

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Case No. 2009-27
Pharmacy Technician Registration of:)
JOSEPH D. GARCIA,) **STATEMENT OF CHARGES**
Registration No. 14239,)
Respondent.)

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 (2009).
3. The Board issued Joseph Garcia (hereinafter, "Respondent") a pharmacy technician registration number 14239, authorizing him to serve as a pharmacy technician subject to the laws of the State of Iowa and the rules of the Board. Respondent's registration is current and active until November 30, 2009.
4. Respondent's address of record is 924 - 21st, Rock Island, Illinois 61201.
5. At all times material to this statement of charges, Respondent was employed as a pharmacy technician by Wal-Mart Pharmacy 1241, 5811 Elmore Avenue, Davenport, Iowa 52807.

A. CHARGES

COUNT I – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

Respondent is charged pursuant to Iowa Code §§ 155A.6A(5) and 155A.21 (2009), and 657 Iowa Administrative Code § 36.1(4)(j) with unlawful possession of prescription drugs, including controlled substances.

COUNT II – DISTRIBUTION OF DRUGS FOR UNLAWFUL PURPOSES

Respondent is charged pursuant to Iowa Code §§ 155A.6A(5) and 124.401, and 657 Iowa Administrative Code § 36.1(4)(h) with distribution of drugs for unlawful purposes.

COUNT III – VIOLATING LAWS RELATED TO PHARMACY

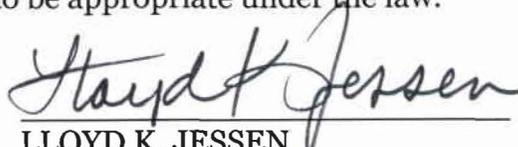
Respondent is charged pursuant to Iowa Code §§ 155A.6A(5), 155A.21, 155A.23(11) and 124.401 (2009), and 657 Iowa Administrative Code § 36.1(4)(i) and (j), with violating state laws related to the practice of pharmacy and distribution of prescription medications, including laws related to controlled substances.

B. FACTUAL CIRCUMSTANCES

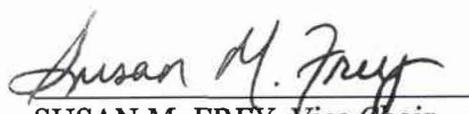
An investigation commenced on or about March 24, 2009, revealed the following:

1. Respondent was employed as a technician by Wal-Mart Pharmacy 1241, 5811 Elmore Avenue, Davenport, Iowa.
2. After video cameras revealed Respondent diverting drugs, Wal-Mart obtained a statement from Respondent in which Respondent admitted diverting vicodin and valium from the pharmacy.
3. Respondent stated that he began stealing drugs in September, 2008, and that the drugs were being re-sold for street value.

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 17th day of August 2009, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


SUSAN M. FREY, Vice Chair
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

VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN REGISTRATION

I, Joseph D. Garcia, a resident of Rock Island, Illinois, 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 14239, 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, Joseph D. Garcia, being affixed to this voluntary surrender document.

I, Joseph D. Garcia, 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 (2007).
- (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, Joseph D. Garcia, 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, Joseph D. Garcia, hereby further acknowledge and agree that I shall not engage in any of the practices or aspects thereof of a pharmacy technician in the State of Iowa for which a registration is required.

9-17-09

Date of signature

Joseph D. Garcia

Joseph D. Garcia

State of Iowa

County: of SCOTT

Signed and sworn to (or affirmed) before me on September 17, 2009
by Joseph D. Garcia. (Date)

Emily B. Wilcher
Signature of Notary Public



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

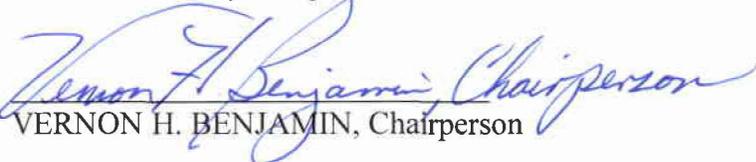
| | | |
|----------------------------------|---|---------------------|
| Re: |) | ORDER |
| Pharmacy Technician Registration |) | ACCEPTING |
| JOSEPH D. GARCIA, |) | SURRENDER OF |
| Registration No. 14239, |) | PHARMACY TECHNICIAN |
| Respondent. |) | REGISTRATION |

COMES NOW Vernon H. Benjamin, Chairperson of the Iowa Board of Pharmacy, on the 18th day of November, 2009, and declares that:

1. On September 17, 2009, Respondent executed a voluntary surrender of his pharmacy technician registration number 14239.
2. On November 18, 2009, the Board reviewed Respondent's voluntary surrender of his 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 his Iowa pharmacy technician registration number 14239 is hereby accepted.


VERNON H. BENJAMIN, Chairperson