

BEFORE THE IOWA BOARD OF PHARMACY

Re: Pharmacist License of EDWARD M. DEGENEFFE License No. 18430, Respondent.))))))	Case No. 2007-96 STATEMENT OF CHARGES
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COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Director for the Iowa Board of Pharmacy 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 (2007).
3. On July 25, 1995, the Board issued Respondent, by examination, a license to engage in the practice of pharmacy as evidenced by license number 18430, 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, 2009.
5. Respondent's most recent address of record is 6505 Hickory Lane, Urbandale, Iowa 50322.
6. Respondent was formerly employed as a pharmacist at the Target Pharmacy, Valley West Drive, West Des Moines. He has recently accepted a job with Walgreens as a "floater" pharmacist.

A. CHARGE

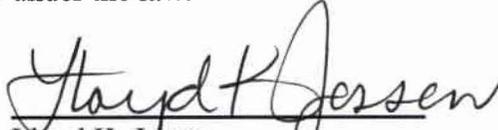
COUNT I – UNABLE TO PRACTICE DUE TO HABITUAL INTOXICATION

The Respondent is charged with an inability to practice with reasonable skill and safety by reason of habitual intoxication in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 36.1(4)(d)(1).

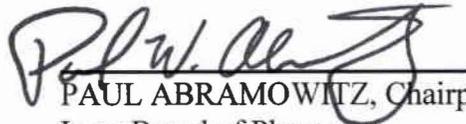
B. CIRCUMSTANCES

Circumstances supporting the above charges are set forth in Attachment A.

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 21st day of Sept. 2007, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


PAUL ABRAMOWITZ, 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

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2007-96
Pharmacist License of)	
EDWARD M. DEGENEFTE	)	EMERGENCY ORDER
License No. 18430,)	
Respondent.)	

I. JURISDICTION

The Iowa Board of Pharmacy (hereinafter, "Board") has jurisdiction over pharmacy licenses pursuant to Iowa Code Chapters 155A and 272C (2007). Respondent Edward M. Degeneffe possesses pharmacist license number 18430 issued by the Board. A Statement of Charges was filed against Respondent on September 21, 2007. After receipt and review of the Statement of Charges, and careful review of evidence relating to the Statement of Charges, the Board has adopted the following Findings of Fact, Conclusions of Law and Emergency Order.

II. FINDINGS OF FACT

1. On July 25, 1995, the Board issued Respondent a license to engage in the practice of pharmacy as evidenced by license number 18430, subject to the laws of the State of Iowa and the rules of the Board.
2. Respondent was recently employed as a pharmacist at the Target Pharmacy, Valley West Drive in West Des Moines. He has now accepted employment as a "floater" pharmacist with Walgreens.
3. On or about December 22, 2006, an investigation was commenced which revealed, among other things, the following:

- a. Respondent was formerly employed as a pharmacist in several Des Moines area pharmacies, including the Target Pharmacy on Valley West Drive in West Des Moines. During his employment at Target, Respondent was treated for alcohol dependency.
 - b. Respondent is candid about his status as an alcoholic who has experienced mixed results in his efforts to remain sober. On August 22, 2007, he provided the Board with a written statement in which he acknowledges "several recent relapses" from sobriety that, he says, have "unfortunately affected my job performance."
 - c. During his most recent relapse, Respondent reports he was drinking approximately half a gallon of liquor a day and "at one point suicidal."
 - d. Respondent is not currently in treatment and has not maintained sobriety.
 - e. Respondent has recently accepted a position with Walgreens as a "floater" pharmacist.
4. The Board finds that the evidence assembled during the investigation of Respondent supports the September 21, 2007 Statement of Charges against Respondent. The Board also finds that Respondent is habitually intoxicated and has violated the provisions of Iowa Code Chapter 155A (2007) and 657 Iowa Administrative Code § 36.1(4)(d)(1) in the manner alleged in the Statement of Charges.
5. The Board finds that Respondent is an immediate danger to the public health, safety and welfare for the following reasons:
- a. Respondent has acknowledged that his intoxication has affected his work. This information indicates to the Board that Respondent may not be capable of safely performing pharmacist functions, which require a clear, unimpaired mental state.

- b. Respondent's recent intoxication relapses have been severe. Should Respondent be impaired during hours of employment, he might cause or fail to prevent a dispensing error, fail to conduct an accurate utilization review or fail to appropriately counsel patients on medication usage.
 - c. Respondent's employment at Walgreens indicates he intends to continue working while his alcohol dependency remains beyond his control. Given Respondent's recent record of relapses, there is no certainty that Respondent would practice pharmacy in a safe, unimpaired manner. If Respondent were impaired while working, there would be an immediate risk of public injury.
6. The Board finds that immediate, emergency action must be taken for the reason that if Respondent is allowed to continue to work as a pharmacist, the public health, safety and welfare will be threatened by his condition; specifically, by Respondent's impairment due to habitual alcohol intoxication. Given this fact, the Board must act in the interest of the public to suspend Respondent's license to practice pharmacy until his alcoholism is treated and controlled.
7. The Board finds that the minimum emergency action needed to protect the public health, safety and welfare is as follows:
- a. Immediate suspension of Respondent's pharmacist license.
 - b. Issuance of an order directing that Respondent's license shall remain suspended until satisfactory evidence of Respondent's ability to resume the practice of pharmacy has been provided to the Board.

III. CONCLUSIONS OF LAW

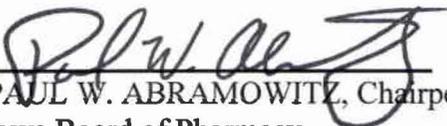
1. Respondent's alcoholism, and related violations of the provisions of Iowa Code chapter 155A.15 (2007) and 657 Iowa Administrative Code § 36.1(4)(d)(1), prevent Respondent from working safely as a pharmacist.
2. The provisions of Iowa Code § 17A.18A (2007) permit the Board of Pharmacy Examiners to take emergency action to protect the health, safety and welfare of the public. A basis for emergency action against respondent, pursuant to the provisions of the Iowa Code and the Iowa Administrative Code, has been established by the findings of fact adopted above.

IV. EMERGENCY ORDER

The Board ORDERS as follows:

- a. Pursuant to Iowa Code § 17A.18A, chapter 155A (2007) and 657 Iowa Administrative Code § 36.1(4)(d)(1), the pharmacist license of Edward M. Degeneffe is suspended indefinitely. This suspension is effective immediately upon issuance of this order.
- b. Respondent shall be notified of this order as provided in 657 Iowa Administrative Code 35.30(2).
- c. A hearing regarding this Emergency Adjudicative Order and the Statement of Charges against Respondent shall be held on October 19th, 2007. The hearing will commence at 10:00 A.M. and be held at the office of the Iowa Board of Pharmacy Examiners, 400 Southwest 8th Street, Suite E, Des Moines, Iowa 50309.

DATED this 21st day of September 2007.


PAUL W. ABRAMOWITZ, 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 50319

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BEFORE THE IOWA BOARD OF PHARMACY

RE:)	CASE NO: 2007-96
Pharmacist License of)	DIA NO: 10PHB006
EDWARD M. DEGENEFFE)	
License No. 18430	)	FINDINGS OF FACT,
Respondent	)	CONCLUSIONS OF LAW,
	)	DECISION AND ORDER

On September 21, 2007, the Iowa Board of Pharmacy (Board) filed a Statement of Charges and Emergency Order against Edward M. DeGeneffe (Respondent) based on a finding that he was unable to practice pharmacy with reasonable skill and safety by reason of habitual intoxication. (Exhibits 3, 4) Respondent did not contest the emergency order at the time it was issued. In January 2010, Respondent requested a hearing on the reinstatement of his license. (Exhibit F)

A hearing was held on March 10, 2010 at 1:00 p.m. The following members of the Board presided at the hearing: Vernon Benjamin, Chairperson; Susan Frey; Edward Maier; and Mark Anliker. 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 at Respondent's request, pursuant to Iowa Code section 272C.6(1)(2009), 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 Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with the Board's deliberations.

THE RECORD

The record includes the testimony of the witnesses, State Exhibits 1-5, and Respondent Exhibits A-G.

FINDINGS OF FACT

1. On July 25, 1995, the Board issued Respondent license number 18430 to engage in the practice of pharmacy in Iowa, subject to the laws of the state of Iowa and the rules of the Board. On September 21, 2007, the Board filed a Statement of Charges and Emergency Order that indefinitely suspended Respondent's license based, in part, on

his own admissions that he was an alcoholic and that several recent serious relapses had affected his job performance. (State Exhibits 3, 4)

2. Respondent was initially diagnosed with alcohol dependence in November 2004 while he was employed as a hospital pharmacist. Respondent attended Alcoholics Anonymous (AA) and was in active recovery until relapsing in January 2006. Respondent was subsequently deployed with the Army Reserves to Fort Hood, Texas from April 2006 to November 2006. During his deployment, Respondent was involved in AA and in the army's substance abuse program but was not successful in maintaining his sobriety. (Exhibit 1; Respondent testimony)

Respondent was hired by another pharmacy in January 2007. After another serious relapse, Respondent took a leave of absence and entered chemical dependency treatment on May 2, 2007. Although Respondent completed chemical dependency treatment on June 1, 2007, he relapsed soon thereafter. By August 2007, Respondent was drinking heavily and admits that he was no longer able to safely practice pharmacy due to his habitual intoxication. This led to the Board's emergency suspension of his license. (Respondent testimony; Exhibits 1, 2, D-F)

3. Respondent's wife filed for divorce, and his living situation deteriorated to the point that he became homeless for a period of four months. Respondent eventually stopped drinking in July 2008, and reports that he has maintained his sobriety since that time. Respondent is currently living in Granite City, Illinois, is remarried, and has a two month old son. Respondent is active in his local church and has been employed by a food establishment since November 21, 2009. Respondent's employer reports that he has been an exemplary employee with exceptional attendance. (Respondent testimony; Exhibits 1, 2, B, F)

4. On December 8, 2009, Respondent signed a contract for supportive services through the Department of Veterans Affairs and the St. Louis Public Housing Authority/ Department of Housing and Urban Development. As a condition of his participation, Respondent has agreed to abstain from alcohol or drug use, to participate in community or VA psychiatric or substance abuse treatment or self-help groups, to submit to random urine drug screening or breathalyzers, to attend AA/NA or other support groups weekly, and to comply with medical and/or psychiatric treatment(s) and medication(s). (Exhibit A; Respondent testimony)

Through the VA, Respondent has been receiving ongoing supportive psychotherapy with a licensed psychologist. In the opinion of his psychologist, Respondent has the ability to maintain his sobriety indefinitely. Respondent does not exhibit any psychological symptoms that would likely impair his ability to act ethically and professionally as a pharmacist. (Respondent testimony; Exhibit G)

Respondent has been attending 1-2 AA meetings each week and has submitted verification of his attendance. (Respondent testimony; Exhibit B)

CONCLUSIONS OF LAW

Iowa Code section 155A.12(1)(2007) and 657 IAC 36.1(4)"d"(1) authorizes the Board to discipline a pharmacist for habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to, the inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis. Iowa Code section 17A.18A authorizes the Board to take emergency action against a licensee to protect the public health, safety, or welfare. Respondent does not contest the allegations in the Emergency Order and Statement of Charges. He admits that he has been habitually intoxicated and that he was unable to safely practice pharmacy due to his alcoholism. Respondent maintains that he is ready to return to his practice as a pharmacist because he has maintained his sobriety for nearly two years and has established a successful recovery program that includes psychotherapy, regular AA attendance, and the support of his family, friends, and church.

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...

...

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 ... 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.

Upon reviewing the record of the hearing, the Board is persuaded that Respondent has made substantial progress in his recovery and that it is consistent with the public interest to reinstate his license on probationary status. Respondent has maintained his sobriety for nearly two years, he is active in recovery support groups, and he has established a strong personal support system. Respondent has gained substantial insight into his alcoholism and is strongly motivated to maintain his sobriety. Respondent's reinstatement is consistent with the public interest, so long as his practice is monitored by the Board through terms and conditions of probation.

DECISION AND ORDER

IT IS THEREFORE ORDERED Respondent's pharmacist license no. 18430 shall be REINSTATED upon his submission of verification of thirty (30) contact hours of continuing education¹ and payment of the \$220 licensure fee. IT IS FURTHER ORDERED that Respondent's license shall immediately be placed on PROBATION for a term of five (5) years. Periods of time 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 probation will be subject to the following terms and conditions:

A. Respondent shall continue psychotherapy unless he is discharged from treatment by his psychologist at the Veteran's Administration (VA) and his psychologist has provided a written discharge summary to the Board.

¹ At least 50% of the continuing education hours must be in ACPE approved courses dealing with drug therapy. 657 IAC 2.12.

B. Respondent shall abstain from all use of alcohol or illicit drugs. Respondent shall cooperate with the Board's alcohol and drug screening program through FirstLab. Respondent shall provide random blood or urine specimens when required by the screening program. Respondent shall also provide random blood or urine specimens on demand by an agent of the Board.

C. 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 him by a licensed, treating physician or other qualified health care provider. Respondent shall advise any treating physician of his chemical dependency prior to accepting any prescription drug.

D. Respondent shall attend Alcoholics Anonymous (AA) on a regular weekly basis or at the frequency recommended by his counselors. Respondent shall obtain verification of his AA attendance and submit it with his quarterly written reports to the Board.

E. Respondent shall file written, sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of 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, and any further information deemed necessary by the Board from time to time.

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

G. Respondent shall not own or manage a pharmacy and shall not serve as the pharmacist in charge of a pharmacy.

H. 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 Decision and Order. Notification shall be made no later than the time of interview. Within fifteen (15) days of undertaking new employment as a pharmacist or in a pharmacy-related

business, Respondent shall cause his employer to report to the Board in writing, acknowledging that the employer has read this document and understands it.

I. 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.

J. Respondent shall make personal appearances before the Board or a Board committee upon request. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.

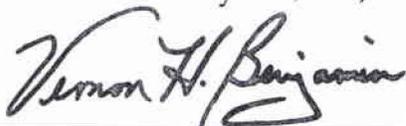
K. Respondent is responsible for all costs of compliance with this Decision and Order.

L. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.

M. 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.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 675 IAC 36.18(2), that Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive director of the Board may bill Respondent any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondent shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this 24th day of March, 2010.



Vernon Benjamin, Chairperson
Iowa Board of Pharmacy

cc: Scott Galenbeck, Assistant Attorney General

DIA No. 10PHB006

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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

Re:) Case No. 2010-78
Pharmacist License of)
EDWARD M. DEGENEFTE) **STATEMENT OF CHARGES,**
License No. 18430,) **SETTLEMENT AGREEMENT**
Respondent.) **AND STIPULATED ORDER**

The Iowa Board of Pharmacy (Board) and Edward M. DeGeneffe (Respondent), and hereby enters into this combined Statement of Charges, Settlement Agreement and Stipulated Order (hereinafter, "Agreement") pursuant to Iowa Code §§ 17A.10 and 272C.3(2)(a) (2009), Iowa Code chapter 155A (2009), and 657 Iowa Administrative Code § 36.1(4)(d)(1).

On October 25, 1995, the Board issued Respondent, after examination, a license to engage in the practice of pharmacy as evidenced by license number 18430, subject to the laws of the State of Iowa and the rules of the Board. Respondent's pharmacist license, which was reinstated with probationary terms and conditions by order of the Board dated March 24, 2010, is current and active until June 30, 2012. His most recent address of record is 1820½ South Nicollet Street, Sioux City, Iowa 51106.

A. CHARGES

COUNT I – UNABLE TO PRACTICE DUE TO HABITUAL INTOXICATION

The Respondent is charged with an inability to practice with reasonable skill and safety by reason of habitual intoxication in violation of Iowa Code § 155A.12(1) (2009) and 657 Iowa Administrative Code § 36.1(4)(d)(1).

COUNT II – FAILURE TO COMPLY WITH BOARD ORDER

Respondent is charged under Iowa Code § 272C.3(2)(a) (2009) with a failure to comply with terms found in the Findings of Fact, Conclusions of Law, Decision and Order

adopted by the Iowa Board of Pharmacy on March 24, 2010, which terms required Respondent to, among other things, "abstain from all use of alcohol or illicit drugs."

B. CIRCUMSTANCES

On July 22, 2010, an investigation commenced which revealed the following:

1. Respondent's license to practice pharmacy was reinstated on March 24, 2010, subject to probationary terms that included a prohibition on ingesting alcohol.
2. After approximately two years of sobriety, Respondent self-reported on July 22, 2010 that he had resumed drinking two days before, following a series of distressing marital and domestic events.
3. Respondent is depressed as a result of, among other things, his drinking.
4. Respondent is not working as a pharmacist at this time.

C. SETTLEMENT AGREEMENT

1. The Board has jurisdiction over the parties and the subject matter of this proceeding pursuant to Iowa Code Chapters 155A and 272C (2009).
2. This Agreement constitutes the resolution of a contested case proceeding. Respondent has chosen not to contest the allegations set forth in the Charges and acknowledges that the Charges, if proven in a contested case proceeding, would constitute grounds for the disciplinary order below.
3. By entering into this Agreement, Respondent voluntarily waives any right to a contested case hearing on the above Charges and voluntarily waives any objections to the terms of this Agreement, including the right to appeal.
4. This combined Agreement is voluntarily submitted by Respondent to the Board for

consideration.

5. Respondent acknowledges that he has a right to be represented by counsel in this matter.
6. Respondent agrees that counsel for the State may present this Agreement to the Board for approval.
7. This Agreement is subject to approval by the Board. If the Board fails to approve this Agreement, it shall be of no force or effect to either party.
8. This Agreement shall be part of the Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violation.
9. In the event Respondent violates or fails to comply with any of the terms of this Agreement, the Board may initiate appropriate action to revoke or suspend Respondent's license or to impose other licensee discipline in accordance with Iowa Code § 272C.3(2)(a) (2009) and Iowa Code chapter 155A (2009).
10. This Agreement is a public record available for inspection and copying, after execution and acceptance by the Board, in accordance with the requirements of Iowa Code chapters 22 and 272C (2009).
11. The Board's approval of this Agreement and the Order below shall constitute a FINAL ORDER of the Board.

D. FINAL ORDER

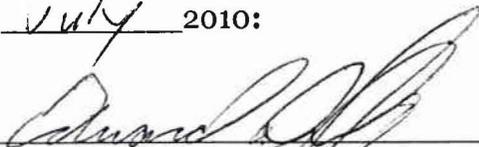
The Board and Respondent agree as follows:

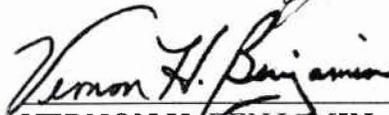
1. Pursuant to Iowa Code §§ 17A.10 and 272C.3(2)(a) (2009), Iowa Code chapter 155A

(2009), and 657 Iowa Administrative Code § 36.1(4)(d)(1), the pharmacist license of Edward M. Degeneffe is suspended indefinitely. Respondent's license shall be suspended effective immediately upon execution of this order.

2. Respondent's license shall remain suspended until the Board has been presented with satisfactory evidence of Respondent's ability to resume the practice of pharmacy.

IT IS SO STIPULATED this 27th day of July 2010:


EDWARD M. DEGENEFFE
Respondent


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

Edward M. DeGeneffe

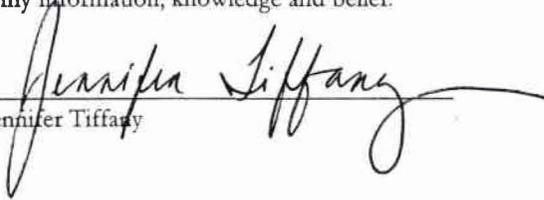
PROOF OF SERVICE

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: _____ | <input type="checkbox"/> other: _____ |

on the 27th day of July, 2010.

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


Jennifer Tiffany

BEFORE THE IOWA BOARD OF PHARMACY

RE:	)	DIA NO: 11PHB021
Pharmacist License of)	
EDWARD M. DEGENEFFE	)	FINDINGS OF FACT,
License No. 18430	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

On July 27, 2010, the Iowa Board of Pharmacy (the Board) indefinitely suspended the pharmacy license held by Respondent Edward DeGeneffe, pursuant to a settlement agreement and stipulated order. On June 7, 2011, Respondent requested a reinstatement of his license. The request came on for hearing before the Board on September 14, 2011. The following members of the Board presided at the hearing: Susan Frey, Edward Maier, Mark Anliker, DeeAnn Wedemeyer-Oleson, James Miller, LaDonna Gratias, and Margaret Whitworth. Respondent appeared and was self-represented. Assistant Attorney General Scott Galenbeck represented the State. Administrative Law Judge Jeffrey Farrell assisted the Board in conducting the hearing. The hearing was held in open session.

THE RECORD

The State's exhibits 1-2 were admitted. Respondent's exhibits 1-5 were admitted. Respondent testified at the hearing. He also called Rich Muckey as a witness.

FINDINGS OF FACT

Background: Respondent has battled alcohol dependence for a number of years. His condition and conduct impacted his ability to practice as a pharmacist. On September 21, 2007, the Board issued a Statement of Charges and Emergency Order suspending Respondent from the practice. Respondent did not contest the Emergency Order. (State's exhibit 1.)

After completing multiple treatment programs and struggling through multiple relapses, Respondent stopped drinking alcohol in July of 2008. His life was more stable for a period of time. He remarried and had a son. He became active in his church. He worked at a food establishment; his employer reported he was an exemplary employee. Respondent is a member of the Army Reserves and received support services through the Department of Veteran's Affairs (VA). Respondent's psychologist from the VA

reported that he had the ability to maintain his sobriety and did not exhibit the symptoms that would impair his ability to practice as a pharmacist. (State's exhibit 1.)

In January of 2010, Respondent filed a request to reinstate his license. The Board held a hearing on March 10, 2010. On March 24, 2010, the Board issued a decision that reinstated Respondent's license with a number of conditions. The conditions included placing Respondent's license on probation for five years and requiring him to abstain from all use of alcohol. (State's exhibit 1.)

On July 22, 2010, Respondent filed a self-report to the Board stating that he relapsed two days prior. Respondent's relapse occurred after his wife relapsed from her own addiction problem. At the same time, he could not locate his son (as it turns out, a neighbor had the child), which heightened his stress. Respondent described the situation as "too much" for him to handle, and he turned to alcohol. On July 27, 2010, he entered into a Stipulated Order with the Board in which he agreed to an indefinite suspension of his pharmacy license. (State's exhibit 1; Respondent testimony.)

Request for reinstatement: Respondent testified that he returned to sobriety in August of 2010 and has maintained sobriety since then. Respondent testified to learning much about his alcoholism since then. He now realizes that he has a co-dependency on his wife, so that when she relapsed in July of 2010, he did not have the insight to manage his own sobriety first. Respondent's wife went through another relapse in March, but Respondent was able to rely on supports and avoid using himself. Respondent considers himself more centered with a stronger and more support group than he had in the past. (Respondent testimony.)

Respondent continues treatment efforts that began again after he relapsed. He continues to see a counselor from Jackson Recovery once per week. He attends AA two times per week, and serves as a volunteer for the local drug court. The juvenile court and Department of Human Services (DHS) filed a child in need of assistance case for his son in July of 2010, and Respondent participates in the services provided. He referred to DHS as "tremendous support." Respondent is active in his church and relies on his faith and prayer as part of his support structure. (Respondent testimony; Respondent's exhibits 3-5.)

Respondent is employed as a forklift operator at a cheese company. He works part-time jobs whenever he can to help pay the bills. Some of his part-time work

includes handiwork, painting, and mowing yards. He lives a simple life without frills, but misses the financial security of working in the pharmacy profession. (Respondent testimony.)

Rich Muckey has known Respondent over the past year. Mr. Muckey described Respondent as a "totally different person" now from the time he first met him. Mr. Muckey particularly cited Respondent's co-dependency on his wife as much different than it was in the past. Mr. Muckey described Respondent as open, responsible, and hard-working. Respondent provided several similar reference letters in support of his reinstatement. (Muckey testimony; Respondent's exhibit 2.)

CONCLUSIONS OF LAW

Regulatory framework: The Board was created for the express purpose to promote, preserve and protect the public health, safety, and welfare through the effective regulation of the practice of pharmacy.¹ The Board regulates the practice, in part, through the licensing of pharmacies, pharmacists, and others engaged in the sale, delivery, or distribution of prescription drugs and devices.

The Board has the authority to grant licenses to pharmacists, adopt regulations creating standards for licensure, and to enforce compliance with those standards.² The Board may impose discipline against the license holder, including revoking or suspending a license, putting a licensee on probation, imposing a civil penalty up to \$25,000, issuing a citation and warning, and requiring professional education.³

After the Board suspends or revokes a license, it may consider an application for reinstatement.⁴ A person must meet all terms of the order that revoked or suspended the license. If the order did not set forth conditions, the person must wait at least one year before applying for reinstatement. The applicant has the burden of proving that the basis for the revocation or suspension no longer exists and that the public interest will be served by reinstatement.

¹ Iowa Code section 155A.2.

² Iowa Code section 272C.1(6)(q), 272C.3.

³ Iowa Code sections 155A.12, 155A.18, 272C.3(2).

⁴ 657 Iowa Administrative Code 36.13.

Discussion: The Board carefully considered the application, particularly in light of the prior reinstatement and the subsequent suspension. However, the Board also gave Respondent some level of credit, even with the relapse. Respondent was honest and forthcoming with the Board during both suspensions, he self-reported his relapse in July of 2010 shortly after it occurred, and he consented to a suspension of his license within days thereafter. Respondent has taken full responsibility for his actions, and he now recognizes his co-dependency problem that resulted in his relapse. He learned from his experiences and did not repeat his conduct after his wife had another relapse in March of this year. It has taken Respondent a long time, several failures, and much pain to reach this point. He now appears to have reached a point of understanding whereby he can manage the stressors that may arise in life, by relying on counseling, his faith, and his relationships with supports.

The Board will require a number of conditions on Respondent's license to protect the public. Respondent himself acknowledged during the hearing that he moved back into the field too quickly after his license was reinstated in 2010, and the Board shares that concern. Respondent has been away from the practice for approximately four years with the exception of a short period following his prior reinstatement. Respondent will need to complete his continuing education before he starts practicing pharmacy. The Board will also place his license on probation so it can monitor his progress as he works his back into the profession.

DECISION AND ORDER

Respondent's application for reinstatement of pharmacy license is hereby granted, subject to the conditions set forth in this order. Respondent shall pay the required licensure fee and submit verification of 30 contact hours of continuing education. Of the 30 required hours, at least 15 hours shall be in courses dealing with drug therapy, two hours shall concern pharmacy law, and two shall concern patient or medication safety, as required by 657 IAC 2.12. Each of the conditions in this paragraph shall be completed before Respondent starts a position in the practice of pharmacy.

Thereafter, Respondent's license is placed on probation for a term of five years. Periods of time when Respondent is not employed as a pharmacist shall not count toward satisfaction of the five-year probationary period. Respondent's probation will be subject to the following terms and conditions:

- A. Respondent shall abide by all terms set by the juvenile court in his son's child in need of assistance case and complete all services required by DHS as part of that case. Upon request by the Board, Respondent shall file copies of any orders issued by the court or reports completed by DHS. Respondent shall provide a copy of the court closure order within 30 days after it is issued by the juvenile court.
- B. Respondent shall abstain from all use of alcohol or illicit drugs. Respondent shall cooperate with the Board's alcohol and drug screening program through FirstLab. Respondent shall provide random blood or urine specimens when required by the screening program. Respondent shall also provide random blood or urine specimens on demand by an agent of the Board.
- C. 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 him by a licensed, treating physician or other qualified health care provider.
- D. Respondent shall attend Alcoholics Anonymous (AA) on a regular weekly basis or at the frequency recommended by his counselors. Respondent shall obtain verification of his AA attendance and submit it with his quarterly written reports to the Board.
- E. Respondent shall file written, sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of 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, and any further information deemed necessary by the Board from time to time.
- F. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
- G. Respondent shall not own or manage a pharmacy and shall not serve as the pharmacist in charge of a pharmacy.

H. 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 Decision and Order. Notification shall be made no later than the time of interview. Within fifteen (15) days of undertaking new employment as a pharmacist or in a pharmacy-related business, Respondent shall cause his employer to report to the Board in writing, acknowledging that the employer has read this document and understands it.

I. 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.

J. Respondent shall make personal appearances before the Board or a Board committee upon request. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.

K. Respondent is responsible for all costs of compliance with this Decision and Order.

L. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.

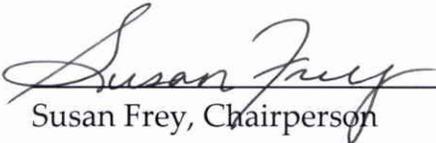
M. Should Respondent violate or fail to comply with any of the terms or conditions of probation, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 36.18(2), that Respondent shall pay \$75.00 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 thirty (30) days of receipt of the bill.

Dated this 10th day of November, 2011.

DIA No. 11PHB021

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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

Re:	)	Case No. 2013-40
Pharmacist License of)	
EDWARD M. DEGENEFTE,	)	STATEMENT OF CHARGES
License No. 18430	)	& 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). Respondent was issued Iowa pharmacist license 18430. Respondent’s license is currently active and on probation subject to the Findings of Fact, Conclusions of Law, Decision and Order of the Board filed November 10, 2011.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 23, 2013, before the Iowa Board of Pharmacy. The hearing shall be held during the morning session, beginning at 9:00 a.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:

Theresa O’Connell Weeg
Assistant Attorney General
Iowa Attorney General’s Office
2nd Floor Hoover State Office Building
Des Moines, Iowa 50319.

Ms. Weeg can also be reached by phone at (515)281-5428 or e-mail at Theresa.Weeg@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 Theresa O'Connell Weeg at (515)281-5328.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 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 17A, 147, 148C, and 272C (2011) 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 – UNABLE TO PRACTICE DUE TO HABITUAL INTOXICATION

Respondent is charged with an inability to practice with reasonable skill and safety by reason of habitual intoxication and addiction to the use of drugs, in violation of Iowa Code §§ 147.55(4) and 272C.10(4) (2013) and 657 Iowa Administrative Code 36.1(4)(d)(1).

Count II—FAILURE TO COMPLY WITH BOARD ORDER

Respondent is charged with failing to comply with an order of the Board, in violation of Iowa Code sections 147.55(8), 272C.10(8), 272C.9(1) and 657 Iowa Administrative Code 36.17.

D. FACTUAL CIRCUMSTANCES

1. Respondent is a licensed pharmacist in the State of Iowa. His license is currently active and on probation subject to the Findings of Fact, Conclusions of Law, Decision and Order of the Board filed November 10, 2011.

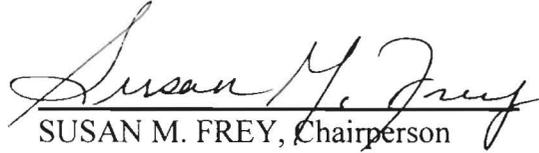
2. On September 21, 2007, the Board filed a Statement of Charges against Respondent for his inability to practice pharmacy with reasonable skill and safety by reason of habitual intoxication. On that same day, the Board filed an Emergency Order immediately suspending Respondent's pharmacist license because his continued practice posed an immediate threat to the public's safety.
3. On March 24, 2010, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order reinstating Respondent's license subject to verification of continuing education requirements and payment of a fee. His license was then placed on a five year probation subject to a number of terms that included a prohibition on ingesting alcohol.
4. On July 22, 2010, Respondent self-reported that he had resumed drinking.
5. On July 27, 2010, Respondent and the Board entered into a Statement of Charges, Settlement Agreement and Stipulated Order in which Respondent agreed to the indefinite suspension of his license.
6. On November 10, 2011, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order reinstating Respondent's license subject to verification of continuing education requirements, and requirements, and subject to a five year probation subject to a number of terms that included a prohibition on ingesting alcohol or illicit drugs and a requirement for regular drug testing.
7. Respondent has failed to comply with this Order. On February 6, 2013, Respondent tested positive for metabolites of cocaine.

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 Theresa O'Connell Weeg.

F. PROBABLE CAUSE FINDING

On this 13th day of March, 2013, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



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

cc: Theresa O'Connell Weeg
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 checked="" type="checkbox"/> certified mail, return receipt requested	<input type="checkbox"/> facsimile
Article Number <u>9171999991703106849763</u>	<input type="checkbox"/> other _____
on the <u>13th</u> day of <u>March</u> , 2013	

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. 2013-40
Pharmacist License of)	
EDWARD M. DEGENEFTE	)	SETTLEMENT AGREEMENT
License No. 18430	)	AND
	)	FINAL ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy and Edward Degeneffe, Respondent, enter into the following Settlement Agreement and Final Order to settle a licensee disciplinary proceeding 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 Pharmacist License No. 18430 to practice pharmacy in Iowa.
2. Respondent's license is currently active and on probation, subject to the Findings of Fact, Conclusions of Law, Decision and Order of the Board filed November 10, 2011.
3. A Statement of Charges was filed against Respondent on March 13, 2013.
4. The Board has jurisdiction over the parties and the subject matter of these proceedings.

5. Respondent has chosen not to contest 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.

6. On the date of the Board's approval of this Settlement Agreement and Final Order, Respondent's license shall be suspended indefinitely. Respondent may apply for reinstatement of his license under 657 Iowa Administrative Code 36.13 and 36.14.

Respondent's license may be reinstated at the discretion of the Board, but only after Respondent:

- a. Demonstrates that he has been in full compliance for at least six months with the Findings of Fact, Conclusions of Law, Decision and Order (Order) of the Board filed November 10, 2011. Respondent is not required to comply with that Order during the period of his suspension. However, he cannot apply for reinstatement of his license until he demonstrates successful compliance with that Order for at least six months.
- b. Obtains a complete physical and mental health evaluation, including a comprehensive substance abuse evaluation, from a Board-approved program.
- c. Delivers to the Board a written report from the Board-approved program with the outcome of the physical, mental health, and substance abuse evaluation which concludes Respondent is mentally and physically fit to practice pharmacy, and if so, under what restrictions. 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.

d. Permits the Board complete access to Respondent's medical records, including records of physical, mental health, and substance abuse evaluation and treatment.

e. Submits a \$1500 civil penalty to the Board. All civil penalty payments shall be deposited into the State of Iowa's general fund.

7. After Respondent provides the Board a written report from the Board-approved program, which concludes that Respondent is mentally and physically fit to practice pharmacy, Respondent may petition the Board under 657 Iowa Administrative Code 36.13 and 36.14 for (a) termination of the suspension of Respondent's license and (b) imposition of a period of probation subject to terms determined by the Board.

8. Should Respondent violate or fail to comply with any of the terms and conditions of this Settlement Agreement and Final Order, the Board may initiate action to revoke Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 IAC 36.

9. Respondent acknowledges that he has the right to be represented by counsel in this matter.

10. This Settlement Agreement and Final Order is the resolution of a contested case. By entering into this Settlement Agreement and Final 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 Final Order.

11. The State's legal counsel may present this Settlement Agreement and Final Order to the Board.
12. This Settlement Agreement and Final 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 Settlement Agreement and Final Order, it shall be the full and final resolution of this matter.
13. The Board's approval of this Settlement Agreement and Final Order shall constitute a FINAL ORDER of the Board.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 17th day of April 2013.


EDWARD DEGENEFPE R.Ph.
Respondent

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 24th day of April 2013.


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

cc: Theresa O'Connell Weeg
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319