BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacy License of **ANKENY PHARMACY** License No. 1475 Respondent.	))))))	CASE NO. 2015-123 **SETTLEMENT AGREEMENT AND FINAL ORDER**

Pursuant to Iowa Code sections 17A.12(5) and 272C.3(4) (2015), and 657 IAC 36.6, the Iowa Board of Pharmacy ("Board") and Ankeny Pharmacy ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a contested case currently pending before the Board.

The allegations contained in the Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. The Board filed a Notice of Hearing and Statement of Charges on January 12, 2016.

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

3. The Factual Circumstances in the Statement of Charges are explained as follows: Respondent asserts that pharmacy technicians performed only an initial check of strips of med paks, but a pharmacist always performed the final check. Respondent asserts that the rules do not specifically require review of each med pak, but Respondent began reviewing each individual med pak after the inspection. There is no evidence of any medication errors in the med paks dispensed by Respondent. Respondent began retaining documentation of final med pak verification after the inspection. After the inspection, Respondent ceased re-using comingled drugs from returned med paks. Respondent asserts the discrepancies identified in the controlled substances audit are largely attributed to dispensing errors traced to one pharmacist employee who was not the Pharmacist in Charge and Respondent's purchases from Mercy Specialty Pharmacy when it ceased doing business.

4. Respondent denies the allegations contained in Counts I, II, IV, V, and VI, but in the interest of settlement has chosen not to contest the charges. Respondent acknowledges that the allegations in the Statement of Charges, 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 Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

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

7. 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.

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

9. This Order shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

10. This Order shall not be binding as to any new complaints received by the Board.

11. Respondent understands the Board is required by federal law to report any adverse action to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank.

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 is hereby placed on **PROBATION** for a period of four (4) years subject to the following terms:

a. Respondent shall pay a **CIVIL PENALTY** in the amount of two-thousand five hundred dollars ($2,500) within sixty (60) days of Board approval of this Order. The check shall be made payable to the "Treasurer of Iowa" and shall be deposited in the general fund. The civil penalty should be mailed to the Iowa Board of Pharmacy, Attn: Debbie Jorgenson, 400 SW Eighth Street, Suite E, Des Moines, IA 50309.

b. Respondent shall continue to perform monthly audits of its controlled substances. All audits shall be documented and available to the Board upon request.

c. Respondent shall complete self-inspections on a quarterly basis each year and submit documentation of each self-inspection to the assigned Board compliance officer no later than March 5, June 5, September 5, and December 5 of each calendar year during the probationary period. Board compliance officers may conduct on-site inspections at any time. Respondent shall work with Board compliance officers to ensure any deficiencies uncovered during any self-inspection or on-site inspection are corrected in a timely fashion. Respondent's failure to correct deficiencies in a timely fashion shall be considered a violation of this Order.

d. Respondent shall abide by all state and federal laws and regulations governing the practice of pharmacy. Respondent shall operate in accordance with its policies and procedures.

e. The Board may, in its discretion, decrease the frequency of the required audits or self-inspections during the probationary period based on satisfactory performance by Respondent.

15. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 147, 155A, and 272C and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 27 day of April, 2016.

Ankeny Pharmacy
Respondent

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

This Settlement Agreement and Final Order is approved by the Iowa Board of Pharmacy on the 4th day of May, 2016.

Chairperson
Iowa Board of Pharmacy

Copies to:

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