

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	
Pharmacy License of)	Case No. 2009-154
HY-VEE PHARMACY 1092)	
License No. 699,)	STATEMENT OF CHARGES
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy 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 November 26, 2009, the Board renewed general pharmacy license number 699 for Hy-Vee Pharmacy 1092 (hereinafter, "Respondent"), allowing Respondent to engage in the operation of a pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
4. At all times material to this statement of charges, Respondent was operating a general pharmacy at 1706 North 16th Street, Council Bluffs, Iowa 51501, with Katie Knapp as the pharmacist in charge.

A. CHARGE

COUNT I – LACK OF COMPETENCY

Respondent is charged under Iowa Code § 155A.15(2)(c) (2009) and 657 Iowa Administrative Code § 36.1(4)(b) 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.

COUNT II – PROCURING UNREGISTERED PERSONS

Respondent is charged under Iowa Code § 155A.15(2)(c) (2009) and 657 Iowa Administrative Code § 36.1(4)(l) with knowingly aiding, assisting and procuring unregistered persons to perform the functions of a pharmacy technician and pharmacy intern.

COUNT III – EMPLOYMENT OF UNREGISTERED INTERN

Respondent is charged under Iowa Code § 155A.15(2)(c) (2009), and 657 Iowa Administrative Code §§ 3.3 and 36.1(4)(aa), with employing and continuing to employ an unregistered intern.

COUNT IV – EMPLOYMENT OF UNREGISTERED TECHNICIAN

Respondent is charged under Iowa Code § 155A.15(2)(c) (2009), and 657 Iowa Administrative Code §§ 4.6 and 36.1(4)(aa), with employing and continuing to employ an unregistered technician.

B. CIRCUMSTANCES

An investigation was commenced November 13, 2009, which revealed the following:

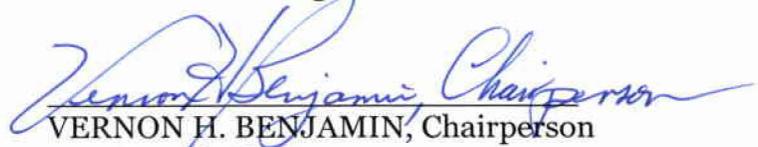
1. Respondent operates a general pharmacy at 1706 North 16th Street, Council Bluffs, Iowa 51501, with Katie Knapp as the pharmacist in charge.
2. During a routine pharmacy inspection on October 27, 2009, a compliance officer discovered that Creighton pharmacy student, Chad Horkan, was working as an intern despite not being registered with the Board as an intern.
3. Pharmacy technician Jesus Navarrete's was also employed in the pharmacy, despite the fact his Iowa technician registration expired July 1, 2009.
4. Respondent's pharmacist in charge, Knapp, was questioned regarding Horkan and Navarrete's registration numbers. She possessed no knowledge about the status of either person's registration.
5. After the time by which Respondent knew or should have known Horkan and Navarrete were not registered with the Board, Horkan and Navarrete continued to be employed by Respondent.

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 28 day of Sept. 2010, the Iowa Board of Pharmacy found probable

cause to file this Statement of Charges and to order a hearing in this case.

A handwritten signature in blue ink, reading "Vernon H. Benjamin, Chairperson". The signature is fluid and cursive, with the name "Vernon H. Benjamin" clearly legible and "Chairperson" written in a smaller, more casual script to the right.

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

Hy-Vee (C-Bluffs)-SOC 7-10.doc

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2009-154
Pharmacy License of)	
HY-VEE PHARMACY 1092,)	STIPULATION
License No. 699)	AND
Respondent)	CONSENT ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Board of Pharmacy (hereinafter, the “Board”) and Hy-Vee Pharmacy 1092 (hereinafter, “Respondent”) have agreed to settle a contested case currently on file with the Board. The Statement of Charges filed against Respondent on September 28, 2010 shall be resolved without a hearing, as the Board and Respondent stipulate to the following:

1. Respondent’s license to operate a general pharmacy in Iowa is evidenced by Pharmacy License Number 699, which is recorded in the permanent records of the Board.
2. Pharmacy License Number 699 is current and active until December 31, 2011.
3. The Board has jurisdiction over the parties and the subject matter herein.
4. A Statement of Charges was filed against Respondent on September 28, 2010.
5. Respondent denies the allegations contained in the Statement of Charges, but in the interest of settlement has chosen not to contest the allegations. Respondent acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for the discipline described herein.
6. On the date of the Board's approval of this Stipulation and Consent Order, Respondent’s license shall be placed on probation for three (3) years, upon the following conditions:

- (a) All pharmacy technicians employed by Respondent shall be registered in compliance with Iowa law and the Board's administrative rules.
- (b) Respondent shall file sworn quarterly reports with the Board attesting to Respondent's compliance with the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than March 5th, June 5th, September 5th and December 5th of each calendar year and *shall include a description of Respondent's most recent efforts to comply with this Stipulation and Consent Order*. Respondent's quarterly reports shall list and verify the registration of all pharmacy technicians employed by Respondent, identify the current person responsible for compliance with Iowa law, and provide any other information deemed to be necessary, from time to time, by the Board.
- (c) Respondent shall obey all federal and state laws, rules, and regulations substantially related to the operation of an Iowa pharmacy.

7. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$4,000. The civil penalty payment shall be made by check, payable to the Treasurer of Iowa and mailed to the executive director of the Board within 10 days after Respondent's receipt of notice of the Board's approval of this Stipulation and Consent Order. All civil penalty payments shall be deposited into the State of Iowa general fund. Upon the Board's receipt of the civil penalty, this disciplinary proceeding shall be concluded without further order of the Board.

8. Should Respondent violate or fail to comply with any of the terms or conditions

of this Stipulation and Consent Order, the Board may initiate further action to impose licensee discipline as authorized by Iowa Code chapters 272C and 155A (2009), and 657 Iowa Administrative Code § 36.1.

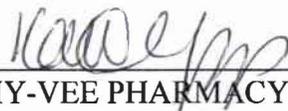
9. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent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

10. This proposed settlement 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 party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

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

12. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary proceeding.

This Stipulation and Consent Order is voluntarily submitted by Hy-Vee Pharmacy 1092 to the Iowa Board of Pharmacy for its consideration on this 19 day of Jan ~~2010~~2011.



HY-VEE PHARMACY 1092
Respondent
By Kate Kraybill R.Ph.
Pharmacist In Charge

Subscribed and sworn to before me by Katie Krapp, who has stated to me that he/she is the pharmacist in charge of Hy-Vee Pharmacy 1092 and is authorized to sign this Stipulation and Consent Order on behalf of Hy-Vee Pharmacy 1092 on this 19 day of Jan. 2010-2011.



Rhonda L Dank Booher
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on this 8th day of March 2010-2011.

Vernon H Benjamin
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

Edwin N. McIntosh
Dorsey & Whitney
801 Grand Avenue,
Des Moines, IA 50309

Hy-Vee (CouncilBluffs) settle 10-10.doc

BEFORE THE BOARD OF PHARMACY STATE OF IOWA

IN THE MATTER OF THE STIPULATION AND CONSENT ORDER AGAINST
HY-VEE PHARMACY 1092, RESPONDENT

2009-154

TERMINATION ORDER

DATE: Hy-Vee Pharmacy 1092
Attn: Katie Kiscoan
2323 W Broadway
Council Bluffs, IA 51501

1. On March 8, 2011, a Stipulation and Consent Order was issued by the Iowa Board of Pharmacy placing the license to operate a pharmacy, number 699, issued to Hy-Vee Pharmacy 1092, on probation for a period of three years 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 operate a pharmacy should be terminated.

IT IS HEREBY ORDERED:

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

IOWA BOARD OF PHARAMCY



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