

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2010-125
Pharmacist License of)	
STEPHENIE L. OWEN	)	STATEMENT OF CHARGES
License No. 19825,)	
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 24, 2003, the Board issued Stephenie L. Owen ("Respondent"), after examination, a license to engage in the practice of pharmacy as evidenced by license number 19825, 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 705 Northeast 10th Street, Ankeny, Iowa 50021.
6. At all times material to this statement of charges, Respondent was employed as a pharmacist at Target Store T-1170, 320 South Duff, Ames, Iowa 50010.

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 under 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).

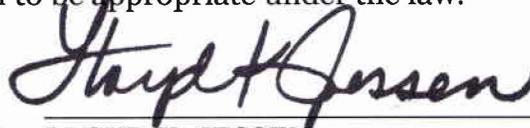
B. CIRCUMSTANCES

An investigation was commenced October 6, 2010, which revealed the following:

1. At all times material to this statement of charges, Respondent was employed as a pharmacist at Target Store T-1170, 320 South Duff, Ames, Iowa 50010.
2. On September 30, 2010 Respondent was arrested by Ankeny, Iowa police following Respondent's erratic driving and loss of control of her vehicle. Respondent was severely impaired at the time of her arrest, 9:33 am.
3. Following arrest, Respondent admitted her addiction to hydrocodone to the Ankeny police, acknowledging that she ingests two or three hydrocodone tablets every six hours.
4. An audit of controlled substances in the pharmacy where Respondent worked revealed a shortage of thousands of doses of hydrocodone, in several strengths. The audit, which covered the past 1½ years, also revealed shortages of Ambien, lorazepam, clonazepam and zolpidem. Respondent admitted to Ankeny police that she diverted 4 to 6 bottles of prescription medications per month from the pharmacy.
5. More than twenty bottles of stock medications – not labeled for dispensing pursuant to a prescription – were found in Respondent's home. Included among

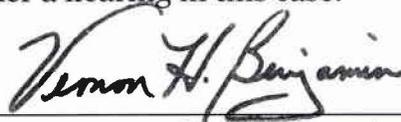
the bottles were bottles of controlled substances. Respondent informed Ankeny police that her husband was aware of her addiction.

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. JESSEM
Executive Director

On this 16th day of November 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

Owen-SOC 10-10.doc

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2010-125
Pharmacist License of)	
STEPHENIE L. OWEN	)	EMERGENCY ORDER
License No. 19825,)	
Respondent.)	

I. JURISDICTION

The Iowa Board of Pharmacy (hereinafter, "Board") has jurisdiction over pharmacy licensees pursuant to Iowa Code Chapters 155A and 272C (2009). Stephenie L. Owen (hereinafter, "Respondent") possesses pharmacist license number 19825 issued by the Board. A Statement of Charges was filed against Respondent on November 16, 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 24, 2003, the Board issued Respondent a license to engage in the practice of pharmacy as evidenced by license number 19825, subject to the laws of the State of Iowa and the rules of the Board.
2. Respondent is employed as a pharmacist at Target Store T-1170, 320 South Duff, Ames, Iowa 50010.
3. On or about October 6, 2010, an investigation was commenced which revealed the following:
 - a. At all times material to this statement of charges, Respondent was employed as a pharmacist at Target Store T-1170, 320 South Duff, Ames, Iowa 50010.

- b. On September 30, 2010 Respondent was arrested by Ankeny, Iowa police following Respondent's erratic driving and loss of control of her vehicle. Respondent was severely impaired at the time of her arrest, 9:33 am.
 - c. Following arrest, Respondent admitted her addiction to hydrocodone to the Ankeny police, acknowledging that she ingests two or three hydrocodone tablets every six hours. Respondent does not have a prescription for hydrocodone.
 - d. An audit of controlled substances in the pharmacy where Respondent worked revealed a shortage of thousands of doses of hydrocodone, in several strengths. The audit, which covered the past 1½ years, also revealed shortages of Ambien, lorazepam, clonazepam and zolpidem. Respondent admitted to Ankeny police that she diverted 4 to 6 bottles of prescription medications per month from the pharmacy.
 - e. More than twenty bottles of stock medications – not labeled for dispensing pursuant to a prescription – were found in Respondent's home. Included among the bottles were bottles of controlled substances. Respondent informed the Ankeny police her husband was aware of her addiction.
4. The Board finds that the evidence assembled during the investigation of Respondent supports the November 16, 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, (b) personally used the diverted controlled substances in support of her

addiction, and (c) utilized hydrocodone to the point of severe impairment, then operated a motor vehicle.

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 addiction to hydrocodone. That addiction resulted in diversion of large quantities of drugs from her employer and neglect of her employee responsibilities.
 - b. Respondent's addiction and consistent use of hydrocodone has resulted in a diminished ability to practice as a pharmacist. Respondent's severe impairment while operating a motor vehicle at 9:30 in the morning indicates that her hydrocodone use is likely to impact her ability to function as a pharmacist.
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. 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 addiction to hydrocodone, severe impairment, likely neglect of pharmacist duties, 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 Stephenie L. Owen 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 11, 2011. The hearing will commence at 3 P.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 16th day of November 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

Owen-Emerg Or.doc

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case No. 2010-125
Pharmacist License of)	
STEPHENIE L. OWEN	)	STIPULATION
License No. 19825	)	AND
Respondent	)	CONSENT ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2009), the Iowa Board of Pharmacy (hereinafter, "Board") and Stephenie L. Owen (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 24, 2003, following examination, as evidenced by Pharmacist License Number 19825, 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 Target store T-1170, 320 South Duff, Ames, Iowa 50010.
4. A Statement of Charges was filed against Respondent by the Board on November 16, 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 11 day of January 2011.

Stephenie Owen
STEPHENIE L. OWEN, R.Ph.
Respondent

Subscribed and sworn to before me by Stephenie L. Owen on this 11 day of January 2011.



Cynthia J. Carney
NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 11 day of January 2011.

March

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

Brandon Brown
Attorney
2910 Grand Avenue
Des Moines, IA 50312

BEFORE THE IOWA BOARD OF PHARMACY

RE:	)	CASE NO: 2010-125
	)	DIA NO: 13PHB047
Pharmacist License of)	
STEPHENIE LYNN OWEN	)	FINDINGS OF FACT,
License No. 19825	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

On August 27, 2013, a hearing was held before the Iowa Board of Pharmacy (Board) on the Application for Reinstatement filed by Stephenie Lynn Owen (Respondent). The following members of the Board presided at the hearing: Edward Maier, Chairperson; Susan Frey; James Miller; Edward McKenna; Sharon Meyer; and Judith Trumpy. Respondent appeared and was self-represented. Assistant Attorney General Meghan Gavin represented the state. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2013), 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 Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with the Board's deliberations.

THE RECORD

The record includes the Notice of Hearing; the testimony of Respondent; State Exhibits 1-9 (See Exhibit Index for description) and Respondent Exhibits A-C.

FINDINGS OF FACT

1. On June 24, 2003, the Board issued Respondent license number 19825 to engage in the practice of pharmacy, subject to the laws of the state of Iowa and the rules of the Board. Following licensure, Respondent worked in various retail pharmacies as a staff pharmacist. In April 2006, Respondent was hired by Target in Ames as a staff pharmacist and pharmacy manager. (State Exhibit 3)
2. In 2008, Respondent was prescribed hydrocodone following a surgery. Respondent testified that she had a preschool age son with severe autism and was

under a lot of stress at home. She began self-medicating with hydrocodone that she diverted from the Target pharmacy. On September 30, 2010 at 9:33 a.m., Respondent was severely impaired and driving erratically when she was stopped and arrested by the Ankeny police. At the time of her arrest, Respondent admitted her addiction to hydrocodone and acknowledged that she was ingesting 2-3 hydrocodone tablets every six hours.

A controlled substances audit of the Target pharmacy where Respondent was employed revealed substantial shortages of hydrocodone, in various strengths, and shortages of some other types of controlled substances. Respondent admitted diverting 4-6 bottles of prescription medications a month from the pharmacy. More than twenty stock bottles of prescription medications – not labeled for dispensing pursuant to a prescription- were found in Respondent's home. (State Exhibits 3, 4, 6; Respondent testimony)

3. On November 16, 2010, the Board issued a Statement of Charges and an Emergency Order immediately suspending Respondent's pharmacist license. (State Exhibits 3, 4)

On March 8, 2011, Respondent and the Board entered into a Stipulation and Consent Order to resolve the pending Statement of Charges and Emergency Order. The Consent Order provided that Respondent's license would be suspended indefinitely. Prior to any reinstatement, Respondent was required to:

- Obtain a complete physical evaluation, mental health evaluation, and substance abuse evaluation from Board approved physicians/treatment providers;
- Deliver to the Board a written physical evaluation, mental health evaluation, and substance abuse evaluation documenting that Respondent is mentally and physically fit to practice pharmacy and assessing Respondent's ability to cope with the presence of controlled substances in the pharmacy setting;
- Permit the Board access to her medical records, including records of substance abuse evaluation and treatment.

The Consent Order also set forth a non-exclusive list of the probationary terms that would be imposed on Respondent's license upon reinstatement. (State Exhibit 5)

4. Respondent also faced criminal charges. She eventually pled guilty to several counts of Unlawful Possession of Prescription Drugs, in violation of Iowa Code section 155A.21. Respondent was given a suspended one year jail sentence and was placed on probation for a period of one year. Respondent has completed the terms of her criminal probation and has been discharged. (State Exhibit 8; Respondent testimony)
5. Respondent completed a six week (two weeks inpatient) treatment program at Powell CDC in 2010. Following discharge, Respondent completed an aftercare program and participated in Powell's Continuing Care program until early in 2012. Respondent is currently attending Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) 1-2 times a week and has provided written verification of her attendance to the Board. In addition, Respondent is participating in the Board's Impaired Pharmacy Professional Program (IPRN). (Respondent testimony; Respondent Exhibits A, C)
6. Respondent has submitted a current mental health evaluation from her treating psychiatrist, a current substance abuse evaluation, and a current physical evaluation. These evaluations indicate that Respondent is in a stable recovery and is physically and mentally fit to return to pharmacy practice. (State Exhibit 9; Respondent Exhibits A, B)

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...

...

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... 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.

Upon reviewing the entire record, the Board is satisfied that the basis for the indefinite suspension of Respondent's license no longer exists and that it is in the public interest to reinstate Respondent's license to practice pharmacy, so long as she fully complies with the requirements established in this Decision and Order. Respondent has accepted full responsibility for her past violations, has completed treatment and aftercare, and has established what appears to be a solid support system for her ongoing recovery. Respondent has fully complied with the terms of the January 11, 2011 Stipulation and Consent Order.

DECISION AND ORDER

IT IS THEREFORE ORDERED that upon submission of verification of the required continuing education and payment of the applicable fee, Respondent's pharmacist license no. 19825 shall be REINSTATED. Respondent's license 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 probation will be subject to the following terms and conditions:

- A. 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.

B. Respondent shall file written, sworn quarterly reports with the Board attesting to her compliance with all the terms and conditions of this 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 place of employment, current address, her most recent efforts to comply with the terms of probation, and any further information deemed necessary by the Board from time to time.

C. Respondent shall notify all employers and 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 fifteen (15) days of undertaking new employment as a pharmacist or in a pharmacy-related business, Respondent shall cause her employer and any pharmacist-in-charge she works under, to report to the Board in writing, acknowledging that they have read this document and understand it.

D. During the first six (6) months of employment during Probation, Respondent shall not work more than 24 hours a week and shall work no shift longer than 8 hours. Following successful completion of six months of employment, Respondent may request permission from the Board to work additional hours per week.

E. Respondent shall abstain from alcohol and all other intoxicants.

F. 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 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 history, including her history of chemical dependency.

G. 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.

H. Respondent shall provide a specimen to a healthcare provider specified by the Board within 24 hours after notice from the Board requesting that Respondent provide a specimen. The healthcare provider shall be located in reasonable proximity to Respondent. Respondent shall cooperate with the Board in establishing a specimen testing program through FirstLab. Respondent shall sign all necessary releases to allow FirstLab or any other testing facility disclose her medical information and test results to the Board.

I. Respondent shall promptly provide copies of or access to all of her medical records upon Board request, or sign all necessary releases for the Board to obtain that information.

J. Respondent shall attend and participate in Alcoholics Anonymous (AA), Narcotics Anonymous (NA), or a similarly structured support group on a regular weekly basis and shall maintain documentation of her attendance, which shall be included with her quarterly reports. Respondent shall obtain an AA or NA sponsor and maintain a relationship with the sponsor.

K. Respondent shall continue participation in the Iowa Pharmacy Recovery Network (IPRN) program, under the direct support of a pharmacist advocate.

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

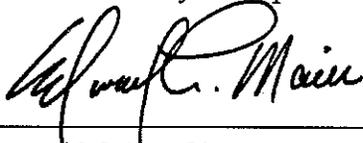
M. Respondent shall not own or manage a pharmacy, nor serve as the pharmacist in charge of a pharmacy.

N. 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.

O. Respondent shall obey all federal and state laws and regulations related to the practice of pharmacy and the distribution of controlled substances.

P. 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.

Dated this ^{10th} day of ~~September~~ ^{October}, 2013.

A handwritten signature in black ink, appearing to read "Edward Maier", written over a horizontal line.

Edward Maier, Chairperson
Iowa Board of Pharmacy

cc: Meghan Gavin, Assistant Attorney General

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.

BEFORE THE IOWA BOARD OF PHARMACY

Re:	)	Case Nos. 2010-125
Pharmacist License)	
STEPHENIE LYNN OWEN	)	NOTICE OF HEARING
License No. 19825,	)	& STATEMENT OF CHARGES
Respondent.)	

COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent was issued Iowa pharmacist license number 19825. Respondent's license is currently active.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 29, 2014, before the Iowa Board of Pharmacy. 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 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 prehearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code rule 35.19. At hearing you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies 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 e-mail at

Meghan.Gavin@iowa.gov.

Communications. You may contact the Board office (515)281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. However, you may NOT contact individual members of the Board to discuss these proceedings by phone, letter, facsimile, email, or in person. Board members can only receive information about the case when all parties have notice and an 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. You may also direct questions relating to settlement of these proceedings to Assistance Attorney General Meghan Gavin at (515)281-6736.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 155A, and 272C (2011).

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 17A, 147, 148C, and 272C (2011) and 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

VIOLATION OF A BOARD ORDER OR RULE

Respondent is charged with violating the terms of a previous Board rule or order in violation of Iowa Code section 155A.12(1) and 657 Iowa Administrative Code rule 36.1(4)(i).

D. FACTUAL CIRCUMSTANCES

1. The Board issued Respondent pharmacist license number 19825 on June 24, 2003.
2. On November 16, 2010, the Board issued a Statement of Charges and Emergency Adjudicative Order immediately suspending Respondent's pharmacist license. The charges were based on the diversion of hydrocodone and other controlled substances from the Respondent's pharmacy.
3. On March 8, 2011, the Respondent and the Board entered into a Stipulation and Consent Order to resolve the pending charges. Under the terms of the Stipulation and Consent Order, Respondent's license was suspended indefinitely. Terms for Respondent's future reinstatement were set forth in the order.

4. Following a hearing, the Board reinstated Respondent's license on October 10, 2013. Under the Order, Respondent's pharmacist license was placed on probation for a term of five years. One of the conditions of Respondent's probation, outlined in the Order, was to participate in random blood, hair, or urine testing.
5. To effectuate that portion of the Order, Respondent agreed to participate in chemical screenings with FirstLabs.
6. The Respondent has been suspended from FirstLabs participation and is not currently participating in any screening program.

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 36.3. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Meghan Gavin.

F. PROBABLE CAUSE FINDING

On this the 12th day of March, 2014, 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 Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Meghan Gavin
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa

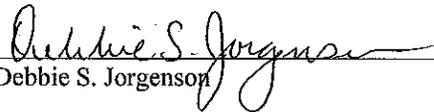
PROOF OF SERVICE

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 checked="" type="checkbox"/> certified mail, return receipt requested | <input type="checkbox"/> facsimile |
| Article Number <u>9171999991703239255066</u> | <input type="checkbox"/> other _____ |

on the 13th day of March, 2014.

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

IN THE MATTER OF:)	
	)	Docket No. 2010-125
Pharmacist License of	)	DIA No. 14PHB013
STEPHENIE LYNN OWEN)	
License No. 19825,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent.	)	DECISION, AND ORDER
)	

STATEMENT OF THE CASE

On March 12, 2014, the Iowa Board of Pharmacy (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Respondent Stephenie Owen, alleging that she violated the terms of a lawful order of the Board.

The hearing was held on July 1, 2014. The following members of the Board presided at the hearing: Edward Maier, Chairperson; James Miller; LaDonna Gratiyas; Susan Frey; Edward McKenna, Judith Trumpy and Sharon Meyer. Assistant attorney general Meghan Gavin represented the State. Respondent Stephenie Owen did not appear. 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 Debbie Jorgenson. The State introduced Exhibits 1 through 10, which were admitted as evidence.

FINDINGS OF FACT

On June 24, 2003, the Board issued Respondent Stephenie Owen license number 19825 to practice pharmacy in the state of Iowa. On November 16, 2010, the Board found probable cause to issue a Statement of Charges against Respondent based on allegations that she was arrested after driving erratically and losing control of her vehicle while under the influence of hydrocodone. Additionally, the Statement of Charges alleged that an audit of controlled substances in the pharmacy where Respondent was employed revealed a shortage of thousands of doses of hydrocodone in several strengths, as well as shortages of Ambien, lorazepam, clonazepam, and zolpidem. Respondent allegedly admitted to Ankeny police that she was addicted to hydrocodone and had been diverting four to six bottles of prescription medications per month from the pharmacy. The Statement of Charges also alleged that more than twenty bottles of stock medications –

bottles not labeled for dispensing pursuant to a prescription – were found in Respondent's home. On the same date that the Board issues the Statement of Charges it also issued an Emergency Order suspending the Appellant's pharmacist license indefinitely. (Exh. 1, 2).

Pursuant to the November 16, 2010 Statement of Charges, Appellant entered into a Stipulation and Consent Order with the Board, which was accepted by the Board on March 8, 2011. Pursuant to this Order, Appellant's license was suspended indefinitely. The Order laid out conditions under which the suspension could be terminated. (Exh. 3).

Following a six-week treatment program and the resolution of criminal charges that arose from the events described in the Statement of Charges, Respondent petitioned the Board for reinstatement. The Board reinstated Respondent's license by order dated October 10, 2013. The reinstatement order placed Respondent's license on probation for a period of five years. The terms of probation included, among other things, a requirement that Respondent provide witnessed blood, hair, or urine specimens on demand by the Board or its agents. The order required that Respondent cooperate with the Board in establishing a specimen testing program through FirstLab. (Exh. 4).

Respondent enrolled with FirstLab on or about November 1, 2013. FirstLab required Respondent to call before noon each day Monday through Friday to determine whether she had been selected for testing. The Board requested that FirstLab select Respondent for testing 12 to 15 times per year. Testing was random and Respondent did not know on any given day whether she would be selected. (Exh. 5; Jorgenson testimony).

On December 3, 2013, Respondent requested an exception to testing in order to travel to Florida to visit her brother, who had been in a serious car accident there. The Board excused her from testing in order to deal with the family emergency and requested that Respondent contact the Board when she returned to Iowa. (Exh. 6).

On December 23, 2013, Respondent sent a follow-up e-mail to Lloyd Jessen, the Board's executive director. In the e-mail, Respondent indicated that she was planning to return to Iowa on December 27. Respondent also indicated in the e-mail that she was having difficulty paying for the random drug testing required by the terms of her probation. (Exh. 7).

The Board did not remove the testing requirement after receiving Respondent's December 23 e-mail. Respondent failed to call in on any weekday during January and February, 2014; in total, FirstLab's records reflect that she failed to call in on at least 38 occasions from January 1 through February 21, 2014. FirstLab's records reflect that Respondent was scheduled to provide a specimen to FirstLab on January 21, 2014 and February 3, 2014, but did not call in on either date. At some point, the Board became aware that Respondent had been suspended from FirstLab for nonpayment. (Exh. 8; Jorgenson testimony).

On March 12, 2014, the Board issued a Notice of Hearing and Statement of Charges charging Respondent with violation of a Board order or rule based on her noncompliance with the Board's order reinstating her license subject to probationary terms, including random drug testing.

CONCLUSIONS OF LAW

Pursuant to Iowa Code section 272C.3(2), the Board is authorized to revoke, restrict, cancel, or suspend a pharmacist license based on a licensee's failure to comply with a decision of the Board imposing licensee discipline.¹ The Board's rules allow for discipline to be imposed when the Board determines that a registrant has willfully or repeatedly violated a lawful order of the Board in a disciplinary hearing.²

The evidence clearly demonstrates that Respondent violated the terms of the October 10, 2013 reinstatement order. Records maintained by FirstLab show that Respondent failed to call in 38 times between January 1, 2014 and February 21, 2014. On two of the dates she failed to call, Respondent was scheduled by FirstLab to provide a specimen. While Respondent was granted relief from testing while she was in Florida during the month of December, 2013, Respondent returned from Florida in late December, 2013 and never resumed testing. She was ultimately suspended from participation with FirstLab for nonpayment.

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.³

In this case, Respondent's violation of the Board order came only a short time after her license was reinstated and probationary terms imposed. The initial Statement of Charges that led to the consent order suspending Respondent's license was related to Respondent's admissions that she had diverted large quantities of controlled substances from the pharmacy at which she worked for personal use. The Statement of Charges alleged that this was discovered after Respondent was arrested and found to be driving under the influence of hydrocodone in an erratic and unsafe manner.

The testing protocol that the Board established in the October, 2013 order is meant to allow Respondent to continue performing her professional duties while assuring the Board that the public is not being endangered by such practice. If the Respondent is not complying with the testing protocol, the Board lacks assurance that the public interest is

¹ Iowa Code §§ 155A.12(1); 272C.3(2)(a) (2013).

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

³ 657 IAC 36.1(3).

adequately protected. Given Respondent's noncompliance with the terms of her probationary license, the Board does not feel it can adequately assure the safety of the public without prohibiting Respondent from practice until such time as she is willing to comply with the Board's previous orders.

DECISION AND ORDER

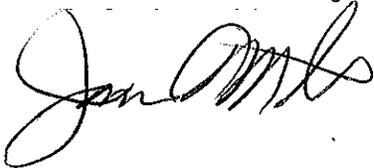
IT IS THEREFORE ORDERED that Respondent's license to practice pharmacy shall be indefinitely suspended. In order to have her license reinstated upon application to the Board, Respondent shall:

1. Contact the Board to set up the random drug testing that is required by the October 10, 2013 Decision and Order.
2. Fully comply with the random drug testing provisions of the October 10, 2013 Decision and Order for a period of no less than three months.
3. Demonstrate compliance in full with the Board's October 10, 2013 Decision and Order.

In addition, Respondent must also meet the other prerequisites for reinstatement outlined in 657 Iowa Administrative Code 36.13.

IT IS FURTHER ORDERED pursuant to Iowa Code section 272C.6 and 657 Iowa Administrative Code 36.18(2), that Respondent shall pay \$75 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 30 days of receipt of the bill.

Dated this 26th day of August, 2014



James Miller
Vice-Chairperson, Iowa Board of Pharmacy

cc: Meghan Gavin, 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.