

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2008-126
Controlled Substance Registration of:)	
MARVIN A. ELLIOTT, DVM)	ORDER TO SHOW CAUSE
Registration No. 1502390)	
Respondent)	

**TO: Marvin A. Elliott
121 South Sixth Avenue,
Eldridge, Iowa 52748**

NOTICE: Pursuant to the provisions of Iowa Code chapter 124.304-305 (2009) and 657 Iowa Administrative Code 10.12(5-8), you are hereby ordered to appear before the Iowa Board of Pharmacy Examiners to show cause why controlled substance registration number 1502390, issued to Marvin A. Elliott, DVM, should not be revoked. IF YOU DESIRE A HEARING REGARDING REVOCATION OF THIS CONTROLLED SUBSTANCE REGISTRATION, YOU MUST FILE A REQUEST FOR A HEARING BEFORE THE BOARD WITHIN THIRTY (30) DAYS OF ISSUANCE OF THIS ORDER. IF YOU DO NOT REQUEST A HEARING WITHIN THIRTY (30) DAYS OF THIS ORDER, YOUR CONTROLLED SUBSTANCE REGISTRATION WILL BE REVOKED.

I. JURISDICTION

Pursuant to Iowa Code Chapter 124 (2009) and 657 Iowa Administrative Code § 10.12(5), the Iowa Board of Pharmacy Examiners (hereinafter, "Board") has jurisdiction over those who manufacture, distribute, and dispense controlled substances in Iowa. On July 8, 2009, the Board issued Marvin A. Elliott (hereinafter, "Respondent"), a renewal of controlled substance registration number 1502390, subject to the laws of the State of Iowa and the rules of the Board. Respondent is engaged in a veterinarian practice known as the Eldridge Veterinary clinic, 121 South Sixth Avenue, Eldridge, Iowa 52748.

II. BASIS FOR ORDER TO SHOW CAUSE

On December 3, 2008, the Board commenced an investigation which revealed the following:

1. Respondent operates a veterinary clinic in Eldridge, Iowa. Respondent dispenses, among other things, the controlled substance alprazolam 2 mg. for small-animal anxiety disorders. Respondent has followed a practice of purchasing alprazolam from a local pharmacy, then dispensing the medication from his clinic directly for patients.
2. A review of Respondent's controlled substance records established that they are not in order. An audit for the period from July 27, 2007 to January 13, 2009 revealed a 38% inventory shortage of alprazolam. Respondent's records reflect no purchases of alprazolam prior to February 28, 2008, however purchase records from North Scott pharmacy in Eldridge, Iowa, indicate alprazolam was being purchased for Respondent's veterinary clinic beginning on July 27, 2007. Additionally, staff members other than Respondent were able to recall a July 27, 2007 order for alprazolam.
3. Respondent's computerized controlled substance inventory did not match a hard bound perpetual dispensing record maintained by Respondent's clinic.
4. Respondent attributes the alprazolam shortages to diversion by a former employee.
5. Out dated and unused drugs have been disposed of in Respondent's clinic's trash dumpster; Respondent has not used a reverse distributor.

Iowa Code § 124.304(d) (2009) provides, in part, that the Board may revoke a registration to manufacture, distribute, or dispense controlled substances upon finding that the registrant has committed such acts as would render the registration inconsistent with the public interest.

Respondent's continued possession of a controlled substance registration is not in the public interest because (1) Respondent has maintained multiple incomplete and inaccurate inventory

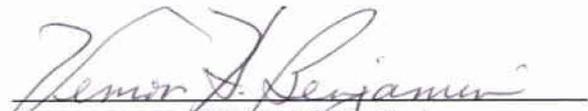
records relating to the controlled substance, alprazolam, (2) Respondent's lack of adequate supervision and control of employees has resulted in the diversion of alprazolam by a former employee, and (3) Respondent has improperly destroyed unused and outdated controlled substances.

III. ORDER

Respondent Marvin A. Elliott, DVM, is hereby ordered to appear before the Iowa Board of Pharmacy Examiners and show cause why controlled substance registration number 1502390, issued in his name, should not be revoked for the reason that the registrant has committed such acts as would render the registration inconsistent with the public interest.

If Respondent wishes to have a hearing before the Board in response to this Order, Respondent must notify the Board within thirty (30) days of the date of this Order. Respondent's request for a hearing should be directed to Lloyd Jessen, Executive Secretary/Director, Iowa Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. The Board office telephone number is (515) 281-5944. If Respondent requests a hearing, the hearing will be held at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa, on the date of the next regularly scheduled meeting of the Board.

IT IS SO ORDERED THIS 10th day of March 2010.


VERNON H. BENJAMIN, Chairperson
Iowa Board of Pharmacy Examiners

cc: Scott Galenbeck, Assistant Iowa Attorney General
Drug Enforcement Administration, Des Moines, Iowa

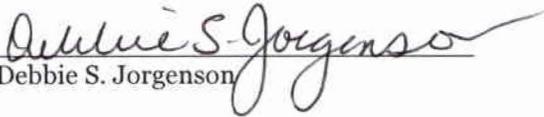
PROOF OF SERVICE

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
Article Number 9171082133393667072385 | <input type="checkbox"/> facsimile |
| | <input type="checkbox"/> other |

on the 11th day of March, 2010.

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. 2008-126
Controlled Substances Registration of)	
MARVIN A. ELLIOT, DVM)	STIPULATION
Registration No. 1502390)	AND
Respondent)	CONSENT ORDER

Pursuant to Iowa Code §§ 17A.10, 124.304-305, and 272C.3(4) (2009), the Iowa Pharmacy Board (hereinafter, "Board") and Marvin A. Elliott (hereinafter, "Respondent") enter into the following Stipulation and Consent Order settling a disciplinary proceeding currently pending before the Board.

The Order to Show Cause filed herein shall be resolved without proceeding to hearing, due to the Board and Respondent stipulating as follows:

1. Respondent renewed his controlled substance registration number 5101145 on July 8, 2009.
2. The controlled substance registration issued to and held by Respondent is active and current until July 31, 2011.
3. Respondent was, at all times material to these disciplinary proceedings, engaged in a veterinary practice known as the Eldridge Veterinary Clinic, located at 121 South Sixth Avenue, Eldridge, Iowa 52748.
4. An Order to Show Cause was issued to Respondent by the Board on March 10, 2010.
5. The Board has jurisdiction over the Respondent and jurisdiction over the subject matter of these proceedings.

6. The stated basis for the Order to Show Cause, 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 controlled substance registration shall be restricted by being placed on probation. The terms of the probation 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 three (3) years.
 - c. Respondent shall maintain a perpetual inventory of all controlled substances in his possession pursuant to his controlled substance registration, which inventory shall be reconciled each week.
 - d. Respondent shall complete a continuing education course of not less than four (4) hours, approved by the Board in advance of his attendance. The subject matter of the course shall be controlled substance recordkeeping and security, and the appropriate methods for destruction of unwanted controlled substances.
 - e. 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.
 - f. Respondent hereby consents to inspection and audit of his controlled substance inventory, and controlled substance records, during his probation, which inspections and audits shall occur approximately every six months.
 - g. During probation, 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.

h. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing his performance under this Stipulation and Consent Order and as the holder of a controlled substance registration.

Respondent shall be given reasonable notice of the date, time, and place for such appearances.

i. Respondent shall obey all federal and state laws, rules, and regulations related to controlled substances.

8. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$800. This civil penalty shall be paid promptly after the Board's approval of this Stipulation and Consent Order, by check made payable to the Treasurer of Iowa and mailed to the executive director of the Board. All civil penalty payments shall be deposited into the State of Iowa general fund.

9. 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 relating to the Order to Show Cause and waives any objections to this Stipulation and Consent Order.

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

11. This proposed settlement 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.

12. 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 suspend or revoke Respondent's controlled substance registration or to impose other discipline as authorized by Iowa Code chapter 124C (2009) and 657 IAC chapter 10.

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

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 17 day of November 2010.

Marvin A. Elliot
MARVIN A. ELLIOT, DVM
Respondent

Subscribed and sworn to before me by Marvin A. Elliot on this 17 day of November 2010.



Steven C. Fahrenkrog
NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Pharmacy Board on the 24th day of November 2010.

Vernon H. Benjamin
VERNON H. BENJAMIN, Chairperson
Iowa Pharmacy Board
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

George W. Appleby
400 Homestead Building
303 Locust Street
Des Moines, IA 50309-1770

ElliottCSR settle 10-10.doc

BEFORE THE BOARD OF PHARMACY STATE OF IOWA

IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST
MARVIN A. ELLIOT, DVM, RESPONDENT

2008-126

TERMINATION ORDER

DATE: Marvin A. Elliott, DVM
Eldridge Veterinary Clinic
121 S Sixth Ave.
Eldridge, IA 52748

1. On November 24, 2010, a Stipulation and Consent Order was issued by the Iowa Board of Pharmacy placing the controlled substance registration, number 1502390, issued to Marvin A. Elliott, DVM, on probation for a period of three years under certain terms and conditions.
2. Respondent has successfully completed the probation as directed.
3. The Board directed that the probation placed upon the Respondent's controlled substance registration should be terminated.

IT IS HEREBY ORDERED:

That the probation placed upon the Respondent's controlled substance registration is terminated, and the registration is returned to its full privileges free and clear of all restrictions.

IOWA BOARD OF PHARAMCY



Edward Maier, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688