

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

Re:)	Case No. <u>99-2368</u>
Pharmacy Technician Registration of:)	
ROBIN LYNN ROSEMAN)	STATEMENT OF CHARGES
Registration No. 2368)	
Respondent)	

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

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners 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 (1997).
3. On January 14, 1998, the Board issued Respondent, Robin Lynn Roseman, pharmacy technician registration number 2368 to be registered as a pharmacy technician, subject to the laws of the State of Iowa and the rules of the Board.
4. Registration number 2368 is current and active until February 29, 2000.
5. Respondent's current address is 4409 98th Street, Urbandale, Iowa 50322.
6. Upon information and belief, Respondent is not currently employed as a pharmacy technician.

COUNT I

The Respondent is charged under Iowa Code §§ 155A.6(7) (1999) and 657 Iowa Administrative Code § 22.18 with violation of the laws of the State of Iowa and the United States relating to controlled substances by knowingly and unlawfully acquiring or obtaining a prescription for a schedule IV controlled substance, Darvocet, by misrepresentation, fraud, forgery, deception or subterfuge in violation of Iowa Code §§ 124.403(1)(c)(2), 124.403(c), 124.210, 155A.23 & 155A.24.

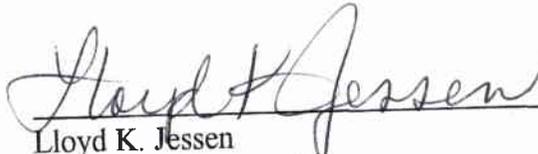
COUNT II

The Respondent is charged under Iowa Code §§ 155A.6(7) (1999) and 657 Iowa Administrative Code § 22.18 with violation of the laws of the State of Iowa and the United States relating to controlled substances by possessing schedule IV controlled substances, Darvocet, in violation of Iowa Code §§ 124.401(5), 124.403(c), 124.210 & 155A.23.

THE CIRCUMSTANCES

1. On or about August 10, 1999, the Respondent was arrested by the Urbandale police department for obtaining a prescription by fraud.
2. On or about August 16, 1999, the Board office received information regarding the Respondent's arrest.
3. Information received by the Board office indicates that Respondent called a prescription for Darvocet, a schedule IV controlled substance in to a pharmacy in Urbandale, pretending to be a nurse from her doctor's office.
4. The pharmacist who received the Respondent's call became suspicious of the call and called the doctor's office to confirm the prescription.
5. Upon learning that the doctor's office had not called in the prescription, the pharmacist called the local police who came to the scene and arrested the Respondent immediately after she received the prescription medication.
6. Respondent has been charged with obtaining a prescription by fraud, an aggravated misdemeanor.

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 15th day of Sept., 1999, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Arlan D. VanNorman, Chairperson
Iowa Board of Pharmacy Examiners
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Shauna Russell Shields
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF:)	DIA NO: 99PHB004
ROBIN LYNN ROSEMAN)	
PHARMACY TECHNICIAN)	FINDINGS OF FACT,
REGISTRATION #2368)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
RESPONDENT)	[DEFAULT]

TO: ROBIN LYNN ROSEMAN

On September 15, 1999, the Iowa Board of Pharmacy Examiners (Board) found probable cause to file a Statement of Charges against Robin Lynn Roseman (Respondent), a registered pharmacy technician, alleging that the Respondent had violated a number of pharmacy related statutes and rules. A Notice of Hearing was issued on September 22, 1999 and was served upon the Respondent by certified mail, return receipt requested, on September 25, 1999.

The hearing on the Statement of Charges was held on November 17, 1999 at 1:00 p.m., at the Board office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa. The following members of the Board were present: Arlan D. Van Norman, Chairperson; Phyllis A. Olson, Mary Pat Mitchell; Katherine Linder; Matthew C. Osterhaus; and Michael Seifert. The Respondent did not appear for the hearing, nor was she represented by counsel. The state was represented by Shauna Shields, Assistant Attorney General. The proceedings were recorded by a certified court reporter. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, assisted the Board with the conduct of the hearing. The hearing was open to the public pursuant to Iowa Code Section 272C.6(1)(1999).

The hearing was scheduled to commence at 1:00 p.m. At 1:15 p.m., the state moved for default against the Respondent, in accordance with 657 IAC 35.21. The motion was granted and default was entered. The Board found that both the circumstances and the counts alleged in the Statement of Charges were established by default. Following the entry of default, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(1999) to deliberate regarding sanction. The Board asked the administrative law judge to draft their decision, in accordance with their deliberations.

FINDINGS OF FACT

1. On January 14, 1998 the Board issued the Respondent pharmacy technician registration number 2368 to be registered as a pharmacy technician, subject to the laws of the State of Iowa and the rules of the Board. Registration number 2368 is current and active until February 29, 2000.

2. On or about August 10, 1999, the Respondent was arrested by the Urbandale police department for obtaining a prescription by fraud.
3. On August 16, 1999, the Board office received information regarding the Respondent's arrest.
4. Information received by the Board office indicates that Respondent called a prescription for Darvocet, a schedule IV controlled substance in to a pharmacy in Urbandale, pretending to be a nurse from her doctor's office.
5. The pharmacist who received the Respondent's call became suspicious of the call and called the doctor's office to confirm the prescription.
6. Upon learning that the doctor's office had not called in the prescription, the pharmacist called the local police who came to the scene and arrested the Respondent immediately after she received the prescription medication.
7. Respondent has been charged with obtaining a prescription by fraud, an aggravated misdemeanor.

CONCLUSIONS OF LAW

657 IAC 35.5 provides that delivery of the notice of hearing constitutes commencement of the contested case proceeding. Delivery may be executed by...certified mail, return receipt requested. 657 IAC 35.5(1)"b". The Respondent was properly served with the statement of charges and notice of hearing by certified mail, return receipt requested.

657 IAC 35.21(1) provides that if a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party. The Respondent failed to appear after proper service of notice. The Board was authorized to grant the state's Motion for Default.

COUNT I

The facts, as contained in the Circumstances of the Statement of Charges and as established by default, constitute violations of Iowa Code sections 124.403(1)(c)(2); 124.403(c); 124.210; 155A.23; and 155A.24 because the Respondent knowingly and unlawfully acquired or obtained a prescription for a scheduled IV controlled substance, Darvocet, by misrepresentation, fraud, forgery, deception, or subterfuge. Iowa Code section 155A.6(7)(1999) and

657 IAC 22.18 authorize the Board to take disciplinary action against a pharmacy technician for such violations.

COUNT II

The facts, as contained in the Circumstances of the Statement of Charges and as established by default, constitute violations of Iowa Code sections 124.401(5); 124.403(c); 124.210 and 155A.23 because the Respondent illegally possessed a schedule IV controlled substance, Darvocet. Iowa Code section 155A.6(7) (1999) and 657 IAC 22.18 authorize the Board to take disciplinary action against a pharmacy technician for such violations.

DECISION AND ORDER

The Iowa Board of Pharmacy Examiners hereby finds that the Respondent, Robin Lynn Roseman, Registration No. 2368, has violated Iowa Code sections 124.401(5); 124.403(1)(c)(2); 124.403(c); 124.210, 155A.23, and 155A.24. THEREFORE, IT IS THE ORDER of the Board that Registration number 2368, issued to Robin Lynn Roseman, is hereby REVOKED.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 36.17, that the Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing.

Dated this 13th day of December, 1999.



Arlan D. Van Norman, Chairperson
Iowa Board of Pharmacy Examiners

cc: Shauna Shields, Assistant Attorney General

Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding 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. The motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion. 657 IAC 35.21(3) 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)

An aggrieved or adversely affected party can appeal a final decision of the Board by filing a petition for judicial review with the district court, in accordance with Iowa Code section 17A.19. If a party files an application for rehearing with the agency, pursuant to Iowa Code section 17A.16(2), the petition for judicial review must be filed within thirty days after that application has been denied or deemed denied. If a party does not file an application for rehearing, the petition for judicial review must be filed within thirty days after the agency's final decision in the contested case.