State of Iowa
Board of Pharmacy

400 S.W. Eighth Street, Suite E, Des Moines, IA 50309-4688
https://pharmacy.iowa.gov/
Telephone: (515)281-5944 Facsimile: (515)281-4609

BOARD MEMBERS
LADONNA GRATIAS
EDWARD McKENNA
EDWARD MAIER

JAMES MILLER
Board Chair

ANDREW FUNK
Executive Director

BOARD MEMBERS
JASON HANSEL
SHARON MEYER
JUDITH TRUMPY

TELECONFERENCE MINUTES
October 23, 2015

The special meeting of the Iowa Board of Pharmacy was held on Friday, October 23, 2015, at 2:00 p.m., via teleconference pursuant to the provisions of Iowa Code section 21.8. An in-person meeting was impractical due to the travel distances of members of the Board, the limited agenda, and the need for immediate action. Chairperson Miller called the meeting to order at 2:00 p.m.

MEMBERS PRESENT
James Miller, Chair
Sharon K. Meyer, Vice-Chair (left the meeting at 2:26 p.m.)
LaDonna Gratias
Jason Hansel
Edward L. Maier
Edward McKenna

MEMBERS ABSENT
Judith M. Trumpy

STAFF PRESENT
Andrew Funk, Executive Director
Meghan Gavin, Esq., Assistant Attorney General
Laura, Steffensmeier, Esq., Assistant Attorney General
Debbie Jorgenson, Administrative Assistant
Becky Hall, Secretary
Sue Mears, Compliance Officer
Mark Mather, Compliance Officer

Closed Session

At 2:00 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 reasons:

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).

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

At 2:26 p.m., while still in closed session LaDonna Gratias moved that the Board go into open session, seconded by Edward Maier. Motion approved unanimously.

In open session, the following actions were taken.

1. Notice of Hearing and Statement of Charges.

   Motion by Edward Maier, seconded by Jason Hansel, to approve Notice of Hearing and Statement of Charges for Alpine Wellness Inc., Wholesale Drug License No. 7778 of Urbandale. Motion approved unanimously. A copy of the Notice of Hearing and Statement of Charges is attached as Addendum A.

2. Emergency Adjudicative Order.

   Motion by Edward McKenna, seconded by Jason Hansel, to approve Emergency Adjudicative Order for Alpine Wellness Inc., Wholesale Drug License No. 7778 of Urbandale. Motion approved; Sharon Meyer absent. A copy of the Emergency Adjudicative Order is attached as Addendum B.

Meeting adjourned at 2:30 p.m. on October 23, 2015.

Becky Hall

Becky Hall
Recording Secretary

Andrew Funk
Executive Director

James Miller
Board Chair

APPROVED THIS 4th DAY OF November, 2015.

ADDENDUM A

NOTICE OF HEARING
AND
STATEMENT OF CHARGES

ALPINE WELLNESS INC.
WHOLESALE DRUG LICENSE NO. 7778
URBANDALE, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Wholesale Drug License of **ALPINE WELLNESS, INC.** License No. 7778 Respondent.	))))))	CASE NO. 15-163 **NOTICE OF HEARING AND STATEMENT OF CHARGES**

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Alpine Wellness, Inc. ("Respondent"), 3650 68th Street, Suite B, Urbandale, IA 50322, pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 272C.3(1)"e", and 657 IAC 35.5 and 36.5. Respondent's Iowa wholesale drug license number 7778 is currently active through December 31, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on December 1, 2015, before the Board. The hearing shall begin at 9:00 a.m. and shall be located in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

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

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

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

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

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

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

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

Ms. Steffensmeier can also be reached by phone at (515) 281-6690 or by e-mail at laura.steffensmeier@iowa.gov.

Communications. You may contact the Board office at (515) 281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. You may not contact individual Board members in any manner, including by phone, letter, or e-mail, regarding this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and the opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 155A, and 272C (2015).

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

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

C. CHARGES

COUNT I
FAILURE TO MAINTAIN RECORDS

Respondent is charged with failing to maintain records of all transactions regarding the receipt and distribution of prescription drugs in violation of 657 IAC 17.16, pursuant to Iowa Code section 155A.17(2), and 657 IAC 17.18, 36.1(4)"u", and "ac".

COUNT II
SUBVERTING A BOARD INVESTIGATION

Respondent is charged with engaging in any conduct that subverts or attempts to subvert a board investigation pursuant to Iowa Code section 155A.17(2), and 657 IAC 17.18 and 36.1(4)"z".

D. FACTUAL CIRCUMSTANCES

1. The Board received a complaint alleging that Respondent was providing false information on transaction records.

2. On October 21, 2015, Board compliance officers performed an inspection of Respondent's location at 3650 68th Street, Suite B, Urbandale, Iowa.

3. During the inspection, Board compliance officers found approximately six cardboard boxes containing what appeared to be brand-name, high-dollar prescriptions drugs.

4. Respondent was unable to produce any records demonstrating the source of the prescription drugs.

5. Respondent was unable to produce adequate documentation demonstrating where it was shipping the prescription drugs.

6. Respondent was instructed by Board compliance officers to keep the prescription drugs at Respondent's location until further notice.

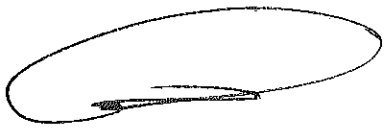
7. When Board compliance officers executed an administrative search warrant at Respondent's location on October 22, 2015, all of the cardboard boxes containing the drugs had been removed from the facility.

E. SETTLEMENT

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

F. FINDING OF PROBABLE CAUSE

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



Andrew Funk, Executive Director
Iowa Board of Pharmacy

Copy to:

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

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

ADDENDUM B

EMERGENCY ADJUDICATIVE ORDER

ALPINE WELLNESS INC.
WHOLESALE DRUG LICENSE NO. 7778
URBANDALE, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

Re: Wholesale Drug License of **ALPINE WELLNESS, INC.** License No. 7778 Respondent.	))))))	CASE NO. 15-163 **EMERGENCY ADJUDICATIVE ORDER**

COMES NOW the Iowa Board of Pharmacy ("Board"), on this 23 day of October, 2015, and finds it was presented with evidence which establishes that Respondent's continued operation as drug wholesaler constitutes an immediate danger to the public health, safety, and welfare.

I. JURISDICTION

1. The Board has jurisdiction over wholesale drug licensees pursuant to Iowa Code chapters 155A and 272C (2015).

2. Alpine Wellness, Inc. ("Respondent") possesses Iowa wholesale drug license number 7778 issued by the Board, which is currently active through December 31, 2015.

II. FINDINGS OF FACT

3. The Board received a complaint alleging that Respondent was providing false information on transaction records.

4. On October 21, 2015, Board compliance officers performed an inspection of Respondent's location at 3650 68th Street, Suite B, Urbandale, Iowa.

5. During the inspection, Board compliance officers found approximately six cardboard boxes containing what appeared to be brand-name, high-dollar prescriptions drugs.

6. Respondent was unable to produce any records demonstrating the source of the prescription drugs.

7. Respondent was unable to produce adequate documentation demonstrating where it was shipping the prescription drugs.

8. Respondent was instructed by Board compliance officers to keep the prescription drugs at Respondent's location until further notice.

9. When Board compliance officers executed an administrative search warrant at Respondent's location on October 22, 2015, all of the cardboard boxes containing the drugs had been removed from the facility.

III. CONCLUSIONS OF LAW

10. The Board concludes that this matter has been sufficiently investigated and the information obtained in the investigation ensures the Board is proceeding on reliable information. The information, if proven at a hearing, would indicate that Respondent violated the recordkeeping requirements found at 657 IAC 17.16 and engaged in conduct that subverts a board investigation and may be disciplined pursuant to Iowa Code section 155A.17(2) and 657 IAC 17.18, 36.1(4)"u", "z", and "ac".

11. In an emergency adjudicative order, "[an] agency may only take such action as is necessary to prevent or avoid the immediate danger to the public health, safety, or welfare that justifies use of emergency adjudication." Iowa Code section 17A.18A(2).

12. The facts set forth above establish that Respondent's continued operation as a drug wholesaler poses an immediate danger to the public health, safety, or welfare because the safety and authenticity of the prescription drugs cannot be verified.

13. Respondent's continued operation poses a serious and immediate danger to the public. The Board does not believe the imposition of interim safeguards would be sufficient to protect the public health, safety, and welfare. The Board finds that prohibiting Respondent from operating as a drug wholesaler is the only means to protect the public health, safety, or welfare until this case is finally resolved.

IV. ORDER

IT IS HEREBY ORDERED, in accordance with Iowa Code section 17A.18A and 657 IAC 35.30, that Respondent's license to operate as a drug wholesaler is **INDEFINITELY SUSPENDED**. This suspension is **effective immediately** upon issuance of this Order. This suspension shall continue until such time as the Board issues a new order regarding Respondent's license.

Respondent shall be notified immediately of this Order pursuant to 657 IAC 35.30.

A hearing regarding this Emergency Adjudicative Order and the Statement of Charges filed concurrently against Respondent shall be held on December 1, 2015, before the Board. The hearing shall begin at 9:00 a.m. and will take place in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

This Order is dated October 23, 2015.

Andrew Funk, Executive Director
Iowa Board of Pharmacy

Copy to:

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