

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2013-88
Certified Technician Registration of	)	
	)	<b>NOTICE OF HEARING AND</b>
<b>MAGGIE SWANSON</b>	)	<b>STATEMENT OF CHARGES</b>
Registration No. 7197	)	
Respondent.	)	

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COMES NOW the Iowa Board of Pharmacy (Board) and files this Notice of Hearing and Statement of Charges against Maggie Swanson, 3230 Reed Ave., Forest City, Iowa 50436, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent's Iowa certified technician registration number 7197 is currently active and expires on September 30, 2014.

**A. TIME, PLACE, AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on January 13, 2014, before the Board. The hearing shall be held during the afternoon session beginning at 1:00 p.m. and shall be located in the Board conference room located at 400 S.W. 8<sup>th</sup> 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  
2<sup>nd</sup> 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](mailto: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 (2013) 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**

#### **ENGAGING IN UNETHICAL BEHAVIOR**

Respondent is charged with engaging in unethical behavior, 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).

### **Count II**

#### **VIOLATING A LAW RELATED TO THE DISTRIBUTION OF CONTROLLED SUBSTANCES**

Respondent is charged with violating a law related to the distribution of controlled substances in Iowa, pursuant to Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rules 3.30(1) and 36.1(4)(j).

### **Count III**

#### **FRAUD IN PROCURING A LICENSE**

Respondent is charged with fraud in procuring a license through representations made in renewal submissions in violation of Iowa Code section 155A.23(1)(m), pursuant to Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rules 3.30(1) and 36.1(4)(a).

**D. FACTUAL CIRCUMSTANCES**

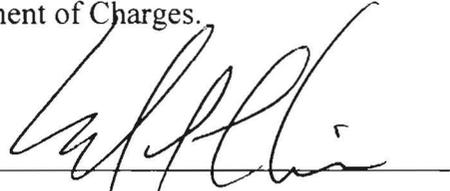
1. Respondent holds Iowa certified technician registration number 7197, which is currently active and expires on September 30, 2014.
2. On March 30, 2013, Respondent visited Forest Park Pharmacy in Mason City, Iowa, where she was formerly employed.
3. After Respondent's visit, a staff pharmacist noticed that a 1000-count bottle of phentermine was missing.
4. On May 2, 2013, Respondent admitted to taking the bottle of phentermine while visiting the pharmacy.
5. On May 7, 2013, Respondent received a deferred judgment for 5<sup>th</sup> degree theft, in relation to the theft of the phentermine bottle.
6. On July 17, 2012, Respondent pled guilty to OWI (2<sup>nd</sup> offense) and Unlawful Possession of Prescription Drugs.
7. On September 18, 2012, the Board received Respondent's technician renewal application on which Respondent answered "NO" to question 8, which states "Have you ever been charged, convicted, found guilty of, or entered a plea of guilty or no contest to a felony or misdemeanor crime (*other than minor traffic violations with fines under \$100*)?"

**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 5<sup>th</sup> day of November, 2013, 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



**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2013-88
Certified Technician Registration of	)	
	)	<b>SETTLEMENT AGREEMENT AND</b>
<b>MAGGIE SWANSON</b>	)	<b>FINAL ORDER</b>
Registration No. 7197	)	
Respondent.	)	

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Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2013), the Iowa Board of Pharmacy (“Board”) and Maggie Swanson (“Respondent”) enter into the following Settlement Agreement and Final 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 was issued Pharmacy Technician Registration No. 7197.
2. Iowa Pharmacy Technician Registration Number 7197 is active and will expire on September 30, 2014.
3. The Board has jurisdiction over the parties and the subject matter of these proceedings.
4. A Statement of Charges was filed against the Respondent on November 5, 2013.
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 the discipline agreed to in this Order.
6. Upon the Board’s approval of this Settlement Agreement and Final Order, Respondent’s registration shall be placed on PROBATION for a period of four (4) years, subject to the following terms and conditions:
  - a. Respondent shall undergo a comprehensive substance abuse evaluation by a Board-approved evaluator no later than thirty (30) days after the Board’s approval of this Settlement Agreement and Final Order. Respondent shall schedule an appointment for the evaluation no later than ten (10) days after the Board’s approval of this Settlement Agreement and Final Order. Respondent shall contact the Board at least five (5) days prior to the date the evaluation is scheduled and advise the Board of the location, date, and time of the evaluation, as well as contact information for the evaluator. Respondent shall cause a report of the evaluation and all test results, including copies of all records produced during the evaluation, to be forwarded to the Board within five (5) days of completing the evaluation. Respondent shall cooperate with the Board in the Board’s efforts to obtain all records and documents relevant to the evaluation. The evaluation shall be performed at Respondent’s expense.

b. Respondent must comply with all recommendations from the substance abuse evaluation, including but not limited to, participation in the Iowa Pharmacy Recovery Network (IPRN), in-patient or outpatient treatment, counseling sessions, educational courses, and attendance at AA/NA meetings.

c. Respondent shall not use any prescription drugs unless prescribed by a qualified prescribing practitioner. Respondent shall provide a copy of the Statement of Charges and the Settlement Agreement and final order to any prescribing practitioners.

d. Respondent shall report any criminal charges in writing to the Board, regardless of whether they relate to the practice of pharmacy, within ten (10) days of being charged. Respondent shall subsequently report the final disposition of such charges in writing to the Board within ten (10) days of disposition.

e. Respondent must provide a copy of the Statement of Charges and the Settlement Agreement and Final Order to her current employer within five (5) days of Board approval of the Settlement Agreement and Final Order. Respondent must provide a copy of the Statement of Charges and the Settlement Agreement and Final Order to any prospective future employers prior to accepting an offer of employment. Respondent must provide a copy of the Statement of Charges and the Settlement Agreement and Final Order to any new supervisors as changes occur throughout the probationary period. Employers shall send written notification to the Board that they received a copy of the Statement of Charges and the Settlement Agreement and Final Order within five (5) days of receipt.

f. Respondent shall file written, sworn quarterly reports with the Board attesting to her compliance with all the terms and conditions of her probation. The reports shall be filed no later than March 5, June 5, September 5, and December 5 of each year of Respondent's probation. In addition, to information regarding compliance with the probationary terms, the quarterly reports shall include Respondent's place of employment and contact information for her current supervisor, current home address and phone number, and a list of currently prescribed medications.

g. Respondent agrees to release any medical records requested by the Board throughout the term of her probation.

h. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.

7. Respondent agrees to pay a civil penalty in the amount of five-hundred dollars (\$500). This civil penalty shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board within thirty (30) days of the Board's approval of this Settlement Agreement and Final Order. All civil penalty payments shall be deposited into the State of Iowa general fund.

8. Should Respondent violate the terms of this Settlement Agreement and Final 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.

9. This Settlement Agreement and Final Order is the resolution of a contested case. By entering into this Settlement Agreement and Final 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 Final Order.

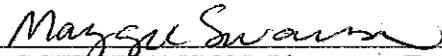
10. The State's legal counsel may present this Settlement Agreement and Final Order to the Board *ex parte*.

11. Respondent acknowledges that she has a right to be represented by counsel on this matter.

12. This Settlement Agreement and Final Order 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 Settlement Agreement and Final Order, it shall be the full and final resolution of this matter.

13. The Board's approval of this Settlement Agreement and Final Order shall constitute a FINAL ORDER of the Board.

This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

  
MAGGIE SWANSON, Pharmacy Technician  
Respondent

This Settlement Agreement and Final Order is accepted by the Iowa Board of Pharmacy on the 19<sup>th</sup> day of February, 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, 2<sup>nd</sup> Floor  
Des Moines, IA 50319

**BEFORE THE IOWA BOARD OF PHARMACY**

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Re:	)	CASE NO. 2014-52
Certified Technician Registration of	)	
	)	<b>NOTICE OF HEARING AND</b>
<b>MAGGIE SWANSON</b>	)	<b>STATEMENT OF CHARGES</b>
Registration No. 7197	)	
Respondent.	)	

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**COMES NOW** the Iowa Board of Pharmacy (“Board”) and files this Notice of Hearing and Statement of Charges against Maggie Swanson (“Respondent”), 3230 Reed Ave., Forest City, Iowa 50436, pursuant to Iowa Code sections 17A.12(2) and 17A.18(3). Respondent’s Iowa certified technician registration number 7197 is currently active and expires on September 30, 2014.

**A. TIME, PLACE, AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on July 1, 2014, before the Board. The hearing shall be held during the morning session beginning at 9:00 a.m. and shall be located in the Board conference room located at 400 S.W. 8<sup>th</sup> 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  
2<sup>nd</sup> 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](mailto: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 (2013) 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**

#### **PRACTICE HARMFUL OR DETRIMENTAL TO THE PUBLIC**

Respondent is charged with engaging in practice harmful or detrimental to the public, pursuant to Iowa Code section 155A.6A(5) and 657 Iowa Administrative Code rules 3.30(1) and 36.1(4)(c).

## **D. FACTUAL CIRCUMSTANCES**

1. Respondent holds Iowa certified technician registration number 7197, which is currently active and expires on September 30, 2014.
2. On November 5, 2013, the Board issued a Statement of Charges against Respondent for engaging in unethical behavior (count I), violating a law related to the distribution of controlled substances (count II), and fraud in procuring a license (count III).
3. On February 19, 2014, the Board approved a Settlement Agreement and Final Order resolving the Statement of Charges, which placed Respondent's technician registration on probation for a period of four years and required her to obey all rules and regulations related to the practice of pharmacy, among other requirements.

4. In March, 2014, Respondent's employer had a complaint that Respondent smelled of alcohol while at work. Other employees reported that Respondent took multiple trips to her car during the work day.

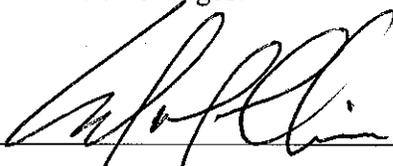
5. On April 4, 2014, Respondent's employer detected an alcohol smell on Respondent's breath during the work day. Respondent then admitted to drinking wine during that particular work day, purportedly to deal with anxiety.

#### 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 30<sup>th</sup> day of April, 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, 2<sup>nd</sup> Floor  
Des Moines, IA 50319

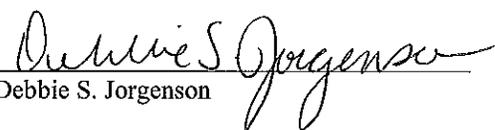
#### PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon Respondent to the above cause by:

personal service  first class mail  
 certified mail, return receipt requested  facsimile  
Article Number 9171999991703239255202  other \_\_\_\_\_

on the 1st day of May, 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

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IN THE MATTER OF:	)	
	)	Docket No. 2014-52
Certified Technician Registration of	)	DIA No. 14PHB027
<b>MAGGIE SWANSON</b>	)	
Registration No. 7197,	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
Respondent.	)	<b>DECISION, AND ORDER</b>
	)	

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**STATEMENT OF THE CASE**

On April 30, 2014, the Iowa Board of Pharmacy (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Respondent Maggie Swanson. The Statement of Charges alleges that Respondent engaged in practice harmful or detrimental to the public.

The hearing was held on July 1, 2014. The following members of the Board presided at the hearing: Edward Maier, Chairperson; James Miller; LaDonna Gratiyas; Susan Frey; Edward McKenna, Judith Trumpy, and Sharon Meyer. Assistant attorney general Laura Cathelyn represented the State. Respondent did not appear. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Administrative Law Judge Laura Lockard assisted the Board in conducting the hearing and was instructed to prepare the Board's written decision in accordance with its deliberations.

**THE RECORD**

The record includes the Notice of Hearing and Statement of Charges against Respondent. The record also includes hearing testimony of Mark Mather. The State introduced Exhibits 1 through 7, which were admitted as evidence.

**FINDINGS OF FACT**

Respondent Maggie Swanson holds Iowa certified technician registration number 7197, which is currently active and expires on September 30, 2014. During the time period at issue in this case, Respondent was employed at Redinger Pharmacy in Lake Mills, Iowa.

During March, 2014, the owner of Redinger Pharmacy, Aaron Redinger, received a complaint that someone had observed the smell of alcohol coming off of Respondent several days prior while Respondent was at work. Redinger asked other employees about this report and was told that Swanson had been taking multiple trips out to her car during the work day, as well as taking an unusually long time when she went on deliveries. Redinger met with Respondent a day or so after the complaint to discuss the

situation with her. Respondent denied any wrongdoing. Redinger advised Respondent that in order to avoid any further confusion she should stay in the store while on duty and should not consume any alcohol before or during working hours, including during her lunch break. Respondent insisted she had not been drinking at work.

On April 4, 2014, Redinger came into the pharmacy to talk with Respondent about signing up for the employer's 401(k) plan. Within 30 seconds of standing next to Respondent, Redinger detected a strong alcohol odor on Respondent's breath. Redinger confronted Respondent, who denied that she had been drinking several times. Redinger called the Board office for guidance regarding what he needed to do if a pharmacy employee was suspected of drinking on the job. Redinger was advised to send Respondent home. After Redinger made the phone call, Respondent admitted to him that she had consumed "one small bottle of wine." Redinger observed during the conversation that Respondent slurred her words slightly and, at one point, did a slow blink and swayed back and forth. Respondent then left the pharmacy at Redinger's request. Later that day, Respondent sent Redinger a text indicating that she suffers from severe anxiety and that "wine calms me down." (Exh. 4).

Respondent provided a written statement to the Board during the course of its investigation of this matter indicating that she had gone to her car on April 4 and consumed a "mini bottle of wine." Respondent wrote that she and her husband are having marriage problems and she "wanted something to calm down." Respondent characterized her conduct as a "horrible mistake" that she would never make again. (Exh. 5).

At the time this incident occurred, Respondent's registration had been placed on probation by the Board for a period of four years. In February, 2014, Respondent entered into a settlement agreement that placed her registration on probation after being charged by the Board with three counts: 1) engaging in unethical behavior; 2) violating a law related to the distribution of controlled substances; and 3) fraud in procuring a license. The Statement of Charges with regard to those counts alleged that Respondent had visited a pharmacy in Mason City, Iowa where she used to be employed and that, during the visit, she took a 1,000 count bottle of phentermine. Respondent ultimately received a deferred judgment for 5<sup>th</sup> degree theft in relation to the theft of the phentermine. In addition, Respondent pleaded guilty in July 2012 to 2<sup>nd</sup> offense OWI and unlawful possession of prescription drugs. Respondent failed to report the OWI and possession convictions to the Board when she submitted a renewal application for her registration. (Exh. 6, 7).

### **CONCLUSIONS OF LAW**

Pursuant to Iowa Code section 155A.6A(5), the Board is authorized to deny, suspend, or revoke the registration of, or otherwise discipline, a registered pharmacy technician for any violation of the laws of Iowa, another state, or the United States related to prescription drugs, controlled substances; any violation of chapter 155A or other specifically enumerated chapters; or any violation of any rule of the Board. The Board's

rules provide for discipline to be imposed when a registrant engages in unethical conduct or practice harmful or detrimental to the public.<sup>1</sup>

The preponderance of the evidence clearly establishes that Respondent engaged in unethical conduct and practice harmful or detrimental to the public. Respondent admitted to consuming alcohol during the hours that she was working as a pharmacy technician. The violation alleged has been established.

### Sanction

The Board may consider a number of factors in determining the nature and severity of the disciplinary sanction to be imposed when a violation is established, including the relative seriousness of the violation as it relates to assuring a high standard of professional care; the facts of the violation; any extenuating circumstances; whether remedial action has been taken; and any other factors that reflect upon the competency, ethical standards, and professional conduct of the registrant.<sup>2</sup>

Respondent's actions demonstrate that she is unfit to hold a registration as a pharmacy technician and presents a danger to the public health, safety, and welfare. Respondent failed to appear at hearing to respond to these charges. In addition, Respondent's registration was already on probation and she was aware that she was subject to increased scrutiny at the time that the current violation occurred. Even the heightened scrutiny that comes with a probationary registration was not enough to stop Respondent from engaging in this conduct. The violation justifies revocation of Respondent's registration.

### **DECISION AND ORDER**

IT IS THEREFORE ORDERED that the pharmacy technician registration issued to Maggie Swanson 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 it is in the public interest for her registration to be reinstated.

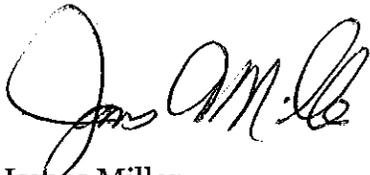
IT IS FURTHER ORDERED pursuant to Iowa Code section 272C.6 and 657 Iowa Administrative Code 36.18(2), that Respondent shall pay \$75 for fees associated with conducting the disciplinary hearing. In addition, the executive secretary/director of the Board may bill Respondents for any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondents shall remit for these expenses within 30 days of receipt of the bill.

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<sup>1</sup> 657 Iowa Administrative Code (IAC) 36.1(4)(c).

<sup>2</sup> 657 IAC 36.1(3).

Dated this 26<sup>th</sup> day of August, 2014



James Miller  
Vice-Chairperson, Iowa Board of Pharmacy

cc: Laura Cathelyn, 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.*