

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2006-55
Pharmacist License of)	
TROY L. PADELLFORD,)	STATEMENT OF CHARGES
License No. 17779,)	
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter referred to as the "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 (2007).
3. On February 24, 1992, the Board issued Troy L. Padellford (hereinafter, "Respondent"), following examination, a license to engage in the practice of pharmacy in Iowa, as evidenced by license number 17779, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's Iowa pharmacist license is current and active through June 30, 2009.
5. Respondent's current address is 484 50th Place, Pleasantville, Iowa 50335.
6. At all times material to this statement of charges, Respondent was employed as the pharmacist in charge at the Hy-Vee Pharmacy, 809 W. Rock Island Street, Knoxville, IA 50138.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged with a lack of professional competency, in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 36.1(4), 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.

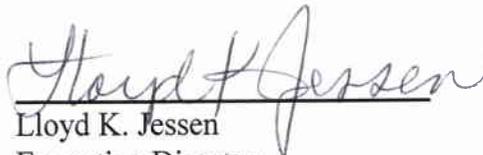
COUNT II – VIOLATION OF PHARMACY LAWS AND ALTERING PRESCRIPTIONS

Respondent is charged pursuant to Iowa Code §§ 155A.12(1), 155A.12(4), 155A.21, 155A.23(1)(b) and 155A.23(2) (2007), and 657 Iowa Administrative Code § 36.1(4)(i) and (ac), with violating state laws related to the distribution of prescription medications, maintenance of records relating to distribution of prescription medications, and with falsifying prescription records and information.

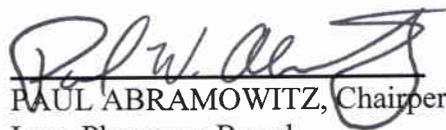
B. CIRCUMSTANCES

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 25 day of Oct. 2007, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


PAUL ABRAMOWITZ, Chairperson
Iowa Pharmacy Board
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

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE)	CASE NO. 2006-55
STATEMENT OF CHARGES AGAINST:)	DIA NO. 07PHB031
)	
TROY L. PADELLFORD,)	FINDINGS OF FACT,
License No. 17779)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
RESPONDENT)	

TO: Troy L. Padellford

On October 25, 2007 the Iowa Board of Pharmacy (Board) found probable cause to file a Statement of Charges and Notice of Hearing against Troy L. Padellford (Respondent), alleging the following violations:

Count I: Lack of professional competency, in violation of §155A.12(1)(2007) and 657 IAC 36.1(4)(b), as demonstrated by willful and repeated departures from, and a failure to conform to, the minimal standard of acceptable and prevailing practice of pharmacy in the state of Iowa.

Count II: Violation of the laws related to the distribution of prescription medications, maintenance of records relating to distribution of prescription medications, and with falsifying prescription records and information, in violation of Iowa Code §§155A.12(1), 155A.12(4), 155A.21, 155A.23(1)(b) and (2)(2007), and 657 IAC 36.1(4)(i) and (ac).

The hearing was held on July 29, 2008 at 2:15 p.m. The following members of the Board presided at the hearing: Leman Olson, Chairperson; Susan Frey; Vernon Benjamin; DeeAnn Wedemeyer Oleson; Edward L. Maier; and Ann Diehl. Respondent Troy Padellford was represented by attorney Thomas G. Crabb. Assistant Attorney General Scott Galenbeck represented the state. The hearing was closed to the public at Respondent's request, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. 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 their decision. The administrative law judge was instructed to

prepare the Findings of Fact, Conclusions of Law, Decision and Order, in conformance with the Board's deliberations.

THE RECORD

State Exhibit A: Statement of Charges, 10/25/07

State Exhibit B: Investigative Report, 10/11/06

Respondent Exhibits 1-8: Computer screen prints regarding listed prescriptions

Respondent Exhibit 9: Memo from Dr. Kobliska

Respondent Exhibit 10: Letters of Support

Respondent Exhibit 11: Letter from Jennifer Padellford

Respondent Exhibit 12: Prescription information-Jennifer Padellford

FINDINGS OF FACT

1. On February 24, 1992, the Board issued pharmacist license no. 17779 to Respondent Troy L. Padellford, authorizing him to engage in the practice of pharmacy, subject to the laws of the state of Iowa and the rules of the Board. Respondent's license is current and active through June 30, 2009. At all times relevant to the Statement of Charges, Respondent was employed as the pharmacist-in-charge at the Hy-Vee Pharmacy, 809 W. Rock Island Street, Knoxville, IA 50138. (State Exhibits A, B; Testimony of Respondent).

2. In 2006, the Board received an anonymous complaint that Respondent had been committing insurance fraud by entering a 30-day supply for medications for himself, his wife, and a pharmacy technician but filling the prescriptions with a 60 or 90 day supply. Board Compliance Officer Dennis Dobesh, R.Ph., was assigned to investigate the complaint and prepare an investigative report for Board review. (Testimony of Dennis Dobesh; State Exhibit B)

3. The employees of Hy-Vee Pharmacy had health insurance through Wellmark Catalyst, which will only pay for 30 days' of medication at one time. Employees are required to make a co-payment of \$10-\$30 each time the prescription is filled or refilled. (Testimony of Dennis Dobesh)

4. Dennis Dobesh obtained pharmacy profiles and prescription records for Respondent, his wife, and the pharmacy technician. These records include numerous instances where Respondent, his wife, or the pharmacy technician presented a prescription for a

30-day supply of medication, but Respondent dispensed more than a 30-day supply, according to the directions for use provided by the physician on the prescription.

a. For example, Respondent received a prescription for #30 Lipitor on December 1, 2003 (#247225), with the directions to take one tablet by mouth every day. The prescription was filled as directed and Respondent paid a \$25.00 co-payment. Starting the following month, Respondent obtained #60 Lipitor but paid only the co-payment for a 30-day supply, even though the prescription was written as take one tablet each day. In order to obtain a 60-day supply, Respondent had to override the physician's instructions to "take one tablet each day" and substitute "take as directed." Respondent admitted that he overrode the physician's instructions and entered the computer label as "take as directed." Respondent claimed that he actually took 1-2 Lipitor each day depending on what he ate and that his physician had told him verbally that this was ok. Just prior to the hearing, Respondent's physician provided written authorization for Respondent to take the Lipitor "as directed." However, Respondent did not timely document any authorization of the change of directions at the time that the prescriptions were dispensed. (State Exhibits B-A, B-C, B-E; Respondent Exhibit 9; Testimony of Dennis Dobesh; Respondent)

b. Similarly, Respondent filled Lexapro prescriptions for his wife with 60 tablets when the physician had written the prescription as take "1 tablet by mouth daily." Respondent overrode the directions to read "take as directed." Respondent also gave his wife a three-month supply of birth control pills at one time, when she should have been limited to a 28-day supply. (State Exhibit B-D, B-F; B-K; Respondent Exhibits 11, 12; Testimony of Dennis Dobesh)

c. A pharmacy technician also had multiple prescriptions filled in larger supplies than were authorized by the prescription directions. In a number of instances, the directions to take a specific number of pills per day was overridden and "take as directed" was substituted. (State Exhibits B-B, B-G, B-H)

5. In each case, the total number of pills dispensed did not exceed the total quantity authorized by the physician (initial prescription plus refills). (Testimony of Troy Padellford; Respondent Exhibits 1-8)

CONCLUSIONS OF LAW

COUNT I

The Board is authorized to discipline pharmacists for any violations of the Iowa Pharmacy Practice Act. Iowa Code §155A.12(1)(2007). 657 IAC 36.1(4)"b"(4) provides, in relevant part:

36.1(4) Grounds for discipline. The board may impose any of the disciplinary sanctions set out in rule 36.1(2) when the board determines that the licensee, registrant, or permittee is guilty of the following acts or offenses:

...

b. Professional incompetency. Professional incompetency includes but is not limited to:

...

(4) A willful or repeated departure from, or the failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the state of Iowa.

The preponderance of the evidence established that Respondent violated 657 IAC 36.1(4)"b"(4) when he dispensed prescription drugs to himself, his wife, and a pharmacy technician in a manner that was inconsistent with the physicians' written prescriptions and when he changed the physicians' instructions to "take one tablet per day" to "take as directed." This allowed Respondent, his wife, and the pharmacy technician to obtain more than a one month's supply of their medications at one time and thereby avoid some co-payments and the inconvenience of more frequent refills. This violated minimal standards of acceptable pharmacy practice, even though the patients ultimately did not receive more pills than the physicians authorized. Even if some physicians had verbally authorized the medications to be taken more frequently than prescribed, Respondent was not justified in changing the label directions for the prescriptions without written authorization from the physician or without timely documenting the verbal authorization of the change in the pharmacy's records.

COUNT II

Iowa Code section 155A.12(4)(2007) authorizes the Board to discipline licensees for failure to keep and maintain required records. Iowa Code section 155A.21(2007) provides that a person found in possession of a drug limited to dispensation by prescription, unless the drug was so lawfully dispensed, commits a serious misdemeanor. Iowa Code section 155A.23(1)(b) prohibits forging or altering a written, electronic, or facsimile prescription or any written, electronic, or facsimile order. Iowa Code section 155A.23(2) prohibits willfully making a false statement in any prescription, report, or record required by chapter 155A. Finally, pharmacists may be disciplined for failing to create and maintain complete and accurate records as required by state or federal law, regulation or rule of the Board. 657 IAC 36.1(4)(ac).

While Respondent admits dispensing greater quantities of certain prescription drugs than the written prescription provided for a 30-day supply, he denies that his actions constituted falsifying or physically altering any prescription or that his conduct constituted a violation of the statutes cited in Count II. However, the Board finds that Respondent did alter and/or falsify prescriptions when he repeatedly took the physician's written directions of "take 1 tablet daily" and entered them into the pharmacy's records as "take as directed" in order to dispense more than a 30-day supply at one time. The fact that the total number of pills eventually dispensed did not exceed the total number authorized for the patient is not a defense. The preponderance of the evidence established a violation of Iowa Code sections 155A.12(1), (4), 155A.21, 155A.23(1)(b) and (2)(2007) and 657 IAC 36.1(4)(i) and (ac).

DECISION AND ORDER

IT IS THEREFORE ORDERED that pharmacist license no. 17779, issued to Troy L. Padellford, shall be placed on probation for a period of two (2) years, subject to the following conditions:

1. Respondent shall pay a fine of \$1,000 within 30 days of the date of issuance of this Decision and Order.
2. Respondent shall provide a copy of this Decision and Order to his current employer and all prospective employers at the time of interview. Within 15 days of receipt of this Decision and Order and within 15 days of beginning any new employment, all employers shall sign a verification

that they have read the Decision and Order and understand the terms, conditions and restrictions imposed on Respondent by this decision. These written verifications shall be provided to the Board when signed.

3. During the period of probation, Respondent shall not supervise any registered intern and shall not perform any of the duties of a preceptor. Respondent shall not have an ownership interest in any pharmacy.

4. Respondent shall file written, sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of his probation. The reports shall be filed no later than March 5, June 5, September 5, and December 5 during each year of Respondent's probation. The quarterly 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.

5. Respondent shall make personal appearances before the Board or a Board Committee upon request. Respondent shall be given reasonable notice of the date, time and location for such appearances.

6. During probation, 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.

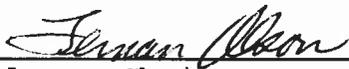
7. Respondent shall obey all federal and state laws, rules, and regulations substantially related to prescription drugs, controlled substances, or nonprescription drugs; with Iowa Code chapters 124, 124A, 124B, 126, 147, 155A, and 205; and shall comply with the Board's rules.

8. Should Respondent leave Iowa to reside or practice outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period. After one year of successful probation, Respondent may petition the Board to ask for a reduction of his probationary term.

9. Should Respondent violate or fail to comply with any of the terms and conditions of probation, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.1.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 36.18(2), that Respondent shall pay \$75.00 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 thirty (30) days of receipt of the bill.

Dated this 7th day of October, 2008.



Lemman Olson, Chairperson
Iowa Board of Pharmacy

cc: Scott Galenbeck, Assistant Attorney General

This final decision of the Board can be appealed in accordance with the Iowa administrative procedures Act.

BEFORE THE BOARD OF PHARMACY STATE OF IOWA

**IN THE MATTER OF THE STIPULATION AND CONSENT ORDER
AGAINST**

TROY L. PADELLFORD, R.Ph., RESPONDENT

2006-55

TERMINATION ORDER

DATE: March 9, 2010

1. On October 7, 2008, a Findings of Fact, Conclusions of Law, Decision and Order was issued by the Iowa Board of Pharmacy placing the license to practice pharmacy, number 17779 issued to Troy L. Padellford on February 24, 1992, on probation for a period of two years under certain terms and conditions.

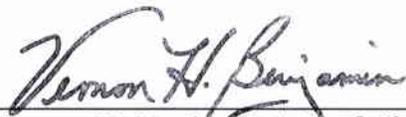
2. On March 9, 2010, Respondent appeared before the Board requesting to be released from probation.

3. The Board directed that the probation placed upon the Respondent's license to practice pharmacy should be terminated.

IT IS HEREBY ORDERED:

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

IOWA BOARD OF PHARAMCY



Vernon H. Benjamin, Board Chairperson
400 SW 8th Street, Suite E
Des Moines, Iowa 50309-4688