

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2010-93
Pharmacy Technician Registration of)	
LAUREN E. STENSRUD)	STATEMENT OF CHARGES
Registration No. 16317,)	
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 (2009).
3. The Board issued Lauren E. Stensrud (hereinafter, "Respondent") pharmacy technician registration number 16317, registering her as a pharmacy technician subject to the laws of the State of Iowa and the rules of the Board. Respondent's registration was last renewed on March 10, 2010.
4. Respondent's registration expired January 31, 2011.
5. At all times material to this Statement of Charges, Respondent was employed as a trainee pharmacy technician at Walgreens #04973, 7000 Douglas Avenue, Urbandale, Iowa 50322.

A. CHARGES

COUNT I – INABILITY TO PRACTICE DUE TO CHEMICAL ABUSE

Respondent is charged pursuant to Iowa Code § 155A.6A(5) (2009), and 657 Iowa Administrative Code § 36.1(4)(m) with the inability to practice as a pharmacy technician, with reasonable skill and safety, due to chemical abuse.

COUNT II – UNLAWFUL POSSESSION AND DISTRIBUTION OF DRUGS

Respondent is charged pursuant to Iowa Code §§ 124.403, 155A.6A(5), 155A.21 and 155A.23(1) and 155A.23(16) (2009), and 657 Iowa Administrative Code § 36.1(4)(h), with possession and distribution of prescription drugs, including controlled substances, for other than lawful purposes.

COUNT III – VIOLATING LAWS RELATED TO PHARMACY

Respondent is charged pursuant to Iowa Code § 155A.6A(5) (2009) and 657 Iowa Administrative Code § 36.1(4)(j) with violating state laws related to the practice of pharmacy; specifically, laws relating to possession and distribution of controlled substances found at Iowa Code §§ 124.403, 155A.21 and 155A.23 (2009).

COUNT IV – CONVICTION OF A FELONY

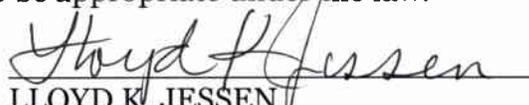
Respondent is charged pursuant to Iowa Code § 155A.6A(5) (2009) and 657 Iowa Administrative Code § 36.1(4)(e) with conviction of a felony related to her registration as a pharmacy technician.

B. CIRCUMSTANCES

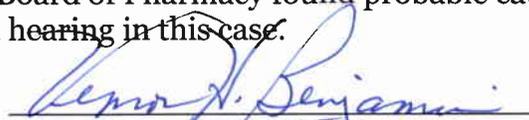
On August 13, 2010 an investigation commenced which revealed the following:

1. At all material times, Respondent was employed as a technician at Walgreens #04973, 7000 Douglas Avenue, Urbandale, Iowa 50322.
2. A neighbor of Respondent authorized Respondent to fill a hydrocodone prescription for her (the neighbor) at Walgreens.
3. The neighbor also authorized Respondent to take a couple of the hydrocone tablets for pain Respondent said she was experiencing.
4. Respondent filled the neighbor's prescription (#60 hydrocodone/APAP 5mg/500mg) twice, five days apart, and delivered nothing to the neighbor.
5. On January 18, 2011, Respondent pleaded guilty to a felony charge of prohibited acts with controlled substances; Iowa Code § 155A.23 (2009).

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 8th day of March 2011, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


VERNON H. BENJAMIN, 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, Iowa

Stensrud-tech SOC 2-11

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE)	CASE NO. 2010-93
STATEMENT OF CHARGES AGAINST:)	DIA NO. 11PHB011
)	
LAUREN E. STENSRUD)	FINDINGS OF FACT,
Registration No. 16317)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
RESPONDENT)	

On March 8, 2011, the Iowa Board of Pharmacy (Board) found probable cause to file a Statement of Charges against Lauren E. Stensrud (Respondent), alleging the following violations:

Count I: Inability to practice as a pharmacy technician with reasonable skill and safety by reason of chemical abuse, in violation of Iowa Code § 155A.6A(5)(2009) and 657 IAC 36.1(4)(m).

Count II: Unlawful possession and distribution of prescription drugs, including controlled substances, in violation of Iowa Code §§124.403, 155A.6A(5), 155A.21, 155A.23(1), 155A.23(16) (2009), and 657 IAC 36.1(4)(h).

Count III: Violating state laws related to the practice of pharmacy and distribution of controlled substances, in violation of Iowa Code §§124.403, 155A.6A(5), 155A.21, 155A.23(2009), and 657 IAC 36.1(4)(j).

Count IV: Conviction of a felony related to registration as a pharmacy technician, in violation of Iowa Code §155A.6A(5)(2009) and 657 IAC 36.1(4)(e).

The hearing was held on June 29, 2011 at 1:25 p.m. The following members of the Board presided at the hearing: Susan Frey, Chairperson; Edward Maier; Mark Anliker; James Miller; and LaDonna Gratiyas. Assistant Attorney General Scott Galenbeck represented the state. Respondent failed to appear for hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2011) and 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

The record includes the testimony of Jean Rhodes and Debbie Jorgenson and State Exhibits 1-5.

FINDINGS OF FACT

1. On March 10, 2010, the Board issued pharmacy technician registration number 16317 to Respondent, which authorized her to serve as a pharmacy technician, subject to the laws of the state of Iowa and the rules of the Board. Respondent's pharmacy technician registration expired on January 31, 2011. (State Exhibits 1, 3)
2. Respondent was employed by Walgreens #049703 as a trainee pharmacy technician at all times relevant to this decision. On July 22, 2010, Respondent's neighbor authorized Respondent to fill her hydrocodone prescription at Walgreens. On July 27, 2010, Respondent processed a refill of the neighbor's hydrocodone prescription, without the neighbor's knowledge or authorization. Respondent kept the medication for her own use and did not deliver it to her neighbor. Respondent's deception was discovered when the neighbor received an automatic email from Walgreens notifying her that the refill was ready. In an interview, Respondent admitted taking the hydrocodone for her personal use. (Testimony of Jean Rhodes; State Exhibit 1)
3. Respondent's employment was terminated on August 3, 2010. Respondent was charged with Obtaining a Prescription Drug by Fraud, which is a felony. Respondent entered a guilty plea to the felony and was granted a deferred judgment on January 18, 2011. She was placed on five years' probation and required to complete substance abuse treatment and aftercare. (Testimony of Jean Rhodes; State Exhibits 1, 2)
4. The Board initially attempted to serve Respondent with the Notice of Hearing and Statement of Charges by certified mail at her address of record with the Board. When the certified mail was returned to the Board as undeliverable, Respondent was served with the Statement of Charges and Notice of Hearing by publication, as authorized by 657 IAC 35.5(1)"g." Respondent failed to appear for hearing. (Testimony of Debbie Jorgenson; State Exhibits 4, 5)

CONCLUSIONS OF LAW

Iowa Code §155A.6A(5)(2009) provides, in relevant part, that the board may suspend or revoke the registration of a registered pharmacy technician for any violation of the laws of this state, ... for any violation of this chapter or chapter 124, 124A, 124B, 126, 147, 205, or 272C or any rule of the board.

Iowa Code §155A.21(2009) provides, in relevant part, that any 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 §124.403(1)(c) provides, in relevant part, 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.

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:

...

e. Conviction of a felony related to the profession or occupation of the licensee or registrant, or a conviction of a felony that would affect the licensee's or registrant's ability to practice within the licensee's or registrant's profession. A copy of the record of conviction or a plea of guilty shall be conclusive evidence.

...

h. Distribution of drugs for other than lawful purposes...

...

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.

...

m. Inability of a licensee or registrant to practice with reasonable skill and safety by reason of mental or physical impairment or chemical abuse.

The preponderance of the evidence established that Respondent is unable to practice as a pharmacy technician with reasonable skill and safety due to chemical abuse, in violation of Iowa Code §155A.6A(5)(2009) and 657 IAC 36.1(4)(m) [Count I]. This finding is supported by Respondent's theft and use of prescription drugs and by the probation conditions imposed on her by the court.

The preponderance of the evidence established that Respondent unlawfully distributed and possessed prescription drugs, including controlled substances, in violation of Iowa Code §§ 124.403, 155A.6A(5), 155A.21, 155A.23(1), and 155A.21(16)(2009) and 657 IAC 36.1(4)(h) [Count II].

The preponderance of the evidence established that Respondent violated state laws related to the possession and distribution of controlled substances, in violation of 155A.6A(5) and 657 IAC 36.1(4) (j) [Count III].

The preponderance of the evidence established that Respondent pled guilty to a felony that is related to her registration as a pharmacy technician, in violation of Iowa Code section 155A.6A(5)(2009) and 657 IAC 36.1(4)(e). [Count IV].

The nature of the violations, Respondent's failure to appear for hearing, and Respondent's expired registration justify revocation.

DECISION AND ORDER

IT IS THEREFORE ORDERED that pharmacy technician registration number 16317, issued to Lauren E. Stensrud, is hereby REVOKED. If Respondent seeks reinstatement of her registration, the burden will be placed on her to show that the basis for the revocation no longer exists and that is in the public interest for her registration to be reinstated. 657 IAC 36.13(4).

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 13th day of July, 2011.

A handwritten signature in blue ink that reads "Susan M. Frey". The signature is written in a cursive style and is positioned above a horizontal line.

Susan Frey, 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).

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.