

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2015-201
Certified Technician Registration of)	
)	NOTICE OF HEARING AND
COURTNEY HOUSE)	STATEMENT OF CHARGES
Registration No. 16152)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Courtney House ("Respondent"), 105 Lake St., Hedrick, IA 52563, pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 272C.3(1)"e", and 657 IAC 35.5 and 36.5. Respondent's Iowa certified technician registration number 16142 is currently delinquent, having expired January 1, 2016.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on May 3, 2016, before the Board. The hearing shall be held during the morning session beginning at 9:00 a.m. and shall be located in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges, you may file an Answer pursuant to 657 IAC 35.11. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Pharmacy, 400 S.W. 8th Street, Suite E, Des Moines, Iowa, 50309-4688.

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 prehearing matters, and be present to assist and advise the Board at hearing.

Pre-hearing Conference. Any party may request a prehearing conference in accordance with 657 IAC 35.15 to discuss issues related to the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 IAC 35. 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 IAC 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:

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

Ms. Steffensmeier can also be reached by phone at (515) 281-6690 or by e-mail at laura.steffensmeier@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 17A, 147, 155A, and 272C (2015).

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, and 657 IAC 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 IAC 35.21.

C. CHARGES

COUNT I DIVERSION OF DRUGS

Respondent is charged with diverting prescription drugs from a pharmacy for personal use or for distribution, pursuant to Iowa Code sections 147.55(9) and 155A.6A(5), and 657 IAC 36.1(4)"ak".

COUNT II UNETHICAL BEHAVIOR—THEFT

Respondent is charged with engaging in unethical behavior—theft in violation of 657 IAC 3.28(4), pursuant to Iowa Code sections 147.55(9) and 155A.6A(5), and 657 IAC 3.30, 36.1(4)"c", and "u".

D. FACTUAL CIRCUMSTANCES

1. In 2015, while working as a pharmacy technician, Respondent diverted approximately 1,000 tablets of alprazolam and clonazepam.
2. In 2015, while working as a pharmacy technician, Respondent took approximately \$5,000 from her employer.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 657 IAC 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Laura Steffensmeier at (515) 281-6690.

F. FINDING OF PROBABLE CAUSE

On this 8th day of March, 2016, the Iowa Board of Pharmacy found probable cause to file this Notice of Hearing and Statement of Charges.



Chairperson
Iowa Board of Pharmacy

Copy to:

Laura Steffensmeier
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-5944. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF:)	
)	Docket No. 2015-201
Certified Technician Registration of)	DIA No. 16PHB004
COURTNEY HOUSE)	
Registration No. 16152,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent.)	DECISION, AND ORDER
)	

STATEMENT OF THE CASE

On March 8, 2016, the Iowa Board of Pharmacy (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Respondent Courtney House. The Statement of Charges alleges two counts: 1) diversion of prescription drugs; and 2) engaging in unethical behavior/theft.

The hearing was held on June 29, 2016. The following members of the Board presided at the hearing: James Miller, Chairperson; LaDonna Gratias; Edward McKenna; Edward Maier; Sharon Meyer; and Jason Hansel. Assistant attorney general Laura Steffensmeier represented the State. Respondent House did not appear.¹ The hearing was open to the public pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Administrative Law Judge Laura Lockard assisted the Board in conducting the hearing and was instructed to prepare the Board's written decision in accordance with its deliberations.

THE RECORD

The record includes the Notice of Hearing and Statement of Charges. The record also includes hearing testimony of Curt Gerhold. The State introduced Exhibits 1 through 7, which were admitted as evidence.

FINDINGS OF FACT

At the time of the events in question, Respondent Courtney House held Iowa certified technician registration number 16152. At all times relevant to this action, House was employed at HyVee Pharmacy in Ottumwa, Iowa.

At some point during House's employment, management at HyVee Pharmacy became suspicious that House was stealing money from the store based on discrepancies between daily transactions and register totals. A camera was placed on House at work,

¹ House was served the Statement of Charges & Notice of Hearing by publication after other methods were unsuccessful. (Exh. 7).

which revealed her stealing cash from the store. When House was questioned about this by HyVee staff, she revealed that she had also been diverting controlled substances to herself from the pharmacy. House reported to law enforcement that she was taking the pills that she diverted herself. (Gerhold testimony; Exh. 2, 4).

House made a written statement to HyVee on October 12, 2015:

I, Courtney House, starting June 2015, began redemming [sic] unearned fuel saver, mostly entering phone #, other times I would scan my card. I would use these at hy vee gas and casey[']s total of \$1,458.50. I also started to make false returns. A few times using products off[f] the shelf which I would then return, the other times I would scan in the pink pharmacy slip and manually enter amount, then place the cash in my pocket or purse, total \$3,400.88. Around this time I fell behind in my bills. Amounts taken at a time ranged from \$60-\$100, a few times per shift, 2-3 times weekly. Around the same time I began to take pills from the pharmacy as well. At one time I took a bottle of 500, but mostly taking 30-100 at a time, placing these in vials and putting them into my purse or pocket. I was taking clonazepam 1 mg and alprazolam 1 mg and 2 mg. At one time I did take razors and shaving cream. I have taken a total of \$5,009.48 from hy vee and am willing to pay it back.

(Exh. 5).

A staff pharmacist at HyVee performed a controlled substance audit and it was confirmed that approximately 1,000 tablets of alprazolam and clonazepam were missing. House was arrested on October 12, 2015 and charged with theft in the second degree. (Exh. 2, 4).

CONCLUSIONS OF LAW

Count I: Diversion of Drugs

Pursuant to Iowa Code section 155A.6A(5), the Board is authorized to deny, suspend, or revoke the registration of, or otherwise discipline, a registered pharmacy technician for any violation of any rule of the Board. The Board's rules provide that discipline may be imposed when a registrant diverts prescription drugs from a pharmacy for personal use or distribution.² The evidence establishes that House was diverting drugs from HyVee Pharmacy for personal use. As such, the violation alleged in Count I has been established.

² 657 Iowa Administrative Code (IAC) 36.1(4)(ak).

Count II: Engaging in Unethical Behavior

The Board's rules also provide that a pharmacy technician shall not exhibit unethical behavior in connection with the technician's pharmacy employment. Unethical behavior includes theft.³

The evidence in this case clearly demonstrates that House violated the Board's prohibition against a pharmacy technician engaging in unethical behavior; in this case, theft. House admitted to stealing money and prescription drugs from the pharmacy at which she was employed. The violation alleged in Count II has been established.

Sanction

The Board may consider a number of factors in determining the nature and severity of the disciplinary sanction to be imposed when a violation is established, including the relative seriousness of the violation as it relates to assuring a high standard of professional care; the facts of the violation; any extenuating circumstances; whether remedial action has been taken; and any other factors that reflect upon the competency, ethical standards, and professional conduct of the registrant.⁴

The violations committed by House demonstrate that she is unfit to hold a registration as a certified pharmacy technician and presents a danger to the public health, safety, and welfare. House did not appear at hearing to respond to these charges. The violations justify revocation of House's registration.

DECISION AND ORDER

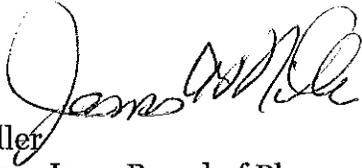
IT IS THEREFORE ORDERED that the pharmacy technician registration issued to Courtney House is hereby REVOKED. If Respondent seeks reinstatement of her registration the burden will be placed on her to show that the basis for the revocation no longer exists and that it is in the public interest for her registration to be reinstated.

IT IS FURTHER ORDERED pursuant to Iowa Code section 272C.6 and 657 Iowa Administrative Code 36.18(2), that Respondent Courtney House shall pay a \$75 fee to the Board for conducting the disciplinary hearing. In addition, the executive 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 30 days of receipt of the bill.

³ 657 IAC 3.28(4).

⁴ 657 IAC 36.1(3).

Dated this 30th day of August, 2016



James Miller
Chairperson, Iowa Board of Pharmacy

cc: Laura Steffensmeier, Assistant Attorney General

A default decision or decision rendered on the merits after a party has failed to appear or participate in a contested case hearing shall become final board action unless within 15 days after the date of notification or mailing of the decision a motion to vacate is filed and served on all parties or unless an appeal of a decision is timely initiated within the time provided by rule 35.26. A motion to vacate must state all facts relied upon by the moving party which establish good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated shall be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) shall be attached to the motion. 657 IAC 35.21. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 657 IAC 35.21(4).

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.