

State of Iowa
Board of Pharmacy

400 S.W. Eighth Street, Suite E, Des Moines, IA 50309-4688

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BOARD MEMBERS

LADONNA GRATIAS
EDWARD McKENNA
JAMES MILLER

EDWARD L. MAIER

Board Chair

THERESE WITKOWSKI

Interim Director

BOARD MEMBERS

JASON HANSEL
SHARON MEYER
JUDITH TRUMPY

MINUTES

June 23-24, 2015

The Iowa Board of Pharmacy met on June 23-24, 2015, in the conference room at 400 SW Eighth Street, Des Moines, Iowa.

TUESDAY, JUNE 23, 2015

MEMBERS PRESENT

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

MEMBERS ABSENT

Judith M. Trumpy

STAFF PRESENT

Therese Witkowski, Interim Director/Executive Officer
Meghan Gavin, Esq., Assistant Attorney General
Laura Steffensmeier, Esq., Assistant Attorney General
Debbie Jorgenson, Administrative Assistant
Becky Hall, Secretary
Andrew Funk, Compliance Officer
Curt Gerhold, Compliance Officer
Mark Mather, Compliance Officer
Sue Mears, 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 on Tuesday, June 23, 2015.

Administrative Hearing

1. Sherri Marshall, Pharmacy Technician Registration No. 18129, Des Moines.

At 9:10 a.m., Margaret LaMarche, Administrative Law Judge, Department of Inspections and Appeals opened the record. Assistant General Laura Steffensmeier represented the State. Ms. Marshall did not appear nor did counsel represent her. The hearing was conducted in the presence of the Board. The hearing was open to the public.

The Board heard testimony of a witness and examined exhibits.

At 9:40 a.m., the record was closed.

At 9:40 a.m., motion by LaDonna Gratias, seconded by Sharon Meyer, 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 9:47 a.m., while still in closed session, James Miller moved that the Board go into open session, seconded by Edward McKenna. 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 for case 2014-189, Sherri Marshall.

Closed Session

At 10:07 a.m., motion by Sharon Meyer, seconded by LaDonna Gratias, the Board voted unanimously by roll call vote to move into closed session for the following reason:

For review of Closed Session Minutes and Closed Recordings pursuant to Iowa Code § 21.5(1)(a) to review or discuss records which are required or authorized by state or federal law to be kept confidential, specifically to review or discuss information that is confidential under Iowa Code § 21.5(4).)

At 11:30 a.m., while still in closed session, Sharon Meyer moved that the Board go into open session, seconded by Edward McKenna. Motion approved unanimously.

In open session, the following actions were taken:

1. Closed Minutes.

Motion by LaDonna Gratias, seconded by James Miller to approve the Closed Minutes of the April 28-29, 2015, meeting. Motion approved unanimously.

2. Closed Minutes.

Motion by Edward McKenna, seconded by James Miller to approve the Closed Minutes of the June 4, 2015, teleconference. Motion approved unanimously.

3. Request.

Motion by James Miller, seconded by LaDonna Gratias for a limited waiver of the attorney-client privilege as discussed in closed session. Motion approved unanimously.

Closed Session

At 11:34 a.m., motion by Sharon Meyer, seconded by Jason Hansel, the Board voted unanimously by roll call vote to move into closed session for the following reasons:

For Follow-Up Investigative Information pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigations or proceedings and pursuant to Iowa Code § 21.5(1)(a) to review or discuss records which are required or authorized by state or federal law to be kept confidential, specifically to review or discuss information that is 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.

At 11:40 a.m., while still in closed session Sharon Meyer, moved that the Board go into open session, seconded by Edward McKenna. Motion approved unanimously.

In open session, the following actions were taken:

1. Close With No Action.

Motion by James Miller, seconded by Edward McKenna to close with no action case 2014-84. Motion approved unanimously.

2. Settlement Agreement and Final Orders.

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

A. Donald Versluys, Pharmacist License No. 15600 of Pella. A copy of the Settlement Agreement and Final Order is attached as Addendum A.

B. Marquasha Haygood, Pharmacy Technician Registration No. 19605 of Des Moines. A copy of the Settlement Agreement and Final Order is attached as Addendum B.

C. Abigail Roberts, Pharmacy Technician Registration No. 10535 of Rockwell. A copy of the Settlement Agreement and Final Order is attached as Addendum C.

3. Preliminary Notice of Intent to Cancel CSA Registration.

Motion by James Miller, seconded by Edward McKenna, to approve Preliminary Notice of Intent to Cancel CSA Registration for Mark J. Tyler, M.D. of Cedar Rapids. Motion approved unanimously. A copy of the Preliminary Notice of Intent to Cancel CSA Registration is attached as Addendum D.

4. Close With No Action.

Motion by James Miller, seconded by Sharon Meyer, to close with no action case 2015-29. Motion approved unanimously.

Meghan Gavin and Laura Steffensmeier left the room.

Closed Session

At 12:45 p.m., motion by Sharon Meyer, seconded by Edward McKenna, the Board voted unanimously by roll call vote to move into closed session.

At 1:05 p.m. while still in closed session, LaDonna Gratias moved that the Board go into open session, seconded by Sharon Meyer. Motion approved unanimously.

Motion by James Miller, seconded by LaDonna Gratiias, to direct Administrative Law Judge Laura Lockard to redraft the Order consistent with the Board's deliberations for case 2014-45, Dutch Mill Pharmacy; Brent Plender; and Dwayne Plender all of Orange City.

Close Session

At 1:10 p.m., motion by Sharon Meyer, seconded by Jason Hansel, the Board voted unanimously by roll call vote to move into closed session for the following reasons:

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 Complaints and Investigative Reports pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigations or proceeding and § 21.5(1)(a) to review or discuss records which are required or authorized by state or federal law to be kept confidential, specifically information that is confidential under Iowa Code § 272C.6(4).

At 3:50 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 3:51 p.m. the Board recessed.

The meeting reconvened in open session on Wednesday, June 24, 2015, at 9:00 a.m.

WEDNESDAY JUNE 24, 2015

MEMBERS PRESENT

Edward L. Maier, Chairperson
James Miller, Vice-Chair
LaDonna Gratiias
Jason Hansel
Edward J. McKenna
Sharon K. Meyer

MEMBERS ABSENT

Judith M. Trumpy

SPEAKERS

Nicole Russell, NCPDP
Megan Myers, IPA
Anthony Pudlo, IPA
Lisa Ploehn, Bettendorf
Mike Galloway, MatchRx
Gabe Zawaideh, MatchRx
Ned Mikenkovich, Chicago
Michael Sellers, Des Moines
Guy Cook, Des Moines
Gregg Pennington, Phusion Pharmacy

STAFF PRESENT

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

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

Approval of Minutes

The minutes of the April 28-29, 2015, meeting, and the June 4, 2015, teleconference meeting were reviewed.

Motion by James Miller, seconded by Edward McKenna, to approve the open session minutes of the April 28-29, 2015, meeting as presented. Motion approved unanimously.

Motion by Edward McKenna, seconded by LaDonna Gratias, to approve the open session minutes of the June 4, 2015, teleconference meeting as presented. Motion approved unanimously.

Reports

1. Interim Executive Director's Report.

A. Financials as of May 31, 2015:

Total Revenues:	\$3,527,379 (92% of anticipated revenues)
Carry-over from prior FY:	\$1,504,637
FY15 Fee Receipts only:	\$2,022,742
Fines/Civil Penalties collected:	\$ 46,500
<u>Total Obligations:</u>	\$2,960,941 (includes \$484,866 planned carry-over)
Operating Obligations:	\$2,762,186 (72% of budgeted)
PMP Fund Obligations:	\$ 93,500 (91.7% of budgeted)
IPRN Fund Obligations:	\$ 105,255 (91.7% of budgeted)

- B. The Information Technology Specialist position is still waiting DAS-HRE audit and recommendation of position classification and approval to hire.
- C. PMP Interconnect – Optimum Technology working with other states to establish required connectivity. Terry Witkowski will be attending a two-day meeting of the PMPi Steering Committee at NABP Headquarters in Mount Prospect, Illinois mid-July. The PMPi Steering Committee is composed of representatives of all states using PMPi and determines the policies and future direction of PMPi and related programs.
- D. OCIO and Iowa Interactive are offering no-cost website redesign. Transfer of information from current website to the new site will begin after training and is expected to take a couple of months.
- E. Out of state travel was approved for five compliance officers to attend a sterile compounding training available through the Minnesota Board of Pharmacy. Compliance officers will spend two days in Minneapolis in late July.

2. Meetings.

- A. The NABP/AACP District Five Annual Meeting will be held August 6-8, 2015, in Fargo, North Dakota.
- B. The Iowa Board of Pharmacy will host the District Five Annual Meeting in 2017. The Board discussed August 3-5, 2017, as a proposed date for the meeting and location options in the Des Moines area.
- C. The August-September board meeting is scheduled for August 31 – September 2, 2015, in Des Moines.
- D. The November board meeting is scheduled for November 3-4, 2015 in Des Moines. A committee of the Board will meet with the Iowa Pharmacy Association Board of Trustees for an annual dinner meeting on the evening of November 3, at the Iowa Pharmacy Association's office in Urbandale.

3. Miscellaneous.

- A. Articles for the next Board Newsletter are to be submitted to NABP by July 31, 2015.
- B. The Food and Drug Administration (FDA) has extended the deadline for comments on the proposed Memoranda of Understanding (MOU) between the FDA and states. The MOU addresses the distribution of inordinate amounts of compounded products and state's responsibilities for investigation of complaints relating to compounded products distributed outside the state. The new deadline for the comments to the FDA is July 20, 2015.

4. Review and Approval of FY 2016 Budget.

The Iowa Board of Pharmacy Budget/Spending Plan for FY 2016 was reviewed.

Motion by James Miller, seconded by Edward McKenna, to approve the Budget/Spending Plan for FY 2016. Motion approved unanimously.

5. Annual Meeting of the National Association of Boards of Pharmacy (NABP.)

The 111th Annual Meeting of NABP was held in New Orleans, Louisiana on May 16-19, 2015. James Miller, Jason Hansel, and Edward McKenna attended the meeting.

The Proposed MOU between the FDA and states, CE Program on Universal Inspection Pharmacy Forms throughout the United States, and the Oregon State Board of Pharmacy's Continuing Educations programs for Medication Error Prevention were topics of discussion.

6. The National Association of Boards of Pharmacy and United Compounding Management Announce an Exclusive Accreditation Program for Compounding Pharmacies.

Informational item.

7. Drug Supply Chain Security Act (DSCSA) – Sue Mears.

The second part of the Drug Quality and Security Act that was signed in November 2013, is in effect for all entities along the pharmaceutical distribution supply change. A summary of what the law contains was provided for review. The Rules Committee will be reviewing drafted proposed rule amendments.

8. Alliance for Patient Medication Safety (APMS.)

Informational item.

9. Sustainable, National Solution for Prescription Drug Monitoring Programs – National Council for Prescription Drug Programs- Nicole Russell.
Nicole Russell provided a presentation on NCPDP’s recommendations for improving Prescription Drug Monitoring Programs.
10. Triage and Treatment: Untold Health Stories from Baltimore’s Unrest – Iowa Public Radio (online 05/04/2015.)
Informational item.
11. 51 Arrested in Major Heroin Takedown – Drug Enforcement Administration (St. Louis.)
Informational item.
12. Pharmacy Technician Accreditation Commission (PTAC) Prepares for First Accreditation Meeting in May.
PTAC is a collaboration between the American Society of Health-System Pharmacist (ASHP) and ACPE. PTAC conducted their first accreditation meeting in May 2015, and discussed the transition from ASHP accredited programs to ASHP/ACPE accredited programs. By 2020, Pharmacy Technician Certification Board candidates seeking certification will be required to complete an ASHP/ACPE accredited training program.
13. Affiliated Monitors, Inc.
Informational item.
14. Independent Healthcare Monitors.
Informational item.
15. Zearing Telepharmacy 2014, 4th Quarter Report.
NuCara Telepharmacy provided their 4th Quarterly Telepharmacy Report for 2014, for review.
16. Zearing Telepharmacy 2015, 1st Quarter Report.
NuCara Telepharmacy provided their 1st Quarterly Telepharmacy Report for 2015, for review.
17. Adverse Drug Event Algorithm Tool – National Coordinating Council for Medication Error Reporting and Prevention (NCCMERP.)
Informational item.
18. New Practice Model Phase 1, 4th Quarter Report – Megan Myers, Iowa Pharmacy Association.
The Iowa Pharmacy Association provided their 4th Quarterly New Practice Model Report for review.
19. Tech-Check-Tech Compliance Observations.
The Board compliance officers visited Phase 1 and Phase 2 Tech-Check-Tech program sites. Site observations were provided for Board review.
20. Des Moines Register Editorial: State is Warned to Act on Licensing Boards (June 13, 2015.)
Informational item.
21. Litigation Update Meghan Gavin.

The Board currently has one judicial review in District Court.

Requests

1. Petition for Waiver: 657 I.A.C. 9.18(4) Prescription Drug Orders – NuCara Pharmacy #33, State Center.

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

2. Tech-Check-Tech Proposal – Sartori Memorial Hospital, Cedar Falls.

Motion by Sharon Meyer, seconded by LaDonna Gratiias, to approve the Tech-Check-Tech Proposal, with no required renewal date, and require quarterly reporting for one year. Motion approved unanimously.

3. Request for Assistance in Curtailing Confusion About FDA-Approved Uses of Omidria in Clinical Practice Settings – Omeros Corporation, Washington.

The Board will not be actively promoting the use of this product but will provide this information to anyone who requests it.

4. Request for Board Review 657 I.A.C. 17.3 and 8.7 – Lisa Ploehn, Main at Locust Pharmacy and Medical Supplies.

Discussion was held regarding purchasing and selling non-controlled medications to other pharmacies in the United States utilizing MatchRx.

5. MatchRx Business Model Presentation – Mike Galloway and Gabe Zawaideh.

Match Rx is a private web-based inter-pharmacy marketplace for non-controlled, non-expired overstocked prescription drugs in short supply. Mike Galloway and Gabe Zawaideh provided a presentation giving a general overview of the business model. The Board engaged in dialogue with the representatives and after a Board review of 657 I.A.C. 8.7(155A,) the Board interprets the rule as any licensed pharmacy or practitioner located in the United States may distribute prescription drugs to any pharmacy or practitioner licensed in any state subject to the laws of the home states.

6. Iowa Pharmacist Recovery Network (IPRN) Contract Approval FY 2016.

Motion James Miller, seconded by Edward McKenna to approve the IPRN Proposed Budget for the period of July 1, 2015 to June 30, 2016. Motion approved unanimously.

7. TakeAway Program Contract Approval FY 2016.

Motion James Miller, seconded by Edward McKenna to approve the Pharmaceutical Collection and Disposal (Drug TakeAway) Program Contract, including budget, between the Iowa Board of Pharmacy and Iowa Pharmacy Association for FY 2016, effective upon signing.

8. Matthew Biggerstaff – Request for Certified Mailed Notice of Final Ruling of the Iowa Board of Pharmacy & Brief in Support of Request for Certified Mailed Notice of Final Ruling of the Iowa Board of Pharmacy.

Motion James Miller, seconded by Sharon Meyer to deny the request. Motion approved unanimously.

Request

At 12:00 p.m., motion by Sharon Meyer, seconded by Jason Hansel, the Board voted unanimously by roll call vote to move into closed session pursuant to Iowa Code § 21.5(1)(a) to review or discuss records which are required or authorized by state or federal law to be kept confidential under Iowa Code § 272C.6 and 22.7(2).)

At 12:05 p.m., while still in closed session, Edward McKenna, moved that the Board go into open session, seconded by Sharon Meyer. Motion approved unanimously.

In open session, the following action was taken:

Motion by Jason Hansel, seconded by James Miller, to approve request seeking modification to the terms of the December 6, 2012, Decision and Order, modifying paragraph "J" for Gary Cottingham. Motion approved unanimously. A copy of the Modification to Findings of Fact, Conclusions of Law, Decision and Order is attached as Addendum E.

Closed Session

At 12:37 p.m., motion by Sharon Meyer, seconded by Edward McKenna, the Board voted unanimously by roll call vote to move into closed session for the following reason:

For Complaints and Investigative Reports pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigations or proceeding and § 21.5(1)(a) to review or discuss records which are required or authorized by state or federal law to be kept confidential, specifically information that is confidential under Iowa Code § 272C.6(4).)

At 12:58 p.m., while still in closed session, LaDonna Gratias moved that the Board go into open session, seconded by Edward McKenna. Motion approved unanimously.

Rules/Legislation Update

1. Notice of Intended Action to Amend Chapter 6, "General Pharmacy Practice," Chapter 7, "Hospital Pharmacy Practice," Chapter 15, Correctional Pharmacy Practice," and Chapter 16, "Nuclear Pharmacy Practice."

Motion by Jason Hansel, seconded by Sharon Meyer, to approve for filing Notice of Intended Action. Motion approved unanimously. A copy of the Notice of Intended Action is attached as Addendum F.

2. Notice of Intended Action to Amend Chapter 7, "Hospital Pharmacy Practice," and Chapter 23, "Long-Term Care Pharmacy Practice."

Motion by Sharon Meyer, seconded by Edward McKenna, to approve for filing Notice of Intended Action. Motion approved unanimously. A copy of the Notice of Intended Action is attached as Addendum G.

3. Notice of Intended Action to Amend Chapter 10, "Controlled Substances."

Motion by Sharon Meyer, seconded by Edward McKenna, to approve for filing Notice of Intended Action. Motion approved unanimously. A copy of the Notice of Intended Action is attached as Addendum H.

4. Branstad, Reynolds Launch Administrative Rules Website Making Process More Open and Accessible.

Informational item.

5. Legislative Update.

Senate File 462, Epinephrine Auto-Injectors.

Is an Act relating to the maintenance and administration of epinephrine in schools and certain other facilities. The Bill went into effect on July 1, 2015. The Department of Education, Iowa Board of Pharmacy, Board of Medicine, and Board of Nursing will be required to adopt rules to implement the program.

Licensure/Registration

1. Application for Nonresident Pharmacy License - Apotheca Inc., d/b/a Phusion Pharmacy, Coventry, Rhode Island.

Motion by James Miller, seconded by Sharon Meyer, to approve the Application for Nonresident Iowa Pharmacy License. Motion approved unanimously.

2. Application for Controlled Substance Registration - Bauder Pharmacy, Des Moines.

Motion by James Miller, seconded by Edward McKenna, to approve the application requiring the Pharmacy's Consultant to submit CSA inventory with the quarterly reports and contingent upon the pharmacy submitting their Policy and Procedures for prior approval by board staff. Motion approved unanimously.

3. Application for Nonresident Pharmacy License - Homescrpts.com – Troy, Michigan.

Motion by Jason Hansel, seconded by James Miller, to approve the Application for Nonresident Iowa Pharmacy License. Motion approved unanimously.

4. Application for Pharmacy Technician Trainee Registration – Rachel Herr, Geneseo, Illinois.

Motion by James Miller, seconded by Edward McKenna, to approve the Application for Pharmacy Technician Trainee Registration. Motion approved unanimously.

5. Nonresident Pharmacy Application Review – Han San Corp, Palm Desert, California.

Motion by Jason Hansel, seconded by Sharon Meyer, to issue a Preliminary Notice of Intent to Deny License. Motion approved unanimously.

6. Preliminary Notice of Intent to Deny License - N R & V Drugs, Inc., Wyandotte, Michigan.

Motion by James Miller, seconded by Jason Hansel, to approve Preliminary Notice of Intent to Deny License. Motion approved unanimously. A copy of the Preliminary Notice of Intent to Deny License is attached as Addendum I.

Complaints Against Non-Licensees

1. 2013-159 dxkqi-4034233500 (Craigslist), Des Moines.

Motion by James Miller, seconded by Edward McKenna, to close with no action. Motion approved unanimously.

2. 2014-143 Reliable Medical Supplies, Inc. – Boca Raton, Florida.

Motion by Edward McKenna, seconded by Sharon Meyer, to close with no action. Motion approved unanimously.

3. 2015-41 Global Pharmacy Plus, Vancouver, BC.

Motion by LaDonna Gratias, seconded by Edward McKenna, to close with no action. Motion approved unanimously.

4. 2015-57 Prescription Center Pharmacy, Fayetteville, North Carolina.

Motion by James Miller, seconded by Sharon Meyer, to close with no action. Motion approved unanimously.

Update/Discussion on Executive Director Position Vacancy

The Board received several applications for the Executive Director's position. The Board's Search Committee reviewed all the applications and plans to conduct telephone interviews on July 21-22, 2015. The Committee will recommend candidates for the Board to interview on September 2, 2015.

Closed Session

At 2:38 p.m., motion by Sharon Meyer, seconded by Edward McKenna, the Board voted unanimously by roll call vote to move into closed session for the following reason:

For Complaints and Investigative Reports pursuant to Iowa Code § 21.5(1)(d) to discuss whether to initiate licensee disciplinary investigations or proceeding and § 21.5(1)(a) to review or discuss records which are required or authorized by state or federal law to be kept confidential, specifically information that is confidential under Iowa Code § 272C.6(4).

At 3:30 p.m., while still in closed session, James Miller moved that the Board go into open session, seconded by Sharon Meyer. Motion approved unanimously.

In open session, the following actions were taken:

1. Notice of Hearing and Statement of Charges.

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

- A. Inie Clement, Pharmacist License No. 16963 of Des Moines. A copy of the Notice of Hearing and Statement of Charges is attached as Addendum J.
- B. LDI Integrated Pharmacy, Nonresident Pharmacy License No. 3816 of Creve Coeur, Missouri. A copy of the Statement of Charges and Notice of Hearing is attached as Addendum K.
- C. Ashley Henson, Pharmacy Technician Registration No. 8907 of Cherokee. A copy of the Statement of Charges and Notice of Hearing is attached as Addendum L.

2. Draft Statement of Charges.

Motion by Jason Hansel, seconded by Edward McKenna, to draft Statement of Charges against the pharmacy in 2015-48; pharmacy in 2015-6; Wholesaler in 2015-49; pharmacy in 2015-75; pharmacy and pharmacist in charge in 2015-108; pharmacy support person in 2015-43; and technician in 2015-67. Motion approved unanimously.

3. Draft Statement of Charges.

Motion by James Miller, seconded by LaDonna Gratias, to draft Statement of Charges against the pharmacist in 2015-72. Motion approved unanimously. Sharon Meyer recused.

4. Letter of Education.

Motion by James Miller, seconded by Sharon Meyer, to issue a Letter of Education to the pharmacist in 2015-111. Motion approved unanimously.

5. Administrative Warning and Letter.

Motion by James Miller, seconded by Edward McKenna, to issue an Administrative Warning to the Wholesaler in 2013-110 and issue a letter to the licensed location. Motion approved unanimously.

6. Close With No Action.

Motion by James Miller, seconded by Edward McKenna, to close with no further action the investigative files in complaint numbers: 2014-97, 2015-45, 2015-47, 2015-53, 2015-55, 2015-59, 2015-61, 2015-70, 2015-83, 2015-85, 2015-86, 2015-89, 2015-90, 2015-91, 2015-92, 2015-93, 2015-94, 2015-95, 2015-96, 2015-97, 2015-98, 2015-99, 2015-103, 2015-112, 2015-65, 2014-56, 2015-58, 2015-79, 2015-87, 2015-88, 2015-109, 2012-149, 2013-177, 2015-60, 2015-71, 2015-52, and 2015-80. Motion approved unanimously.

7. Close With No Action.

Motion by James Miller, seconded by Edward McKenna, to close with no further action case 2015-104. Motion approved unanimously. LaDonna Gratias recused.

8. Proposed Stipulated Order.

Motion by James Miller, seconded by Edward McKenna, to approve a Stipulated Order in 2013-182. Motion approved unanimously.

9. Letter of Education.

Motion by James Miller, seconded by Edward McKenna, to issue a Letter of Education to the pharmacy and pharmacist in charge in 2015-107. Motion approved unanimously.

Meghan Gavin and Laura Steffensmeier left the room.

Closed Session

At 3:40 p.m., motion by Sharon Meyer, seconded by LaDonna Gratiyas, the Board voted unanimously by roll call vote to move into closed session for the following reason:

For Findings of Fact, Conclusions of Law, Decision and Order pursuant to Iowa Code § 21.5(1)(f) to discuss the decision to be rendered in a contested case.

At 3:42 p.m., while still in closed session, Edward McKenna moved that the Board go into open session, seconded by Jason Hansel. Motion approved unanimously.

In open session, the following action was taken:

1. Findings of Fact, Conclusions of Law, Decision and Order.

Motion by James Miller, seconded Edward McKenna, to approve the Findings of Fact, Conclusions of Law, Decision and Order in the case of Brent Plender, Pharmacist License No. 17651 of Orange City; Dwayne Plender, Pharmacist License No. 13501 of Orange City; and Dutch Mill Pharmacy, Pharmacist License No. 445 of Orange City. A copy of the Findings of Fact, Conclusions of Law, Decision and Order is attached as Addendum M.

Motion by Edward McKenna, seconded by James Miller, to adjourn at 3:45 p.m. on June 24, 2015.

Becky Hall
Becky Hall
Recording Secretary

Therese W. Witkowski
Therese Witkowski
Interim Director

Edward L. Maier
Edward L. Maier
Board Chair

APPROVED THIS 31st DAY OF August, 2015.

ADDENDUM A

**SETTLEMENT AGREEMENT
AND
FINAL ORDER**

**DONALD VERSLUYS
PHARMACIST LICENSE NO. 15600
PELLA, IOWA**

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	CASE NO. 2014-50
Pharmacist License of)	
	)	SETTLEMENT AGREEMENT
DONALD VERSLUYS	)	AND FINAL ORDER
License No. 15600)	
Respondent.)	

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2015), the Iowa Board of Pharmacy ("Board") and Donald Versluys ("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 #15600 is currently active and expires on June 30, 2017.
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 10, 2015.
4. Respondent does not admit the allegations contained in the Statement of Charges but 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.

RECEIVED

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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, 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.

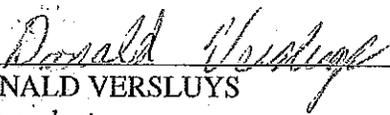
IT IS THEREFORE ORDERED:

14. Respondent agrees to pay a **CIVIL PENALTY** in the amount of ten-thousand dollars (\$10,000). This civil penalty shall be made payable to the Treasurer of Iowa and paid 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.
15. Respondent shall be **PERMANENTLY RESTRICTED** from having an ownership interest in an Iowa-licensed pharmacy and from serving as a pharmacist-in-charge.
16. Respondent's license shall be **SUSPENDED** for a period of six (6) months. During the period of suspension, Respondent shall not use any words or titles which imply or represent that he is a licensed pharmacist, or otherwise hold himself out to the public as a licensed pharmacist, or engage in the practice of pharmacy for which a license is required in the State of Iowa.
17. Following the suspension period, Respondent's license shall be placed on **PROBATION** for a period of three (3) years, subject to the following conditions:
 - a. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.
 - b. During the first year of probation, Respondent must complete ten (10) hours of continuing education in the areas of recordkeeping, HIPAA, ethics, and/or Iowa laws and rules. Respondent shall submit certificates of completion as proof of completion of this requirement. These hours are in addition to the hours required for license renewal and cannot be counted towards the continuing education hours required for license renewal. Respondent is responsible for all costs associated with obtaining the required continuing education.
 - c. Respondent shall notify all employers and prospective employers (no later than at the time of an employment interview) of the Statement of Charges and Settlement Agreement in this case.
 - d. Within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause his pharmacy employer to report to the Board a written

acknowledgement that the employer has read the Statement of Charges and Settlement Agreement in this case.

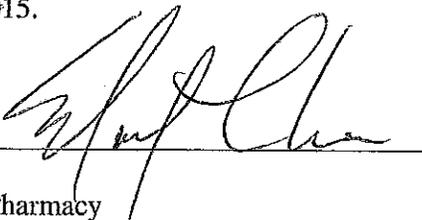
- e. Respondent shall not supervise any registered pharmacist-intern and shall not perform any duties of a pharmacy preceptor.
 - f. Respondent shall inform the Board, in writing, of any change in contact information (address, phone, email) or place of employment within ten (10) days of such a change.
18. The civil penalty required under paragraph 14 and the documentation required to be submitted to the Board under paragraph 17 should be mailed to the Iowa Board of Pharmacy, Attn: Debbie Jorgenson, 400 SW Eighth Street, Suite E, Des Moines, IA 50309.
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 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 4th day of June, 2015.



DONALD VERSLUYS
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 23rd day of June, 2015.



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
ATTORNEY FOR THE STATE

Thomas Crabb
418 6th Avenue, Ste. 200
Des Moines, IA 50309
ATTORNEY FOR RESPONDENT

ADDENDUM B

**SETTLEMENT AGREEMENT
AND
FINAL ORDER**

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

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	CASE NO. 2014-137
Certified Technician Registration of)	
)	
MARQUAISHA HAYGOOD	)	SETTLEMENT AGREEMENT AND
Registration No. 19605	)	FINAL ORDER
Respondent.)	

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2015), the Iowa Board of Pharmacy ("Board") and Marquaisha Haygood ("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. 19605, which is currently delinquent having expired on April 30, 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 March 10, 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.

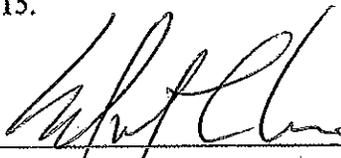
IT IS THEREFORE ORDERED:

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. 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 (2015) and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 21st day of May, 2015.


MARQUAISHA HAYGOOD
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 23rd day of June, 2015.


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 C
SETTLEMENT AGREEMENT
AND
FINAL ORDER

ABIGAIL ROBERTS
PHARMACY TECHNICIAN REGISTRATION NO. 10535
ROCKWELL, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	CASE NO. 2014-169
Certified Technician Registration of)	
)	
ABIGAIL ROBERTS	)	SETTLEMENT AGREEMENT AND
Registration No. 10535	)	FINAL ORDER
Respondent.)	

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2015), the Iowa Board of Pharmacy ("Board") and Abigail Roberts ("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. 10535, which is delinquent, having expired on March 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 April 29, 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 (2015) and 657 IAC 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 12 day of June, 2015.



ABIGAIL ROBERTS
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 23rd day of June, 2015.



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 D

**PRELIMINARY NOTICE OF INTENT
TO CANCEL CSA REGISTRATION**

**MARK TYLER
CONTROLLED SUBSTANCE REGISTRATION
NO. 1228835
CEDAR RAPIDS, IOWA**

BEFORE THE IOWA BOARD OF PHARMACY

Re:)
CSA Registration of)
)
MARK TYLER) **PRELIMINARY NOTICE OF INTENT**
Registration No. 1228835) **TO CANCEL CSA REGISTRATION**
Respondent.)

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Preliminary Notice of Intent to Cancel the Controlled Substances Act ("CSA") Registration of Mark Tyler ("Respondent"), 7 High Ridge Court, Cedar Rapids, Iowa 52403-3925, pursuant to Iowa Code section 17A.18 (2015). The intent to cancel the registration is based upon the following:

FACTUAL CIRCUMSTANCES & LEGAL GROUNDS

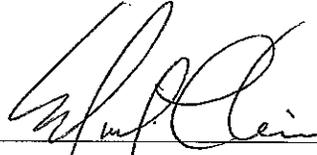
1. Respondent was issued physician license number MD-17884 by the Iowa Board of Medicine on July 1, 1969. Respondent's license number MD-17884 to practice medicine in Iowa expired on April 1, 2014.
2. Respondent renewed CSA Registration No. 1228835 on November 17, 2014. CSA Registration No. 1228835 is currently active through November 30, 2016.
3. In accordance with 657 IAC 10.1, "[t]o be eligible to register, individual practitioners must hold a current, active license in good standing, issued by the appropriate Iowa professional licensing board, to practice their profession in Iowa."
4. Because Respondent does not hold a current active license to practice medicine from the Iowa Board of Medicine, he is not eligible to hold a CSA Registration.

NOTICE OF APPEAL RIGHTS

You may appeal the Board's preliminary notice of intent to cancel your CSA registration by serving a written notice of appeal and request for hearing upon the Board not more than thirty (30) days following the date of service of this notice. Respondent's written notice of appeal and request for a hearing should be directed to Terry Witkowski, Acting Executive Director, Iowa Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. The written notice of appeal and request for hearing shall specifically describe the facts to be contested and determined at the hearing. The hearing shall be a contested case conducted pursuant to the procedures outlined at 657 IAC 35.

If a written notice of appeal and request for hearing is not timely filed, this preliminary notice of intent to cancel the CSA Registration will become final, and CSA Registration No. 1228835 will be CANCELLED.

DATED this 23rd day of June, 2015.



Edward L. Maier, Chairperson
Iowa Board of Pharmacy

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:

- | | |
|--|---|
| <input type="checkbox"/> personal service | <input type="checkbox"/> first class mail |
| <input checked="" type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile |
| Article Number 9171999991703106714719 | <input type="checkbox"/> other _____ |

on the 25th day of June, 2015.

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



Debbie S. Jorgenson

ADDENDUM E

**MODIFICATION TO FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER**

**GARY D. COTTINGTON
PHARMACIST LICENSE NO. 13616
PELLA, IOWA**

BEFORE THE IOWA BOARD OF PHARMACY

RE:	)	Case No. 2011-145
)	
Pharmacist License of	)	Modification to
GARY D. COTTINGTON,	)	Findings of Fact,
License No. 13616	)	Conclusions of Law,
Respondent.	)	Decision and Order

On December 6, 2012, the Iowa Board of Pharmacy (the Board) approved the Findings of Fact, Conclusions of Law, Decision and Order (Decision and Order), reinstating Respondent's Iowa pharmacist license, subject to the terms and conditions set forth in the Decision and Order. Respondent personally appeared before the Board on June 24, 2015, seeking a modification to the terms of the Decision and Order. Specifically, Respondent sought a change to paragraph "J" restricting Respondent from possessing a key to any pharmacy.

IT IS HEREBY ORDERED that the condition prohibiting possession of a key in paragraph "J" is modified to allow Respondent to possess key to pharmacy upon receipt of letter from employer listing specific site(s) and a description of the site(s) to which Respondent will possess a key to.

Dated this 1st day of July, 2015.



Edward L. Maier
Chairperson, Iowa Board of Pharmacy

ADDENDUM F

NOTICE OF INTENDED ACTION

**CHAPTER 6, "GENERAL PHARMACY PRACTICE,"
CHAPTER 7, "HOSPITAL PHARMACY PRACTICE,"
CHAPTER 15, "CORRECTINAL PHARMACY
PRACTICE," AND
CHAPTER 16, "NUCLEAR PHARMACY PRACTICE"**

JUNE 24, 2015

PHARMACY BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 6, “General Pharmacy Practice,” Chapter 7, “Hospital Pharmacy Practice,” Chapter 15, “Correctional Pharmacy Practice,” and Chapter 16, “Nuclear Pharmacy Practice,” Iowa Administrative Code.

The proposed amendments were approved at the June 24, 2015, regular meeting of the Board of Pharmacy.

The proposed amendments eliminate the requirements that pharmacies maintain the Iowa Pharmacy Law and Information Manual and authorize pharmacies to utilize other sources, including electronic or Internet-based sources, for Iowa pharmacy laws, rules, and regulations.

Requests for waiver or variance of the discretionary provisions of these 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 August 15, 2015. Such written materials may be sent to Terry Witkowski, Acting Director/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, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 155A.31.

The following amendments are proposed.

ITEM 1. Amend rule 657—6.3(155A) as follows:

657—6.3(155A) Reference library. References may be printed or computer-accessed. A reference library shall be maintained which includes, as a minimum, one current reference from each of the following categories, including access to current periodic updates.

1. ~~The Iowa Pharmacy Law and Information Manual~~ Current Iowa pharmacy laws, rules, and regulations.

2. to 8. No change.

ITEM 2. Amend rule 657—7.3(155A) as follows:

657—7.3(155A) Reference library. References may be printed or computer-accessed. A reference library shall be maintained which includes, as a minimum, one current reference from each of the following categories, including access to current periodic updates.

1. ~~The Iowa Pharmacy Law and Information Manual~~ Current Iowa pharmacy laws, rules, and regulations.

2. to 9. No change.

ITEM 3. Amend rule 657—15.4(155A) as follows:

657—15.4(155A) Reference library. References may be printed or computer-accessed. Each

correctional pharmacy shall have on site, at a minimum, one current reference from each of the following categories, including access to current periodic updates.

1. ~~The Iowa Pharmacy Law and Information Manual~~ Current Iowa pharmacy laws, rules, and regulations.

2. to 8. No change.

ITEM 4. Amend rule 657—16.5(155A) as follows:

657—16.5(155A) Library. Each nuclear pharmacy shall have access to the following references. References may be printed or computer-accessed and shall be current editions or revisions.

1. No change.

2. ~~The Iowa Pharmacy Law and Information Manual~~ Current Iowa pharmacy laws, rules, and regulations;

3. and 4. No change.

ADDENDUM G
NOTICE OF INTENDED ACTION
CHAPTER 7, "HOSPITAL PHARMACY PRACTICE,"
JUNE 24, 2015

PHARMACY BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 7, “Hospital Pharmacy Practice,” and Chapter 23, “Long-Term Care Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the June 24, 2015, regular meeting of the Board of Pharmacy.

The proposed amendments permit, as authorized by federal law, the administration of any influenza or pneumococcal vaccine to a hospital or long-term care facility patient pursuant to physician-approved hospital or facility policy after the patient has been assessed for contraindications. Current subrules limit this authority to the administration of influenza and pneumococcal polysaccharide vaccines only.

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 August 15, 2015. Such written materials may be sent to Terry Witkowski, Acting Director/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, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 155A.13, 155A.15, 155A.23, and 155A.35.

The following amendments are proposed.

ITEM 1. Amend subrule 7.8(14) as follows:

7.8(14) *Influenza and pneumococcal vaccines.* As authorized by federal law, a written or verbal patient-specific medication administration order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to physician-approved hospital policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient’s medical record.

ITEM 2. Amend subrule 23.9(4) as follows:

23.9(4) *Influenza and pneumococcal vaccines.* As authorized by federal law, a written or verbal patient-specific medication administration order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to physician-approved facility policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient’s record. The facility shall submit to the provider pharmacy a listing of those residents or staff members who have been immunized utilizing vaccine from each vial supplied by the provider pharmacy.

ADDENDUM H
NOTICE OF INTENDED ACTION
CHAPTER 10, "CONTROLLED SUBSTANCES,"
JUNE 24, 2015

PHARMACY BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 124A.2, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 10, “Controlled Substances,” Iowa Administrative Code.

The amendment was approved at the June 24, 2015, regular meeting of the Board of Pharmacy.

The proposed amendment rescinds rule 657—10.41(124A) in which certain substances are identified and classified as imitation controlled substances. Those substances have been identified and classified by legislative action as controlled substances subject to Iowa Code chapter 124. Rescinding the designation of those substances as imitation controlled substances will eliminate the confusion created by their dual classification as imitation controlled substances, subject to the penalties for unlawful possession of imitation controlled substances, and their classification as controlled substances, subject to different penalties for unlawful possession of controlled substances.

Requests for waiver or variance are not addressed because there are no provisions from which to request a waiver or variance.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on August 15, 2015. Such written materials may be sent to Terry Witkowski, Acting Director/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, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 124A.2.

The following amendment is proposed.

Rescind and reserve rule **657—10.41(124A)**.

ADDENDUM I

**PRELIMINARY NOTICE OF
INTENT TO DENY LICENSE**

**N R & V DRUGS, INC.,
d/b/a WYANDOTTE DRUGS
WYANDOTTE, MICHIGAN**

BEFORE THE IOWA BOARD OF PHARMACY

Re:)
The Application for Nonresident)
Pharmacy License of)
)
N R & V DRUGS, INC.,)
d/b/a WYANDOTTE DRUGS)
Applicant.)

**PRELIMINARY NOTICE OF
INTENT TO DENY LICENSE**

TO: N R & V Drugs, Inc.
d/b/a Wyandotte Drugs
364 Eureka Road
Wyandotte, MI 48192

YOU ARE HEREBY NOTIFIED that on June 24, 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:

FACTUAL CIRCUMSTANCES

1. On April 15, 2015, the Board received an Iowa nonresident pharmacy license application from N R & V Drugs, Inc., d/b/a Wyandotte Drugs.
2. On the license application, Applicant indicated that it had delivered approximately 50 prescriptions into Iowa in the prior year.
3. From December 4, 2014, through January 31, 2015, Applicant delivered approximately 62 prescriptions to Iowa without having a valid Iowa nonresident pharmacy license.

LEGAL GROUNDS

4. Applicants for an Iowa nonresident pharmacy license must apply in accordance with Iowa Code section 155A.13A and 657 IAC 19.2.
5. 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).
6. 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.

NOTICE OF APPEAL RIGHTS

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 service of this notice. Applicant's

written notice of appeal and request for a hearing should be directed to Terry Witkowski, Acting Executive Director, Iowa Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. The written notice of appeal and request for hearing shall specifically describe the facts to be contested and determined at the hearing. The hearing shall be a contested case conducted pursuant to the procedures outlined at 657 IAC 35.

If a written notice of appeal and request for hearing is not timely filed, this preliminary notice of intent to deny licensure will become final, and the Iowa nonresident pharmacy license application for N R & V Drugs, Inc., d/b/a Wyandotte Drugs will be DENIED.

DATED this 24th day of June, 2015.



Edward L. Maier, Chairperson
Iowa Board of Pharmacy

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

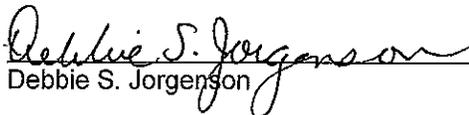
PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon Respondent to the above cause by:

- | | |
|--|---|
| <input type="checkbox"/> personal service | <input type="checkbox"/> first class mail |
| <input checked="" type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile |
| Article Number 9171999991703106714726 | <input type="checkbox"/> other _____ |

on the 25th day of June, 2015.

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



Debbie S. Jorgenson

ADDENDUM J

**NOTICE OF HEARING AND
STATEMENT OF CHARGES**

**INIE CLEMENT
PHARMACIST LICENSE NO. 16963
DES MOINES, IOWA**

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2015-25
Pharmacist License of)	
INIE CLEMENT	)	NOTICE OF HEARING AND
License No. 16963,	)	STATEMENT OF CHARGES
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges concerning the pharmacist license of Inie Clement pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent was issued Iowa pharmacist license number 16963. Respondent's license is currently active and will expire on June 30, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on September 1, 2015, before the Iowa Board of Pharmacy. 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 prehearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code rule 35.19. At hearing you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address.

Meghan Gavin
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover State Office Building
Des Moines, Iowa 50319.

Ms. Gavin can also be reached by phone at (515)281-6736 or e-mail at Meghan.Gavin@iowa.gov.

Communications. You may contact the Board office (515)281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. However, you may NOT contact individual members of the Board to discuss these proceedings by phone, letter, facsimile, email, or in person. Board members can only receive information about the case when all parties have notice and an 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. You may also direct questions relating to settlement of these proceedings to Assistance Attorney General Meghan Gavin at (515)281-6736.

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 17A, 147, 148C, and 272C and 657 Iowa Administrative Code chapter 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 Iowa Administrative Code rule 35.21.

C. CHARGES

Count I

FAILURE TO NOTIFY THE BOARD OF A CHANGE OF ADDRESS

Respondent is charged with failing to notify the Board within ten days of a change in address in violation of Iowa Code sections 147.55(9) and 155A.12(1),(3) and 657 Iowa Administrative Code rules 2.15 and 36.1(4)(u); .

D. FACTUAL CIRCUMSTANCES

1. Respondent is an Iowa-licensed pharmacist. Her pharmacist license is active and will expire on June 30, 2015
2. The Iowa Department of Revenue notified this Board that Respondent has unpaid liability. Pursuant to Iowa Code section 272D.8 and 657 Iowa Administrative Code chapter 32, a Notice of Intent to Suspend License was issued to the Respondent.
3. The Board order was sent to Respondent's address on file.
4. The Board order returned documenting the address as vacate.
5. Service was attempted at various other addresses utilizing information obtained through an Accurant report, the Polk County Assessor's website, and Facebook. Personal service

was never completed.

6. Respondent has been noticed of three prior Intents to Suspend License for unpaid liability—twice in 2011 and once in 2012.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 Iowa Administrative Code rule 36.3. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Meghan Gavin.

F. PROBABLE CAUSE FINDING

On this the 23rd day of June, 2015, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges.



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 State Office Building
Des Moines, Iowa

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon Respondent to the above cause by:

- | | |
|---|---|
| <input type="checkbox"/> personal service | <input type="checkbox"/> first class mail |
| <input type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile |
| Article Number 9171999991703106714740 | <input type="checkbox"/> other _____ |

on the ____ day of June, 2015.

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

Debbie S. Jorgenson

ADDENDUM K

**NOTICE OF HEARING AND
STATEMENT OF CHARGES**

**LDI INTEGRATED PHARMACY
NONRESIDENT PHARMACY LICENSE NO. 3816
CREVE COEUR, MISSOURI**

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case Nos. 2015-44
Nonresident Pharmacy License of)	
LDI INTEGRATED PHARMACY	)	STATEMENT OF CHARGES
License No. 3816	)	& NOTICE OF HEARING
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2013). Respondent was issued Iowa nonresident pharmacy license 3816. Respondent's license is currently active and will expire on December 31, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on September 1, 2015, before the Iowa Board of Pharmacy. 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 prehearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code rule 35.19. At hearing you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address.

Meghan Gavin
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover State Office Building
Des Moines, Iowa 50319.

Ms. Gavin can also be reached by phone at (515)281-6736 or e-mail at Meghan.Gavin@iowa.gov.

Communications. You may contact the Board office (515)281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. However, you may NOT contact individual members of the Board to discuss these proceedings by phone, letter, facsimile, email, or in person. Board members can only receive information about the case when all parties have notice and an 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. You may also direct questions relating to settlement of these proceedings to Assistance Attorney General Meghan Gavin at (515)281-6736.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction over 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 17A, 147, 155A, and 272C and 657 Iowa Administrative Code chapter 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 Iowa Administrative Code rule 35.21.

C. CHARGES

Count I

VIOLATION OF THE PHARMACY LAWS OF ANOTHER STATE

Respondent is charged with violating the pharmacy laws of another state in violation of Iowa Code sections 147.55(9) and 155A.13A(3) and 657 Iowa Administrative Code rule 36.1(4)(j), (ad).

Count II

FAILURE TO NOTIFY THE BOARD OF OUT OF STATE DISCIPLINE

Respondent is charged with failing to notify the board within 30 days after a final decision by a licensing authority of another state which resulted in disciplinary sanction in violation of Iowa Code sections 147.55(9) and 155A.13A(3) and 657 Iowa Administrative Code rule 36.1(4)(k).

D. FACTUAL CIRCUMSTANCES

1. Respondent is a nonresident pharmacy with its principle place of business at 701 Emerson Road, Suite 343, Creve Coeur, Missouri 63141.

2. Respondent entered into a Consent Agreement with the Louisiana Board of Pharmacy on May 7, 2014 following an investigation that found the Missouri pharmacy has been shipping prescriptions into Louisiana while its Louisiana nonresident pharmacy license had expired.

3. The Consent Agreement included a Letter of Warning and a \$5000 civil penalty.
4. Respondent did not notify this Board of the discipline until its December 11, 2014 renewal application—approximately seven months later.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 Iowa Administrative Code rule 36.3. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Meghan Gavin.

F. PROBABLE CAUSE FINDING

On this the 23rd day of June, 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 Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Meghan Gavin
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon Respondent to the above cause by:

- | | |
|--|---|
| <input checked="" type="checkbox"/> personal service | <input type="checkbox"/> first class mail |
| <input checked="" type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile |
| Article Number 9171999991703106714757 | <input type="checkbox"/> other _____ |

on the 25th day of June, 2015.

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


Debbie S. Jorgenson

ADDENDUM L

**NOTICE OF HEARING AND
STATEMENT OF CHARGES**

**ASHLEY HENSON
PHARMACY TECHNICIAN REGISTRATION NO. 8907
CHEROKEE, IOWA**

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	CASE NO. 2015-74
Certified Technician Registration of)	
	)	NOTICE OF HEARING AND
ASHLEY HENSON	)	STATEMENT OF CHARGES
License No. 8907)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges against Ashley Henson pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent's Iowa certified technician registration number 8907 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 September 1, 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 Iowa Administrative Code rule 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 Iowa Administrative Code rule 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:

Meghan Gavin
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Gavin can also be reached by phone at (515) 281-6736 or by e-mail at Meghan.Gavin@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 Iowa Administrative Code chapter 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 Iowa Administrative Code rule 35.21.

C. CHARGES

Count I

ENGAGING IN UNETHICAL BEHAVIOR

Respondent is charged with engaging in unethical behavior, in violation of Iowa Code sections 147.55(3) and 155A.6A(5) and 657 Iowa Administrative Code rules 3.28(4), 3.30, and 36.1(4)(u).

Count II

OBTAINING OR POSSESSING PRESCRIPTION DRUGS WITHOUT LAWFUL AUTHORITY

Respondent is charged with obtaining, possessing, or attempting to obtain or possess prescription drugs without lawful authority in violation of Iowa Code section 147.55(9) and 155A.6A(5) and 657 Administrative Code rules 3.30 and 36.1(4)(af).

Count III

DIVERSION OF PRESCRIPTION DRUGS

Respondent is charged with diverting prescription drugs from a pharmacy for personal use of for distribution in violation of Iowa Code sections 147.55(9) and 155A.6A(5) and 657 Iowa Administrative Code rules 3.30 and 36.1(4)(ak).

D. FACTUAL CIRCUMSTANCES

1. Respondent holds Iowa certified technician license number 8907, which is currently active and expires on June 30, 2015.
2. Respondent was employed as a technician at Hy-Vee Pharmacy in Cherokee, Iowa.

3. Respondent was observed on camera taking tablets out of a bottle and putting them into the pocket of her lab coat.

4. A review of the pharmacy's inventory showed 23 tablets of hydrocodone/apap 7.5mg/325mg unaccounted for.

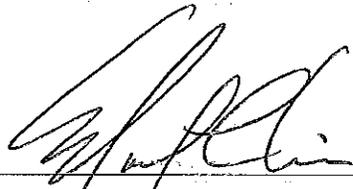
5. Respondent was charged with Theft in the Fifth Degree as a result of this incident.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 Iowa Administrative Code rule 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Meghan Gavin at (515) 281-6736.

F. FINDING OF PROBABLE CAUSE

On this 23rd day of June, 2015, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



Edward L. Maier, Chairperson
Iowa Board of Pharmacy
400 SW Eight Street, Suite E
Des Moines, Iowa 50309-4688

cc: Meghan Gavin
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:

- | | |
|---|---|
| <input checked="" type="checkbox"/> personal service | <input type="checkbox"/> first class mail |
| <input type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile |
| Article Number 9171999991703106714733 | <input type="checkbox"/> other _____ |

on the 25th day of June, 2015.

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


Debbie S. Jorgenson

ADDENDUM M

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION, AND ORDER**

**BRENT PLENDER
PHARMACIST LICENSE NO. 17651
ORANGE CITY, IOWA**

**DWAYNE PLENDER
PHARMACIST LICENSE NO. 13561
ORANGE CITY, IOWA**

**DUTCH MILL PHARMACY
PHARMACY LICENSE NO. 445
ORANGE CITY, IOWA**

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF:)	
)	
Pharmacist License of	)	Docket No. 2014-45
BRENT PLENDER	)	DIA No. 14PHB054
License No. 17651)	
)	
Pharmacist License of)	
DWAYNE PLENDER)	
License No. 13561)	
)	
Pharmacy License of)	
DUTCH MILL PHARMACY)	
License No. 445	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondents.	)	DECISION, AND ORDER
)	

STATEMENT OF THE CASE

On November 19, 2014, the Iowa Board of Pharmacy (Board) found probable cause to file a Statement of Charges & Notice of Hearing against Respondents Brent Plender, Dwayne Plender, and Dutch Mill Pharmacy. The Statement of Charges alleges that Respondents Dwayne Plender and Dutch Mill Pharmacy: 1) failed to verify the accuracy of a prescription; 2) failed to counsel a patient on a change in dosage; and 3) failed to notify the Board of a malpractice settlement. Additionally, the Statement of Charges alleges that Respondent Dutch Mill Pharmacy failed to maintain a continuous quality improvement program. The Statement of Charges also alleges that Respondent Brent Plender violated the duties of a pharmacist-in-charge.

A hearing was held on April 28, 2015. The following members of the Board presided at the hearing: Edward Maier, Chairperson; James Miller; LaDonna Gratiyas; Susan Frey; Judith Trumpy; and Edward McKenna. Respondents appeared and were self-represented. Assistant attorney general Meghan Gavin represented the State. The hearing was closed to the public at the election of Respondents, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Administrative Law Judge Laura Lockard assisted the Board in conducting the hearing and was instructed to prepare the Board's written decision in accordance with its deliberations.

THE RECORD

The record includes the Notice of Hearing and Statement of Charges with regard to each of the three Respondents. The record also includes hearing testimony of Andrew Funk,

Brent Plender, and Dwayne Plender. The State introduced Exhibits 1 through 11, which were admitted as evidence. Respondents introduced Exhibits A through D, which were admitted as evidence.

FINDINGS OF FACT

Respondent Dutch Mill Pharmacy holds Iowa pharmacy license number 445, which is currently active. Respondent Brent Plender holds Iowa pharmacist license number 17651, which is currently active. Respondent Dwayne Plender holds Iowa pharmacist license number 13561, which is currently active. At all times relevant to this action, Respondent Brent Plender was employed at Dutch Mill Pharmacy in Orange City, Iowa as pharmacist-in-charge. At all times relevant to this action, Respondent Dwayne Plender was employed at Dutch Mill Pharmacy as a pharmacist.¹

March 2014 Dispensing Error

The Board received a complaint on March 20, 2014 regarding all three Respondents. The complaining party alleged that Dwayne misfilled a prescription for her daughter, eight year-old H.P., resulting in H.P. taking a dose that was five times the strength prescribed. Specifically, H.P. was prescribed lamotrigine for epilepsy. Previously, H.P. had been prescribed 5 milligram chewable tablets at a dosage of four pills twice a day, or 20 milligrams per dose. On March 13, 2014, H.P.'s health care provider sent an electronic prescription to Respondent Dutch Mill Pharmacy, which switched H.P. to a 25 milligram tablet to be taken two times per day. Because H.P. had been receiving chewable tablets previously, when the new prescription was received pharmacist Blake Plender changed the prescription in the pharmacy's electronic system to reflect that H.P. should receive five 5 milligram chewable tablets twice per day. (Exh. 4, pp. 14-20, Exh. 8, p. 35).

Dwayne filled H.P.'s prescription on March 17. While Dwayne filled the pill bottle with 25 milligram tablets, the prescription label that he affixed to the bottle directed H.P. to take five 5 milligram tablets twice a day. There is a visual difference between the 5 and 25 milligram tablets; one is round and one is oblong. Dwayne acknowledged that he should have noticed the difference between the two tablets upon visual inspection. Effectively, the discrepancy between the label instructions and the dispensed dosage meant that in taking the tablets as directed, H.P. would get a 125 milligram dosage, or five times what she was actually prescribed. (Exh. 4, p. 20; D. Plender testimony).

H.P. took five of the 25 milligram tablets at bedtime on March 17 and again the following morning. At approximately 9:15 AM on March 18, H.P.'s school called to inform her mother that H.P. was experiencing nausea, dizziness, and vomiting. Based on her belief that the tablets she had given H.P. did not look the same as the 5 milligram chewable tablets she had previously been prescribed, H.P.'s mother called to ask the

¹ Respondent Dwayne Plender is the father of Respondent Brent Plender. Due to the two individual Respondents having the same last name, they will be referred to by first name throughout this decision.

pharmacy whether the prescription had been dispensed in error. She spoke with Respondent Brent Plender, who took some information from her regarding the pills. The pharmacy attempted to make contact with H.P.'s mother later that day; she ultimately spoke with pharmacist Blake Plender. Blake admitted that the pharmacy made an error in dispensing the medication; 25 milligram tablets were erroneously dispensed and H.P. was directed to take five for each dose. (Exh. 4, p. 20; Funk testimony).

Prior to this incident, the pharmacy used a visual verification system. Under this system, the pharmacist compared the National Drug Code (NDC) on the stock bottle to the NDC on the prescription to verify that the two matched.² At that point, the prescription was bagged and placed in a will call location to await patient pick-up. A small percentage of pharmacies in the state still use visual verification to check the accuracy of prescriptions. Electronic scan verification is not mandatory. (B. Plender, Funk testimony).

Since this incident and the resulting investigation, the pharmacy has implemented a scan verification system. Under this system, the pharmacist scans the stock bottle from which the prescription is being filled. The pharmacist then compares this information with an electronic image of the prescription. The pharmacist must electronically sign that verification has occurred. (Funk, B. Plender testimony).

When a misfill is reported to the Board through the complaint process, it is standard practice for the Board to request to see the pharmacy's continuous quality improvement (CQI) log. The purpose of the CQI process for pharmacies is to track errors, understand where in the process errors are occurring, and to improve policies and procedures through that knowledge. The Board reviewed the pharmacy's CQI report during its investigation and no errors were listed. (Funk testimony).

During the investigation, Brent acknowledged that the pharmacy has had errors in the past, including miscounts, where a patient receives the wrong quantity of tablets, errors where the patient receives the wrong strength of medication, and errors where two separate patients' prescriptions are packaged together in the same bag. These errors were not recorded as part of any continuous quality improvement program. Brent told the Board's compliance officer that the pharmacy has not "encouraged or discouraged the internal reporting of errors." Since the 2014 complaint, the pharmacy has implemented a functioning CQI program and is reporting errors. (Exh. 5, p. 27, Exh. 8, p. 36, Exh. 9, p. 40; Funk testimony).

² The pharmacy's policy that was in place prior to the 2014 misfill provided, "The pharmacist only shall perform the final verification of the completed order by comparing the NDC of the stock bottle to the NDC on the receipt of each prescription, or by visually inspecting the contents of the dispensing container." (Exh. A).

2009 Dispensing Error and Subsequent Malpractice Settlement

In the complaint, H.P.'s mother also referenced a previous misfill that she had heard occurred several years ago. Board compliance officer Andrew Funk investigated this matter. Funk discovered that in 2009, Dwayne dispensed zolpidem, a non-benzodiazepine sedative/hypnotic indicated for the short-term management of insomnia, to a patient rather than tramadol, a non-narcotic prescription medication indicated for the treatment of moderate to moderate-severe pain, which was actually prescribed.³ Dwayne gave a statement to his insurance company at the time of the error. Dwayne's insurance company ultimately settled the matter and paid the patient who was subject to the error \$86,117.60. The settlement agreement was not reported to the Board. (Exh. 5, pp. 23-24, Exh. 11, p. 45; Funk testimony).

Both Brent and Dwayne were aware of the 2009 misfill when it occurred. Respondents were not aware that a settlement had occurred, however, until the 2014 complaint investigation when they were informed of the settlement by the Board's compliance officer. (Funk, B. Plender testimony).

In response to an inquiry by the pharmacy, Cincinnati Insurance Companies sent a letter to Dwayne dated December 17, 2014. The letter provides:

This letter is to confirm that Cincinnati Insurance Companies did provide coverage for and settle claim 115283. Incorrect medication (Zolpidem vs Tramadol) was dispensed in the claim.

This claim was settled . . . on January 14, 2011. The total amount of the settlement was \$85,000. I did not inform you of this settlement at any time. I was unaware you needed to provide notice to any state agency. Cincinnati Insurance did report the settlement to the State of Iowa.

(Exh. D).

Patient Counseling

During the complaint process, H.P.'s mother also alleged that she had not been counseled by Dwayne when she picked up the prescription for H.P. on March 17, 2014. The pharmacy's policy is to counsel patients on all new prescriptions and, if needed, to counsel on refills. The pharmacy uses an electronic signature capture device to record counseling. A patient may refuse counseling by checking a box indicating that consultation has been refused. (B. Plender testimony; Exh. C).

H.P.'s mother picked up and signed for the prescription in question on March 17, 2014. The pharmacy's electronic records reflect that consultation occurred when she picked up

³ The pharmacy did not implement any substantive changes in the way it processed and verified prescriptions as a result of the 2009 misfill. (B. Plender testimony).

the prescription. Dwayne recalls counseling H.P.'s mother when she picked up the prescription. (Exh. B).

CONCLUSIONS OF LAW

Failure to Maintain a CQI Program (Count I: Dutch Mill Pharmacy)/Violating Duties of Pharmacist-in-Charge (Count I: Brent Plender)

The Board's regulations provide that 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.⁴ All licensed pharmacies in Iowa are required to implement or participate in a continuous quality improvement (CQI) program.⁵ The pharmacist in charge is responsible for ensuring that the pharmacy utilizes a CQI program consistent with the requirements of 657 Iowa Administrative Code 8.26.⁶

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.⁷

A pharmacy is required to develop, implement, and adhere to written policies and procedures for operation and management of the CQI program. The policies and procedures must address a process to identify and document reportable program events. A reportable program event is a preventable medication error that results in the incorrect dispensing of a prescribed drug, including an incorrect drug dispensed, incorrect labeling, or a drug received by the wrong patient.⁸ CQI program records must be maintained on site at the pharmacy or be accessible to the pharmacy and be available to the Board for at least two years from the date of the record.⁹

The preponderance of the evidence demonstrates in this case that Respondent Brent Plender and Respondent Dutch Mill Pharmacy violated 657 Iowa Administrative Code 6.2 and 8.26 by failing to have a CQI program compliant with the Board's requirements. Brent acknowledged during the investigation and at hearing that there had been events which are classified as reportable program events under the Board's regulations that were not recorded as part of the pharmacy's CQI program. At the time the Board initiated its investigation of the 2014 complaint, the pharmacy, Brent, and Dwayne were aware of the misfill regarding H.P., yet no written incident report had been made. Brent acknowledged that the pharmacy neither encouraged nor discouraged pharmacists and other staff members from reporting errors prior to the 2014 complaint.

⁴ 657 Iowa Administrative Code (IAC) 8.3(1). All citations to the Iowa Administrative Code in this decision refer to the regulations in effect as of the date of the particular violation alleged.

⁵ 657 IAC 8.26.

⁶ 657 IAC 8.26(2).

⁷ 657 IAC 8.26.

⁸ 657 IAC 8.26(1), (3).

⁹ 657 IAC 8.26(5).

Failure to Accurately Verify Prescription (Count II: Dutch Mill Pharmacy; Count I: Dwayne Plender)

Pursuant to the Board's regulations, the pharmacist must provide and document the final verification for accuracy, validity, completeness, and appropriateness of a patient's prescription or medication order prior to the delivery of the medication to the patient or to the patient's representative.¹⁰ The pharmacy and pharmacist-in-charge share responsibility for making sure that procedures are in place to ensure such verification is occurring.¹¹

The preponderance of the evidence demonstrates in this case that Respondent Dwayne Plender violated 657 Iowa Administrative Code 8.3(3) by failing to verify the accuracy of H.P.'s prescription prior to it leaving the pharmacy. Under the pharmacy's visual verification system, Dwayne should have compared the NDC on the stock bottle to the NDC on the prescription to verify that the two matched. Dwayne erred in filling H.P.'s prescription for 5 milligram tablets with 25 milligram tablets from an accurately labeled stock bottle. Dwayne acknowledged that there is a visual difference between the 5 milligram and 25 milligram tablets that he should have recognized upon inspection. There were two opportunities, then, for Dwayne to have caught this error during the verification process. The prescription was not accurately verified.

While the evidence establishes that Dwayne's conduct violated the Board's verification regulations, there is insufficient evidence to establish such a violation for the pharmacy itself. The pharmacy had a visual verification system that, if correctly followed by the pharmacist, would have permitted this error to be caught before the misfilled prescription left the pharmacy. The danger with a visual verification system is that it is more susceptible to human error than an electronic scan verification system, which Dutch Mill Pharmacy switched to after the 2014 complaint. Nevertheless, it was the pharmacist's carelessness, rather than the pharmacy's verification system, that caused the error in this case.

Failure to Notify Board of Malpractice Settlement (Count IV: Dutch Mill Pharmacy; Count III: Dwayne Plender)

Under the Board's regulations, disciplinary sanctions may be imposed against any licensee that fails to notify the Board within 30 days after the occurrence of any judgment or settlement of a malpractice court claim or action.¹² It is undisputed here that a malpractice settlement was entered into regarding the 2009 misfill committed by Dwayne. The insurance provider who settled the claim in 2011, however, failed to inform Dwayne or the pharmacy of the settlement. It was not until the 2014

¹⁰ 657 IAC 8.3(3). This portion of the regulations has subsequently been amended, but this version was in place at the time of the alleged violation.

¹¹ 657 IAC 8.3(1). This portion of the regulations has subsequently been amended, but this version was in place at the time of the alleged violation.

¹² 657 IAC 36.1(4)(p).

investigation that Dwayne or the pharmacy became aware of the settlement. Under these circumstances, no violation has been proven.

Failure to Counsel Patient on Change in Dosage (Count III: Dutch Mill Pharmacy; Count II: Dwayne Plender)

Upon receipt of a new prescription drug order, or upon receipt of a change in drug therapy, including but not limited to a change of dose, directions, or drug formulation, a pharmacist is required to counsel each patient or patient's caregiver.¹³ A pharmacist is not required to counsel a patient or caregiver when the patient or caregiver refuses such consultation. A refusal of consultation must be documented by the pharmacist. In the absence of a documented record of refusal, the presumption is that the offer to counsel was accepted and counseling was provided.¹⁴ The pharmacy shares responsibility for ensuring that pharmacists are providing counseling in accordance with the Board's regulations.¹⁵

The credible evidence does not support the conclusion that Respondent Dwayne Plender or Respondent Dutch Mill Pharmacy committed the violation alleged. The pharmacy's electronic documentation reflects that H.P.'s mother received counseling on March 17, 2014 when she picked up H.P.'s prescription. In conjunction with the pharmacy's electronic record, the Board found credible Dwayne's testimony regarding having provided counseling.

Sanction

The Board may consider a number of factors in determining the nature and severity of the disciplinary sanction to be imposed when a violation is established, including the relative seriousness of the violation as it relates to assuring a high standard of professional care; the facts of the violation; any extenuating circumstances; whether remedial action has been taken; and any other factors that reflect upon the competency, ethical standards, and professional conduct of the licensee.¹⁶

Respondents argue that the Board has not imposed discipline in the past against other licensees when the violation relates to the lack of a functioning CQI program and a single error. While the Board recognizes that misfills will inevitably accompany pharmacy practice no matter how rigorous the verification process is, a misfill that results in patient harm is particularly troubling to the Board when a pharmacy does not have a functioning CQI program. The purpose of the CQI program is to help the pharmacy to identify errors so that its processes can be corrected and future errors prevented. Without a functioning CQI program, the danger is that a pharmacy will continue to make the same errors repeatedly. In this case, the misfilled prescription was

¹³ 657 IAC 6.14(1).

¹⁴ 657 IAC 6.14(6).

¹⁵ 657 IAC 8.3(1). This portion of the regulations has subsequently been amended, but this version was in place at the time of the alleged violation.

¹⁶ 657 IAC 36.1(3).

for a medically fragile child and resulted in moderate illness and the child missing school. The Board has been consistent in its imposition of discipline where a dispensing error results in patient harm and the pharmacy does not have a compliant CQI program.

The Board recognizes, however, that the pharmacy and pharmacist in charge here have taken steps to improve accuracy in the pharmacy, including implementation of a scan verification system and implementation of a functioning CQI program that includes documentation of reportable events.

With regard to Dwayne Plender, the Board notes that errors that result in misfilled prescriptions are an inevitable part of pharmacy practice. This was an isolated incident and, once notified of the misfill, Dwayne took prompt remedial steps. Under these circumstances, the Board concludes that, although a technical violation of the Board's regulations occurred, no sanction with regard to Respondent Dwayne Plender is warranted.

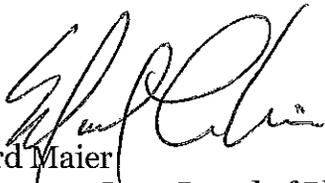
DECISION AND ORDER

IT IS THEREFORE ORDERED that Citations and Warnings shall be issued to Respondents Dutch Mill Pharmacy and Brent Plender. Respondents are hereby CITED for the violations established by this record and are WARNED that future violations will result in greater discipline of their licenses.

IT IS FURTHER ORDERED that Respondents Dutch Mill Pharmacy and Brent Plender shall **each** pay a civil penalty in the amount of \$500. The civil penalty payments shall be made by check, payable to the Treasurer of Iowa, and mailed to the executive director of the Board within 30 days of the issuance of this Decision and Order. All civil penalty payments shall be deposited into the State of Iowa general fund.

IT IS FURTHER ORDERED pursuant to Iowa Code section 272C.6 and 657 Iowa Administrative Code 36.18(2), that Respondents Dutch Mill Pharmacy and Brent Plender shall pay \$75 for fees associated with conducting the disciplinary hearing. In addition, the executive director of the Board may bill Respondents for any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondent shall remit for these expenses within 30 days of receipt of the bill.

Dated this 24th day of June, 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.