

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Pharmacy Technician Registration of) CATHERINE FINKE) Registration No. 15739,) Respondent)	Case No. 2009-124 STATEMENT OF CHARGES
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COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Director of 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 147, 155A and 272C (2009).
3. The Board issued Catherine Finke, hereinafter "Respondent," pharmacy technician registration number 15739, registering her as a pharmacy technician subject to the laws of the State of Iowa and the rules of the Board. Respondent's registration was renewed on August 3, 2009.
4. Respondent's registration is current and active until June 30, 2010.
5. At all times material to this Statement of Charges, Respondent was employed as a pharmacy technician at Walgreens, 3501 Ingersoll Avenue, Des Moines, Iowa.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.6A(5) (2009) and 657 Iowa Administrative Code § 36.1(4)(b) with a lack of professional competency as demonstrated by willful departure 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 Respondent's violation of standards related to patient counseling.

COUNT II – CIRCUMVENTION OF COUNSELING REQUIREMENT

Respondent is charged under Iowa Code § 155A.6A(5) (2009), and 657 Iowa Administrative Code § 36.1(4)(w), with attempting to circumvent patient counseling requirements and engaging in business practices intended to circumvent requirements for patient counseling.

B. CIRCUMSTANCES

On or about October 1, 2009, an investigation was commenced which revealed the following:

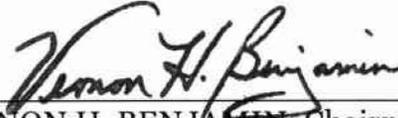
1. At all material times, Respondent was a pharmacy technician at Walgreens Pharmacy #07833, located at 3501 Ingersoll Avenue, Des Moines, Iowa.
2. A customer – who is a pharmacy student – picked up a prescription at the Walgreens drive through window. No counseling was offered or provided to the customer in any manner. Respondent was the person who took payment for the prescription and whose name appears on the receipt.
3. A "counseling refused" entry was made in the Walgreens record relating to the sale of the medication, despite the fact that the customer did not refuse counseling.
4. The medication picked up by the customer was a new prescription, with a potential drug interaction.
5. Following receipt of a complaint that counseling had not been provided to a customer, a Board compliance officer observed the practices of pharmacists, pharmacy technicians and cashiers at Walgreens Pharmacy #07833. The compliance officer noted the following:
 - a. Pharmacists did not uniformly counsel or offer to counsel regarding 'first time' prescriptions.
 - b. Pharmacy cashiers entered "counseling refused" into the computer system to complete dispensing transactions, despite the fact that a patient had not been offered (and had not refused) counseling.
 - c. Pharmacy cashiers entered "counseling accepted" into the computer system to complete dispensing transactions, despite the fact that a patient had not been offered (and has not received) counseling.
 - d. Pharmacy technicians attempted to discourage patients from seeking counseling.

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 20 day of July 2010, 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

Finke-tech SOC 6-10

**VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN
REGISTRATION**

I, Catherine Finke, a resident of Polk County, Iowa, of my own free will and without any mental reservation and not as a result of any inducement, promise or threat on the part of anyone, do hereby voluntarily surrender my pharmacy technician registration in the State of Iowa, number 15739, to the Iowa Board of Pharmacy, for an indefinite period of time. This surrender of registration shall become effective upon the notarized signature of the registrant, ~~Amanda Lee~~, being affixed to this voluntary surrender document. Catherine Finke

I, Catherine Finke, of my own free will and without any mental reservation and not as a result of any inducement, promise or threat given or made by any representative, officer, or employee of the Iowa Board of Pharmacy, or of any other state official, do hereby further acknowledge that by voluntarily signing this surrender statement that I am knowingly and willingly giving up the exercise of the following legal rights:

- (1) My right to a formal hearing before the Iowa Board of Pharmacy on the matter of my continued registration as a pharmacy technician pursuant to Iowa Code Chapter 155A (2009).
- (2) My right to be represented by an attorney in preparation for and during such formal hearing before the Iowa Board of Pharmacy.
- (3) My right to submit evidence and to have witnesses called on my own behalf at such formal hearing.
- (4) My right to be represented by an attorney in this matter at this time.

I, Catherine Finke, do hereby acknowledge that pursuant to 657 Iowa Administrative Code § 36.25, a pharmacy technician registration which has been voluntarily surrendered shall be considered a revocation of license with respect to a request for reinstatement, which will be handled under the terms established by 657 Iowa Administrative Code § 36.23, which provides as follows:

Any person ... whose pharmacy technician registration ... has been revoked or suspended must meet the following eligibility requirements:

1. Must have satisfied all the 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 and conditions upon which reinstatement might occur, or if the license, registration, or permit 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.

....

3. All proceedings for reinstatement shall be initiated by the respondent who shall file with the board an application for reinstatement of the license, registration, or permit. 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. The board and the respondent may informally settle the issue of reinstatement. The respondent may choose to have an informal reinstatement conference before the board, as provided in rule 657—9.24 (17A,124B,147,155A,272C).

4. 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, registration, or permit to be reinstated. The burden of proof to establish such facts shall be on the respondent.

5. An order for reinstatement shall be based upon a decision which incorporates findings of facts 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.

I, Catherine Finke, hereby further agree that I shall not engage in any of the practices of a pharmacy technician in the State of Iowa for which a registration is required.

10/18/10
Date of signature

Catherine Finke
Catherine Finke

State of Iowa
County of Folk



Signed and sworn to (or affirmed) before me on 10-15-2010
by Catherine Finke. (Date)

[Signature]
Signature of Notary Public

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

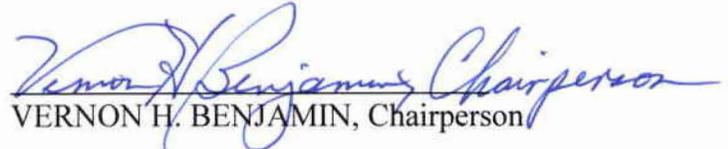
Re:)	ORDER
Pharmacy Technician Registration)	ACCEPTING
CATHERINE FINKE,)	SURRENDER OF
Registration No. 15739)	PHARMACY TECHNICIAN
)	REGISTRATION

COMES NOW, Vernon H. Benjamin, Chairperson of the Iowa Board of Pharmacy, on the 3rd day of November, 2010, and declares that:

1. On October 18, 2010, Respondent executed a voluntary surrender of her pharmacy technician registration number 15739.
2. On November 3, 2010, the Board reviewed Respondent's voluntary surrender of her pharmacy technician registration and agreed to accept it.

This surrender, pursuant to 657 Iowa Administrative Code § 36.15, shall be considered a revoked license with respect to any future request for reinstatement. Any request for reinstatement will be handled under terms established by 657 Iowa Administrative Code § 36.13.

WHEREFORE, it is hereby ordered that Respondent's voluntary surrender of her Iowa pharmacy technician registration number 15739 is hereby accepted.


VERNON H. BENJAMIN, Chairperson