

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2013-72
Certified Technician Registration of)	
)	NOTICE OF HEARING AND
KATELIN HAWKINS)	STATEMENT OF CHARGES
License No. 17214)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges against Katelin Hawkins pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent's Iowa certified technician registration number 17214 is currently active and expires on February 28, 2014.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on November 5, 2013, before the Board. The hearing shall be held during the afternoon session, beginning at 1:00 p.m. and shall be located in the Board conference room located at 400 S.W. 8th Street, Des Moines, Iowa.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge from the Department of Inspections and Appeals make initial rulings on pre-hearing matters, and be present to assist and advise the Board at the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code rule 35.19. At the hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at the hearing. If you need to request an alternative time or date for the hearing, you must comply with the requirements in 657 Iowa Administrative Code rule 35.16. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Meghan Gavin
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Gavin can also be reached by phone at (515) 281-6736 or by e-mail at Meghan.Gavin@iowa.gov.

Communications. You may contact the Board office at (515) 281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. You may not contact individual Board members in any manner, including by phone, letter, or e-mail, regarding this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and the opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 155A, and 272C (2013).

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 147, 155A, and 272C (2013) and under 657 Iowa Administrative Code chapter 36.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 657 Iowa Administrative Code rule 35.21.

C. CHARGES

Count I

ENGAGING IN UNETHICAL BEHAVIOR

Respondent is charged with engaging in unethical behavior, in violation of Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rules 3.28(4), 3.30(1), and 36.1(4)(u).

Count II

FRAUD IN PROCURING A LICENSE/REGISTRATION

Respondent is charged with committing fraud in procuring her certified technician registration by intentionally perverting the truth in violation of Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rules 3.30 and 36.1(4)(a).

D. FACTUAL CIRCUMSTANCES

1. Respondent holds Iowa certified technician license number 17214, which is currently active and expires on February 28, 2014.
2. Respondent was employed as a technician at Nucara Pharmacy #11, 120 E Madison, Washington, Iowa 52317.
3. On October 11, 2012 Respondent was charged with dependent adult abuse—exploitation. She pled guilty on November 5, 2012.
4. Respondent did not report this conviction to Nucara.

5. Respondent did not report her arrest and/or conviction to the Board on her November 7, 2012 certified technician registration application. Instead, Respondent answered "NO" to question 8, which asked, "Have you ever been charged, convicted, found guilty, or entered a plea of guilty or no contest to a felony or misdemeanor crime (*other than minor traffic violations with fines under \$100*)?"

6. On April 12, 2013, Respondent admitted to using another employee's credit card for an unauthorized purchase while at work.

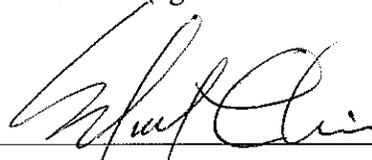
7. On April 22, 2013, Respondent was charged with unauthorized use of a credit card. Respondent pled guilty to the charge on July 23, 2013.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 Iowa Administrative Code rule 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Meghan Gavin at (515) 281-6736.

F. FINDING OF PROBABLE CAUSE

On this 28th day of August, 2013, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



EDWARD MAIER, Chairperson
Iowa Board of Pharmacy
400 SW Eight Street, Suite E
Des Moines, Iowa 50309-4688

cc: Laura Cathelyn
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

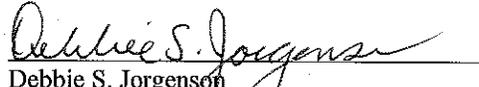
PROOF OF SERVICE

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 type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile |
| Article Number <u>9171999991703104136827</u> | <input type="checkbox"/> other _____ |

on the 29th day of August, 2013.

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
OF THE STATE OF IOWA

Re: Certified Technician Registration of)	CASE NO: 2013-72
)	DIA NO: 13PHB050
Katelin Hawkins)	
Registration No. 17214)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent.)	and ORDER

This matter concerns a statement of charges filed by the Iowa Board of Pharmacy (the Board) against respondent Katelin Hawkins on August 28, 2013. Respondent is a certified registered pharmacy technician. She was charged with two counts: 1) unethical behavior, and 2) committing fraud in procuring her certified technician registration by intentionally perverting the truth.

The case was set for hearing before the Board on November 5, 2013. A quorum of the Board was present. Jeffrey Farrell, an administrative law judge from the Iowa Department of Inspections and Appeals, assisted the board. Laura Cathelyn, an assistant attorney general, represented the public interest. Respondent did not appear.

THE RECORD

The State's exhibits 1-8 were admitted. The State called Curt Gerhold as a witness.

FINDINGS OF FACT

On November 7, 2012, respondent Katelin Hawkins filed an application for certified pharmacy technician registration with the Board. The application was signed and dated November 1, 2012. The application contained the following question:

Have you ever been charged, convicted, found guilty of, or entered a plea of guilty or no contest to a felony or misdemeanor crime (other than minor traffic violations with fines under \$100)? (emphasis in text).

Respondent answered the question by checking the "no" box. The Board approved the application and granted her a certificate of registration. (Exhibits 5-6).

On April 18, 2013, the Board received a complaint from Samantha Peterson, a pharmacist in charge at Nucara Pharmacy in Washington, Iowa. The complaint alleged that respondent stole a credit card from a co-worker and purchased a subscription to an on-

line dating service during work hours. The co-worker had left her credit card on top of her purse in the work area. She later discovered that her balance was not correct, so she called the credit card company. The company reported that the dating service subscription was purchased approximately four hours earlier in respondent's name. (Exhibit 3; Gerhold testimony).

Ms. Peterson followed up the following day by checking the office computer. She found that the history on the web browser showed the dating service present. The matter was referred to law enforcement for a theft investigation. The assigned criminal investigator reported to the Board's investigator (Curt Gerhold) that he had interviewed respondent, and she admitted to using the credit card to purchase an on-line dating service. (Exhibit 3; Gerhold testimony).

While talking to the police investigator, the Board's investigator learned that respondent had a prior criminal record for fraudulently cashing a disabled client's Social Security checks while working for System's Unlimited. She was charged on October 17, 2012. She was sentenced on November 5, 2012, to a seven day deferred sentence, six month probation, and restitution of the amount stolen. (Exhibit 3; Gerhold testimony).

Mr. Gerhold tried to talk to respondent during the investigation. He called her on May 6, 2013, and she stated she could not talk at that time and would call him back. She did not call back. On May 7, Mr. Gerhold stopped by respondent's residence, but no one answered the door. He tried to call again on May 7 and May 8, but she did not answer on either occasion. (Exhibit 3; Gerhold testimony).

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.¹ The board regulates the area, in part, through the licensing of pharmacies, pharmacists, and others engaged in the sale, deliver, or distribution of prescription drugs and devices. A pharmacy technician is defined as a person registered by the board who is employed by a pharmacy under the responsibility of a licensed pharmacist to assist in the technical functions of the practice.²

Count I – Unethical Behavior: The board may impose discipline if a pharmacy technician engages in unethical behavior in connection with the technician's pharmacy employment.³ Unethical behavior is defined to include theft.

¹ Iowa Code section 155A.2.

² Iowa Code section 155A.3(29).

³ 657 IAC 3.28(4).

Respondent committed a theft in connection with her employment. She stole a co-employee's credit card and used it to buy a subscription to a dating service. She made the purchase during work time on a work computer. She did not appear at the hearing to dispute the evidence submitted by the State. The charge is supported by the evidence.

Count II – Fraud in Procuring a Registration: The board may impose discipline if a registrant engages in fraud to procure a license.⁴ Fraud includes false representations of a material fact.

At the time respondent completed her Board application, she was faced with a question whether she had ever been charged, convicted, found guilty of, or entered a guilty plea of a crime other than a minor traffic offense. She answered “no.” The evidence shows that she was charged with a criminal offense of dependent adult abuse on October 17, 2012. She signed and dated her application form November 1, 2012, just 14 days later. She had been charged with a criminal offense at the time she signed the application. It is irrelevant that the conviction was entered after the application was signed, because the application clearly asks about charges as well.

Respondent misrepresentation was certainly material to the application, for reasons discussed in Count I. The Board's regulations prohibit theft in connection with pharmacy employment. Respondent's dependent adult abuse charge was also based on a theft occurring in employment. While that charge did not concern pharmacy employment, it is even more concerning because it involved her taking advantage of a client who was a disabled adult. The Board would certainly have evaluated the crime before determining whether to grant respondent's application, if respondent had reported the charge as required on the application form.

SANCTION

The board may deny, suspend, or revoke a pharmacy technician registration for any violation of the laws of a state or the federal government relating to prescription drugs, or any violation of several listed statutes or the board's regulations.⁵ In this case, respondent committed two serious offenses. The offenses are related in the sense that both criminal acts involve thefts occurring in employment. Further, respondent lied on her application form when asked about the first criminal charge. Respondent did not appear before the Board to plead her case or dispute the facts. Under these circumstances, there are no reasonable grounds for the Board to allow respondent to continue to work as a certified pharmacy technician.

⁴ 657 IAC 36.1(4)(a) (applied to pharmacy technicians through 657 IAC 3.30(1)).

⁵ Iowa Code section 155A.6(7).

DECISION AND ORDER

The Iowa Board of Pharmacy Examiners indefinitely suspends the pharmacy technician registration held by Katelin Hawkins, registration no. 17214, effective immediately. Respondent shall immediately return her pharmacy technician registration to the Iowa Board of Pharmacy Examiners, 400 SW 8th St., Suite E, Des Moines, Iowa 50309-4688.

Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive secretary/director 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.

Dated this 14th day of January, 2014.



Edward Maier, Chairperson
Iowa Board of Pharmacy

cc: Laura Cathelyn, Assistant Attorney General

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.