

STATE OF IOWA
BEFORE THE IOWA BOARD OF PHARMACY EXAMINERS

IN THE MATTER OF:)	
)	
CHARLENE HLAS SIPE)	CONSENT AGREEMENT
)	
Respondent.)	

The Iowa Board of Pharmacy Examiners (Board) and Charlene Hlas Sipe (Respondent) enter into the Consent Agreement (Agreement) pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2001):

1. The Respondent seeks a license to practice pharmacy in the State of Iowa.
2. The Respondent is currently licensed to practice pharmacy in the States of Florida and Illinois. The Respondent's Florida and Illinois licenses are now in good standing, however, the Respondent's Florida license was subject to discipline because the Respondent admitted that she had self-prescribed and self-medicated controlled substances without a prescription and without paying for the drugs.
3. The Respondent's history of license discipline in the State of Florida would provide the Board with grounds to deny her a license to practice pharmacy in the State of Iowa. The Respondent has,

however, satisfied all of the requirements of the State of Florida's Board of Pharmacy; and her Florida license is now in good standing.

4. Upon approval of this Agreement by the Board, the Respondent shall receive a license to practice pharmacy in the State of Iowa subject to a three year term of probation as provided in this agreement.
5. The Respondent's license to practice pharmacy in Iowa shall be issued and placed on probation for a period of three years beginning on the date of the Respondent's acceptance and approval of this Agreement. During the probationary period, the Respondent shall comply with the following terms:
 - a. The Respondent shall not consume alcohol.
 - b. The Respondent shall not use any controlled substance or prescription drug in any form unless the controlled substance or prescription drug has been authorized and prescribed for the Respondent by a licensed, treating physician or other qualified treating health care provider. The Respondent shall inform any treating physician or other treating health care provider of her medical history, including her history of chemical dependency.
 - c. The Respondent shall provide witnessed blood or urine specimens on demand by an agent of the Board. The specimens shall be used for alcohol and drug screening and to verify the Respondent's compliance with any drug therapy ordered by the Respondent's physician, all costs of which shall be paid by the Respondent.
 - d. The Respondent shall comply with all treatment recommendations of her treatment program and her physician and/or counselor. The treatment program or physician/counselor shall submit quarterly reports to the Board

documenting the Respondent's compliance with the treatment program.

- e. The Respondent shall file written, sworn quarterly reports with the Board attesting her compliance with all the terms and conditions of this Stipulation and Consent Order. The reports shall be filed no later than December 5, March 5, June 5, and September 5 of each year of the Respondent's probation. The quarterly reports shall include the Respondent's place of employment, current home address, home telephone number, or work telephone number, and any further information deemed necessary by the Board from time to time.
- f. The Respondent shall attend aftercare meetings and Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings as recommended by the Respondent's physician or treatment provider. The Respondent shall append to each quarterly report referred to in subparagraph 5(e) above, statements signed or initialed by another person in attendance at the meetings attesting to the Respondent's attendance and continuing participation. The statement shall include the time, date, and location of the meetings attended.
- g. The Respondent shall make personal appearance before the Board or a Board committee upon request. The Respondent shall be given reasonable notice of the date, time, and location for such appearances. Any such appearance shall be subject to the waiver provisions of 657 Iowa Administrative Code § 35.9.
- h. The Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy and the distribution of controlled substances.
- i. The Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.
- j. The Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.

- k. The Respondent shall not serve as the pharmacist in charge of a pharmacy.
 - l. The Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program under the direct support of a pharmacist advocate.
 - m. The 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.
 - n. The Respondent agrees to release all her medical records to the Board, including all medical recordings pertaining to treatment for mental conditions and for alcohol and substance abuse, and agrees to allow the free flow of information between the Board and the Respondent's physician(s) and treatment provider(s) and to ensure that the Board receives all necessary information if further evaluation or treatment of the Respondent is requested or required. This release of medical records, including records pertaining to treatment for alcohol and substance abuse, is effective for three years from the date of the Board's approval of this Stipulation and Consent Order.
6. The Board reserves the right to review the Respondent's compliance with the terms of this Agreement at any time.
7. Should the Respondent violate the terms of this Consent Agreement in any respect, the Board may institute formal disciplinary proceedings. This Agreement shall be made part of the permanent record of the Board, and violations of this Agreement may be considered by the Board in determining the nature and severity of any future disciplinary action.
8. This Agreement has been approved by the Board.

9. The Respondent voluntarily agrees to enter into this Agreement with the Board.
10. This Agreement is a public record available for inspection and copying in accordance with Iowa law.
11. Upon successful completion of the probationary term prescribed by the Agreement, the Respondent shall be granted an unrestricted license to practice pharmacy in the State of Iowa, if no other legal impediments exist.

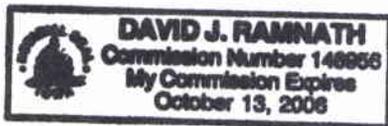
WHEREFORE, the terms of this Consent Agreement are agreed to and accepted by the Iowa Board of Pharmacy Examiners and the Respondent.

This Stipulation and Consent Order is hereby accepted and approved by Respondent on the 21 day of November, 2003.



Charlene Hlas Sipe
Respondent

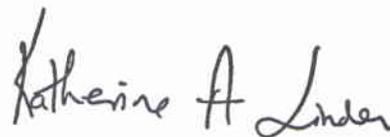
Subscribed and sworn to before me by Charlene Hlas Sipe on the 21st day of NOVEMBER, 2003.





NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

This Stipulation and Consent Order was accepted by the Iowa Board of Pharmacy Examiners on the 14th day of October, 2003.



KATHERINE A. LINDER, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Scott Galenbeck
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

ATTORNEY FOR STATE

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

Re:)	Case No. 2004-92
Pharmacist License of)	
CHARLENE HLAS SIPE,)	STATEMENT OF CHARGES
License No. 19919,)	
Respondent.)	

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

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners (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 (2005).
3. On November 21, 2003, the Board issued Respondent, Charlene Hlas Sipe, by reciprocity, a license to engage in the practice of pharmacy as evidenced by license number 19919, subject to the laws of the State of Iowa and the rules of the Board.
4. The license was issued pursuant to the terms of a Consent Order that placed Respondent's Iowa license on probation for three years. One of the conditions of the probation was that Respondent would not use any controlled substance or prescription drug unless prescribed by an authorized practitioner.
5. Respondent's pharmacist license in Florida was disciplined in 1999, because Respondent admitted that she had self prescribed and self medicated controlled substances without a prescription and without paying for the drugs.
6. Respondent's pharmacist license is current and active until June 30, 2005.
7. Respondent's current address is 509 21st Avenue, Fulton, Illinois 61252.

A. CHARGES

COUNT I – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

The Respondent is charged with unlawful possession and use of prescription drugs in violation of

Iowa Code §§ 155A.12(1) (2003), 155A.21 and 155A.23 (2005) and 657 Iowa Administrative Code §§ 36.1(4)(h) and 36.1(4)(j).

COUNT II – INABILITY TO PRACTICE PHARMACY DUE TO CHEMICAL ABUSE

The Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of chemical abuse in violation of Iowa Code § 155A.12(1) (2003) and 657 Iowa Administrative Code §§ 36.1(4)(d), 36.1(4)(j) and 36.1(4)(m).

COUNT III – FAILURE TO COMPLY WITH BOARD ORDER

Respondent is charged under Iowa Code § 272C.3(2)(a) (2005) with a failure to comply with the terms of a Stipulation and Consent Order issued by the Iowa Board of Pharmacy Examiners on November 21, 2003, which, among other things, prohibited Respondent from utilizing unauthorized controlled substances.

B. CIRCUMSTANCES

On or about December 20, 2004, an investigation was commenced which revealed the following:

1. The Board received notification from the Illinois Professionals Health Program in Des Plaines, Illinois, on December 20, 2004, that Respondent had admitted to relapsing. The results of toxicologies administered on October 13, 2004, October 18, 2004, and October 26, 2004, produced positive results for Fentanyl®.
2. On February 22, 2005, the Board received a notification from the Center for Alcohol and Drug Services, Inc. (C.A.D.S.) of Rock Island, Illinois that Respondent had relapsed again on February 10, 2005.
3. An investigative report dated March 4, 2005, received from Board investigator Bernard Berntsen has corroborated this information. In addition, Mr. Berntsen's report indicates that as part of Respondent's second relapse, she has experienced memory lapse and sleep walking and has no recollection of continued use of Fentanyl® patches for which she tested positive on January 28, 2005. Currently no action has been taken against Respondent's pharmacist license in Illinois, where she lives and works.
4. Respondent has cooperated with the Board's investigation in this matter. On March 7, 2005, the Board received a letter from Respondent in which she indicated the following:
 - a. Beginning on or about September 2004, Respondent began obtaining Duragesic patches without a prescription, which were used along with methadone, which was prescribed.
 - b. Respondent received inpatient treatment at Rush Behavior Center in Oak Park, Illinois from November 15, 2004, to January 4, 2005.
 - c. Respondent's random urine screen obtained on January 28, 2005, tested positive

for Fentanyl®. As a result, Respondent was readmitted to Rush Behavior Center as an inpatient on February 14, 2005. Respondent currently continues treatment at that facility as an inpatient.

- d. Respondent indicates that she will follow the recommendations of her treatment provider, which are unknown at this time.

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 10th day of March 2005, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


MICHAEL J. SEIFERT, 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 BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:)	Case No. 2002-92
Pharmacist License of)	
CHARLENE HLAS SIPE)	STIPULATION
License No. 19919)	AND
Respondent)	CONSENT ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2005), the Iowa Board of Pharmacy Examiners (hereinafter, "the Board") and Charlene Hlas Sipe (hereinafter, "Respondent"), enter into the following Stipulation and Consent Order settling a licensee disciplinary proceeding currently pending before the Iowa Board of Pharmacy Examiners.

Allegations specified in a Statement of Charges filed 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 November 21, 2003, by reciprocity, as evidenced by Pharmacist License Number 19919, 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, 2007.
3. Respondent was, at all times material to the Statement of Charges, employed as the pharmacist in charge at a K-Mart Pharmacy #3631, 1880 Southwest Avenue, Freeport, Illinois.
4. A Statement of Charges was filed against Respondent on March 10, 2005.
5. The Board has jurisdiction over the Respondent and jurisdiction over the subject matter of these proceedings.

6. Respondent does not 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, current physical and mental health evaluation – including a substance abuse evaluation – from a physician/treatment provider in the Rush Behavioral Health Professionals Program.

b. Delivers to the Board a fully documented, written summary of the 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.

c. Permits the Board complete access to her medical records and records of evaluation and treatment.

8. At such time as Respondent is able to deliver to the Board a fully documented, written summary of a 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 her 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 must agree to comply with the terms of probation.
- b. The period of probation shall be a minimum of 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. After five (5) years of probation have been completed, Respondent may petition the Board for termination of her probationary license period.
- c. For the first year of Respondent's probationary license period, Respondent shall not practice pharmacy except in the presence of another licensed pharmacist.
- e. 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.
- f. During probation, Respondent shall report to the Board or its designee 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.
- g. Respondent shall not serve as a preceptor or pharmacist in charge.
- h. Respondent shall notify all present 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.

- i. 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.
- j. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing her performance as a pharmacist during his probationary period. Respondent shall be given reasonable notice of the date, time, and place for the appearances.
- k. Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
- l. 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.
- m. Respondent shall provide witnessed blood, hair or urine specimens on demand by an agent of the Board. The specimens shall be used for alcohol and drug screening, and to verify Respondent's compliance with this Stipulation and Consent Order and with any drug therapy ordered by Respondent's physician. All

costs related to the analysis of such specimens shall be paid by Respondent.

n. Notwithstanding the provisions of the preceding paragraph, both the Board and Respondent anticipate that alcohol and drug screening will be performed in accordance with this paragraph. Because Respondent is currently participating in the Illinois Professional Health Program (IPHP), Respondent agrees to provide the Board access to the results of drug and alcohol screening performed by IPHP.

Respondent shall provide, within 15 days of the date this Stipulation and Consent Order is executed by the Board, a signed release – in a form acceptable to IPHP – permitting the Board to access all medical information, including test results, generated by IPHP and relating to Respondent. Respondent will arrange with IPHP to have all screening results forwarded to the Board, at Respondent's cost, and will also provide to the Board evidence that such an arrangement has been formalized.

o. Respondent shall provide, upon request of an agent of the Board, copies of or access to all her medical records.

p. 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.

q. 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.

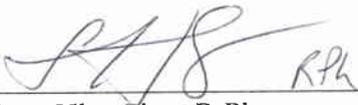
10. Should the Respondent violate or fail to comply with any of the terms and conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2005) 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. This proposed settlement 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.

13. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board in a disciplinary action.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 9 day of November 2006.



Charlene Hlas Sipe, R.Ph.
Respondent

Subscribed and sworn to before me by Charlene Hlas Sipe on this 9 day of Nov. 2006.



Bonnie McClary
NOTARY PUBLIC IN AND FOR
THE STATE OF ILLINOIS

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 15 day of Nov. 2006.

Michael J. Seifert
MICHAEL J. SEIFERT, Chairperson
Iowa Board of Pharmacy Examiners
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 *2nd floor*

Charlene Hlas Sipe
509 21st Avenue,
Fulton, Illinois 61252

Sipe settlement.doc

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Pharmacist License of) CHARLENE HLAS SIPE) License No. 19919) Respondent.)	Case No. 2008-14 STATEMENT OF CHARGES
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COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy (hereinafter, 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 147, 155A, and 272C (2007).
3. Respondent's pharmacist license is current and active until June 30, 2009.
4. Respondent's current address is 419 19th Avenue, Fulton, Illinois 61252.
5. On November 21, 2003, the Board issued Respondent, Charlene Hlas Sipe, by reciprocity, a license to engage in the practice of pharmacy as evidenced by license number 19919, subject to the laws of the State of Iowa and the rules of the Board.
6. At the time of initial licensure, Respondent entered into a Consent Agreement for the purpose of licensure. The Consent Agreement placed Respondent's license on probation, with conditions, for a period of three years.
7. At the time of initial licensure on November 21, 2003, Respondent was licensed to practice pharmacy in the states of Florida and Illinois. Although her licenses in those states were in good standing, Respondent's Florida license was subject to discipline because Respondent admitted that she had self-prescribed and self-medicated controlled substances without a prescription and without paying for the drugs.
8. A Statement of Charges against Respondent was adopted by the Board on March 10, 2005, for unlawful possession of prescription drugs, inability to practice pharmacy due to chemical abuse and failure to comply with Board order.
9. On November 15, 2006, the Board accepted a Stipulation and Consent Order in which Respondent's pharmacist license was suspended indefinitely.

10. On March 28, 2007, after Respondent met the terms of the Stipulation and Consent Order, her license was placed on probation, with conditions, for a period of five years.

A. CHARGES

COUNT I – FAILURE TO COMPLY WITH BOARD ORDER

The Respondent is charged with a failure to comply with the terms of a Stipulation and Consent Order issued by the Iowa Board of Pharmacy on November 15, 2006, in violation of Iowa Code § 272C.3(2)(a) (2007).

COUNT II – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

The Respondent is charged forgery of prescription information, and with unlawful possession and use of prescription drugs in violation of Iowa Code §§ 155A.12(1), 155A.21, and 155A.23(1) and (2) (2007), and 657 Iowa Administrative Code 36.1(4)(h), 36.1(4)(j), and 36.1(4)(u).

COUNT III – UNLAWFUL ACQUISITION AND POSSESSION OF CONTROLLED SUBSTANCES

The Respondent is charged with acquiring or obtaining possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge in violation of Iowa Code § 124.403(1)(c) (2007) and 657 Iowa Administrative Code 36.1(4)(j).

COUNT IV – VIOLATION OF LAWS OF ANOTHER STATE

The Respondent is charged with failing to comply with the pharmacy and drug laws of the state of Illinois, resulting in suspension of her license, in violation of Iowa Code §§ 155A.12(10), 155A.12(1), and 657 Iowa Administrative Code 36.1(4)(j), and 36.1(4)(ad).

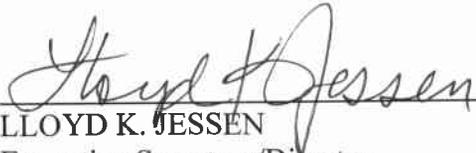
COUNT V – INABILITY TO PRACTICE DUE TO HABITUAL INTOXICATION

The Respondent is charged with an inability to practice with reasonable skill and safety by reason of habitual intoxication in violation of Iowa Code § 155A.12(1) (2007) and 657 Iowa Administrative Code § 36.1(4)(d)(2).

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 Secretary/Director

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


LEMAN OLSON, Chairperson
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

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

Sipe-SOC 12-08

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE
STATEMENT OF CHARGES AGAINST:

CASE NO. 2008-14
DIA NO. 09PHB010

CHARLENE SIPE
License No. 19919

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 Charlene Sipe (Respondent), alleging the following violations:

- Count I: Failure to Comply With Board Order
- Count II: Unlawful Possession of Prescription Drugs
- Count III: Unlawful Acquisition and Possession of Controlled Substances
- Count IV: Violation of Laws of Another State
- Count V: Inability To Practice Due To Habitual Intoxication

The hearing was held on June 2, 2009 at 1:00 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 witness and State Exhibits 1-10 (See Exhibit List for description).

FINDINGS OF FACT

1. On November 21, 2003, the Board issued pharmacist license number 19919 to Respondent Charlene Hlas Sipe by reciprocity. At the time of her initial licensure, Respondent was also licensed to practice pharmacy in the states of Florida and Illinois. Respondent's Florida license was subject to discipline because she had self-prescribed and self-medicated with controlled substances without a prescription and without paying for the drugs. Respondent and the Iowa Board entered into a Consent Agreement that placed Respondent's initial license on probation for a period of three years, subject to conditions. Respondent's Iowa pharmacist license is current and active until June 30, 2009. (State Exhibits 1, 5).

2. On March 10, 2005, the Board filed a Statement of Charges against Respondent charging her with unlawful possession of prescription drugs, inability to practice pharmacy due to chemical abuse, and failure to comply with a Board order. (State Exhibits 4, 5) On November 15, 2006, the Board accepted a Stipulation and Consent Order indefinitely suspending Respondent's license. The Stipulation and Consent Order also set terms for reinstatement and established conditions of probation if the license was reinstated. (State Exhibit 6)

3. On March 28, 2007, Respondent's license was reinstated after she satisfied the requirements of the Stipulation and Consent Order. Her license was placed on probation for five years, subject to numerous terms and conditions, including but not limited to requirements that Respondent:

- Not possess or use any controlled substance or prescription drug in any form without a prescription;
- Obey all laws relating to pharmacy; and
- Inform any treating physician or other treating health care provider of her history of chemical dependency.

(State Exhibits 1, 6)

4. On December 5, 2007, Respondent called the Board office and reported that she had relapsed and had forged prescriptions for hydrocodone and Soma at an Illinois pharmacy. (Jorgenson testimony)

5. On January 17, 2008, Respondent's Illinois pharmacist license was indefinitely suspended for forging prescriptions and for violating the terms of her Consent Order with the Illinois Professional Health Program. (State Exhibits 7, 10)

6. The Board initiated an investigation and obtained Respondent's pharmacy profiles. (State Exhibits 8, 9) Respondent had numerous prescriptions for controlled substances, including hydrocodone, which she filled at several pharmacies. The Board's investigator spoke with the physician who wrote all but one of the hydrocodone prescriptions. The physician could not recall that Respondent ever told him that she had a problem with controlled substances, and he had no notation of chemical dependency in her patient record. (Jorgenson testimony; State Exhibit 8)

7. On February 24, 2009 Respondent received the Statement of Charges and Notice of Hearing by restricted certified mail. (State Exhibit 3; 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 with 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 – FAILURE TO COMPLY WITH BOARD ORDER

Iowa Code §272C.3(2)(a)(2007) authorizes the Board to discipline a pharmacist's license for failure to comply with a Board decision imposing license discipline. The preponderance of the evidence established that Respondent violated the probationary terms established in the November 15, 2006 Stipulation and Consent Order when she forged prescriptions, used controlled substances for which she did not have a valid prescription, and failed to inform her physician of her chemical dependency prior to receiving prescriptions for controlled substances. Respondent has violated Iowa Code §272C.3(2)(a)(2007).

COUNT II – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

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

Iowa Code §155A.21(2007) provides, in relevant part, 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 §155A.23(1) prohibits persons from obtaining or attempting to obtain prescription drugs by engaging in fraud, deceit, misrepresentation, or subterfuge or by forging or altering a prescription. Iowa Code §155A.23(2) prohibits persons from willfully making a false statement in any prescription required by chapter 155A.

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:

...

h. Distribution of drugs for other than lawful purposes. The distribution of drugs for other than lawful purposes includes, but is not limited to, the disposition of drugs in violation of Iowa Code chapters 124, 126, and 155A.

j. Violating a statute or law of this state,...without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of pharmacy or the distribution of controlled substances, prescription drugs, or nonprescription drugs.

...

u. Violating any of the grounds for revocation or suspension of a license or registration listed in Iowa Code section...155A.12 or any of the rules of the board.

...

The preponderance of the evidence established that Respondent violated Iowa Code §§155A.12(1), 155A.21, 155A.23(1) and (2)(2007) and 657 IAC 36.1(4)(h),(j), and (u) when she forged prescriptions and unlawfully possessed and used prescription drugs.

COUNT III-UNLAWFUL ACQUISITION AND POSSESSION OF CONTROLLED SUBSTANCES

Iowa Code chapter 124 is the Controlled Substances Act. Iowa Code §124.403(1)(c)(2007) provides that it is unlawful for any person to knowingly or

intentionally acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge. Hydrocodone is designated as a Schedule II Controlled Substance. Iowa Code §124.206(2)(a)(10)(2007). The preponderance of the evidence established that Respondent violated Iowa Code §124.403(1)(c)(2007) and 657 IAC 36.1(4)(j) when she forged prescriptions and unlawfully possessed prescription drugs that were controlled substances.

COUNT IV – VIOLATION OF LAWS OF ANOTHER STATE

Iowa Code §155A.12(10)(2007) authorizes the board to discipline a pharmacist license when the pharmacist has had a license to practice pharmacy issued by another state canceled, revoked, or suspended for conduct substantially equivalent to conduct described in subsections 1 through 9. 657 IAC 36.1(4)(ad) authorizes the Board to discipline a licensee for violating the pharmacy or drug laws of another state while under the jurisdiction of that state. The preponderance of the evidence established that Respondent violated Iowa Code §§155A.12(10), 155A.12(1), and 657 IAC 36.1(4)(j) and (ad) when her Illinois license to practice pharmacy was suspended due to her violations of terms and conditions of her Consent Order.

COUNT V – INABILITY TO PRACTICE DUE TO HABITUAL INTOXICATION

Iowa Code §§155A.12(1)(2007) and 657 IAC 36.1(4)(d)(2) authorize the Board to discipline a pharmacist for habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to, the excessive use of drugs which may impair the licensee's ability to practice with reasonable skill and safety. The preponderance of the evidence established that Respondent violated Iowa Code §§155A.12(1)(2007) and 657 IAC 36.1(4)(d)(2) by the excessive use of drugs which may impair her ability to practice pharmacy with reasonable skill and safety.

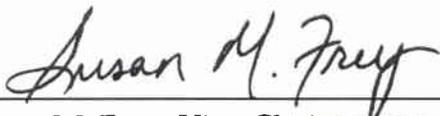
DECISION AND ORDER

The serious and repeated nature of the violations and Respondent's failure to appear for the hearing more than justifies the revocation of her pharmacist license. IT IS THEREFORE ORDERED that pharmacist license number 19919, issued to Charlene Hlas Sipe, 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 that reads "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).