

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	
Pharmacist License of)	Case No. 2008-41
GURCHARAN S. RANDHAWA)	
License No. 20487,)	STATEMENT OF CHARGES
Respondent)	

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

1. He is the Executive Director of 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 147, 155A and 272C (2007).
3. Gucharan S. Randhawa (hereinafter, "Respondent") was originally licensed as a pharmacist in Iowa, by reciprocity, on December 27, 2006, as evidenced by license number 20487.
4. Respondent's pharmacist license number 20487 is current and active until June 30, 2010 subject to the laws of the State of Iowa and the rules of the Board.
5. Respondent's current address is 3318 Lily Lane, Marshalltown, Iowa 50158.
6. Respondent was, at all times material to this statement of charges, employed as a relief pharmacist at Keokuk County Health in Sigourney, Iowa.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 36.1(4)(b) with a lack of professional competency as demonstrated by a substantial lack of knowledge or ability to discharge professional obligations within the scope of the pharmacist's practice.

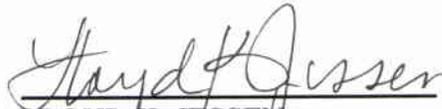
COUNT II – INABILITY TO PRACTICE DUE TO IMPAIRMENT

The Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of mental impairment in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code 36.1(4)(m).

B. CIRCUMSTANCES

Circumstances supporting the charges are set forth on 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 Secretary/Director

On this 17 day of February 2009, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


LEMAN OLSON, Chairperson
Iowa Board of Pharmacy Examiners
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
STATEMENT OF CHARGES AGAINST:

CASE NO. 2008-41
DIA NO. 09PHB009

GURCHARAN S. RANDHAWA
License No. 20487

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER

RESPONDENT

On February 17, 2009, the Iowa Board of Pharmacy (Board) found probable cause to file a Statement of Charges and Notice of Hearing against Gurcharan S. Randhawa (Respondent), alleging the following violations:

- Count I: Lack of Professional Competency
- Count II: Inability To Practice Due To Impairment

The hearing was held on June 2, 2009 at 1:35 p.m. The following members of the Board presided at the hearing: Susan Frey, Vice-Chairperson; DeeAnn Wedemeyer Oleson; Edward L. Maier; Mark Anliker, Margaret Whitworth, and Annabelle Diehl. Respondent was properly served with notice of hearing but failed to appear. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1). Assistant Attorney General Scott Galenbeck represented the state. The hearing was recorded by a certified court reporter. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with its deliberations.

THE RECORD

The record includes the testimony of the witnesses and State Exhibits 1-4 (See Exhibit List for description).

FINDINGS OF FACT

1. On December 27, 2006, the Board issued pharmacist license number 20487 to Respondent Gurcharan Randhawa by reciprocity. Respondent's pharmacist license is current and active until June 30, 2010. (State Exhibit 1). Respondent has also been licensed as a physician in the state of Iowa. (Wolfe testimony; State Exhibit 3)

2. At times relevant to the Statement of Charges, Respondent was employed by contract as a physician and as a relief pharmacist by the Keokuk County Health Center (KCHC) in Sigourney, Iowa. On April 4, 2008, one of the Board's investigators saw a press release stating that the Iowa Medical Board had charged Respondent with incompetency and that Respondent had agreed to pay a \$10,000 fine and undergo psychological testing. The investigator knew that Respondent was also working as a pharmacist and immediately contacted an administrator at KCHC, who said that the hospital would no longer be using Respondent as a relief pharmacist. (Wolfe testimony; State Exhibit 3, Attachments A, B)

3. The Pharmacy Board's investigator obtained copies of the Medical Board's Investigative Reports, Statement of Charges, and Settlement Agreement with Respondent. According to the investigative report, one of the competency issues concerned Respondent's inappropriate decisions to change, discontinue, and prescribe medications. The Statement of Charges alleged that Respondent was incompetent and that he was suffering from a physical or mental condition which impaired his ability to practice medicine and surgery with reasonable skill and safety. It further asserted that Respondent completed a neuropsychological evaluation at the University of Iowa Hospitals and Clinics that raised serious concerns about Respondent's neuropsychological functioning.

On March 27, 2008, Respondent and the Medical Board entered into a Settlement Agreement that required Respondent to complete further Board-approved neuropsychological testing no later than March 28, 2008 and to ensure that a summary report was submitted to the Board no later than April 30, 2008. In addition to the \$10,000 fine, Respondent's medical license was placed on probation for a period of five years, subject to terms and conditions. (Wolfe testimony; State Exhibit 3)

4. The Board's investigator interviewed the pharmacist-in-charge at the KCHC pharmacy, who had a number of concerns about Respondent's work as a pharmacist. The pharmacist-in-charge (PIC) reported that Respondent did not provide an original copy of his pharmacist license and renewal for posting at the pharmacy, that he resisted learning the pharmacy's policies and procedures, that he belittled her in meetings, and that he urged staff to allow him to perform medication reviews, rather than the PIC, because he was a physician. (Wolfe testimony; State Exhibit 3)

5. On May 8, 2008, the Board's investigator spoke to Respondent by telephone. Respondent indicated that he preferred to practice medicine and had no intentions of working as a pharmacist, now or in the future. (Wolfe testimony; State Exhibit 3)
6. The Board's investigator recently contacted an investigator with the Medical Board and learned that Respondent had permitted his medical license to lapse in September 2008 and has not renewed it. (Wolfe testimony)
7. On February 21, 2009 Respondent received the Statement of Charges and Notice of Hearing by restricted certified mail. (State Exhibit 4; Jorgenson testimony)

CONCLUSIONS OF LAW

FAILURE TO APPEAR

657 IAC 35.5(1) authorizes the Board to deliver a notice of hearing by certified mail return receipt requested. Respondent was properly served because he received the Statement of Charges and Notice of Hearing by restricted certified mail. 657 IAC 35.21 authorizes the Board to proceed with the hearing in the party's absence if the party fails to appear after proper service of notice.

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Iowa Code §155A.12(1) (2007) authorizes the Board to discipline a pharmacist's license for any violation of Iowa Code chapter 155A or of the Board's rules.

657 IAC 36.1(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:

(1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the pharmacist's practice.

The preponderance of the evidence established that Respondent has violated Iowa Code §155A.12(1)(2007) and 657 IAC 36.1(4)(b) by demonstrating a substantial lack of knowledge or ability to discharge professional obligations within the scope of his practice. The records from the Medical Board as well as the investigator's interview of the pharmacist-in-charge at KCHC demonstrate that Respondent has serious deficiencies in his knowledge of medications and in his ability and willingness to learn and abide by pharmacy policies and procedures. Moreover, Respondent has presented no evidence to the contrary.

COUNT II – INABILITY TO PRACTICE DUE TO IMPAIRMENT

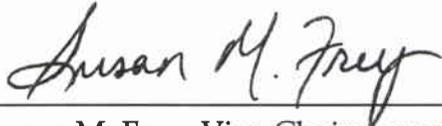
657 IAC 36.1(4) (m) provides that the board may sanction a licensee for inability to practice with reasonable skill and safety by reason of a mental or physical impairment. The preponderance of the evidence established that Respondent is unable to practice pharmacy with reasonable skill and safety by reason of a mental or physical impairment. The Medical Board has required Respondent to undergo further neuropsychological evaluation due to concerns raised by Respondent's neuropsychological evaluation at the University of Iowa Hospital and Clinics and by his competency evaluation at the Center for Personalized Education for Physicians. The evaluations found that Respondent demonstrated problems processing information. Respondent has not provided any evidence that he has completed the required neuropsychological evaluation with satisfactory results.

DECISION AND ORDER

The serious nature of the violations and Respondent's failure to appear for the hearing justifies the revocation of his pharmacist license. IT IS THEREFORE ORDERED that pharmacist license number 20487, issued to Gurcharan S. Randhawa, is hereby REVOKED.

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 17 day of August, 2009.

A handwritten signature in cursive script, reading "Susan M. Frey". The signature is written in black ink and is positioned above a horizontal line.

Susan M. Frey, Vice-Chairperson
Iowa Board of Pharmacy

cc: Scott Galenbeck, 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).