

BEFORE THE IOWA BOARD OF PHARMACY

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RE:	)	CASE NO. 2010-143
Pharmacist License of	)	
	)	<b>TERMINATION ORDER</b>
JENNIFER L. BUTLER	)	
License No. 18986	)	
Respondent	)	

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1. On January 19, 2012, the Iowa Board of Pharmacy issued a Findings of Fact, Conclusions of Law, Decision and Order, which reinstated Respondent's pharmacist license subject to a five year probationary period.
2. Respondent has successfully completed the terms and conditions of probation as set forth in the Order.

**IT IS THEREFORE ORDERED** that the probation placed upon Respondent's pharmacist license is terminated and Respondent's pharmacist license is returned to its full privileges, free and clear of all restrictions.

Dated this 19<sup>th</sup> day of January, 2017.

  
\_\_\_\_\_  
Andrew Funk, Pharm.D., Executive Director  
Iowa Board of Pharmacy

**STATE OF IOWA**  
**BEFORE THE IOWA BOARD OF PHARMACY**

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IN THE MATTER OF THE	)	
STATEMENT OF CHARGES	)	
AGAINST	)	CASE NO. 2010-143
<b>JENNIFER L. BUTLER,</b>	)	<b>NOTICE OF HEARING</b>
LICENSE No. 18986	)	
RESPONDENT.	)	

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**YOU ARE HEREBY NOTIFIED** that on March 8, 2011, the Iowa Board of Pharmacy found probable cause to file a Statement of Charges against you. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 155A, and 272C (2005), and 657 Iowa Administrative Code chapters 35 and 36. A copy of the Statement of Charges is attached, and sets forth the particular statutes and rules which you are alleged to have violated, and further provides a short and plain statement of the matters asserted.

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

1. Hearing. A disciplinary contested case hearing shall be held upon the Statement of Charges on June 29, 2011, before the Iowa Board of Pharmacy. The hearing shall be held during the afternoon session, beginning at 1 p.m. and shall be located in the Board conference room located at 400 S.W. 8<sup>th</sup> Street, Des Moines, Iowa.

2. 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.

3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code 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 the discretion of the Respondent.

4. 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:

Scott M. Galenbeck  
Assistant Attorney General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor, Hoover State Office Building  
Des Moines, Iowa 50319

5. 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 Pharmacy Board* to discuss these proceedings by phone, letter, facsimile, e-mail, or in person. Board members may 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 Assistant Attorney General Scott M. Galenbeck (515-281-6658).

## B. LEGAL AUTHORITY AND JURISDICTION

1. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 148C, and 272C (2005).

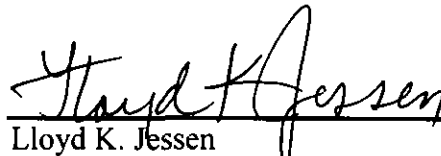
2. Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 148C, and 272C (2005) and 657 Iowa Administrative Code chapter 36.

3. 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 35.21.

## C. SETTLEMENT

1. 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 36.6. If you are interested in pursuing settlement of this matter, please contact Scott M. Galenbeck, Assistant Attorney General, at 515-281-6658, before June 10, 2011.

2. On this 10<sup>th</sup> day of March, 2011, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing.



Lloyd K. Jessen  
Executive Secretary/Director  
Iowa Board of Pharmacy  
400 SW Eighth Street, Suite E  
Des Moines, IA 50309-4688

Copies to:

Scott M. Galenbeck  
Assistant Attorney General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor Hoover Bldg.  
Des Moines, IA 50319

Jennifer L. Butler  
1411 220<sup>th</sup> Street  
Manchester, IA 52057

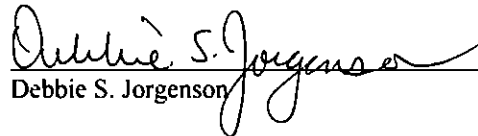
Inspections and Appeals

PROOF OF SERVICE

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

personal service  first class mail  
 certified mail, return receipt requested  facsimile  
Article Number 917108 2133 3938 8994 4057  other \_\_\_\_\_  
on the 11 day of March, 2011.

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**

Re:	)	Case No. 2010-143
Pharmacist License of	)	
<b>JENNIFER L. BUTLER</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 18986,	)	
Respondent.	)	

**COMES NOW**, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter, "Board") and files this Statement of Charges solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (2009).
3. On July 10, 1998, the Board issued Jennifer L. Butler ("Respondent"), after examination a license to engage in the practice of pharmacy as evidenced by license number 18986, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's pharmacist license is current and active until June 30, 2012.
5. Respondent's most recent address of record is 1411 220<sup>th</sup> Street, Manchester, Iowa 52057.
6. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at the Wal-Mart Pharmacy, Manchester, Iowa.

**A. CHARGES**

**COUNT I – LACK OF PROFESSIONAL COMPETENCY**

Respondent is charged with a lack of professional competency as demonstrated by willful and repeated departures from, and a failure to conform to, the minimal standard and acceptable and prevailing practice of pharmacy in the state of Iowa as evidenced by, among other things, Respondent's falsification of pharmacy records and diversion of controlled substances, in violation of Iowa Code § 155A.12(1) (2009) and 657 Iowa Administrative Code § 36.1(4)(b).

## COUNT II – INABILITY TO PRACTICE DUE TO CHEMICAL ABUSE

Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of chemical abuse in violation of Iowa Code § 155A.12(1) (2009) and 657 Iowa Administrative Code §§ 36.1(4)(d) and 36.1(4)(m).

## COUNT III – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

Respondent is charged with unlawful possession and use of prescription drugs in violation of Iowa Code §§ 155A.12(1), 155A.21 and 155A.23(11) (2009) and 657 Iowa Administrative Code §§ 36.1(4)(j) and 36.1(4)(u).

## COUNT IV – ILLEGAL DISTRIBUTION OF DRUGS

Respondent is charged with distribution of drugs for other than lawful purposes in violation of Iowa Code §§ 155A.12(1) and 155A.23(17) (2009) and 657 Iowa Administrative Code § 36.1(4)(h), specifically, diversion and distribution of drugs to herself in the absence of a prescription.

## COUNT V – VIOLATION OF CONTROLLED SUBSTANCES LAW

Respondent is charged with violating laws relating to controlled substances, specifically Iowa Code §§ 124.403(c) and 155A.12(5) (2009), and 657 Iowa Administrative Code §§ 36.1(4)(h) and 36.1(4)(j).

## COUNT VI – FALSIFICATION OF RECORDS

Respondent is charged with creating false and inaccurate pharmacy records in violation of Iowa Code §§ 155A.12(4), 155.23(1)(a) and 155.23(1)(l) (2009), and 657 Iowa Administrative Code § 36.1(4)(ac).

## **B. CIRCUMSTANCES**

An investigation was commenced November 23, 2010, which revealed the following:


1. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at the Wal-Mart in Manchester, Iowa.
2. Respondent admits that, during the course of her employment, she diverted to herself doses of Cymbalta and hydrocodone.
3. Respondent also acknowledges creating false records relating to prescriptions for clonazepam, zolpidem and lithium, which she dispensed to herself.

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the

Board take such action as it may deem to be appropriate under the law.

  
LLOYD K. JESSEN  
Executive Director

On this 8<sup>th</sup> day of March 2011, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.

  
VERNON H. BENJAMIN, Chairperson  
Iowa Board of Pharmacy  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa

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**BEFORE THE IOWA BOARD OF PHARMACY**

Re: ) Case No. 2010-143  
Pharmacist License of )  
**JENNIFER L. BUTLER** ) **STIPULATION**  
License No. 18986 ) **AND**  
Respondent ) **CONSENT ORDER**

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy (hereinafter, "Board") and Jennifer L. Butler (hereinafter, "Respondent"), enter into the following Stipulation and Consent Order settling a licensee disciplinary proceeding currently pending before the Board.

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 was issued a license to practice pharmacy in Iowa on July 10, 1998, as evidenced by Pharmacist License Number 18986, recorded in the permanent records of the Board.
2. The Iowa Pharmacist License issued to and held by Respondent is active and current until June 30, 2012.
3. Respondent was, at all times material to the Statement of Charges, employed as the pharmacist in charge at the Wal-Mart Pharmacy, Manchester, Iowa. Respondent is currently working at Scott Pharmacy, Fayette, Iowa.
4. A Statement of Charges was filed against Respondent by the Board on March 8, 2011.
5. The Board has jurisdiction over the parties and jurisdiction over the subject matter

of these proceedings.

6. Respondent has chosen not to contest the allegations set forth in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline described herein.

7. On the date of the Board's approval of this Stipulation and Consent Order, Respondent's license shall be suspended indefinitely. Suspension of Respondent's license shall be stayed, however, for a period not exceeding thirty (30) days, during which period Respondent shall:

a. Obtain a complete, current physical and mental health evaluation, including a substance abuse evaluation, from a physician/treatment provider approved – in advance – by the Board.

b. Deliver to the Board a written, fully documented and current physical and mental health evaluation -- including a substance abuse evaluation -- of Respondent which concludes that Respondent is mentally and physically fit to practice pharmacy. Any conclusion that the Respondent is fit to return to *the practice of pharmacy* will include an assessment of Respondent's ability to cope with the presence of controlled substances in the pharmacy setting.

c. Permit the Board complete access to her medical records and records of evaluation and treatment.

8. At the end of the thirty day period following the date of this Stipulation and Consent Order, the stay of suspension shall end and Respondent's license shall be suspended indefinitely *unless* the Board-approved physician/treatment provider described

in the preceding paragraph has provided to the Board – within the thirty-day period – a fully documented, written summary of a current evaluation of Respondent that affirmatively concludes Respondent is mentally and physically fit to practice pharmacy.

*Only if the approved physician/treatment provider provides – within the thirty-day period – a fully documented, written summary of a current evaluation which affirmatively concludes Respondent is mentally and physically fit to practice pharmacy, will the suspension of Respondent's license terminate. Respondent understands that if (a) the evaluation of the approved physician/treatment provider is not delivered to the board within the 30-day stay period or (b) the evaluation does not conclude Respondent is mentally and physically fit to practice pharmacy, the suspension of Respondent's license shall be in effect at the conclusion of the thirty-day stay period.*

9. In the event that Respondent's approved physician/treatment provider fails to provide or is unable to provide -- within the thirty-day stay period -- a written summary of a current evaluation which affirmatively concludes Respondent is mentally and physically fit to practice pharmacy, *Respondent's license to practice pharmacy shall be indefinitely suspended.* During such indefinite period of suspension, Respondent may seek to obtain a current evaluation which affirmatively concludes Respondent is mentally and physically fit to practice pharmacy. At such time as Respondent is able to obtain a current evaluation which affirmatively concludes Respondent is mentally and physically fit to practice pharmacy, Respondent may petition the Board for: (a) termination of Respondent's license suspension and (b) commencement of a period of probation.

10. In the event either (a) Respondent's physician/treatment provider provides to the

Board – within the thirty-day period stay period described in paragraph 7 above -- a fully documented, written summary of a current evaluation of Respondent that affirmatively concludes Respondent is mentally and physically fit to practice pharmacy or (b) Respondent successfully petitions the Board – pursuant to the terms of paragraph 9 above – for termination of his license suspension, Respondent's license to practice pharmacy shall be placed on probation on terms which shall include, but not be limited to, the following:

- a. Respondent agrees to comply with the terms of probation.
- b. The period of probation shall be five (5) years provided, however, that only those time periods during which Respondent is employed as a pharmacist shall count toward exhaustion of the probationary term.
- c. If Respondent is found during a substance abuse evaluation to be chemically dependent, Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program, under the direct support of a pharmacist advocate.
- d. Respondent shall inform the Board, in writing, of any change of home address, place of employment, home telephone number, or work telephone number, within ten (10) days of such a change.
- e. Respondent shall report to the Board quarterly, in writing. The report shall include Respondent's place of employment, current address, *Respondent's most recent efforts to implement the provisions of this Stipulation and Consent Order, by date*, and any further information deemed necessary by the Board from time to

time. Quarterly reports shall be due not later than January 5<sup>th</sup>, April 5<sup>th</sup>, July 5<sup>th</sup>, and October 5<sup>th</sup>.

f. Respondent shall notify all employers and prospective employers (no later than at the time of an employment interview), including any pharmacist-in-charge, of the resolution of this case and the terms, conditions and restrictions imposed on Respondent by this Stipulation and Consent Order.

g. Within thirty (30) days after commencement of the probationary period, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause her pharmacy employer, and any pharmacist-in-charge she works under, to report to the Board in writing acknowledging that the employer and the pharmacist-in-charge have read this document and understand it.

h. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing her performance as a pharmacist during Respondent's probationary period. Respondent shall be given reasonable notice of the date, time, and place for the appearances.

i. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.

j. Respondent shall not possess or use any controlled substance or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for Respondent by a licensed, treating physician or other qualified treating health care provider. Respondent shall inform any treating physician or other treating health care provider of her medical

history, including any history of chemical dependency.

k. Respondent shall provide witnessed blood, hair or urine specimens on demand by the Board or its agents. The specimens shall be used for alcohol and drug screening, and to verify Respondent's compliance with this Stipulation and Consent Order and any drug therapy ordered by Respondent's physician or treatment provider. All costs related to the analysis of such specimens shall be paid by Respondent.

l. To facilitate performance of the preceding paragraph, Respondent shall report to and provide a specimen to any healthcare provider specified by the Board – said healthcare provider to be located in reasonable proximity to Respondent – within 24 hours after notice from the Board requesting that Respondent provide a specimen. Respondent agrees to cooperate with the Board in establishing a specimen testing program through FirstLab, and hereby consents to disclosure to the Board, by FirstLab or any other testing facility, of all medical information, including test results, generated by Respondent's contact with the facility.

m. Respondent shall promptly provide, upon request of an agent of the Board, copies of or access to all her medical records.

n. If, as a result of the physical and mental health examinations of Respondent, Respondent's physician/treatment provider recommends a substance abuse treatment program, Respondent shall comply with such recommendations. In the event Respondent is participating in a substance abuse treatment program, Respondent's physician/treatment provider shall submit quarterly reports to the

Board documenting Respondent's compliance with the treatment program.

o. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.

p. Such other reasonable terms as the Board may wish to impose as a result of (i) findings that Respondent is chemically dependant, (ii) the length of time Respondent's license is suspended pursuant to paragraphs 7 and 8 above or (iii) the amount or nature of chemical dependency treatment Respondent must participate in as directed by her physician/treatment provider.

11. Should Respondent violate or fail to comply with any of the terms and conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2011), and 657 Iowa Administrative Code § 36.

12. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent Order.


13. The State's legal counsel may present this Stipulation and Consent Order to the Board.

14. This Stipulation and Consent Order is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Stipulation and Consent

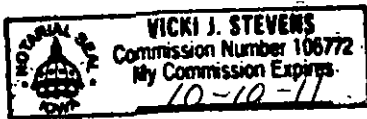
Order, it shall be the full and final resolution of this matter.


15. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 2<sup>nd</sup> day of September 2011.

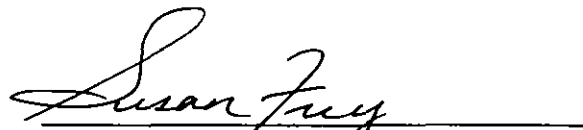
  
JENNIFER L. BUTLER, R.Ph.  
Respondent

Subscribed and sworn to before me by Jennifer L. Butler on this 2<sup>nd</sup> day of Sept. 2011.



  
NOTARY PUBLIC IN AND FOR  
THE STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 13<sup>th</sup> day of September 2011.

  
SUSAN FREY, Chairperson  
Iowa Board of Pharmacy  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Scott M. Galenbeck  
Assistant Attorney General  
Office of the Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319



BEFORE THE IOWA BOARD OF PHARMACY

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RE:	)	CASE NO: 2010-143
Pharmacist License of	)	DIA NO: 11PHB008
	)	
JENNIFER L. BUTLER	)	FINDINGS OF FACT,
License No. 18986	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

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On November 9, 2011, a hearing was held before the Iowa Board of Pharmacy (Board) on the Application for Reinstatement filed by Jennifer L. Butler (Respondent). The following members of the Board presided at the hearing: Susan Frey, Chairperson; Edward Maier; Mark Anliker; LaDonna Gratiyas; and Margaret Whitworth. Respondent appeared and was self-represented. Assistant Attorney General Scott Galenbeck represented the state. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2011) and 657 IAC 36.13(3), and was recorded by a certified court reporter. After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The administrative law judge was instructed to prepare the written decision for Board approval, in conformance with the Board's deliberations.

THE RECORD

The record includes the Notice of Hearing; testimony of Respondent; and State Exhibits 1-4 (See Exhibit Index for description).

FINDINGS OF FACT

1. On July 10, 1998, the Board issued Respondent license number 18986 to engage in the practice of pharmacy, subject to the laws of the state of Iowa and the rules of the Board. (Exhibit 1; Respondent testimony)
2. On March 8, 2011, the Board charged Respondent with six counts based on her employment as the pharmacist-in-charge of a Wal-Mart pharmacy in Manchester, Iowa. Respondent had admitted that during the course of her employment at Wal-Mart, she diverted doses of Cymbalta and hydrocodone for her personal use. Respondent also admitted creating false records relating to prescriptions for clonazepam, zolpidem, and lithium, which she dispensed to herself. (Exhibit 1; Respondent testimony)

3. On September 2, 2011, Respondent and the Board entered into a Stipulation and Consent Order to resolve the Statement of Charges without proceeding to hearing. Pursuant to the Stipulation and Consent Order, Respondent's license was indefinitely suspended. However, the suspension was stayed for a period not exceeding thirty (30) days, during which period Respondent was required to:

a. Obtain a complete, current physical and mental health evaluation, including a substance abuse evaluation, from a Board approved physician/treatment provider.

b. Deliver to the Board a written, fully documented and current physical and mental health evaluation – including substance abuse evaluation - concluding that she is mentally and physically fit to practice pharmacy and including an assessment of whether she is able to cope with the presence of controlled substances in the pharmacy setting.

c. Permit the Board complete access to her medical records and records of evaluation and treatment.

(Exhibit 2; Respondent testimony)

4. Respondent did not complete the required evaluations within the thirty (30) day period following execution of the Consent Order, and her license has been indefinitely suspended. (Respondent testimony)

5. On October 26, 2011, Respondent submitted a reinstatement request along with copies of her physical health assessment, substance abuse evaluation, and mental health assessment.

a. On October 11, 2011, Respondent had a history and physical performed by an advanced registered nurse practitioner (ARNP). The written report of the history and physical indicates that Respondent has a history of migraines, allergies, and mental illness. The report indicates that Respondent reported her forged prescription. The ARNP concluded that Respondent is able to perform her duties. (Exhibit 4; Respondent testimony)

b. Respondent submitted a written report from her treating psychiatrist which indicates that she has been diagnosed with Major Depressive Disorder, recurrent; Dysthymia, and Generalized Anxiety Disorder. Respondent is seen by her psychiatrist every 6-8 weeks for follow-up and has been compliant with her treatment and prescribed medications. Until her license was suspended, Respondent continued to work as a pharmacist without any problems. Respondent's psychiatrist concluded that she is mentally and presumably physically fit to practice pharmacy. Her psychiatrist believes that she will continue to be compliant with ongoing treatment and cooperative with the Board. (Exhibit 4; Respondent testimony)

c. Respondent completed her evaluation at Substance Abuse Services Center (SASC) on or about October 25, 2011. A urine specimen taken at the time of evaluation was negative. A written evaluation report was prepared and submitted to the Board. SASC concluded that Respondent did not require any further services or treatment for substance abuse. (Exhibit 4; Respondent testimony)

6. Respondent candidly discussed the circumstances leading to her diversion of drugs and the suspension of her pharmacist license. Respondent is the single parent of two children and had been working in a stressful work environment. She was initially diagnosed with depression in 1990 or 1991. She is convinced that her use of benzodiazepenes was the result of her worsening depression and anxiety. She believes that both conditions are now well controlled with medications. She is able to obtain effective pain relief for occasional migraine headaches and shoulder pain through stretching and use of ibuprofen.

After losing her job at Wal-Mart, Respondent was unemployed for two months. In January 2011, Respondent accepted a part-time pharmacist position at Scott Pharmacy in Manchester. Respondent enjoys this position very much and believes it offers her a better work-life balance. Her extended family has been very supportive, and she has been able to improve her financial situation, which was another source of stress. (Respondent testimony)

#### CONCLUSIONS OF LAW

657 Iowa Administrative Code 36.13 provides, in relevant part:

**657-36.13(17A,124B,147,155A,272C) Reinstatement.** Any person whose license to practice pharmacy . . . has been revoked or suspended shall meet the following eligibility requirements for reinstatement:

**36.13(1) Prerequisites.** The individual shall satisfy all terms of the order of revocation or suspension or court proceedings as they apply to that revocation or suspension. If the order of revocation or suspension did not establish terms or conditions upon which reinstatement might occur, or if the license . . . was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the board's order or the date of voluntary surrender.

....

**36.13(3) Proceedings.** The respondent shall initiate all proceedings for reinstatement by filing with the board an application for reinstatement of the license . . . . Such application shall be docketed in the original case in which the license, registration, or permit was revoked, suspended, or relinquished. All proceedings upon petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board . . . .

**36.13(4) Burden of Proof.** An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license . . . to be reinstated. The burden of proof to establish such facts shall be on the respondent.

**36.13(5) Order.** An order for reinstatement shall be based upon a decision that incorporates findings of fact and conclusions of law and must be based upon the affirmative vote of a quorum of the board. This order shall be available to the public as provided in 657-Chapter 14.

The Board's rules establish a heavy burden on persons seeking reinstatement of a revoked or suspended license. The person seeking reinstatement must present persuasive evidence that they have fully addressed the problems leading to the loss of their license and that it is in the public interest for the license to be reinstated. The preponderance of the evidence in this record established that Respondent has addressed the issues that led to her license suspension and that it is in the public interest for her license to be reinstated, subject to terms of probation. Respondent has now fully complied with the requirements established in the Stipulation and Consent

Order. The Board was persuaded that Respondent is currently capable of practicing pharmacy in a competent and ethical manner, so long as her practice is monitored through terms and conditions of probation established in this Reinstatement Order.

#### DECISION AND ORDER

IT IS THEREFORE ORDERED that the application for reinstatement filed by Respondent Jennifer Butler is hereby GRANTED. IT IS FURTHER ORDERED that pharmacist license no. 18986 shall immediately be placed on PROBATION for a term of five (5) years. Periods when Respondent is not employed as a pharmacist shall not count toward satisfaction of the five-year probationary period.

IT IS FURTHER ORDERED that Respondent's five-year probation will be subject to the following terms and conditions:

- A. Respondent shall continue psychiatric treatment unless she is discharged from treatment by her psychiatrist and her psychiatrist has provided a written discharge summary to the Board. Respondent shall ensure that her psychiatrist provides the Board with written quarterly reports concerning her compliance and progress in treatment no later than March 5, June 5, September 5 and December 5 of each year of Respondent's probation. The written reports shall also include a list of all of Respondent's current medications.
- B. During probation, Respondent shall inform the Board in writing within ten (10) days of any change of home address, employment status, place of employment, home telephone number or work telephone number.
- C. Respondent shall file written, sworn quarterly reports with the Board attesting to her compliance with all the terms and conditions of her probation. The reports shall be filed no later than March 5, June 5, September 5 and December 5 of each year of Respondent's probation. The quarterly reports shall include Respondent's current place of employment, home address, home telephone number or work telephone number, Respondent's most recent efforts to comply with the provisions of this Reinstatement Order, and any further information deemed necessary by the Board from time to time.

- D. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
- E. Respondent shall not own or manage a pharmacy, nor serve as the pharmacist in charge of a pharmacy.
- F. Respondent shall limit her work week to not more than forty (40) hours.
- G. Respondent shall notify all prospective pharmacy or pharmacy-related employers, including any pharmacist-in-charge, of the terms, conditions, and restrictions imposed on Respondent by this Reinstatement Order. Notification shall be made no later than the time of interview. Within thirty (30) days after commencement of the probationary period and within fifteen (15) days of undertaking new employment as a pharmacist or in a pharmacy-related business, Respondent shall cause her pharmacy employer, and any pharmacist-in-charge that she reports to, to report to the Board in writing, acknowledging that the pharmacy employer and pharmacist-in-charge have read this document and understand it.
- H. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.
- I. Respondent shall not use any controlled substances or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for her by a licensed, treating physician or other qualified health care provider. Respondent shall inform any treating physician or other treating health care provider of her medical history, including her history of drug diversion.
- J. Respondent shall provide witnessed blood, hair or urine specimens on demand by the Board or its agents. The specimens shall be used for alcohol and drug screening, and to verify Respondent's compliance with this Reinstatement and Order of the Board and with any drug therapy ordered by Respondent's physician or treatment provider. All costs related to the analysis of such specimens shall be paid by Respondent.


K. To facilitate performance of the preceding paragraph, Respondent shall report to and provide a specimen to any healthcare provider specified by the Board-said healthcare provider to be located in reasonable proximity to Respondent-within 24 hours after notice from the Board requesting that Respondent provide a specimen. Respondent agrees to cooperate with the Board in establishing a specimen testing program through FirstLab, and hereby consents to disclosure to the Board, by FirstLab or any other testing facility, of all medical information, including test results, generated by Respondent's contact with the facility.

L. Respondent shall promptly provide, upon request from an agent of the Board, copies of or access to all of her medical records.

M. Respondent shall appear informally before the Board or a Board committee upon request for the purpose of reviewing her performance as a pharmacist during her probationary period. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.

N. Should Respondent violate or fail to comply with any of the terms or conditions of probation, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.

Dated this 19<sup>th</sup> day of January, 2012.

  
Susan Frey, Chairperson  
Iowa Board of Pharmacy

cc: Scott Galenbeck, 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.

BEFORE THE IOWA BOARD OF PHARMACY

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RE:	)	CASE NO. 2010-143
Pharmacist License of	)	
	)	<b>TERMINATION ORDER</b>
JENNIFER L. BUTLER	)	
License No. 18986	)	
Respondent	)	

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1. On January 19, 2012, the Iowa Board of Pharmacy issued a Findings of Fact, Conclusions of Law, Decision and Order, which reinstated Respondent's pharmacist license subject to a five year probationary period.

2. Respondent has successfully completed the terms and conditions of probation as set forth in the Order.

**IT IS THEREFORE ORDERED** that the probation placed upon Respondent's pharmacist license is terminated and Respondent's pharmacist license is returned to its full privileges, free and clear of all restrictions.

Dated this 19<sup>th</sup> day of January, 2017.



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Andrew Funk, Pharm.D., Executive Director  
Iowa Board of Pharmacy