

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

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Re:	)	Case No. 2008-107 & 2009-9
Pharmacist License of	)	
<b>DOUGLAS K. JOHNSON</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 18924	)	
Respondent.	)	

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**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 (2007).
3. On February 17, 1998, the Board issued Respondent, Douglas K. Johnson, by examination, a license to engage in the practice of pharmacy as evidenced by license number 18924, 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, 2009.
5. Respondent's current address is 10340 Clark Street, Clive, Iowa 50325.
6. As of January 26, 2009, Respondent was employed as a pharmacist at Cardinal Health 414 LLC, 613 East Second Street, Des Moines, Iowa 50309.

**A. CHARGES**

**COUNT I – UNLAWFUL POSSESSION OF DRUGS**

The Respondent is charged with unlawful possession of prescription drugs in violation of Iowa Code § 155A.21 (2007) and 657 Iowa Administrative Code § 36.1(4) (j).

**COUNT II – ILLEGAL DISTRIBUTION OF DRUGS**

Respondent is charged with distribution of drugs for other than lawful purposes in violation of Iowa Code § 155A.21(1) (2007) and 657 Iowa Administrative Code § 36.1(4)(h), specifically diversion and distribution of drugs to himself in the absence of a prescription.

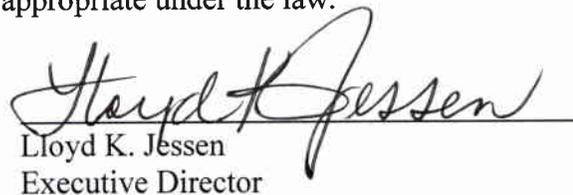
COUNT III – INABILITY TO PRACTICE PHARMACY DUE TO CHEMICAL  
ABUSE

The 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) (2007) and 657 Iowa Administrative Code §§ 36.1(4)(d), 36.1(4)(j), and 36.1(4)(m).

B. CIRCUMSTANCES

Circumstances supporting the above charges are set forth in Attachment A.

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 12<sup>th</sup> day of March 2009, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.

  
Leman E. Olson, 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, IA 50319

Johnson Doug SOC 02-09

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

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Re:	)	Case No. 2008-107 & 2009-9
Pharmacist License of	)	
<b>DOUGLAS K. JOHNSON</b>	)	<b>EMERGENCY ORDER</b>
License No. 18924	)	
Respondent.	)	

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**I. JURISDICTION**

The Iowa Board of Pharmacy (hereinafter, "Board") has jurisdiction over pharmacy licensees pursuant to Iowa Code Chapters 155A and 272C (2007). Respondent Douglas K. Johnson possesses pharmacist license number 18924 issued by the Board. A Statement of Charges was filed against Respondent on March 12, 2009. 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 February 17, 1998, the Board issued Respondent a license to engage in the practice of pharmacy as evidenced by license number 18924, subject to the laws of the State of Iowa and the rules of the Board.
2. Respondent was recently employed as a pharmacist at Hy-Vee Pharmacy 1895, 7101 University Avenue, Windsor Heights. Since January 26, 2009, he has been working at Cardinal Health 414 LLC, 613 East Second Street, Des Moines, Iowa 50309.
3. On or about October 14, 2008, an investigation was commenced which revealed, among other things, the following:

- a. Respondent was formerly employed as a pharmacist in several Des Moines area pharmacies, including Hy-Vee Pharmacy # 1895 on University Avenue in Windsor Heights, Iowa, and Merwin LTC Pharmacy in Ankeny, Iowa.
  - b. While employed at Hy-Vee Pharmacy, Respondent allegedly diverted Schedule II controlled substances to his own personal use.
  - c. While employed at Merwin LTC Pharmacy, Respondent allegedly diverted Schedule III controlled substances to his own personal use.
  - d. While employed at other pharmacies in the Des Moines area, Respondent has admitted to diverting Schedule III controlled substances to his own personal use.
  - e. Since October 13, 2008, Respondent has failed to comply with the terms of his recovery contract with the Iowa Pharmacy Recovery Network (IPRN).
  - f. Respondent has repeatedly failed to fully cooperate with IPRN and the Board in the investigation of this matter.
4. The Board finds that the evidence assembled during the investigation of Respondent supports the March 12, 2009, Statement of Charges against Respondent. The Board also finds that Respondent is addicted to controlled substances and has violated the provisions of Iowa Code Chapter 155A (2007) and 657 Iowa Administrative Code § 36.1(4)(d)(1) in the manner alleged in the Statement of Charges.
  5. The Board finds that Respondent is an immediate danger to the public health, safety, and welfare for the following reasons:
    - a. The Respondent is not capable of safely performing pharmacist functions, which require a clear, unimpaired mental state.

- b. Should Respondent be impaired during hours of employment, he might cause or fail to prevent a dispensing error, fail to conduct an accurate utilization review or fail to appropriately counsel patients on medication usage.
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 his condition; specifically, by Respondent's impairment due to addiction to controlled substances. Given this fact, the Board must act in the interest of the public to suspend Respondent's license to practice pharmacy until his drug addiction is treated and controlled.
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. CONCLUSION OF LAW**

1. Respondent's unauthorized use of controlled substances, and related violations of the provisions of Iowa Code chapter 155A.15 (2007) and 657 Iowa Administrative Code § 36.1(4)(d)(1), prevent Respondent from working safely as a pharmacist.
2. The provisions of Iowa Code § 17A.18A (2007) permit the 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 (2007) and 657 Iowa Administrative Code § 36.1(4)(d)(1), the pharmacist license of Douglas K. Johnson 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 April 29, 2009. The hearing will commence at 9:00 a.m. and be held at the office of the Iowa Board of Pharmacy, 400 Southwest Eighth Street, Suite E, Des Moines, Iowa 50309.

**DATED** this 12<sup>th</sup> day of March, 2009.



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Leman E. Olson, 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, IA 50319

Johnson Doug EO 02-09

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

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Re: Pharmacist License of  
**DOUGLAS K. JOHNSON**  
License No. 18924  
Respondent

**STIPULATION  
AND  
CONSENT ORDER**

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On this 2<sup>nd</sup> day of June, 2009, the Iowa Board of Pharmacy and Douglas K. Johnson, of 10340 Clark Street, Clive, Iowa 50325, each hereby agree with the other and stipulate as follows:

The licensee disciplinary hearing pending before the Iowa Board of Pharmacy, on the allegations specified in the Emergency Order and Statement of Charges filed against Respondent on March 12, 2009, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That Respondent was issued a license to practice pharmacy in Iowa on the 17<sup>th</sup> day of February, 1998, by examination as evidenced by Pharmacist License Number 18924, which is recorded in the permanent records of the Iowa Board of Pharmacy.
2. That Iowa Pharmacist License Number 18924 issued to Respondent is active and current until June 30, 2009.
4. That the Iowa Board of Pharmacy has jurisdiction over the parties and the subject matter herein.
5. An Emergency Order and Statement of Charges was filed against Respondent on March 12, 2009.

## **SECTION I**

Respondent's pharmacist license number 18924 shall be placed on indefinite suspension, beginning on the date this Order is accepted by the Board. During this period of suspension, Respondent shall not be employed by a pharmacy in any capacity, including as a pharmacist, a pharmacy technician, a pharmacy support person, or a trainee.

## **SECTION II**

Respondent shall submit to a physical examination, a mental health evaluation, and a substance abuse evaluation by health care providers approved by the Board. The Board shall share pertinent information in Respondent's investigative file relating to his diversion of controlled substances with Respondent's health care providers before Respondent's mental health and substance abuse evaluations are conducted. Respondent shall fully comply with all treatment recommendations of his health care providers. Respondent may petition the Board for restoration of his license after October 28, 2009, if Respondent's health care providers have indicated to the Board, in writing, that Respondent is ready and able to safely resume the practice of pharmacy. In addition, Respondent shall pay a \$1,000 fine before his license is restored. Payment shall be made in the form of a certified check made payable to the "State of Iowa" and shall be submitted to the Board office. When the suspension of Respondent's license is lifted by the Board, his license shall be placed on probation for five (5) years, subject to the following terms and conditions:

- a. Respondent shall not consume alcohol.

b. Respondent shall not 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. The Respondent shall fully inform any treating physician or other treating health care provider of his medical history. Additionally, Respondent shall not possess any controlled substance, except medications prescribed in accordance with this paragraph.

c. Respondent shall participate in and shall fully comply with a Board-approved urine screening program provided through First Lab or another provider. In addition, Respondent shall immediately submit a witnessed blood, hair, or urine sample whenever requested by the Board or its designee. All costs relating to specimen screening, testing, and analysis shall be borne by and paid for by Respondent. The specimens obtained shall be used for alcohol and drug screening and to verify Respondent's compliance with this Stipulation and Consent Order and with any therapy ordered by Respondent's physician.

d. Respondent shall comply with all treatment recommendations of his physicians and/or counselors, if applicable. The treatment program or physician/counselor shall submit quarterly reports to the Board documenting Respondent's compliance with the treatment program.

e. Respondent shall file written, sworn monthly reports with the Board attesting to his compliance with all the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than the 5<sup>th</sup> of each month of each year of Respondent's probation. The monthly reports shall

include Respondent's place of employment, current home address, home telephone number, work telephone number, and any further information deemed necessary by the Board from time to time.

f. Respondent shall attend aftercare meetings and Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings if recommended by Respondent's physician or treatment-provider. If such meetings are required, Respondent shall append to each quarterly report, referred to in subparagraph (e) above, statements signed or initialed by another person in attendance at the AA and NA meetings, attesting to Respondent's attendance and continuing participation. The statement shall include the time, date, and location of the meetings attended.

g. Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program under the direction of Emily Dykstra or her designee.

h. Respondent shall make personal appearances before the Board or a Board committee upon request. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.

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

j. Respondent shall notify all present and prospective employers of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. 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 his pharmacy employer to report to the Board in writing acknowledging that the employer has read this document and the Statement of

Charges and understands them. In addition, Respondent shall provide notification of his probationary status to prospective employers at the time of interview and shall provide them with a copy of his Statement of Charges and this Stipulation and Consent Order at the time of interview.

k. Respondent shall not manage, administer or be the pharmacist in charge of any pharmacy.

l. Respondent shall not be self-employed as a pharmacy owner/operator, nor supervise any registered intern, nor perform any of the duties of a pharmacy preceptor.

m. Respondent shall inform the board in writing within ten (10) days of any change of home address, place of employment, home telephone number, or work telephone number.

### **SECTION III**

1. Respondent agrees to release all his medical records to the Board, including all medical records pertaining to treatment for any mental conditions and for alcohol and substance abuse, and agrees to allow the free flow of information between the Board and Respondent's physician(s) and treatment provider(s) and to ensure that the Board receives all necessary information if further evaluation or treatment of Respondent is requested or required. This release of medical records, including records pertaining to treatment for alcohol and substance abuse, shall continue in effect during the period of his license suspension and for five years from the date on which Respondent's pharmacist license is placed on probation.

2. Should Respondent leave Iowa to reside or practice in another state, he shall notify the Board in writing fourteen (14) days prior to his departure and within fourteen (14) days of his return. Periods of residency or practice outside the State of

Iowa shall not apply to reduction of the probationary period without prior request to and approval by the Board.

3. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a). If a statement of charges or petition to revoke probation is filed against Respondent during probation, the board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

4. Upon successful completion of probation, Respondent's license will be fully restored.

5. This proposed settlement is subject to approval of a majority of the full Board. If the Board fails to approve this proposed 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.

6. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 11<sup>th</sup> day of May, 2009.

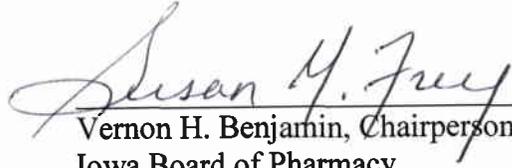
  
DOUGLAS K. JOHNSON, R.Ph.  
Respondent

Subscribed and Sworn to before me on this 11 day of May, 2009.

  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA



7. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 2<sup>nd</sup> day of June, 2009.

  
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Vernon H. Benjamin, Chairperson  
Iowa Board of Pharmacy  
RiverPoint Business Park  
400 S.W. 8<sup>th</sup> Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Scott Galenbeck  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, IA 50319

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

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Re: )	
Pharmacist License of )	<b>REINSTATEMENT</b>
<b>DOUGLAS K. JOHNSON</b> )	<b>ORDER</b>
License No. 18924 )	
Respondent )	

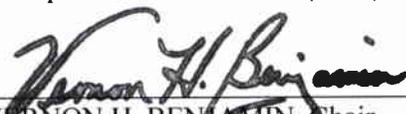
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**COMES NOW**, Vernon H. Benjamin, Chair of the Iowa Board of Pharmacy, on the 10<sup>th</sup> day of March, 2010, and declares that:

1. On June 2, 2009, the Board approved a Stipulation and Consent Order placing Respondent's pharmacist license on indefinite suspension.
2. Respondent was allowed to petition the Board for reinstatement of his license after October 28, 2009, if Respondent's health care providers indicated to the Board, in writing, that Respondent was ready and able to safely resume the practice of pharmacy.
3. On January 26, 2010, Respondent appeared before the Board at an Informal Reinstatement Conference pursuant to 657 I.A.C. 36.14.
4. Based on the testimony presented at the Informal Reinstatement Conference and information provided by Respondent's health care providers, the Board concludes that the basis for the suspension of Respondent's pharmacist license no longer exists and that it is in the public interest to lift his license suspension.

**WHEREFORE**, following deliberation by the Board, it is hereby ordered that Respondent's pharmacist license number 18924 shall be reinstated, subject to the terms of Respondent's Stipulation and Consent Order dated June 2, 2009, and subject to the following terms and conditions:

1. Respondent shall submit a fee \$220 for restoration of his pharmacist license and a civil penalty in the amount of \$1,000. Upon processing, he will be placed on probation for a term of five (5) years subject to the terms and conditions in the June 2, 2009, Stipulation and Consent Order.
2. Upon resumption of practice as a pharmacist, Respondent shall work only under the immediate supervision of another pharmacist who is licensed and in good standing for a period not less than six (6) months. The supervising pharmacist shall file monthly written reports with the Board. Respondent must petition the Board for release from this restriction and may not file such petition until after completion of six (6) months of supervised practice.
3. Should Respondent violate or fail to comply with any of the terms, conditions, or restrictions of probation, the Board may initiate action to revoke or suspend the Respondent's Iowa pharmacy technician registration, or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2007), and 657 IAC 36.

  
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VERNON H. BENJAMIN, Chair  
Iowa Board of Pharmacy  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688