

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

Re:)	Case No. 2004-71
Pharmacy Technician Registration of:)	
BENJAMIN HAHN,)	STATEMENT OF CHARGES
Registration No. 825 2,)	
Respondent.)	

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

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners 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. The Board issued Respondent Benjamin Hahn a pharmacy technician registration number 8252, 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 was renewed May 19, 2004.
4. Respondent's technician registration is current and active until June 30, 2005.
5. Respondent's address of record is 4136 Kelling Court, Davenport, Iowa 52806.
6. At all times material to this statement of charges, Respondent was employed as a pharmacy technician at Hy-Vee Drugtown Pharmacy 2, 2200 West Kimberly Road, Davenport, Iowa 52806.

A. CHARGES

COUNT I – VIOLATING LAWS RELATED TO PHARMACY

Respondent is charged pursuant to Iowa Code § 155A.6 (7) (2005), and 657 Iowa Administrative Code § 36.1(4)(i) with violating state laws related to the distribution of controlled substances and prescription drugs, and to his work as a pharmacy technician.

COUNT II -- INABILITY TO PRACTICE DUE TO CHEMICAL ABUSE AND ADDICTION

Respondent is charged with the inability to practice as a pharmacy technician with reasonable skill and safety by reason of chemical abuse and addiction in violation of Iowa Code § 155A.6 (7) (2005) and 657 Iowa Administrative Code §§ 36.1(4)(d) and 36.1(4)(m).

COUNT III – UNLAWFUL POSSESSION OF DRUGS

The Respondent is charged with unlawful possession of prescription drugs and controlled substances in violation of Iowa Code §§ 124.403 (1)(c) and 155A.21 (2005) and 657 Iowa Administrative Code §§ 36.1(4)(h) and 36.1(4)(j); specifically, diversion of prescription drugs and controlled substances from his workplace for his own use.

B. FACTUAL CIRCUMSTANCES

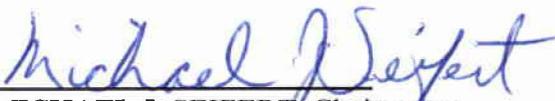
On August 27, 2004 an investigation was commenced which revealed the following:

1. After receiving information regarding possible drug diversion by Respondent, Respondent's employer developed a log to monitor the movement of controlled substances likely to be diverted
2. On July 30, 2004 a bottle containing 100 Hydrocodone tablets was discovered to be missing.
3. On August 3, 2004, Respondent was confronted with the loss of controlled substances, at which time he acknowledged diversion of controlled substances. Respondent estimated that he had diverted approximately 2000 doses of Hydrocodone tablets.
4. Respondent's employer performed a count of Hydrocodone products after discharge of Respondent. The count revealed a total of 1884 Hydrocodone tablets missing. Additionally, Respondent had attempted to divert two Hydrocodone tablets on the morning he was confronted by his employer.
5. During a telephone interview on November 29, 2004, Respondent admitted the diversion of Hydrocodone products to Board investigator Bernard Berntsen.

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 15 day of February 2005, 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 50319

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IOWA PHARMACY EXAMINERS

VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN REGISTRATION

I, Benjamin J. Hahn, a resident of 4571 Sheridan Street, Davenport, Iowa 52806, 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 8252, to the Iowa Board of Pharmacy Examiners, for an indefinite period of time. This surrender of registration shall become effective upon the notarized signature of the registrant, Benjamin J. Hahn, being affixed to this voluntary surrender document.

I, Benjamin J. Hahn, 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 Examiners, 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 Examiners on the matter of my continued registration as a pharmacy technician pursuant to Chapter 155A, Code of Iowa (1999).
- (2) My right to be represented by an attorney in preparation for and during such formal hearing before the Iowa Board of Pharmacy Examiners.
- (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, Benjamin J. Hahn, do hereby acknowledge that pursuant to 657 Iowa Administrative Code section 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 section 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, Benjamin J. Hahn, hereby further acknowledge 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.

3/29/05
Date of signature

Benjamin J. Hahn
Benjamin J. Hahn

State of Iowa
County: of Scott

Signed and sworn to (or affirmed) before me on 3/29/05
Date

By Benjamin J. Hahn.

[Signature]
Signature of Notary Public



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

Re:)
Pharmacy Technician Registration of)
BENJAMIN J. HAHN)
Registration No. 8252)
)

**ORDER
ACCEPTING
SURRENDER OF
PHARMACY TECHNICIAN
REGISTRATION**

COMES NOW, Michael J. Seifert, Chairperson of the Iowa Board of Pharmacy Examiners, on the 20th day of April 2005, and declares that:

1. The Respondent's Iowa pharmacy technician registration number is 8252.
2. Respondent has now decided to relinquish his Iowa pharmacy technician registration.
3. On April 20, 2005, the Board reviewed Respondent's voluntary surrender of his pharmacy technician registration and agreed to accept it.

WHEREFORE, it is hereby ordered that Respondent's voluntary surrender of his Iowa pharmacy technician registration number 8252 is hereby accepted and, pursuant to 657 Iowa Administrative Code § 36.13, said surrender shall be considered a revocation of registration with respect to any future request for reinstatement.

IOWA BOARD OF PHARMACY EXAMINERS



MICHAEL J. SEIFERT, Chairperson