

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

| | | |
|---------------------------|---|-----------------------------|
| Re: |) | Case No. 2004-13 |
| Pharmacist License of |) | |
| ROBERT A. GOODLOE, |) | STATEMENT OF CHARGES |
| License No. 16033, |) | |
| Respondent. |) | |

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

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners (hereinafter referred to as the "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 (2003).
3. On November 9, 1981, the Board issued Respondent, Robert A. Goodloe, by reciprocity, a license to engage in the practice of pharmacy as evidenced by license number 16033, 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, 2005.
5. Respondent's current address is 711 Hearthside Drive, Cedar Falls, Iowa 50613.
6. Respondent was employed, at all times material to this statement of charges, as the pharmacist in charge at Hy-Vee Pharmacy 4, 4000 University Avenue, Waterloo, Iowa 50701.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.12(1) (2003) and 657 Iowa Administrative Code § 36.1(4) 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; specifically, failing to discipline a pharmacist who had committed a dispensing error and then attempted to cover up the error.

COUNT II – ENGAGING IN UNPROFESSIONAL CONDUCT

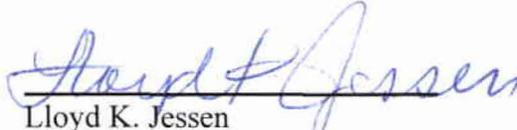
The Respondent is charged with engaging in unprofessional conduct in violation of Iowa Code § 155A.12(1) (2003) and 657 Iowa Administrative Code § 8.11(8) by engaging in loud and verbally abusive behavior, directed at other employees — including his wife and several pharmacy technicians — and customers in his workplace.

B. CIRCUMSTANCES

On or about February 18, 2004, an investigation was commenced which revealed the following:

1. Respondent is the pharmacist-in-charge at the Hy-Vee Pharmacy 4 in Waterloo. Among the other pharmacists employed in the Hy-Vee Pharmacy 4 is Respondent's wife, Joan Farley.
2. Joan Farley mis-filled a prescription for Acyclovir with Acebutolol. The customer took three doses of Acebutolol, a medication to regulate blood pressure. The customer was also taking another medication for regulation of blood pressure.
3. After discovering the dispensing error, Joan Farley called the home of the customer and stated that the manufacturer of Acebutolol had recalled the medication which had been dispensed. Farley left a phone message asking the customer to return the remaining medication to the pharmacy, to be exchanged.
4. When the customer's daughter returned to the pharmacy to exchange the medication, she inquired about medication recalls and was told by Joan Farley that the Acebutolol was the subject of a recall that required immediate return of the medication. The customer's daughter received a new prescription fill, the second consisting of Acyclovir.
5. Subsequently, the customer's daughter compared the information provided with each of the prescription fills and noticed that the medications were different. The customer's daughter believes that Joan Farley attempted to cover up the dispensing error, depriving the customer of an opportunity to consult the customer's physician as to whether ingestion of the incorrect medication posed a health risk.
6. Joan Farley admits that no recall of Acebutolol occurred.
7. Respondent has taken no disciplinary action regarding the Acebutolol dispensing error and the misinformation, provided by Respondent's wife Joan Farley, in response to questions by the customer.
8. Numerous other dispensing errors — three to five per week — have occurred at the same pharmacy, which have been covered up in a similar fashion.
9. Respondent's behavior at the pharmacy has included calling his wife crude names in front of technicians and customers, yelling to store customers regarding their medications — while the customers were in grocery check-out lanes — making racist, sexist and otherwise off-color jokes, and threatening technicians with physical harm.

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 Secretary/Director

On this 7 day of October 2004, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Michael J. Seifert, Chairperson
Iowa Board of Pharmacy Examiners
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

Goodloe-SOC.doc

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

| | | |
|---------------------------|---|----------------------------|
| Re: |) | DIA NO: 04PHB018 |
| |) | CASE NO: 2004-13 |
| Pharmacist License of |) | |
| Robert A. Goodloe, |) | |
| License No. 16033, |) | FINDINGS of FACT, |
| |) | CONCLUSIONS of LAW, |
| Respondent. |) | and ORDER |

On October 7, 2004, the Iowa Board of Pharmacy Examiners (the Board) filed a statement of charges filed against Robert Goodloe (Respondent), a licensed pharmacist. The Board charged Respondent with two violations: 1) failing to discipline a pharmacist who committed a regulatory violation, and 2) engaging in verbally abusive behavior in the workplace.

The case was set for hearing on March 7, 2006. The following Board members were present for the hearing: Katherine Linder, Vernon Benjamin, Michael Seifert, Leman Olson, Paul Abramowitz, and Kathleen Halloran. Jeffrey Farrell, an administrative law judge from the Iowa Department of Inspections and Appeals, assisted the Board. Scott Galenbeck, an Assistant Attorney General, represented the public interest. Attorney Thomas Crabb represented Respondent.

THE RECORD

The state's exhibits B-E were admitted.¹ Jackie Devine and Dennis Dobesh testified on the state's behalf. Respondent testified on his own behalf. Joan Farley also testified.

FINDINGS OF FACT

Dispensing error investigation: Respondent Robert Goodloe was a pharmacist working for Hy-Vee Pharmacy # 4 in Waterloo, Iowa during the time period relevant to this case. His wife, Joan Farley, worked in the same pharmacy. Respondent was the pharmacist-in-charge.

On February 7, 2004, a new customer to the pharmacy (Marilyn Heald) presented Ms. Farley with a prescription for 800 mg of acyclovir. Ms. Farley claimed that she checked the pharmacy inventory by computer. The computer reported that no 800 mg units were available, but there were 400 mg units. Ms. Farley stated that she filled the prescription with the 400 mg units, with an instruction to take two pills as otherwise required by the prescription. (Exhibits C-D; Farley testimony.)

¹ This case was consolidated with another case with common facts. Exhibit A is only relevant to the other case.

On February 8, 2004, Ms. Farley called Ms. Heald. Ms. Farley asked Ms. Heald to return the medication because the pharmacy had received a recall notice from the manufacturer. Ms. Heald's daughter returned the medication and obtained a refill. (Exhibits C-D.)

Ms. Heald's daughter was suspicious after looking at the new medication. She noticed that the first label was for acebutolol, not acyclovir. She also noticed that the appearance of the drugs were dissimilar. The first bottle contained capsules that were two-toned in color. The second bottle contained white tablets. She made complaints with Hy-Vee and the Board. (Exhibit C and D.)

On February 13, 2004, Tom McCreery from Hy-Vee discussed the complaint with Respondent. Mr. McCreery asked Respondent to assist with the internal investigation. Respondent felt uncomfortable with that role because his wife was the alleged wrongdoer. Still, Respondent conducted much of the investigation. (Respondent testimony; Exhibits C-D.)

Respondent discovered the following information during his investigation:

- 1) There was no evidence that the manufacturer issued a recall for acyclovir.
- 2) The first label on the medication bottle listed the contents as 400 mg units of acebutolol.
- 3) The pharmacy inventory showed that it should have 83 units of 400 mg acebutolol. However, there was no acebutolol on the shelf. Ms. Heald's prescription was filled with 70 units. Respondent did not find any alternative explanation for the missing acebutolol.
- 4) The patient's description of the first drug matched acebutolol, not acyclovir. (Exhibit C(F).)

On March 24, 2004, Mr. McCreery issued Ms. Farley an "employee consultation" form. The form directed Ms. Farley to have another pharmacist or manager sign off on any medication return in the future. The document stated that a future violation may result in disciplinary action up to and including termination. (Exhibit C(E).)

Respondent testified that he did not personally discipline Ms. Farley because he had no authority to discipline her. Respondent supervised Ms. Farley, but that higher-ranking officials within the company were responsible for discipline. There is no evidence to the contrary. (Respondent testimony.)

Abusive behavior: During the course of the investigation of Ms. Farley, pharmacy staff reported that Respondent engaged in abusive behavior against other employees.

Respondent was described as rude, abrupt, and hostile. Employees reported that Respondent has used extremely foul language in front of staff and customers. Employees stated that Respondent threatened to kill pharmacy techs. Employees stated that Respondent sometimes reduced pharmacy techs to tears with negative comments, and several quit due to his behavior. Employees reported that Respondent acted out physically on occasion, such as slamming a door or knocking over a display. They stated that Respondent engaged in inappropriate joke-telling, including a racist joke. Staff reported that Hy-Vee forced Respondent to attend anger-management classes after the incident in which he knocked over a display. (Exhibit D.)

Respondent admitted that he has had an anger-management problem. He testified that his anger issues were exacerbated by problems with sleep apnea, which caused him to only sleep three hours per night. Respondent also testified that his daughter had a kidney disease, which caused further stress for the family. (Respondent testimony.)

Respondent acknowledged the occasional use of bad language, although he testified that everyone in the pharmacy used bad language. He stated that he and his wife sometimes used sarcasm to communicate between themselves, but it was not malicious. Respondent admitted to saying a racist joke, but placed it in the context of finishing the joke as started by another person. (Respondent testimony.)

Respondent testified that he terminated employment at Hy-Vee after a pharmacy technician made a sexual harassment complaint against him. Respondent did not specify what he said, but he acknowledged that he said something inappropriate.

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.² 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.³ 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.⁴

Count I – Lack of Professional Competence: The Board has defined professional competency to include a willful departure from, or the failure to conform to, the minimal

² Iowa Code section 155A.2.

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

⁴ Iowa Code sections 155A.12, 155A.18, 272C.3(2).

standard or acceptable and prevailing practice of pharmacy in Iowa.⁵ Count I of the statement of charges alleges that Respondent failed to take proper disciplinary action against his wife after she committed a dispensing error.

The Board does not find sufficient evidence to support the charge in count I. First, there is no evidence that Respondent had the authority to discipline Ms. Farley. Respondent was the pharmacist-in-charge, and he may have directed day-to-day activities. However, there is no evidence that Hy-Vee gave Respondent disciplinary authority over Ms. Farley. In fact, after Hy-Vee completed its investigation into the dispensing error, Tom McCreery issued the written warning to Ms. Farley. Mr. McCreery's warning document supports Respondent's position.

Second, there is no evidence that Respondent failed to abide by acceptable and prevailing practices during Hy-Vee's investigation into the dispensing error. Respondent discovered and reported several facts that were damaging to his wife, including the missing acebutolol and the lack of evidence of a recall. Respondent performed admirably during the investigation, particularly considering that his wife was the subject of the investigation.

Count II – Abusive Behavior: The Board has defined unprofessional conduct and behavior to include verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, and theft.⁶ Count II of the statement of charges alleges that Respondent violated the Board's rule by verbally abusing other pharmacy employees in the workplace.

The Board takes this rule very seriously. The practice of pharmacy is a profession, and the Board expects licensees to conduct themselves in a professional manner. A pharmacist who berates employees or uses abusive or degrading language demeans the profession and undermines the public confidence in pharmacists as a whole.

The Board finds sufficient evidence to support a violation of the rule. Some of the allegations are vague and undefined. The Board is also somewhat concerned that none of the employees who made complaints testified at the hearing. However, Respondent admitted that he had an anger-management problem, admitted some use of foul language, admitted sarcastic comments back and forth between him and his wife, and admitted making a racist joke in the workplace. Respondent also admitted resigning under a cloud of suspicion surrounding a sexual harassment complaint against him in which he said something he should not have said. Respondent's behaviors clearly had a negative impact on employees, some of whom were driven to tears or resignation.

Respondent tried to explain and downplay some of the evidence against him. He testified that other staff members did the same thing, that pharmacy techs were not professional, and that the comments between his wife and he are simply how they

⁵ 657 IAC 36.1(4)(b)(4).

⁶ 657 IAC 8.11(8).

communicate. The Board does not find these explanations acceptable. Respondent, as a licensee, has an independent responsibility to maintain the integrity of the profession. Respondent cannot join in simply because others are doing it. With regard to interplay with his wife, the Board recognizes that two adults can speak to each other in any legal manner they wish while in a private setting. However, they must behave professionally while in the pharmacy setting.

SANCTION

The Board considered mitigating factors in Respondent's favor. He admitted some level of wrongdoing. This shows that he is capable of accepting responsibility for his actions. Respondent claims he has received anger-management counseling, thus indicating a willingness to treat his problem. Some staff members mentioned that Respondent's behavior seemed to improve after he started counseling. Respondent has had surgery to help correct his sleep apnea problem, which in turn has improved his mood.

Notwithstanding the mitigating factors, the Board has some concerns. Respondent admitted to wrongdoing, but often couched his admission by placing blame on other employees and management at Hy-Vee. Respondent resigned from Hy-Vee during a pending sexual harassment investigation, which occurred after the investigation in this case. This leads to questions whether Respondent has made a complete turnaround.

After considering the record as a whole, the Board decided to issue a reprimand and place Respondent on probation for one year. Respondent shall continue counseling during the probation period, as recommended by his health care professionals. Respondent shall provide quarterly reports that document his attendance, prognosis, and treatment. This will allow the Board to ensure that Respondent is continuing progress to manage his anger-management issues.

DECISION AND ORDER

The Iowa Board of Pharmacy Examiners reprimands Respondent Robert A. Goodloe and places his pharmacist license on probation for one year from the date of this Order.

Respondent shall provide written proof of past treatment and counseling for anger management. Such proof shall be submitted to the Board directly from the health care provider(s) who provided the treatment and counseling.

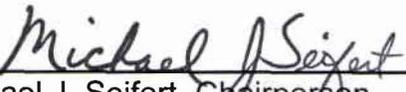
Respondent shall also provide written quarterly reports detailing his continuing anger-management treatment and counseling. The reports shall be directed to the Board's executive secretary at the following address: Iowa Board of Pharmacy Examiners, 400 SW 8th St., Suite E, Des Moines, Iowa 50309-4688. The report shall be filed by the fifth day of June, September, and December of 2006, and the fifth day of March of 2007. Each report shall be completed by Respondent's psychiatrist, psychologist, counselor or therapist; however, Respondent is ultimately responsible to ensure that the report is filed with the Board. Each report shall detail Respondent's diagnosis, treatment plan,

compliance with the treatment plan, and attendance and participation at counseling sessions. The Board authorizes the executive secretary to require additional information if he deems the report to be incomplete.

Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing to the Board at the following address: Iowa Board of Pharmacy Examiners, 400 SW 8th St., Suite E, Des Moines, Iowa 50309-4688. In addition, the executive secretary 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 days of receipt of the bill.

Violation of any of the provisions of this Order may be the subject of additional disciplinary action.

Dated this 25 day of April, 2006.



Michael J. Seifert, Chairperson
Iowa Board of Pharmacy Examiners

cc: Scott Galenbeck, Assistant Attorney General
Thomas Crabb, Respondent's Attorney

Notice

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 BOARD OF PHARMACY STATE OF IOWA

**IN THE MATTER OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER AGAINST**

ROBERT A. GOODLOE, R.Ph., RESPONDENT

2004-13

TERMINATION ORDER

DATE: April 26, 2007

1. On April 25, 2006, a Findings of Fact, Conclusions of Law, and Order was issued by the Iowa Board of Pharmacy placing the license to practice pharmacy, number 16033 issued to Robert A. Goodloe on November 9, 1981, on probation for a period of one year 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 license to practice pharmacy should be terminated.

IT IS HEREBY ORDERED:

That the probation placed upon the Respondent's license to practice pharmacy is terminated, and the license is returned to its full privileges free and clear of all restrictions.

IOWA BOARD OF PHARAMCY



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