

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2013-205
Technician Registration of	)	
	)	<b>NOTICE OF HEARING AND</b>
<b>AIMEE BRUMMETT</b>	)	<b>STATEMENT OF CHARGES</b>
Registration No. 18825	)	
Respondent.	)	

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**COMES NOW** the Iowa Board of Pharmacy (“Board”) and files this Notice of Hearing and Statement of Charges against Aimee Brummett (“Respondent”), 229 Eighth Street, DeWitt, Iowa 52742, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2013). Respondent’s Iowa technician registration number 18825 expired on August 31, 2013.

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

Hearing. A disciplinary contested case hearing shall be held on June 30, 2014, before the Board. The hearing shall be held during the afternoon session beginning at 1:00 .m. and shall be located in the Board conference room located at 400 S.W. 8<sup>th</sup> 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:

Laura Cathelyn  
Assistant Attorney General  
Iowa Attorney General’s Office  
2<sup>nd</sup> Floor, Hoover State Office Building  
Des Moines, Iowa 50319

Ms. Cathelyn can also be reached by phone at (515) 281-6690 or by e-mail at [laura.cathelyn@iowa.gov](mailto:laura.cathelyn@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 (2013).

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**

#### **UNLAWFUL POSSESSION AND DISTRIBUTION OF PRESCRIPTION DRUGS**

Respondent is charged with unlawful possession and distribution of prescription drugs, including controlled substances, for other than lawful purposes, in violation of Iowa Code sections 124.401 and 155A.21(1), pursuant to Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rules 3.30(1), 36.1(4)(h), and 36.1(4)(j).

### **Count II**

#### **ENGAGING IN UNETHICAL BEHAVIOR—THEFT**

Respondent is charged with engaging in unethical behavior—theft—in violation of 657 Iowa Administrative Code rule 3.28(4), pursuant to Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rules 3.30(1), 36.1(4)(c), and 36.1(4)(u).

### **Count III**

#### **WORKING WITHOUT CURRENT PHARMACY TECHNICIAN REGISTRATION**

Respondent is charged with assisting a pharmacist with technical functions without a current pharmacy technician registration in violation of 657 Iowa Administrative Code rule 3.3, pursuant to Iowa Code section 155A.6A(5), and 657 Iowa Administrative Code rules 3.30(1) and 36.1(4)(v).

#### D. FACTUAL CIRCUMSTANCES

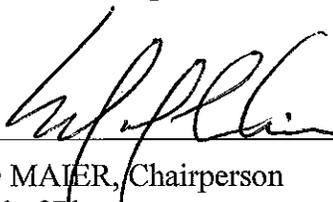
1. Respondent holds Iowa technician registration number 18825, which expired on August 31, 2013.
2. In October, 2013, Respondent was seen on surveillance video diverting hydrocodone/APAP on five occasions from the pharmacy where Respondent was employed.
3. On November 6, 2013, Respondent admitted to diverting tramadol and hydrocodone tablets on several occasions over a period of months and was terminated from employment.
4. On November 6, 2013, Respondent also admitted to purchasing hydrocodone from a friend as well as sharing the hydrocodone she diverted from the pharmacy with a friend.
5. On March 4, 2014, Respondent was charged criminally with five counts of prohibited acts (theft), each a class C felony, one count of prohibited acts (delivery), a class C felony, and one count of unlawful possession of a prescription drug, a serious misdemeanor.

#### 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 Laura Cathelyn at (515) 281-6690.

#### F. FINDING OF PROBABLE CAUSE

On this 30<sup>th</sup> day of April, 2014, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



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

cc: Laura Cathelyn  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> Floor  
Des Moines, IA 50319

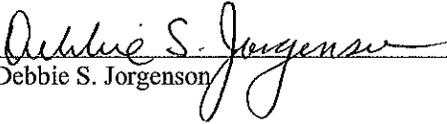
PROOF OF SERVICE

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 <u>91719999917032-39255013</u>                                | <input type="checkbox"/> other _____      |

on the 1st day of May, 2019.

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

  
Debbie S. Jorgenson

BEFORE THE IOWA BOARD OF PHARMACY

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IN THE MATTER OF:	)	
	)	Docket No. 2013-205
Technician Registration of	)	DIA No. 14PHB022
<b>AIMEE BRUMMETT</b>	)	
Registration No. 18825,	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
Respondent.	)	<b>DECISION, AND ORDER</b>

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**STATEMENT OF THE CASE**

On April 30, 2014, the Iowa Board of Pharmacy (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Respondent Amber Bauer and a Notice of Hearing and Statement of Charges against Respondent Aimee Brummett. The Statement of Charges against Brummett alleges three counts: 1) unlawful possession and distribution of prescription drugs; 2) engaging in unethical behavior – theft; and 3) working without current pharmacy technician registration. The Statement of Charges against Bauer alleges two counts.

The hearing was held on June 30, 2014. The following members of the Board presided at the hearing: Edward Maier, Chairperson; James Miller; LaDonna Gratiyas; Susan Frey; Edward McKenna and Judith Trumpy. Assistant attorney general Laura Cathelyn represented the State. Neither Respondent Bauer nor Respondent Brummett appeared. The hearing was open to the public, 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.

This Decision and Order relates only to Respondent Brummett; a separate order is issued concurrently with regard to Respondent Bauer.

**THE RECORD**

The record includes the Notice of Hearing and Statement of Charges against Bauer and the Notice of Hearing and Statement of Charges against Brummett. The record also includes hearing testimony of Jim Wolfe. The State introduced Exhibits 1 through 13, which were admitted as evidence.

## FINDINGS OF FACT

Respondent Aimee Brummett holds Iowa technician registration number 18825, which expired on August 30, 2013. During the time period at issue in this case, Respondent Brummett was employed at Scott Drug Pharmacy in DeWitt, Iowa.

### Counts I and II: Unlawful Possession/Distribution and Engaging in Unethical Behavior - Theft

During the latter part of September 2013, Patti Trenkamp and Jennifer Walker, co-owners of Scott Drug Pharmacy, became suspicious that a staff member was stealing hydrocodone from the pharmacy. Their suspicions arose when a hydrocodone/acetaminophen (APAP) 7.5/500 mg tablet was found by a pharmacy staff member on the break room floor on September 26, 2013. (Exh. 6, 7).

In response to the discovery of the hydrocodone tablet in the break room, Trenkamp and Walker took steps to install additional security cameras in the stocking area; the cameras were installed on October 3, 2013. That night, the co-owners did counts on all strengths of hydrocodone tablets in their retail pharmacy location and their long-term care pharmacy location. On October 6, 2013, the co-owners did another physical count of the hydrocodone tablets. After comparing the October 3 and October 6 counts and accounting for all of the hydrocodone tablets dispensed during that time period, there were 15 tablets missing from the retail pharmacy. (Exh. 6, 7).

Upon review of surveillance footage, Walker and Trenkamp saw that on October 5, Brummett dumped hydrocodone tablets out of a vial, placed them in a basket, then picked them up and put them in her pocket. On October 6, surveillance footage showed that Brummett repeated the same process. These two incidents accounted for the 15 missing hydrocodone tablets from the retail pharmacy. (Exh. 6).

Discrepancies in the physical counts of hydrocodone/APAP tablets were again discovered on October 25, 27, and 28. Surveillance footage from October 25 showed Brummett taking the hydrocodone/APAP 10/325 mg bottle from the pharmacy shelf, putting it into a basket with other medications, then stepping out of surveillance range. A short time later, she placed the bottle back on the shelf. Brummett did not take the bottle into the counting area where technicians count out medication and place it into vials. On October 25, 12 hydrocodone/APAP 10/325 mg tablets were missing from the physical counts. (Exh. 6).

Walker and Trenkamp communicated their findings to the DeWitt Police Department. On November 6, 2013, Brummett gave a written statement to the police department, in which she admitted to "pocket[ing]" hydrocodone and tramadol on various occasions from the pharmacy. Brummett indicated that she would take two or three tramadol off the counter while counting prescriptions or would take two or three tablets out of the basket when putting drugs away. Brummett also indicated that she took five pills that fell on the ground when a basket fell. Brummett asserted that she had a drug problem

prior to beginning her employment at Scott Drug Pharmacy. Brummett noted that she shared the drugs she stole with a named boyfriend. (Exh. 8).

Brummett's boyfriend was also interviewed by police on November 6. He admitted that Brummett had shared hydrocodone with him on various occasions. (Exh. 10, p. 27).

Brummett was ultimately arrested and charged with five counts of prohibited acts (theft), one count of prohibited acts (delivery), and one count of unlawful possession of a prescription drug as a result of the incidents at Scott Drug Pharmacy. (Exh. 12).

Count III: Working Without Current Registration

Brummett's technician trainee registration expired on August 30, 2013. According to Trenkamp, Brummett took the technician certification exam prior to her August 30 expiration date, but did not pass. Brummett did pass the technician certification exam on September 4, 2013, but did not apply for a certified technician registration with the Board after passing the exam. (Exh. 13).

**CONCLUSIONS OF LAW**

Count I: Unlawful Possession/Distribution of Prescription Drugs

Pursuant to Iowa Code section 155A.6A(5), the Board is authorized to deny, suspend, or revoke the registration of, or otherwise discipline, a registered pharmacy technician for any violation of the laws of Iowa, another state, or the United States related to prescription drugs, controlled substances, or any violation of chapter 155A or other specifically enumerated chapters, including Iowa Code chapter 124.

Iowa Code section 124.401 makes it unlawful for any person to deliver, or possess with the intent to manufacture or deliver a controlled substance. Iowa Code section 155A.21 provides that a person found in possession of a drug limited to dispensation by prescription, unless the drug was lawfully dispensed, commits a serious misdemeanor.

The preponderance of the evidence in this case clearly demonstrates that Brummett violated the above-referenced provisions of Iowa Code chapters 155A and 124. Brummett admitted to taking and possessing controlled substances for which she had no prescription, as required. Brummett also admitted to police that she delivered some of the hydrocodone tablets to a boyfriend. As such, the violation alleged in Count I has been established.

Count II: Engaging in Unethical Behavior – Theft

Pursuant to Iowa Code section 155A.6A(5), the Board is authorized to deny, suspend, or revoke the registration of, or otherwise discipline, a registered pharmacy technician for any violation of any rule of the Board. The Board's rules provide that a pharmacy

technician shall not exhibit unethical behavior in connection with the technician's pharmacy employment. Unethical behavior includes theft.<sup>1</sup>

The preponderance of the evidence in this case clearly demonstrates that Brummett violated the Board's prohibition against a pharmacy technician engaging in unethical behavior; in this case, theft. Brummett admitted to stealing hydrocodone tablets from the pharmacy at which they were employed. The violation alleged in Count II has been established.

Count III: Working Without Current Pharmacy Technician Registration

The Board's regulations require that any person employed in Iowa as a pharmacy technician must obtain and maintain during employment a current registration as a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician.<sup>2</sup> The undisputed evidence establishes that Brummett's pharmacy technician trainee registration expired on August 30, 2013. Brummett took but did not pass the technician certification exam prior to August 30. She retook the technician certification exam on September 4, but failed to apply to the Board for a certified technician registration after that date. Brummett continued working at Scott Drug Pharmacy after her registration expired. The violation alleged in Count III has been established.

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 registrant.<sup>3</sup>

The violations committed by Brummett demonstrate that she is unfit to hold a registration as a pharmacy technician and presents a danger to the public health, safety, and welfare. Brummett did not appear at hearing to respond to these charges. The violations justify revocation of Brummett's registration.

**DECISION AND ORDER**

IT IS THEREFORE ORDERED that the pharmacy technician registration issued to Aimee Brummett is hereby REVOKED. If Respondent seeks reinstatement of her registration the burden will be placed on her to show that the basis for the revocation no longer exists and that it is in the public interest for her registration to be reinstated.

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<sup>1</sup> 657 Iowa Administrative Code (IAC) 3.28(4).

<sup>2</sup> 657 IAC 3.3.

<sup>3</sup> 657 IAC 36.1(3).

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

Dated this 11<sup>th</sup> day of September, 2014



Edward Maier  
Chairperson, Iowa Board of Pharmacy

cc: Laura Cathelyn, Assistant Attorney General

*A default decision or decision rendered on the merits after a party has failed to appear or participate in a contested case hearing shall become final board action unless within 15 days after the date of notification or mailing of the decision a motion to vacate is filed and served on all parties or unless an appeal of a decision is timely initiated within the time provided by rule 35.26. A motion to vacate must state all facts relied upon by the moving party which establish good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated shall be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) shall be attached to the motion. 657 IAC 35.21. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 657 IAC 35.21(4).*

*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.*