 IAC 13.8(1)"c" and "d", pursuant to Iowa Code section 155A.13A(3) and 657 IAC 36.1(4)"u".

Count IV
EXCEEDING APPROPRIATE BEYOND-USE DATES

Respondent is charged with exceeding the appropriate storage period beyond-use date by assigning beyond-use dates exceeding 24 hours for high-risk compounded sterile preparations in the absence of the preparation's passing a sterility test in violation of 13.13(1)"e", pursuant to Iowa Code section 155A.13A(3) and 657 IAC 36.1(4)"u".

Count V
FAILING TO ADHERE TO POLICIES AND PROCEDURES

Respondent is charged with failing to adhere to compounding policies and procedures in violation of 13.6, pursuant to Iowa Code section 155A.13A(3) and 657 IAC 36.1(4)"u".

D. FACTUAL CIRCUMSTANCES

1. In fall of 2013, Respondent shipped herbal compounded preparations containing ginseng and cinnamon to a veterinarian in Iowa to administer to race horses. The preparations were tainted with sildenafil, a banned drug.

2. A review of compounded sterile preparations dispensed by Respondent to the veterinarian in May 2014 revealed the following deficiencies:

a. The labels of compounded sterile preparations did not list the name and quantity of all contents.

b. The labels of compounded sterile preparations did not contain a patient or prescriber name.

c. The labels of compounded sterile preparations did not contain the preparer's and reviewing pharmacist's initials or unique identifiers.

d. The production records of compounded sterile preparations did not contain the initials or unique identification of each person involved in each of the compounding steps.

e. The production records of compounded sterile preparations did not contain the initials or unique identification of each pharmacist verifying each of the compounding steps.

f. The lot numbers on the production records did not match the lot numbers on the labels of compounded sterile preparations.

g. In one instance, the same lot number was assigned to sterile preparations compounded on two different days.

h. The label of one compounded sterile preparation did not contain a lot number.

i. The expiration date on the labels of compounded sterile preparations did not match the beyond-use date or expiration date specified in the production record.

j. The label of one compounded sterile preparation did not contain any expiration date.

k. Respondent assigned beyond-use dates for room temperature high-risk compounded sterile preparations that exceeded 24 hours when the preparations did not undergo sterility testing.

l. Some of the labels of compounded sterile preparations lacked the pharmacy name and the pharmacy address.

3. Respondent's procedure for prescription labels sold directly to veterinarians requires the following to be on the label: the lot number, an expiration date, the pharmacy name, and the pharmacy address.

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 10th day of March, 2015, 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 Steffensmeier
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:

( ) personal service
(X) certified mail, return receipt requested
Article Number 9171999991703106714610

( ) first class mail
( ) facsimile
( ) other _____

on the 10th day of March, 2015.

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

Debbie S. Jorgenson

Debbie S. Jorgenson

ADDENDUM S

COMBINED NOTICE OF HEARING
AND
STATEMENT OF CHARGES

DONALD VERSLUYS
PHARMACIST LICENSE NO. 15600
PELLA, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacist License of **DONALD VERSLUYS** License No. 15600 Respondent.	))))))	CASE NO. 2014-50 **NOTICE OF HEARING AND STATEMENT OF CHARGES**

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Donald Versluys ("Respondent"), 1001 Fountainview Drive, Pella, Iowa 50219, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2015). Respondent's Iowa pharmacist license number 15600 is currently active and expires on June 30, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 28, 2015, before the Board. The hearing shall be held in the afternoon session beginning at 1:00 p.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 IAC 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 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
2nd 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.

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 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
MISREPRESENTATIVE DEEDS

Respondent is charged with making statements tending to deceive, misrepresent, or mislead anyone, or being a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of pharmacy in violation of 657 IAC 8.11(1), pursuant to Iowa Code sections 147.55(3), (9), 155A.12(1), (2), and (3), and 657 IAC 36.1(4)"c" and "u".

Count II
INACCURATE PRESCRIPTION DOCUMENTATION

Respondent is charged with failing to maintain accurate prescription processing documentation, specifically by using incorrect National Drug Codes, in violation of 657 IAC 6.8, pursuant to Iowa Code sections 147.55(9) and 155A.12(1), and 657 IAC 36.1(4)"u" and "ac".

Count III
FAILING TO REPORT THEFT OR LOSS

Respondent is charged with failing to report the theft or loss of controlled substances to the Board and the DEA in a timely fashion in violation of 657 IAC 10.16, pursuant to Iowa Code sections 147.55(9), 155A.12(1), and (5), and 657 IAC 36.1(4)"u" and "ag".

Count IV
IMPROPER RECORD DISPOSAL

Respondent is charged with failing to dispose of materials containing or including patient-specific confidential information in a manner to preserve patient confidentiality in

violation of 657 IAC 8.16(5), pursuant to Iowa Code sections 147.55(9) and 155A.12(1), and 657 IAC 36.1(4)"u".

Count V
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 657 IAC 6.2(15), pursuant to Iowa Code sections 147.55(9) and 155A.12(1), and 657 IAC 36.1(4)"u".

D. FACTUAL CIRCUMSTANCES

1. At all relevant times, Respondent was the pharmacist-in-charge and owner at Crown Pharmacy.

2. Respondent processed prescriptions as cash transactions even when patients had prescription insurance coverage. Respondent told patients he was running prescription claims through insurance when he was not. Respondent collected cash payments from patients using the guise that the cash payment was an insurance co-payment. In many cases, the cash payment amount paid by the patient was higher than the insurance co-payment that the patient would have paid if the prescription was properly processed through insurance.

3. Respondent processed prescriptions using incorrect National Drug Code numbers. Respondent did not review National Drug Code numbers as part of final verification of a prescription.

4. In August 2013, Crown Pharmacy experienced a loss of 50 tablets of oxycodone-acetaminophen 7.5-325. In May 2014, Crown Pharmacy experienced a loss of 90 tablets amphetamine salts 5 mg. Both drugs are Schedule II controlled substances. The losses were not reported to the DEA or to the Board until November 2014, after a Board compliance officer instructed Respondent to submit the losses.

5. Respondent disposed of confidential patient information in a trash can without shredding the documents or otherwise preventing access to the confidential information.

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 10th day of March, 2015, 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 Steffensmeier
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:

( ) personal service
(X) certified mail, return receipt requested
Article Number 9171999991703106714580 9

( ) first class mail
( ) facsimile
( ) other _____

on the 10th day of March, 2015.

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

Debbie S. Jorgenson

Debbie S. Jorgenson

ADDENDUM T

COMBINED NOTICE OF HEARING
AND
STATEMENT OF CHARGES

MARQUAISHA HAYGOOD
PHARMACY TECHNICIAN REGISTRATION NO. 19605
DES MOINES, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacy Technician Registration of **MARQUAISHA HAYGOOD** Registration No. 19605 Respondent.	))))))	CASE NO. 2014-137 **NOTICE OF HEARING AND STATEMENT OF CHARGES**

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Marquaisha Haygood ("Respondent"), 2557 Wedgewood Road #56, Des Moines, IA 50317, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2015). Respondent's Iowa pharmacy technician registration number 19605 is currently delinquent, having expired on April 30, 2014.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 28, 2015, 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 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 IAC 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 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
2nd 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.

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 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
ENGAGING IN UNETHICAL BEHAVIOR

Respondent is charged with engaging in unethical behavior, specifically theft, in violation of 657 IAC 3.28(4), pursuant to Iowa Code sections 147.55(3), (9), and 155A.6A(5), and 657 IAC 3.30, 36.1(4)"c", and "u".

Count II
MISREPRESENTATIVE DEEDS

Respondent is charged with making a statement tending to deceive, misrepresent, or mislead anyone, or being a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of pharmacy in violation of 657 IAC 3.28(1), pursuant to Iowa Code sections 147.55(3), (9), and 155A.6A(5), and 657 IAC 3.30, 36.1(4)"c", and "u".

Count III
DELINQUENT REGISTRATION

Respondent is charged with working as a pharmacy technician without an active registration in violation of 657 IAC 3.3, pursuant to Iowa Code sections 147.55(9) and 155A.6A(5), and 657 IAC 3.30, 36.1(4)"u", and "v".

D. FACTUAL CIRCUMSTANCES

1. Respondent was employed as a pharmacy technician in Des Moines, Iowa.

2. In May, 2014, Respondent instructed another pharmacy technician to give a prescription of promethazine with codeine cough syrup to a drive-thru customer free of charge. The customer entered the store after receiving the prescription in the drive-thru and indicated that it was the incorrect prescription. The customer had a prescription for generic Tussionex cough syrup. The bottle of promethazine with codeine was labeled with a prescription from the prior month, contained a reprint of prescription leaflet from the prior prescription, and was filled with 240 mL instead of 180 mL as indicated on the label. Video footage shows Respondent filling the bottle in the back of the pharmacy and failing to bring it to the front of the pharmacy for normal processing.

3. In June, 2014, video footage shows Respondent taking several bags of prescription medications to the back pharmacy counter. Respondent is seen removing the multiple bags to consolidate the medications into one large sack. Respondent did not place one of the liquid prescriptions into the large sack. The patient later reported that a bottle of promethazine with codeine cough syrup was missing from the large sack.

4. Respondent's pharmacy technician registration expired on April 30, 2014. Respondent continued working as a pharmacy technician until her termination for the above-described events on July 3, 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 10th day of March, 2015, 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 Steffensmeier
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:

( ) personal service
(X) certified mail, return receipt requested
Article Number 9171999991703106714566

( ) first class mail
( ) facsimile
( ) other _____

on the 10th day of March, 2015.

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

Debbie S. Jorgenson

Debbie S. Jorgenson

ADDENDUM U

COMBINED NOTICE OF HEARING
AND
STATEMENT OF CHARGES

SHERRI MARSHALL
PHARMACY TECHNICIAN REGISTRATION NO. 18129
DES MOINES, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Certified Pharmacy Technician Registration of **SHERRI MARSHALL** Registration No. 18129 Respondent.	)))))))	CASE NO. 2014-189 **NOTICE OF HEARING AND STATEMENT OF CHARGES**

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Sherri Marshall ("Respondent"), 3716 SE 21st Court, Des Moines, IA 50320, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2015). Respondent's Iowa certified pharmacy technician registration number 18129 is currently active and expires on March 31, 2016.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 28, 2015, 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 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 IAC 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 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
2nd 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.

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 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
FORGING PRESCRIPTIONS

Respondent is charged with obtaining or attempting to obtain a prescription drug by forging a prescription in violation of Iowa Code section 155A.23, pursuant to Iowa Code sections 147.55(8) and 155A.6A(5), and 657 IAC 3.30 and 36.1(4)"j".

Count II
MISREPRESENTATIVE DEEDS

Respondent is charged with making a statement tending to deceive, misrepresent, or mislead anyone, or being a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of pharmacy in violation of 657 IAC 3.28(1), pursuant to Iowa Code sections 147.55(3), (9), and 155A.6A(5), and 657 IAC 3.30, 36.1(4)"c", and "u".

Count III
ENGAGING IN UNETHICAL BEHAVIOR

Respondent is charged with engaging in unethical behavior in violation of 657 IAC 3.28(4), pursuant to Iowa Code sections 147.55(3), (9), and 155A.6A(5), and 657 IAC 3.30, 36.1(4)"c", and "u".

D. FACTUAL CIRCUMSTANCES

1. Respondent was employed as a pharmacy technician in Des Moines, Iowa.

2. In September and October, 2014, Respondent forged prescriptions for Hydrocodone/APAP 10/325 mg. The forged prescriptions were dispensed by the pharmacy and picked up by Respondent's minor family member.

3. Respondent admitted to paying the minor family member for picking up the prescriptions.

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 10th day of March, 2015, 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 Steffensmeier
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:

( ) personal service
(X) certified mail, return receipt requested
Article Number 9171999991703106714573

( ) first class mail
( ) facsimile
( ) other _____

on the 10th day of March, 2015.

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

Debbie S. Jorgenson

Debbie S. Jorgenson

ADDENDUM V

COMBINED NOTICE OF HEARING
AND
STATEMENT OF CHARGES

MARK FRAHM
PHARMACIST LICENSE NO. 15271
OTTUMWA, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacist License of **MARK FRAHM** License No. 15271 Respondent.	))))))	CASE NO. 2014-204 **NOTICE OF HEARING AND STATEMENT OF CHARGES**

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Mark Frahm ("Respondent"), 1137 N Court Street, Ottumwa, Iowa 52501, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2015). Respondent's Iowa pharmacist license number 15271 is currently active and expires on June 30, 2016.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 28, 2015, before the Board. The hearing shall be held in the afternoon session beginning at 1:00 p.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 IAC 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 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
2nd 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.

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 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
PROFESSIONAL INCOMPETENCY

Respondent is charged with professional incompetency for failing to report to the clozapine registry, pursuant to Iowa Code sections 147.55(2) and 155A.12(3) and 657 IAC 36.1(4)"b".

D. FACTUAL CIRCUMSTANCES

1. At all relevant times, Respondent was the pharmacist-in-charge at South Side Drug Inc.

2. South Side Drug Inc. has multiple patients receiving clozapine.

3. The prescribing information for clozapine requires pharmacies to report patient information to a clozapine registry.

4. Since 2006, Respondent and South Side Drug Inc. have not been reporting to any clozapine registries.

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 10th day of March, 2015, 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 Steffensmeier
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:

( ) personal service
(X) certified mail, return receipt requested
Article Number 91719999917031067145 59
( ) first class mail
( ) facsimile
( ) other _____

on the 10th day of March, 2015.

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

Debbie S. Jorgenson

ADDENDUM W

COMBINED NOTICE OF HEARING
AND
STATEMENT OF CHARGES

MARY MOSHER
PHARMACIST LICENSE NO. 20661
CEDAR RAPIDS, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacist License of **MARY MOSHER** License No. 20661 Respondent.	))))))	CASE NO. 2015-24 **NOTICE OF HEARING AND STATEMENT OF CHARGES**

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Mary Mosher ("Respondent"), 6180 Wayside Circle, Cedar Rapids, Iowa 52411, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2015). Respondent's Iowa pharmacist license number 20661 is currently active and expires on June 30, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 28, 2015, before the Board. The hearing shall be held in the afternoon session beginning at 1:00 p.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 IAC 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 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
2nd 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.

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 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
UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE

Respondent is charged with unlawful possession of a controlled substance in violation of Iowa Code section 124.401(5), pursuant to Iowa Code section 155A.12(5), and 657 IAC 36.1(4)"j".

Count II
UNETHICAL CONDUCT

Respondent is charged with engaging in unethical conduct, pursuant to Iowa Code sections 147.55(3), 155A.12(2), and (3), and 657 IAC 36.1(4)"c".

Count III
FAILURE TO MAINTAIN ADEQUATE CONTROL OVER AND ACCOUNTABILITY FOR CONTROLLED SUBSTANCES

Respondent is charged with failing to maintain adequate control over and accountability for controlled substances in violation of Iowa Code sections 124.308 and 124.402(1), and 657 IAC 7.2(13), pursuant to Iowa Code sections 155A.12(1), (4), and (5), and 657 IAC 36.1(4)"u" and "ac".

Count IV
INABILITY TO PRACTICE

Respondent is charged with inability to practice with reasonable skill and safety by reason of chemical abuse, pursuant to Iowa Code sections 147.55(9) and 155A.12(1), and 657 IAC 36.1(4)"m".

D. FACTUAL CIRCUMSTANCES

1. At all relevant times, Respondent was the pharmacist-in-charge at a hospital pharmacy.

2. From October 2014 to February 2015, the hospital pharmacy could not account for approximately 1800 doses of various Schedule II controlled substances.

3. Respondent signed Schedule II controlled substances out of the pharmacy's perpetual inventory to fill the Pyxis medication system. Actual counts of the controlled substances in the Pyxis medication system revealed that the controlled substances removed from the pharmacy were not placed in the Pyxis medication system.

4. Pharmacy staff reported that Respondent frequently stayed late in the pharmacy after the rest of the staff left for the day and continued to come into the pharmacy on days when she did not work. Pharmacy staff noticed a change in Respondent's behavior in the last quarter of 2014.

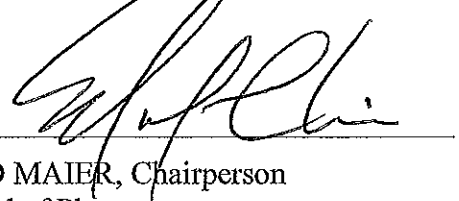
5. Respondent admitted to taking narcotics from the pharmacy.

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 10th day of March, 2015, 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 Steffensmeier
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:

( ) personal service
(X) certified mail, return receipt requested
Article Number 9171999991703106714597

( ) first class mail
( ) facsimile
( ) other _____

on the 10th day of March, 2015.

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

Debbie S. Jorgenson

Debbie S. Jorgenson

ADDENDUM X

PRELIMINARY NOTICE OF INTENT TO DENY LICENSE

CREAMS `N CAPS SOUTHFIELD, MICHIGAN

BEFORE THE IOWA BOARD OF PHARMACY

Re: The Application for Nonresident Pharmacy License of **CREAMS 'N CAPS** Applicant.	))))))	**PRELIMINARY NOTICE OF INTENT TO DENY LICENSE**

TO: Creams 'N Caps
18161 W. 13 Mile Rd., Ste. A1
Southfield, MI 48076

YOU ARE HEREBY NOTIFIED that on March 10, 2015, the Iowa Board of Pharmacy ("Board") voted to deny your application for an Iowa nonresident pharmacy license. The intent to deny licensure is based upon the following:

LEGAL GROUNDS

1. Applicants for an Iowa nonresident pharmacy license must apply in accordance with Iowa Code section 155A.13A and 657 IAC 19.2.

2. The Board has the authority to deny an Iowa nonresident pharmacy application for licensure for violations of Iowa Code chapter 155A and rules of the Board. *See* Iowa Code section 155A.13A(3).

3. It is a violation of Iowa Code section 155A.13A(1) and 657 IAC 19.2 to deliver prescription drugs to patients in Iowa without an Iowa nonresident pharmacy license.

4. It is a violation of 657 IAC 36.1(4)"a" to engage in fraud in procuring a license by concealment of that which should have been disclosed when making an application.

FACTUAL CIRCUMSTANCES

5. On February 4, 2015, the Board received an Iowa nonresident pharmacy license application from Creams 'N Caps.

6. The application was for new nonresident pharmacy license, but was for the same location as Iowa nonresident pharmacy license number 4203, which expired on December 31, 2014. The owner listed on the new application also matched the owner of Iowa nonresident pharmacy license number 4203.

7. In July 2014, Iowa nonresident pharmacy license number 4203 was disciplined by the Board.

8. The new application did not reference Iowa nonresident pharmacy license number 4203 or the discipline associated with that license in any way.

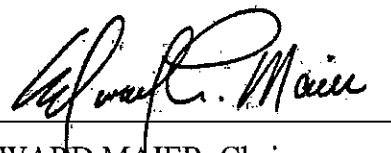
9. The home state (Michigan) license for Iowa nonresident pharmacy license number 4203 was transferred to Creams 'N Caps effective August 29, 2014. The Board did not receive any notification of this change.

10. From September 1, 2014, through February 19, 2015, Applicant shipped over 4,000 prescriptions to Iowa without having a valid Iowa nonresident pharmacy license.

NOTICE OF APPEAL RIGHTS

11. Pursuant to the provisions of 657 IAC 36.16, you may appeal the Board's preliminary notice of denial of licensure by serving a written notice of appeal and request for hearing upon the Board not more than thirty (30) days following the date of issuance of this notice. The request for hearing shall specifically describe the facts to be contested and determined at the hearing. The hearing shall be held pursuant to the process outlined at 657 IAC 35.19 and 36.8. If an appeal is not filed within this time period, this preliminary notice of intent to deny licensure will become final.

DATED this 31st day of March, 2015.



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

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

ADDENDUM Y

ORDER DENYING MOTION TO QUASH SUBPOENA

WALGREENS PHARMACY 05721
PHARMACY LICENSE NO. 355
DES MOINES, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF:	)	
	)	Docket No. _____
Pharmacy License of	)	
WALGREENS,	)	
License No. 5721,	)	
	)	**ORDER DENYING MOTION**
Respondent.	)	**TO QUASH SUBPOENA**
	)	

On July 14, 2014, investigator Jennifer Tiffany requested that the Iowa Board of Pharmacy (Board) issue a subpoena duces tecum to Walgreens to produce the following documents:

> Documentation which confirms violation of Iowa Board of Pharmacy Administrative Code requirement 657-6.14(1) by former Pharmacist in Charge of the SE 14th and Park location, Adam Reyna.

The Board thereafter issued the subpoena, which was served on Walgreens on or about July 23, 2014.

On August 12, 2014, Walgreens filed a Motion to Quash Subpoena. The State of Iowa filed a Resistance to Motion to Quash Subpoena on October 22, 2014. Walgreens filed a Reply to Claimant's Resistance to Motion to Quash Subpoena on October 28, 2014. The Board set the matter for oral argument.

On November 19, 2014, the Board held oral argument. The following members of the Board presided at oral argument: Edward Maier, Chairperson; James Miller; LaDonna Gratias; Susan Frey; Judith Trumpy; Edward McKenna; and Sharon Meyer. Attorney Kevin Reynolds represented Walgreens. Assistant attorney general Meghan Gavin represented the state.

Pursuant to Iowa Code section 21.5(1)(d), oral argument was closed to the public. Administrative Law Judge Laura Lockard assisted the Board in conducting the oral argument and was instructed to prepare the Board's written decision on the motion in accordance with its deliberations.

DISCUSSION

Walgreens asserts in its motion to quash that the information requested was obtained by Walgreens as a result of an "attorney-led investigation" of its store at SE 14th Street and Park Avenue in Des Moines, IA. Walgreens asserts that the information is protected by the attorney work product privilege and seeks a motion to quash to protect this privilege.

As part of its motion, Walgreens submitted an affidavit from Gary Peters, senior counsel for Walgreens. Peters' job duties include providing legal representation to Walgreens with respect to stores in Iowa and other states.

Peters was notified on or before April 1, 2014 by Michael Fuller, district pharmacy supervisor for Walgreens, that complaints had been made by former employees about operations of the Walgreens pharmacy at SE 14th Street and Park Avenue. Peters decided to conduct an investigation. As part of the investigation, Peters directed Shirley Phinney, district loss prevention manager, and Fuller to interview pharmacy staff members, including Adam Reyna. Peters directed Phinney and Fuller to obtain statements from staff, including Reyna.

Peters' affidavit includes the following assertion:

> Ms. Phinney's and/or Mr. Fuller's investigation, including but not limited to the statement they obtained from Mr. Reyna, was done at my specific request, and according to my specific direction. At the time of that investigation litigation was forecast if not imminent. The results of this investigation, including but not limited to Mr. Reyna's statement, is information that is privileged by virtue of the common law and statutory attorney-work product privileges.

The Board's authority, pursuant to Iowa law, includes the authority to review or investigate, upon written complaint or its own motion, alleged acts or omissions which the Board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline.[1] The Board's regulations permit the issuance of investigatory subpoenas when issuance of such subpoenas is necessary for the Board to decide whether to institute a contested case proceeding.[2]

Iowa Rule of Civil Procedure 1.1701(4)(d)(3) provides that an issuing court must quash or modify a subpoena that requires disclosure of privileged or other protected matter, if no exception or waiver applies. Iowa Rule of Civil Procedure 1.503(3) codifies a qualified immunity from discovery of materials prepared in anticipation of litigation.[3] That rule provides, in relevant part:

> **1.503(3)** *Trial-preparation materials.* Subject to the provisions of rule 1.508, a party may obtain discovery of documents and tangible things otherwise discoverable under rule 1.503(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the

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[1] Iowa Code § 272C.3(1)(c) (2013).
[2] 657 Iowa Administrative Code 35.13(1)(a).
[3] *Keefe v. Bernard*, 774 N.W.2d 663, 673 (Iowa 2009).

> case and that the party seeking discovery is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

As an initial matter, the state does not dispute that an investigatory subpoena may be quashed or modified if the materials sought fall under the definition of attorney work product; that is, documents and tangible things prepared in anticipation of litigation by or for a party's representative. The state disputes, however, that the attorney work product privilege applies to preclude discovery of the items sought by the investigatory subpoena issued to Walgreens. The state argues that: 1) the items sought were not prepared by Peters in anticipation of any specific litigation; and 2) Peters' involvement in the investigation into the matters at issue was too attenuated to allow the privilege to be invoked.

In *Star-Telegram, Inc. v. Schattman*, an attorney employed by a newspaper's corporate parent to provide day-to-day advice and counsel in the area of litigation and employment practices conducted interviews in an investigation of alleged sexual harassment prior to the filing of an EEOC complaint or initiation of any other litigation. The attorney asserted that he conducted interviews in order to advise the paper's publisher on how to comply with federal employment law by taking corrective measures. The attorney's notes were requested in discovery in a later-filed civil action.[4] The court held that material may only be protected as work product when two prongs are met: 1) an objective examination of the facts surrounding the investigation shows the existence of outward manifestations that litigation is imminent; and 2) the party opposing discovery must subjectively have a good faith belief litigation would ensue. Applying that test to the facts at issue, the court allowed discovery of the attorney's investigatory notes, holding that work product created routinely in the ordinary course of business is not protected under attorney work product privilege.[5]

Federal courts have noted, in interpreting the commensurate federal rule of evidence, that the general rule for determining whether a document was prepared in anticipation of litigation is whether the document can fairly be said to have been prepared or obtained because of the prospect of litigation and not in the regular course of business.[6]

Determining whether a document whose disclosure is sought was prepared in anticipation of litigation is an intensely fact-specific endeavor. As noted above, the mere fact that an attorney prepared or directed the preparation of a document is not enough to invoke the privilege unless the document was prepared in anticipation of litigation. In this matter, Walgreens has presented very few facts to support its argument that the documents sought by the Board were prepared in anticipation of litigation. In his

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[4] 784 S.W.2d 109, 110 (Tex. App. 1990).
[5] *Id.*
[6] *See Carver v. Allstate Ins. Co.*, 94 F.R.D. 131, 134 (D.C. Ga. 1982).

affidavit, Peters asserts that he initiated an investigation after being notified of "certain complaints . . . made by former employees about operations of the pharmacy at the Walgreens store at SE 14th Street and Park Avenue in Des Moines, IA." Peters asserts that the purpose of his investigation was to

> document the facts and to assist Walgreens in the event there was future litigation regarding these matters. Such future litigation might include civil litigation, for example, an employment matter if any staff were terminated, or administrative litigation, such as disciplinary action by the Iowa Board of Pharmacy Examiners.

Walgreens has provided no information regarding the substance of the employee complaints received, nor any indication why the complaints might have given rise to a belief that litigation was imminent. Thought Peters asserts that litigation might include an employment matter if staff had been terminated, there is no information about whether staff members were terminated in this particular instance.

Having determined that the materials sought by the Board were not prepared in anticipation of litigation, it is unnecessary to determine whether Peters' delegation of the investigation to Phinney and Fuller and his limited involvement in preparing the documents sought by the Board undermines the claim of attorney work product privilege.

Timeliness of Resistance

Walgreens argues here that the State's Resistance to Motion to Quash, filed October 22, 2014, was untimely. The Board's rules require that a written response to a motion be filed within ten days after the motion is served, unless the time period is extended or shortened by rules of the Board or the presiding officer.[7]

The state argues in its resistance that it was not copied on the Motion to Quash Subpoena, and was therefore unable to timely respond. Walgreens argues that the motion was filed with the Board, the issuing entity, and that the information for counsel for the state was nowhere shown on the face of the subpoena. Walgreens argues that the Board's failure to direct the motion to quash to its legal counsel is not the fault of Walgreens.

In this case, the state's failure to file a timely resistance appears attributable to the attorney for the state's lack of knowledge that the motion had been filed. Under these circumstances, extension of the time for resistance is warranted. The state's resistance is accepted and considered as if filed timely.

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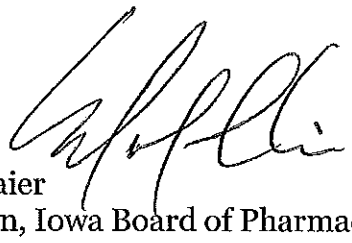
[7] 657 IAC 35.14(2).

ORDER

IT IS THEREFORE ORDERED that Walgreens Motion to Quash Subpoena is denied.

Dated this 10th day of March, 2015



Edward Maier
Chairperson, Iowa Board of Pharmacy

cc: Meghan Gavin, Assistant Attorney General
Kevin Reynolds, Attorney for Walgreens

ADDENDUM Z

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER

ROBERT OSBORN
PHARMACIST LICENSE NO. 19079
ROCK ISLAND, ILLINOIS

BEFORE THE IOWA BOARD OF PHARMACY

IN RE: Pharmacist License of ROBERT OSBORN License No. 19079 RESPONDENT	)))))))	CASE NO: 2014-34 DIA NO: 14PHB059 FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER

On November 19, 2014, the Iowa Board of Pharmacy (Board) filed a Notice of Hearing and Statement of Charges against Robert Osborn (Respondent), which alleged two counts:

> Count I: Failure to comply with a Board Order for a mental and physical examination as required by Board rule 657 IAC 36.17, in violation of Iowa Code sections 147.55(9), 155A.12(1),(3) and 657 IAC 36.1(4)(u);
>
> Count II: Violation of a law of another state related to the practice of pharmacy or the distribution of controlled substances, in violation of Iowa Code sections 147.55(5), 155A.12(1),(3) and 657 IAC 8.11(4),(8) and 36.1(4)(j).

A hearing was held before the Board on January 6, 2015. The hearing was closed to the public at Respondent's request, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. The following members of the Board presided at the hearing: Edward Maier, Chairperson; Susan Frey; Edward McKenna; James Miller; Sharon Meyer; and LaDonna Gratias. Respondent appeared and was self-represented. Assistant Attorney General Meghan Gavin represented the state. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing.

THE RECORD

The record includes the testimony of Compliance Officer Jim Wolfe, R.Ph., Debbie Jorgenson, and Respondent; State Exhibits 1-15, and Respondent Exhibits A-H.

FINDINGS OF FACT

1. Respondent currently holds Iowa pharmacist license number 19079, which is active and will expire on June 30, 2016. Respondent was hired as a pharmacist by the Walmart Pharmacy in Aledo, Illinois on July 25, 2002. On February 21, 2014, Walmart terminated Respondent's employment as a pharmacist for gross misconduct. Three other employees were also terminated. (Testimony of Jim Wolfe; State Exhibits 1, 4)

2. Respondent was arrested on February 21, 2014 in Mercer County, Illinois and charged with the following three counts, in violation of Illinois law: Forgery (Count I), Unlawful Possession of a Controlled Substance (Count II), and Insurance Fraud (Count III). After the Board received notice of Respondent's arrest, it assigned Compliance Officer Jim Wolfe, R.Ph., to investigate the case. (State Exhibits 2, 11; Testimony of Jim Wolfe)

Mr. Wolfe sent two letters of inquiry to Respondent but received no response from him. Mr. Wolfe later emailed Respondent's criminal attorney but was told that Respondent would have no comment on the advice of his counsel. Mr. Wolfe contacted the Walmart Pharmacy in Aledo, Illinois and obtained copies of the pharmacy's internal investigation and reports. (State Exhibits 2-4; Testimony of Jim Wolfe)

According to the report of the internal investigation conducted by Walmart, Respondent admitted diverting medication by altering or inputting his own fraudulent prescriptions. These prescriptions included controlled substances (Lorazepam) and non-controlled legend drugs. (Testimony of Jim Wolfe; State Exhibit 4, pp. 14-18)

3. On August 27, 2014, the Board found probable cause to issue a Confidential Order for Evaluation to Respondent, pursuant to Iowa Code section 272C.9(2013) and 657 IAC 36.17. The probable cause for the evaluation order was based on Respondent's arrest and criminal charges for possession of a controlled substance, forgery and insurance fraud and his alleged forgery of prescriptions for 120 tablets of Lorazepam and 21 additional prescriptions for legend drugs that were not controlled substances. The evaluation order required Respondent to:

- submit to a comprehensive physical and mental health evaluation, including a substance abuse evaluation, with one of three named evaluators or with another facility, if preapproved by the Board. The evaluators named in the Order included Professionals Program of Resurrection Behavioral Health-Addiction

Services in Chicago, Illinois; Professional Recovery Network in Waukesha, Wisconsin; or Hazelden in Center City, Minnesota;

- notify the Board no less than five days prior to the date the evaluation is scheduled to begin and advise the Board of the date and time of the evaluation; and
- complete the evaluation within thirty (30) days of the date of the Order and cause a report of the evaluation and all test results, including copies of all records produced during the evaluation, to be forwarded to the Board on or before October 15, 2014.

The Order further provided that the Board shall provide the evaluator a copy of the Board's Order and all other information regarding the purpose and scope of the evaluation. The evaluation was required to include an assessment of Respondent's physical and mental condition, including substance abuse, and his ability to safely practice pharmacy. Respondent was responsible for ensuring that the evaluation did not begin until the evaluator received a copy of the Board's Order and all other necessary information.

Finally, the Order informed Respondent that he may request additional time to schedule or complete the evaluation or to ask the Board for approval of an alternative evaluation program. The Order further informed Respondent that he may file an objection to the Evaluation Order, as provided in 657 IAC 36.17(2). The Board's evaluation order was served on Respondent by restricted certified mail on August 30, 2014. (State Exhibits 5, 6; Testimony of Debbie Jorgenson)

4. Respondent called the Board office on September 9, 2014 and spoke to Debbie Jorgenson, who is the employee responsible for tracking licensee compliance with Board Orders for Evaluation. Respondent told Ms. Jorgenson that the facts were all wrong and that he did have a prescription. Ms. Jorgenson reviewed Jim Wolfe's investigative report and observed that Respondent had previously had no comment on the pending charges. Ms. Jorgenson gave Respondent the telephone number for Assistant Attorney General Meghan Gavin and advised Respondent that he should have his attorney call her. (Testimony of Debbie Jorgenson; State Exhibit 7)

5. On September 22, 2014, Respondent emailed Debbie Jorgenson and told her that he had a hardship and wanted to have the evaluation conducted closer to his residence in the Quad Cities. Debbie Jorgenson responded on October 2, 2014 and told Respondent to send her the information concerning where he was requesting to have the evaluation and to include the qualifications and credentials of the evaluator.

Respondent did not reply to this email. (Testimony of Debbie Jorgenson; State Exhibit 7)

6. On October 2, 2014, Respondent entered a guilty plea to an amended charge of Attempted Unlawful Possession of a Controlled Substance, a Class A Misdemeanor, and the remaining criminal counts against him were dismissed. Respondent was placed on conditional discharge for a period of two (2) years, was fined $2000 and was required to complete a substance abuse evaluation within six months of the court's order. (State Exhibits 11, 12; Testimony of Jim Wolfe, Respondent)

7. On October 10, 2014, Debbie Jorgenson sent Respondent a letter, which included a review of all of the requirements of the Board's evaluation order and a summary of Respondent's email contacts with Jorgenson. Ms. Jorgenson advised Respondent that he must respond with the credentials of the evaluator that he wanted to see no later than October 16, 2014. (Testimony of Debbie Jorgenson; State Exhibits 7, 8)

On October 15, 2014 at 8:38 p.m., Respondent sent an email to Debbie Jorgenson advising her that the only clinic in his area that he could find that does mental and substance abuse evaluations was the Robert Young Center in Rock Island. Respondent further stated that the recommended doctor at the Robert Young Center was John Ciaccio, who graduated from Rush University in 1997 and who is board certified in Iowa and Illinois. Ms. Jorgenson responded on October 16, 2014 and told Respondent that his case would be reviewed by the Board at their next meeting on November 19, 2014 because he had not complied with the deadlines in the Board's evaluation order. (State Exhibit 9; Testimony of Debbie Jorgenson)

8. At their meeting on November 19, 2014, the Board found probable cause to file the pending Statement of Charges against Respondent for his failure to comply with the Board's Evaluation Order and for his violation of another state's laws relating to the practice of pharmacy. (State Exhibit 1)

9. On December 22, 2014, the Board received an evaluation report for Respondent from the Unity Point Health-Robert Young Center in Moline, Illinois. The evaluation had been conducted on October 29, 2014. The report indicates that the evaluation lasted 75 minutes, and the report was signed by Scott Griffith, LMSW/QMHP as the "Clinician" and by an LPHA/Supervisor, whose signature is not legible but whose credentials are listed as "ILSW, LPHA." Dr. John Ciaccio was not listed as one of the evaluators. The "Clinical Summary/Justification" section of the report included a description of Respondent's criminal charges and guilty plea. During the evaluation,

Respondent denied using any substances not prescribed for him and reported that he was prescribed lorazepam and Zoloft for mild depression, anxiety, and stress related to his recent/current employment and legal situation. It was noted that Respondent's symptoms have not interfered with his ability to care for his children or to become licensed in real estate to build and sell houses. Respondent was not referred for substance abuse treatment as a result of this evaluation. (State Exhibit 10; Respondent Exhibit A; Testimony of Debbie Jorgenson, Respondent)

The Board had not approved the Robert Young Center to perform Respondent's comprehensive evaluation. The Board did not receive any prior notice from Respondent that the evaluation was scheduled for October 29, 2014. The Board did not provide any documentation to the Robert Young Center prior to Respondent's evaluation. Respondent admits that he was required to obtain a substance abuse evaluation as a requirement of the sentencing order issued by the criminal court in Mercer County, Illinois. (Testimony of Debbie Jorgenson; Respondent)

10. At the hearing before the Board, Respondent denied that he has forged any prescriptions or unlawfully possessed any prescription drugs. Respondent submitted documentation from a physician concerning her February 12, 2013 prescription of lorazepam, which authorized Respondent to receive a maximum of 60 tablets with 2 refills. Respondent testified that he originally filled the prescription at a pharmacy near his home in Iowa and then later transferred the prescription to his employing pharmacy in Aledo, Illinois. Respondent testified that he pled guilty to the amended criminal charge based on the advice of his counsel and because he could not afford the legal fees to take his case to trial. (Testimony of Respondent; Respondent Exhibits D, E)

CONCLUSIONS OF LAW

COUNT I

Iowa Code section 147.55(9)(2013) authorizes the Board to revoke or suspend a license or to otherwise discipline a licensee for acts or offenses specified by Board rule. In addition, Iowa Code sections 155A.12(1), (3) and 657 IAC 36.1(4)(u) authorize the Board to discipline licensees for violations of Iowa Code chapters 147, 155A, or any Board rule.

The Iowa Code and Board rules provides that a pharmacist, pharmacist-intern, pharmacy technician, or pharmacy support person who is licensed or registered by the board is, as a condition of licensure or registration, under a duty to submit to a mental or physical examination within a time period specified by the board. Iowa Code section

272C.9(1)(2013); 657 IAC 36.17. Such examination may be ordered upon a showing of probable cause and shall be at the expense of the pharmacist, pharmacist-intern, pharmacy technician, or pharmacy support person. *Id.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing, which shall specifically identify the factual and legal issues upon which the licensee bases the objection. 657 IAC 36.17(2).

The preponderance of the evidence established that Respondent violated Iowa Code sections 147.55(9), 155A.12(1),(3), and 657 IAC 36.1(4)(u) when he failed to timely and fully comply with a Board's Confidential Order for Evaluation issued on August 26, 2014. Respondent was required to schedule a comprehensive physical and mental evaluation, including substance abuse, at a Board approved facility within ten (10) days of the date of the Order and to complete the evaluation within thirty (30) days. He was also required to notify the Board at least five days prior to the evaluation so that the Board could provide documentation to the evaluator and explain the scope and purpose of the evaluation. Respondent was required to ensure that the Board received a written evaluation report, with all test results and copies of all records produced during the evaluation, on or before October 15, 2014.

Respondent was served with the Board's Evaluation Order on August 30, 2014. The evaluation should have been scheduled no later than September 9, 2014 and should have been completed by September 29, 2014. Respondent did not file an objection to the Order and did not request a hearing.

On October 15, 2014, Respondent provided the name of a facility (Robert Young Center in Rock Island) and the name of a doctor at that facility in an email to Board staff. Respondent was never given Board approval for the Robert Young Center, and he never notified the Board that he had scheduled an evaluation at the Robert Young Center. Respondent was evaluated at the Robert Young Center on October 29, 2014 with no prior notice to the Board. The Board did not provide any documentation to the Robert Young Center and did not have the opportunity to explain the scope of the evaluation. The report prepared by the Robert Young Center did not include an assessment of Respondent's ability to safely practice pharmacy.

At hearing, Respondent explained his delay in obtaining the evaluation as due to financial issues. Respondent waited until he was approved for medical assistance before completing the evaluation. Respondent provided no explanation, however, for his failure to obtain Board approval for the Robert Young Center and his failure to notify the Board in advance of his scheduled evaluation.

COUNT II

Iowa Code section 147.55(5) authorizes the Board to discipline a licensee who is convicted of a crime related to the profession or occupation or for the conviction of any crime that would affect the licensee's ability to practice within the profession. Board rule 657 IAC 36.1(4)(j) authorizes the Board to discipline a licensee for violating a statute or law of this state, another state, or the United States, without regard to its status as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy or the distribution of controlled substances, prescription drugs, or nonprescription drugs.

The preponderance of the evidence established that Respondent violated Iowa Code section 147.55(5), 155A.12(1), (3) and 657 IAC 36.1(4)(j) when he pled guilty to and was convicted of the crime of Attempted Possession of a Controlled Substance, which is a Class A Misdemeanor under Illinois law. This type of conviction is clearly and directly related to the practice of pharmacy. At hearing, Respondent denied that he ever unlawfully possessed or attempted to possess a controlled substance. Respondent testified that he entered the guilty plea on advice of his counsel and because he could not afford to take his case to trial. The fact remains that Respondent pled guilty and was convicted. He may not collaterally attack his conviction through this administrative proceeding.

DECISION AND ORDER

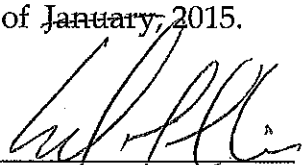
IT IS THEREFORE ORDERED that pharmacist license number 19079, issued to Respondent Robert Osborn, is hereby Suspended Indefinitely. Prior to filing an application for reinstatement, Respondent shall:

- fully comply with the Board's Confidential Order for Evaluation by completing a comprehensive physical and mental examination, including substance abuse;
- have prior Board approval for any evaluator and must give the Board at least five days prior notice of the date and time of the evaluation;
- ensure that the evaluation does not begin until the evaluator has received a copy of the Board's Order and all other necessary information, including the required scope of the evaluation;
- ensure that the Board receives a report of the evaluation, and all test results, including copies of all records and documents relevant to the evaluation; and
- fully comply with the recommendations for treatment, if any, made by the Board approved evaluator.

If Respondent's license is reinstated following his compliance with all of the requirements of this Order, the Board may, in its discretion, impose conditions of probation on his license.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 36.18(2), that Respondent shall pay $75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive director of the Board may bill Respondent for any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondent shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this 10th day of ~~January,~~ March 2015.



Edward Maier, Chairperson
Iowa Board of Pharmacy

cc: Meghan Gavin, Assistant Attorney General

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.

ADDENDUM AA

ORDER DENYING
MOTION FOR STAY

MATTHEW BIGGERSTAFF
CSA REGISTRATION NO. 1306092
ANKENY, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Controlled Substance Registration of: MATTHEW BIGGERSTAFF Registration Number 1306092, Respondent.	)))))))	Case No. 2013-195 **ORDER DENYING MOTION FOR STAY**

Procedural Background

On January 6, 2015, the Iowa Board of Pharmacy (Board) issued Findings of Fact, Conclusions of Law, Decision and Order in the above-captioned contested case concerning the Board's Order to Show Cause regarding the controlled substance registration issued to Matthew Biggerstaff, D.O. (Respondent). The Board's Order concluded that Respondent violated state and federal regulations when he shared his unique credentials (username and password) for his practice's electronic prescription system and for the state Prescription Monitoring Program (PMP) with the nurses in his office. The Board concluded that Respondent's acts render his continued unrestricted controlled substances registration inconsistent with the public interest. While the Board found no evidence that Respondent or his staff engaged in any diversion of controlled substances, Respondent's failure to secure his login credentials for his electronic prescription system created the opportunity for diversion. The Board's Order restricted Respondent's controlled substance registration for a period of one year. During the one year period of restriction, Respondent is prohibited from prescribing through agents or delegating any prescribing powers to agents. He is also prohibited from authorizing agents to access the PMP system on his behalf.

Following issuance of the Board's Order, Respondent filed an Application for Rehearing and for Stay of Restrictions. On February 12, 2015, the Board issued an Order Denying Respondent's Application for Rehearing and for Stay of Restrictions. Subsequently, Respondent filed a Notice of Appeal and Request for Stay during the pendency of judicial review of the Board's Order, in accordance with Iowa Code §17A.19(5)(a). The state filed a Resistance to Respondent's Request for Stay, and the Board heard oral arguments on March 10, 2015.

Discussion

In determining whether to grant a stay, the Board must consider and balance the following factors:

(1) The extent to which the applicant is likely to prevail when the court finally disposes of the matter.

(2) The extent to which the applicant will suffer irreparable injury if relief is not granted.
(3) The extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings.
(4) The extent to which the public interest relied on by the agency is sufficient to justify the agency's actions in the circumstances.

657 IAC 35.28(2); See also Iowa Code section 17A.19(5)(c)(2013).

The Board weighed these four factors and determined that a stay of the Board' Order is unwarranted. First, the Board believes that its Decision and Order is fully supported by the evidence and that it is unlikely that Respondent will prevail on judicial review.

Second, Respondent failed to establish that he will suffer irreparable injury if the stay is denied. Respondent asserts that he will be irreparably harmed if the Board's Order is reported to the National Practitioner Data Bank (NPDB). However, if Respondent is successful in obtaining reversal of the Board's Order on judicial review, any report to the NPDB would be voided or corrected. In addition, monetary losses do not constitute "irreparable injury"for purposes of granting a stay. *Teleconnect Co. v. Iowa State Commerce Commission*, 366 N.W.2d 511, 514 (Iowa 1985). *See also Pro Farmer Grain V. Iowa Department of Agriculture*, 427 N.W. 2d 466, 468-69(Iowa 1988); *Salsbury Laboratories v. Iowa Dep't of Envtl. Quality*, 276 N.W. 2d 830, 837 (Iowa 1979); *Richards v. Iowa State Commerce Commission*, 270 N.W. 2d 616, 624 (Iowa 1978).

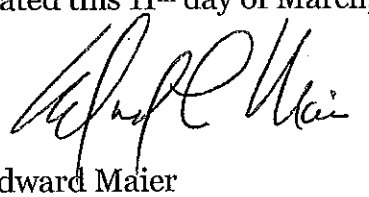
The third factor is the only factor that weighs in favor of granting the stay. The state concedes and the Board agrees that granting a stay would not substantially harm any other parties to the proceeding.

Fourth, the Board firmly believes that its Decision and Order is justified by the public interest in protecting the integrity and confidentiality of controlled substance prescriptions and the public interest in ensuring that controlled substance prescribers abide by the statutes and rules regulating their prescribing practices.

ORDER

IT IS THEREFORE ORDERED that Respondent's Request for Stay is hereby denied.

Dated this 11th day of March, 2015.



Edward Maier
Chairperson, Iowa Board of Pharmacy

cc: Laura Steffensmeier, Assistant Attorney General
Michael Sellers, Attorney for Respondent

ADDENDUM BB
ORDER

AMERIDOSE, LLC
NONRESIDENT PHARMACY LICENSE NOS.
3828 AND 3829
WHOLESALE LICENSE NO. 6859 AND 6569

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2013-9
Nonresident Pharmacy License of	)	
AMERIDOSE LLC	)	
License Nos. 3828 and 3829	)	**ORDER**
and Wholesale Drug Licenses of	)	
AMERIDOSE LLC	)	
License Nos. 6859 and 6569	)	
Respondent.	)	

On March 10, 2015, the State's Motion to Dismiss the above-captioned contested case proceeding against Ameridose LLC came before the Board for consideration. After consideration, the Board voted to grant the motion for the reasons stated in the motion.

IT IS THEREFORE ORDERED that the State's Motion to Dismiss is granted.

Dated this 10th day of March, 2015.

EDWARD MAIER, Chairperson
IOWA BOARD OF PHARMACY