

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2010-147
Pharmacist License of)	
DIANE L. HILLIARD	)	STATEMENT OF CHARGES
License No. 21016,)	
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter, "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 (2009).
3. On June 22, 2009, the Board issued Diane L. Hilliard ("Respondent"), after examination, a license to engage in the practice of pharmacy as evidenced by license number 21016, 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, 2011.
5. Respondent's most recent address of record is 4402 152nd Street, Urbandale, Iowa 50023.
6. At all times material to this statement of charges, Respondent was employed as a pharmacist at Hy-Vee Pharmacy #4, 4605 Fleur Drive, Des Moines, Iowa 50321.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged with a lack of professional competency as demonstrated by willful and repeated departures 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, among other things, Respondent's diversion of controlled substances, in violation of Iowa Code § 155A.12(1) (2009) and 657 Iowa Administrative Code § 36.1(4)(b).

COUNT II – INABILITY TO PRACTICE DUE TO CHEMICAL ABUSE

Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of chemical abuse in violation of Iowa Code § 155A.12(1) (2009) and 657 Iowa Administrative Code §§ 36.1(4)(d) and 36.1(4)(m).

COUNT III – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

Respondent is charged with unlawful possession and use of prescription drugs in violation of Iowa Code §§ 155A.12(1), 155A.21 and 155A.23(11) (2009), and 657 Iowa Administrative Code §§ 36.1(4)(j) and 36.1(4)(u).

COUNT IV – ILLEGAL DISTRIBUTION OF DRUGS

Respondent is charged with distribution of drugs for other than lawful purposes in violation of Iowa Code §§ 155A.12(1) and 155A.23(17) (2009), and 657 Iowa Administrative Code § 36.1(4)(h), specifically, diversion and distribution of drugs to herself in the absence of a prescription.

COUNT V – VIOLATION OF CONTROLLED SUBSTANCES LAW

Respondent is charged with violating laws relating to controlled substances in violation of Iowa Code §§ 124.403(c) and 155A.12(5) (2009), and 657 Iowa Administrative Code §§ 36.1(4)(h) and 36.1(4)(j).

COUNT VI – WILLFULLY MAKING FALSE STATEMENT

Respondent is charged with willfully making false statements in connection with prescriptions and records required by Iowa Code chapter 155A (2009) in violation of Iowa Code §§ 155A.12(1), 155A.23(2) and 155A.23(16) (2009), and 657 Iowa Administrative Code §§ 36.1(4)(j) and 36.1(4)(ac), by falsifying prescription records and insurance claims related to the purchase of hydrocodone.

B. CIRCUMSTANCES

An investigation was commenced November 30, 2010, which revealed the following:

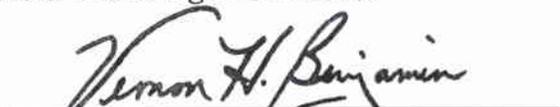
1. At all times material to this statement of charges, Respondent was employed as a pharmacist at Hy-Vee Pharmacy #4, 4605 Fleur Drive, Des Moines, Iowa 50321.
2. On November 28, 2010, Respondent was not working but came into the pharmacy, wrote a telephone prescription for herself for hydrocodone, processed it in the computer, ran it through her insurance, filled it, purchased it, and left.

3. Respondent's physician was contacted the following morning and he denied authorizing the hydrocodone prescription which Respondent prepared for herself on November 28, 2010.
4. On November 29, 2010, Respondent met with the store manager and a Hy-Vee safety and security officer and admitted, in a signed statement, to diverting approximately 350 hydrocodone tablets over the prior two months.
5. A December 1, 2010 audit of hydrocodone sales and inventory at the Hy-Vee #4 revealed a shortage of 622 tablets.
6. Respondent worked as a floater pharmacist at a Hy-Vee pharmacy in Ankeny on November 27, 2010. Respondent left a note in the pharmacy that the hydrocodone inventory was short 180 tablets. An audit of the hydrocodone sales and inventory was conducted on December 2, 2010, and the pharmacy was short 262 hydrocodone/APAP 7.5/500mg. tablets.

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 7th day of December 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

Hilliard SOC 12-10

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2010-147
Pharmacist License of)	
DIANE L. HILLIARD	)	EMERGENCY ORDER
License No. 21016,)	
Respondent.)	

I. JURISDICTION

The Iowa Board of Pharmacy (hereinafter, "Board") has jurisdiction over pharmacy licensees pursuant to Iowa Code Chapters 155A and 272C (2009). Diane L. Hilliard (hereinafter, "Respondent") possesses pharmacist license number 21016 issued by the Board. A Statement of Charges was filed against Respondent on December 7th, 2010. After receipt and review of the Statement of Charges, and careful review of evidence relating to the Statement of Charges, the Board has adopted the following Findings of Fact, Conclusions of Law and Emergency Order.

II. FINDINGS OF FACT

1. On June 22, 2009, the Board issued Respondent a license to engage in the practice of pharmacy as evidenced by license number 21016, subject to the laws of the State of Iowa and the rules of the Board.
2. Respondent was, at all material times, employed as a pharmacist at Hy-Vee Pharmacies in Ankeny and Des Moines, Iowa.
3. On or about November 30, 2010, an investigation was commenced which revealed the following:
 - a. Respondent was employed as a pharmacist at Hy-Vee Pharmacy #4, 4605 Fleur Drive, Des Moines, Iowa 50321 through November 28, 2010.

- b. On November 28, 2010, Respondent was not working but came into the pharmacy, wrote a telephone prescription for herself for hydrocodone, processed it in the computer, ran it through her insurance, filled it, purchased it, and left.
 - c. Respondent's physician was contacted the following morning and he denied authorizing the hydrocodone prescription which Respondent prepared for herself on November 28, 2010.
 - d. On November 29, 2010, Respondent met with the store manager and a Hy-Vee safety and security officer and, in a signed statement, admitted diverting approximately 350 hydrocodone tablets from Hy-Vee over the prior two months.
 - e. A December 1, 2010 audit of hydrocodone sales and inventory at the Hy-Vee #4 revealed a shortage of 622 tablets.
 - f. Respondent worked as a floater pharmacist at a Hy-Vee pharmacy in Ankeny on November 27, 2010. Respondent left a note in the pharmacy that the hydrocodone inventory was short 180 tablets. An audit of hydrocodone sales and inventory was conducted on December 2, 2010, and the pharmacy was short 262 hydrocodone/APAP 7.5/500mg. tablets.
4. The Board finds that the evidence assembled during the investigation of Respondent supports the December 7th, 2010 Statement of Charges against Respondent. The Board also finds that Respondent has (a) repeatedly diverted controlled substances in the manner alleged in the Statement of Charges, both in violation of the provisions of Iowa Code Chapter 155A (2009) and the provisions of the Iowa Administrative Code and (b) personally used the diverted controlled substances in support of a hydrocodone addiction.

5. The Board finds that Respondent is an immediate danger to the public health, safety and welfare for the following reasons:
 - a. Respondent has acknowledged her diversion of hydrocodone from Hy-Vee.
 - b. Respondent appears to have repeatedly stolen hydrocodone from her places of employment—and most recently falsified a prescription record in an attempt to conceal an apparent hydrocodone addiction.
 - c. Respondent's likely addiction and consistent use of hydrocodone has resulted in a diminished ability to practice responsibly as a pharmacist. At the very least, Respondent has falsified prescription records in her search for a supply of hydrocodone.
6. The Board finds that immediate, emergency action must be taken for the reason that if Respondent is allowed to continue to work as a pharmacist, the public health, safety and welfare will be threatened by her physical condition and impairment, and her likely neglect of pharmacist responsibilities due to heavy, unauthorized hydrocodone use. Respondent's presence in a pharmacy would likely result in further theft of hydrocodone, or falsification of inventory records or prescription records. Given these facts, the Board must act in the interest of the public to suspend Respondent's license to practice pharmacy until her condition is evaluated.
7. The Board finds that the minimum emergency action needed to protect the public health, safety and welfare is as follows:
 - a. Immediate suspension of Respondent's pharmacist license.

- b. Issuance of an order directing that Respondent's license shall remain suspended until satisfactory evidence of Respondent's ability to resume the practice of pharmacy has been provided to the Board.

III. CONCLUSIONS OF LAW

1. Respondent's diversion of hydrocodone, likely impairment, falsification of pharmacy records, neglect of pharmacist responsibilities, and other violations of Iowa Code chapter 155A (2009) and the Iowa Administrative Code, establish that Respondent is not working safely as a pharmacist.
2. The provisions of Iowa Code § 17A.18A (2009) permit the Iowa Board of Pharmacy to take emergency action to protect the health, safety and welfare of the public. A basis for emergency action against Respondent, pursuant to the provisions of the Iowa Code and the Iowa Administrative Code, has been established by the findings of fact adopted above.

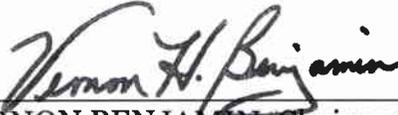
IV. EMERGENCY ORDER

The Board ORDERS as follows:

- a. Pursuant to Iowa Code § 17A.18A, chapter 155A (2009) and 657 Iowa Administrative Code § 36.1(4)(b), the pharmacist license of Diane L. Hilliard is suspended indefinitely. This suspension is effective immediately upon issuance of this order.
- b. Respondent shall be notified of this order as provided in 657 Iowa Administrative Code 35.30(2).

- c. A hearing regarding this Emergency Adjudicative Order and the Statement of Charges against Respondent shall be held on January ¹² 3, 2010. The hearing will commence at 9:00 A.M. and be held at the office of the Iowa Board of Pharmacy, 400 Southwest 8th Street, Suite E, Des Moines, Iowa 50309.

DATED this 7th day of December 2010.



VERNON 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 50319

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BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2010-147
Pharmacist License of)	
DIANE L. HILLIARD	)	STIPULATION
License No. 21016	)	AND
Respondent	)	CONSENT ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Board of Pharmacy (hereinafter, “Board”) and Diane L. Hilliard (hereinafter, “Respondent”), enter into the following Stipulation and Consent Order settling a licensee disciplinary proceeding currently pending before the Board.

Allegations contained in a Statement of Charges against Respondent shall be resolved without proceeding to hearing, as the Board and Respondent stipulate as follows:

1. Respondent was issued a license to practice pharmacy in Iowa on June 22, 2009, following examination, as evidenced by Pharmacist License Number 21016, which is recorded in the permanent records of the Board.
2. The Iowa Pharmacist License issued to and held by Respondent is active and current until June 30, 2011.
3. Respondent was, at all times material to the Statement of Charges, employed as a pharmacist at Hy-Vee Pharmacy #4, 4605 Fleur Drive, Des Moines, Iowa 50321.
4. A Statement of Charges was filed against Respondent by the Board on December 7, 2010.
5. The Board has jurisdiction over the parties and jurisdiction over the subject matter of these proceedings.

6. Respondent has chosen not to contest the allegations set forth in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline described herein.

7. On the date of the Board's approval of this Stipulation and Consent Order, Respondent's license shall be suspended indefinitely. Suspension of Respondent's license may be terminated only at such time as Respondent:

a. Obtains a complete physical and mental health evaluation – including a substance abuse evaluation – from a physician/treatment provider approved in advance by the Board.

b. Delivers to the Board a written, fully documented and current physical and mental health evaluation -- including a substance abuse evaluation -- of Respondent which concludes that Respondent is mentally and physically fit to practice pharmacy. Any conclusion that the Respondent is fit to return to *the practice of pharmacy* will include an assessment of Respondent's ability to cope with the presence of controlled substances in the pharmacy setting.

c. Permits the Board complete access to Respondent's medical records, including records of substance abuse evaluation and treatment.

8. At such time as Respondent is able to deliver to the Board a written, fully documented and current physical and mental health evaluation, including a substance abuse evaluation, which concludes that Respondent is mentally and physically fit to *practice pharmacy*, Respondent may petition the Board for (a) termination of the suspension of Respondent's license and (b) commencement of a period of probation.

9. In the event the Board determines that Respondent's license suspension should be terminated, Respondent's license to practice pharmacy shall be placed on probation on terms which shall include, but not be limited to, the following:

- a. Respondent agrees to comply with the terms of probation.
- b. The period of probation shall be five (5) years provided, however, that only those time periods during which Respondent is employed as a pharmacist shall count toward exhaustion of the probationary term.
- c. Respondent shall inform the Board, in writing, of any change of home address, place of employment, home telephone number, or work telephone number, within ten (10) days of such a change.
- d. Respondent shall report to the Board quarterly, in writing. The report shall include Respondent's place of employment, current address, *Respondent's most recent efforts to implement the provisions of this Stipulation and Consent Order, by date*, and any further information deemed necessary by the Board from time to time.
- e. Respondent shall notify all employers and prospective employers (no later than at the time of an employment interview), including any pharmacist-in-charge, of the resolution of this case and the terms, conditions and restrictions imposed on Respondent by this Stipulation and Consent Order.
- f. Within thirty (30) days after approval of this Stipulation and Consent Order by the Board, and within fifteen (15) days of undertaking new employment as a pharmacist, Respondent shall cause her pharmacy employer, and any

pharmacist-in-charge she works under, to report to the Board in writing acknowledging that the employer and the pharmacist-in-charge have read this document and understand it.

g. During the first six (6) months of employment during Probation, Respondent shall not work more than 20 hours per week. Following successful completion of six months of employment, Respondent may request permission from the Board to work additional hours per week.

h. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing her performance as a pharmacist during Respondent's probationary period. Respondent shall be given reasonable notice of the date, time, and place for the appearances.

i. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.

j. Respondent shall not possess or use any controlled substance or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for Respondent by a licensed, treating physician or other qualified treating health care provider. Respondent shall inform any treating physician or other treating health care provider of her medical history, including any history of chemical dependency.

k. Respondent shall provide witnessed blood, hair or urine specimens on demand by the Board or its agents. The specimens shall be used for alcohol and drug screening, and to verify Respondent's compliance with this Stipulation and

Consent Order and any drug therapy ordered by Respondent's physician or treatment provider. All costs related to the analysis of such specimens shall be paid by Respondent.

l. To facilitate performance of the preceding paragraph, Respondent shall report to and provide a specimen to any healthcare provider specified by the Board – said healthcare provider to be located in reasonable proximity to Respondent – within 24 hours after notice from the Board requesting that Respondent provide a specimen. Respondent agrees to cooperate with the Board in establishing a specimen testing program through FirstLab, and hereby consents to disclosure to the Board, by FirstLab or any other testing facility, of all medical information, including test results, generated by Respondent's contact with the facility.

m. Respondent shall promptly provide, upon request of an agent of the Board, copies of or access to all her medical records.

n. If, as a result of the physical and mental health examinations of Respondent, Respondent's physician/treatment provider recommends a substance abuse treatment program, Respondent shall comply with such recommendations. In the event Respondent is participating in a substance abuse treatment program, Respondent's physician/treatment provider shall submit quarterly reports to the Board documenting Respondent's compliance with the treatment program.

o. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.

p. Such other reasonable terms as the Board may wish to impose as a result

of (i) findings that Respondent is chemically dependant, (ii) the length of time Respondent's license is suspended pursuant to paragraph 8 above or (iii) the amount or nature of chemical dependency treatment Respondent must participate in as directed by her physician/treatment provider. If Respondent is found to be chemically dependent, Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program, under the direct support of a pharmacist advocate.

10. Should Respondent violate or fail to comply with any of the terms and conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2009) and 657 IAC 36.

11. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent Order.

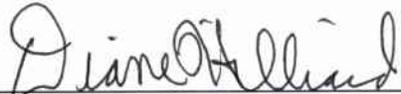
12. The State's legal counsel may present this Stipulation and Consent Order to the Board.

13. This Stipulation and Consent Order is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

14. The Board's approval of this Stipulation and Consent Order shall constitute a

FINAL ORDER of the Board.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 17 day of January 2011.



DIANE L. HILLIARD, R.Ph.
Respondent

Subscribed and sworn to before me by Diane L. Hilliard on this 17th day of January 2011.





NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 8th day of March 2011.



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
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

Matthew Boles
Attorney
2910 Grand Avenue
Des Moines, IA 50312

BEFORE THE IOWA BOARD OF PHARMACY

RE:	)	CASE NO: 2010-147
Pharmacist License of	)	DIA NO: 11PHB027
)	
DIANE L. HILLIARD	)	FINDINGS OF FACT,
License No. 21016	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

On November 9, 2011, a hearing was held before the Iowa Board of Pharmacy (Board) on the Application for Reinstatement filed by Diane L. Hilliard (Respondent). The following members of the Board presided at the hearing: Susan Frey, Chairperson; Edward Maier; Mark Anliker; LaDonna Gratias; and Margaret Whitworth. Respondent appeared and was represented by attorney Matt Boles. Assistant Attorney General Scott Galenbeck represented the state. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was open to the public at the election of Respondent, pursuant to Iowa Code section 272C.6(1)(2011) and 657 IAC 36.13(3), and was recorded by a certified court reporter. After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The administrative law judge was instructed to prepare the written decision for Board approval, in conformance with the Board's deliberations.

THE RECORD

The record includes the Notice of Hearing; testimony of Respondent; and State Exhibits 1-4 (See Exhibit Index for description) and Respondent Exhibits B-D.

FINDINGS OF FACT

1. On June 22, 2009, the Board issued Respondent license number 21016 to engage in the practice of pharmacy, subject to the laws of the state of Iowa and the rules of the Board. (Exhibit 1; Respondent testimony)
2. On December 7, 2010, the Board filed a Statement of Charges and an Emergency Order based its investigation of Respondent's diversion of narcotics while employed as a pharmacist at a Hy-Vee pharmacy in Des Moines, Iowa. The investigation revealed that Respondent had admitted diverting 350 hydrocodone tablets from the pharmacy in the previous two months. A December 1, 2010 pharmacy audit revealed a shortage of

622 tablets. In addition, Respondent worked as a floater pharmacist at another Hy-Vee pharmacy in Ankeny. After Respondent reported that the Ankeny pharmacy's hydrocodone inventory was short 180 tablets, a subsequent inventory revealed that the pharmacy was actually short 262 hydrocodone tablets. Respondent's pharmacist license was immediately suspended. (Exhibits 1, 2)

3. On January 17, 2011, Respondent and the Board entered into a Stipulation and Consent Order to resolve the Statement of Charges and Emergency Order without proceeding to hearing. Pursuant to the Stipulation and Consent Order, Respondent's license was indefinitely suspended. Prior to reinstatement, Respondent was required to:

a. Obtain a complete, current physical and mental health evaluation, including a substance abuse evaluation, from a Board approved physician/treatment provider.

b. Deliver to the Board a written, fully documented and current physical and mental health evaluation – including substance abuse evaluation – concluding that she is mentally and physically fit to practice pharmacy and including an assessment of whether she is able to cope with the presence of controlled substances in the pharmacy setting.

c. Permit the Board complete access to her medical records and records of evaluation and treatment.

(Exhibit 3; Respondent testimony)

4. At her reinstatement hearing, Respondent testified concerning the circumstances that led to the emergency suspension of her license. She also provided testimony and documentation of her substance abuse assessment and treatment.

a. Respondent has suffered from migraine headaches since high school. The cause of the migraines is undetermined. However in May 2010, Respondent was erroneously diagnosed with multiple sclerosis (MS) following an MRI. She became very upset and her migraines worsened. She was also under stress because she was taking on too much responsibility at work. Respondent's treating physician agreed to prescribe Percocet for the pain, and Respondent admits she became dependent on it.

After awhile, Respondent stopped seeing her physician and started diverting hydrocodone from the Hy-Vee pharmacies where she was working. When the diversion was discovered, Respondent was criminally charged with drug possession and theft. Respondent admitted responsibility for all of the missing hydrocodone, and the court granted her a deferred judgment.

b. On December 2, 2010, Respondent was assessed at Alternative Interventions, LLC and met the criteria for referral for substance abuse services. After some individual counseling at Alternative Interventions, Respondent was admitted for 2½ weeks of intensive outpatient treatment at Powell Chemical Dependency Center. Following treatment, Respondent has been participating in weekly professional group therapy and a weekly Caduceus group for medical professionals. She has also been attending weekly Alcoholics Anonymous (AA) meetings. (Respondent testimony; Exhibits B, C, D)

c. The medical director for Powell CDC has reported that Respondent is mentally and physically fit to return to the practice of pharmacy. He is convinced that she will be able to cope with the presence of controlled substances in the pharmacy setting. (Exhibit D)

d. The licensed facilitator for the professionals' group has reported that Respondent's likelihood of maintaining long term abstinence is very good if she continues to demonstrate a willingness to make appropriate behavior and cognitive changes. (Exhibit C)

5. Respondent reports that she is currently taking a non-narcotic medication to control her migraines, which are only occurring about once a week. She has discovered that she can also obtain pain relief from activities like taking a bath, exercise, and playing with her dog. She believes that she will be able to control any additional migraine pain with ibuprofen. (Respondent testimony)

6. If her license is reinstated, Respondent's employment options will be limited because she is currently on the exclusion list published by the Officer of Inspector General. Unless her name is removed from the list or she receives special permission to serve an underserved population, Respondent will be unable to bill for services under federally insured programs like Medicare, Medicaid, and TriCare. Respondent agrees

that if she returns to the practice of pharmacy, she should begin with part-time employment. (Respondent testimony)

CONCLUSIONS OF LAW

657 Iowa Administrative Code 36.13 provides, in relevant part:

657-36.13(17A,124B,147,155A,272C) Reinstatement. Any person whose license to practice pharmacy . . . has been revoked or suspended shall meet the following eligibility requirements for reinstatement:

36.13(1) Prerequisites. The individual shall satisfy all 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 or conditions upon which reinstatement might occur, or if the license . . . 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.

. . . .

36.13(3) Proceedings. The respondent shall initiate all proceedings for reinstatement by filing with the board an application for reinstatement of the license . . . 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

36.13(4) Burden of Proof. 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 . . . to be reinstated. The burden of proof to establish such facts shall be on the respondent.

36.13(5) Order. An order for reinstatement shall be based upon a decision that incorporates findings of fact 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.

The Board's rules establish a heavy burden on persons seeking reinstatement of a revoked or suspended license. The person seeking reinstatement must present persuasive evidence that they have fully addressed the problems leading to the loss of their license and that it is in the public interest for the license to be reinstated. The preponderance of the evidence in this record established that Respondent has sufficiently addressed the issues that led to her license suspension and that it is in the public interest for her license to be reinstated, subject to terms of probation. Respondent has now fully complied with the requirements established in the Stipulation and Consent Order. The Board was persuaded that Respondent is currently capable of practicing pharmacy in a competent and ethical manner, so long as her practice is monitored through the terms and conditions of probation established in this Reinstatement Order.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the application for reinstatement filed by Respondent Diane Hilliard is hereby GRANTED. IT IS FURTHER ORDERED that pharmacist license no. 21016 shall immediately be placed on PROBATION for a term of five (5) years. Periods when Respondent is not employed as a pharmacist shall not count toward satisfaction of the five-year probationary period.

IT IS FURTHER ORDERED that Respondent's five-year probation will be subject to the following terms and conditions:

A. Respondent shall continue in aftercare through her professionals group and Caduceus group unless she is discharged and the group facilitator has provided a written discharge summary to the Board. Respondent shall ensure that the facilitators of these groups provide the Board with written quarterly reports concerning her compliance and progress no later than March 5, June 5, September 5, and December 5 of each year of Respondent's probation.

B. Respondent shall also continue regular weekly attendance at Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) and shall provide documentation of attendance in her quarterly reports to the Board.

- C. During probation, Respondent shall inform the Board in writing within ten (10) days of any change of home address, employment status, place of employment, home telephone number or work telephone number.
- D. Respondent shall file written, sworn quarterly reports with the Board attesting to her compliance with all the terms and conditions of her probation. The reports shall be filed no later than March 5, June 5, September 5, and December 5 of each year of Respondent's probation. The quarterly reports shall include Respondent's current place of employment, home address, home telephone number or work telephone number, Respondent's most recent efforts to comply with the provisions of this Reinstatement Order, and any further information deemed necessary by the Board from time to time.
- E. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
- F. Respondent shall not own or manage a pharmacy, nor serve as the pharmacist in charge of a pharmacy.
- G. Respondent shall limit her work week to not more than twenty (20) hours for the first six months of employment as a pharmacist.
- H. Respondent shall notify all prospective pharmacy or pharmacy-related employers, including any pharmacist-in-charge, of the terms, conditions, and restrictions imposed on Respondent by this Reinstatement Order. Notification shall be made no later than the time of interview. Within thirty (30) days after commencement of the probationary period and within fifteen (15) days of undertaking new employment as a pharmacist or in a pharmacy-related business, Respondent shall cause her pharmacy employer, and any pharmacist-in-charge that she reports to, to report to the Board in writing, acknowledging that the pharmacy employer and pharmacist-in-charge have read this document and understand it.
- I. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.

J. Respondent shall not use any controlled substances or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for her by a licensed, treating physician or other qualified health care provider. Respondent shall inform any treating physician or other treating health care provider of her medical and substance abuse history, including her history of drug diversion.

K. Respondent shall provide witnessed blood, hair or urine specimens on demand by the Board or its agents. The specimens shall be used for alcohol and drug screening, and to verify Respondent's compliance with this Reinstatement Order of the Board and with any drug therapy ordered by Respondent's physician or treatment provider. All costs related to the analysis of such specimens shall be paid by Respondent.

L. To facilitate performance of the preceding paragraph, Respondent shall report to and provide a specimen to any healthcare provider specified by the Board-said healthcare provider to be located in reasonable proximity to Respondent-within 24 hours after notice from the Board requesting that Respondent provide a specimen. Respondent agrees to cooperate with the Board in establishing a specimen testing program through FirstLab, and hereby consents to disclosure to the Board, by FirstLab or any other testing facility, of all medical information, including test results, generated by Respondent's contact with the facility.

M. Respondent shall promptly provide, upon request from an agent of the Board, copies of or access to all of her medical records.

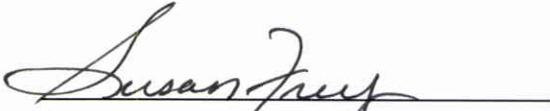
N. Respondent shall appear informally before the Board or a Board committee upon request for the purpose of reviewing her performance as a pharmacist during her probationary period. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.

O. Should Respondent violate or fail to comply with any of the terms or conditions of probation, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.

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Dated this 19th day of January, 2012.

A handwritten signature in cursive script, appearing to read "Susan Frey", written over a horizontal line.

Susan Frey, Chairperson
Iowa Board of Pharmacy

cc: Scott Galenbeck, Assistant Attorney General
Matt Boles, Respondent's Attorney

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.