

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	CASE NO. 2013-171
Certified Technician Registration of)	
)	NOTICE OF HEARING AND
TERESA SMITH)	STATEMENT OF CHARGES
Registration No. 17056)	
Respondent.)	

COMES NOW the Iowa Board of Pharmacy ("Board") and files this Notice of Hearing and Statement of Charges against Teresa Smith ("Respondent"), 2065 Apple Ave., Garner, Iowa 50438, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3) (2013). Respondent's Iowa certified technician registration number 17056 is currently active and expires on January 31, 2015.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 29, 2014, before the Board. The hearing shall be held in the afternoon session, beginning at 1:00 p.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 pre-hearing matters, and be present to assist and advise the Board at the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 Iowa Administrative Code rule 35.19. At the hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at the hearing. If you need to request an alternative time or date for the hearing, you must comply with the requirements in 657 Iowa Administrative Code rule 35.16. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Laura Cathelyn
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Cathelyn can also be reached by phone at (515) 281-6690 or by e-mail at laura.cathelyn@iowa.gov.

Communications. You may contact the Board office at (515) 281-5944 with questions regarding this notice and other matters relating to these disciplinary proceedings. You may not contact individual Board members in any manner, including by phone, letter, or e-mail, regarding this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and the 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.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 155A, and 272C (2013).

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 147, 155A, and 272C and under 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

UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

Respondent is charged with unlawful possession of prescription drugs, including controlled substances, for other than lawful purposes, in violation of Iowa Code sections 124.401 and 155A.21(1), pursuant to Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rules 3.30(1), 36.1(4)(h), and 36.1(4)(j).

Count II

ENGAGING IN UNETHICAL BEHAVIOR—THEFT

Respondent is charged with engaging in unethical behavior—theft—in violation of 657 Iowa Administrative Code rule 3.28(4), pursuant to Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rules 3.30(1), 36.1(4)(c), and 36.1(4)(u).

D. FACTUAL CIRCUMSTANCES

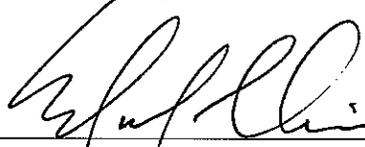
1. Respondent holds Iowa certified technician registration number 17056, which is currently active and expires on January 31, 2015.
2. In July and August, 2013, approximately 176 tablets of hydrocodone/APAP were diverted from the pharmacy where Respondent was employed.
3. The pharmacy investigated and attributed the diversions to Respondent.
4. On August 7, 2013, Respondent admitted to diverting hydrocodone and was terminated from employment.

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 36.6. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Laura Cathelyn at (515) 281-6690.

F. FINDING OF PROBABLE CAUSE

On this 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 Eight Street, Suite E
Des Moines, Iowa 50309-4688

cc: Laura Cathelyn
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

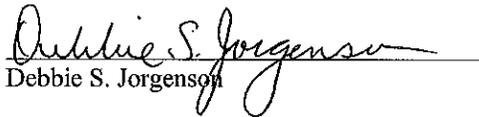
PROOF OF SERVICE

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>9171999991703239553391</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

Re:)	CASE NO. 2013-171
Certified Technician Registration of)	
)	SETTLEMENT AGREEMENT AND
TERESA SMITH)	FINAL ORDER
Registration No. 17056)	
Respondent.)	

Pursuant to Iowa Code sections 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy ("Board") and Teresa Smith ("Respondent") enter into the following Settlement Agreement and Final Order ("Order") to settle a disciplinary proceeding currently pending before the Board.

The 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 holds Iowa Pharmacy Technician Registration No. 17056, which is currently active and expires on January 31, 2015.
2. The Board has jurisdiction over the parties and the subject matter of these proceedings.
3. A Statement of Charges was filed against Respondent on March 12, 2014. A contested case hearing in this matter is scheduled for April 29, 2014.
4. Respondent is no longer employed in the field of pharmacy.
5. Respondent has chosen not to contest the allegations in the Statement of Charges and acknowledges that the allegations, if proven in a contested case proceeding, would constitute grounds for discipline.
6. This Order is the resolution of a contested case. By entering into this 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 Order.
7. Respondent is freely and voluntarily entering into this Order.
8. Respondent acknowledges that she has a right to be represented by counsel on this matter.
9. The State's legal counsel may present this Order to the Board *ex parte*.
10. This Order is subject to approval by a majority of the full Board. If the Board fails to approve this Order, it shall be of no force or effect to either the Board or Respondent. If the Board approves this Order, it shall be the full and final resolution of this matter.

11. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.
12. This Order, when fully executed, is a public record and is available for inspection and copying in accordance with the requirements of Iowa Code chapters 22 and 272C.
13. The Board's approval of this Settlement Agreement shall constitute a FINAL ORDER of the Board.

IT IS THEREFORE ORDERED:

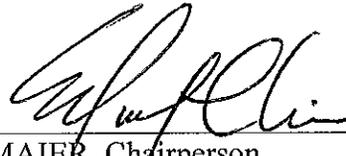
14. Respondent agrees to **VOLUNTARILY SURRENDER** her pharmacy technician registration to resolve this matter.
15. This voluntary surrender is considered a revocation under 657 Iowa Administrative Code rule 36.15 for purposes of reinstatement. Respondent may not request reinstatement for at least three years from the date of this Order.
16. Respondent may request reinstatement of her Iowa pharmacy technician registration by filing an application for reinstatement under 657 Iowa Administrative Code rule 36.13. Respondent's registration shall not be reinstated except upon a showing by Respondent that the basis for suspension of her registration no longer exists, and that it is in the public interest for the registration to be reinstated.
17. Respondent agrees not to engage in any aspect of the practice of a pharmacy technician until such time as her registration is reinstated.
18. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A (2013) and 657 Iowa Administrative Code chapter 36.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the 21 day of March, 2014.

Teresa Smith
TERESA SMITH, Pharmacy Technician
Respondent

* I destroyed my pharmacy registrations and never intend to go back to the pharmacy field.

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the
30th day of April, 2014.



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

cc: Laura Cathelyn
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319