**BEFORE THE IOWA BOARD OF PHARMACY**

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| Re:<br>Pharmacy License of<br><br>**ANKENY PHARMACY**<br>License No. 1475<br>Respondent. | )<br>)<br>)<br>)<br>)<br>) | CASE NO. 2015-123<br><br>**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 Ankeny Pharmacy ("Respondent"), 1325 SW Oralabor Road, Suite 200, Ankeny, IA 50023, pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 272C.3(1)"e", and 657 IAC 35.5 and 36.5. Respondent's Iowa pharmacy license number 1475 is currently active through December 31, 2016.

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

Hearing. A disciplinary contested case hearing shall be held on March 8, 2016, before the Board. The hearing shall be held during the afternoon session beginning at 1:00 p.m. and shall be located in the Northwestern Room--345 at the Iowa Memorial Union, 125 N. Madison Street, Iowa City, Iowa 52242.

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

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Pharmacy, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge from the Department of Inspections and Appeals make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing.

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

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 IAC 35. At the hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at the hearing. If you need to request an alternative time or date for the hearing, you must comply with the requirements in 657 IAC 35.16. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Laura Steffensmeier
Assistant Attorney General
Iowa Attorney General's Office
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 17A, 147, 155A, and 272C (2015).

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 147, 155A, and 272C, and 657 IAC 36.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 657 IAC 35.21.

## C. CHARGES

### COUNT I
### IMPROPER DELEGATION TO PHARMACY TECHNICIANS

Respondent is charged with permitting pharmacy technicians to perform final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order in violation of Iowa Code section 155A.33, and 657 IAC 3.21(1) and 3.23(1), pursuant to Iowa Code section 155A.15(2)"c", and 657 IAC 36.1(4)"l" and "u".

### COUNT II
### FAILURE TO PROPERLY VERIFY AND DOCUMENT

Respondent is charged with failing to 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 in violation of 657 IAC 8.3(7), pursuant to Iowa Code section 155A.15(2)"c" and 657 IAC 36.1(4)"u".

**COUNT III**
**MISUSE OF RETURNED PATIENT MED PAKS**

Respondent is charged with returning drugs dispensed in patient med paks to pharmacy stock in violation of 657 IAC 22.5(2)"c", pursuant to Iowa Code section 155A.15(2)"c" and 657 IAC 36.1(4)"u".

**COUNT IV**
**FAILURE TO MAINTAIN ACCURATE PERPETUAL INVENTORY**

Respondent is charged with failing to maintain an accurate perpetual inventory of Schedule II controlled substances in violation of 657 IAC 10.33, pursuant to Iowa Code section 155A.15(2)"h" and 657 IAC 36.1(4)"u" and "ac".

**COUNT V**
**FAILURE TO KEEP AND MAINTAIN RECORDS**

Respondent is charged with failing to keep and maintain records as required by law, specifically for failing to keep supplier invoices and for failing to have a responsible person clearly record the date of receipt of controlled substances on supplier invoices in violation of 657 IAC 8.9(1), pursuant to Iowa Code section 155A.15(2)"c" and 657 IAC 36.1(4)"u" and "ac".

**COUNT VI**
**FAILURE TO MAINTAIN ANNUAL INVENTORY OF CONTROLLED SUBSTANCES**

Respondent is charged with failing to maintain an annual inventory of controlled substances in violation of 657 IAC 10.35, pursuant to Iowa Code section 155A.15(2)"h" and 657 IAC 36.1(4)"u" and "ac".

## D. FACTUAL CIRCUMSTANCES

1. Respondent utilized pharmacy technicians to perform final verification of strips of med paks for long-term care facilities.

2. When pharmacists were utilized to perform final verification of strips of med paks, the med paks were not verified individually.

3. Respondent did not retain documentation of pharmacist final verification for the strips of med paks.

4. Respondent disassembled returned med paks in order to re-use the previously dispensed medication.

5. An audit of Respondent's inventory of controlled substances from January 2014 through September 2015 revealed shortages or overages for a majority of the drugs audited.

6. An audit of Respondent's records of controlled substances from January 2014 through September 2015 revealed the following:

a. Respondent did not maintain proper records for transfers of controlled substances to and from other pharmacies.

b. Respondent's perpetual inventory of Schedule II controlled substances did not match billing or dispensing records.

c. Respondent did not have invoices for approximately 6,000 tablets of Lorazepam.

d. Several of Respondent's invoices for controlled substances were not signed or dated by the person responsible for receiving the order.

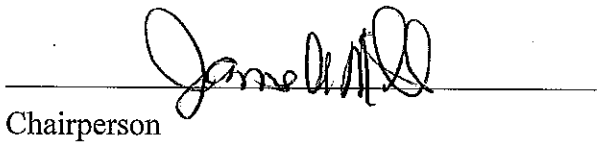
7. Respondent could not produce its most recent annual inventory of controlled substances.

## 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 12th day of January, 2016, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



Chairperson
Iowa Board of Pharmacy

Copy to:

Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
1305 E. Walnut St.
Des Moines, IA 50319

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-5944. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).