

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Case No. 2009-167
Pharmacy Technician Registration of:)
REBEKKA WATKINS,) **STATEMENT OF CHARGES**
Registration No. 14937,)
Respondent.)

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

1. He is the Executive Director for 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 155A and 272C (2009).
3. The Board issued Rebekka Watkins (hereinafter, "Respondent") a pharmacy technician registration number 14937, authorizing her to serve as a pharmacy technician subject to the laws of the State of Iowa and the rules of the Board. Respondent's registration is current and active until June 30, 2010.
4. Respondent's address of record is 7097 Hickory Lane, Urbandale, Iowa 50322.
5. At all times material to this statement of charges, Respondent was employed as a pharmacy technician by Hy-Vee Pharmacy, 8601 Douglas Avenue, Urbandale, Iowa 50322.

A. CHARGES

COUNT I – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

Respondent is charged pursuant to Iowa Code §§ 155A.6A(5) and 155A.21 (2009), and 657 Iowa Administrative Code § 36.1(4)(j) with unlawful possession of prescription drugs, including controlled substances.

COUNT II – DISTRIBUTION OF DRUGS FOR UNLAWFUL PURPOSES

Respondent is charged pursuant to Iowa Code §§ 155A.6A(5) and 124.401, and 657 Iowa Administrative Code § 36.1(4)(h) with distribution of drugs for unlawful purposes.

COUNT III – VIOLATING LAWS RELATED TO PHARMACY

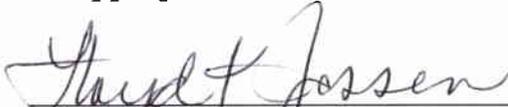
Respondent is charged pursuant to Iowa Code §§ 155A.6A(5), 155A.21, 155A.23(11) and 124.401 (2009), and 657 Iowa Administrative Code § 36.1(4)(i) and (j), with violating state laws related to the practice of pharmacy and distribution of prescription medications, including laws related to controlled substances.

B. FACTUAL CIRCUMSTANCES

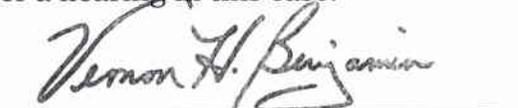
An investigation commenced on or about January 5, 2010, revealed the following:

1. Respondent was employed as a technician by Hy-Vee Pharmacy, 8601 Douglas Avenue, Urbandale, Iowa 50322.
2. Respondent was captured on camera at Hy-Vee, diverting Schedule II controlled substances to herself without legal authorization.
3. Respondent has confessed to diverting large amounts of a Schedule II controlled substance, oxycontin/oxycodone; large amounts of a Schedule III controlled substance, hydrocodone; and large amounts of a Schedule IV controlled substance, alprazolam, from Hy-Vee beginning in the Spring of 2009, and selling the drugs on the street.
4. Respondent has also confessed to adjusting Hy-Vee Pharmacy's electronic inventory records using other employees' initials.
5. Hy-Vee Pharmacy is missing 16,955 doses of 12 different controlled substances. All of the losses occurred during the time that Respondent was employed as a pharmacy technician at Hy-Vee Pharmacy.

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 2nd day of February 2010, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.


VERNON 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 50319

BEFORE THE IOWA BOARD OF PHARMACY

Re:) Case No. 2009-167
Pharmacy technician Registration of)
) **EMERGENCY ORDER**
REBEKKA WATKINS)
Registration No. 14937,)
Respondent.)

I. JURISDICTION

The Iowa Board of Pharmacy (hereinafter, "Board") has jurisdiction over pharmacy technician registrations pursuant to Iowa Code Chapters 155A and 272C (2009).

REBEKKA WATKINS (hereinafter, "Respondent") possesses pharmacy technician registration number 14937 issued by the Board. A Statement of Charges was filed against Respondent on February 2, 2010. After receipt and review of the Statement of Charges, and careful review of evidence relating to the Statement of Charges, the Board has adopted the following Findings of Fact, Conclusions of Law and Emergency Order.

II. FINDINGS OF FACT

1. On November 6, 2008, the Board renewed Respondent's pharmacy technician registration as evidenced by registration number 14937, subject to the laws of the State of Iowa and the rules of the Board.
2. Respondent was employed as a pharmacy technician at Hy-Vee Pharmacy, 8601 Douglas, Urbandale, Iowa 50322, during all times relevant to this Emergency Order.
3. On or about January 5, 2010, an investigation was commenced which revealed the following:
 - a) Respondent was captured on camera at Hy-Vee, diverting Schedule II controlled substances to herself without legal authorization.
 - b) Respondent has confessed to diverting large amounts of a Schedule II controlled

substance, oxycontin/oxycodone; large amounts of a Schedule III controlled substance, hydrocodone; and large amounts of a Schedule IV controlled substance, alprazolam, from Hy-Vee beginning in the Spring of 2009, and selling the drugs on the street.

- c) Respondent has also confessed to adjusting Hy-Vee Pharmacy's electronic inventory records using other employees' initials.
- d) Hy-Vee Pharmacy is missing 16,955 doses of 12 different controlled substances. All of the losses occurred during the time that Respondent was employed as a pharmacy technician at Hy-Vee Pharmacy.

4. The Board finds that the evidence assembled during the investigation of Respondent supports the February 2, 2010, Statement of Charges against Respondent. The Board also finds that Respondent has diverted controlled substances to unlawful uses in the manner alleged in the Statement of Charges, both in violation of the provisions of Iowa Code Chapter 155A (2009) and the provisions of the Iowa Administrative Code.

5. The Board finds that Respondent is an immediate danger to the public health, safety and welfare due to her diversion of large amounts of Schedule II, III, and IV controlled substances which she has sold on the street.

6. The Board finds that immediate, emergency action must be taken for the reason that if Respondent is allowed to continue to work as a pharmacy technician, the public health, safety and welfare will be threatened by her diversion and sales of dangerous controlled substances on the street. Given this fact, the Board must act in the interest of the public to suspend Respondent's pharmacy technician registration.

7. The Board finds that the minimum emergency action needed to protect the public health, safety and welfare is as follows:

- a. Immediate suspension of Respondent's pharmacy technician registration.
- b. Issuance of an Order directing that Respondent's registration shall remain suspended until an administrative hearing is held.

III. CONCLUSIONS OF LAW

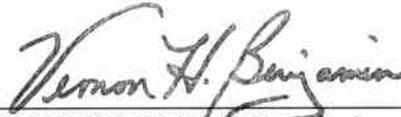
1. Respondent's diversion of controlled substances and other violations of Iowa Code chapter 155A (2009) and the Iowa Administrative Code establish that Respondent is not working legally or safely as a pharmacy technician.
2. The provisions of Iowa Code § 17A.18A (2007) permit the Iowa Board of Pharmacy to take emergency action to protect the health, safety and welfare of the public. A basis for emergency action against Respondent, pursuant to the provisions of the Iowa Code and the Iowa Administrative Code, has been established by the findings of fact adopted above.

IV. EMERGENCY ORDER

The Board ORDERS as follows:

- a. Pursuant to Iowa Code § 17A.18A, chapter 155A (2009) and 657 Iowa Administrative Code §§ 36.1(4)(a), (b), (c), (d), (h), (m), and (u), the pharmacy technician registration of Rebekka Watkins is hereby suspended indefinitely. This suspension is effective immediately upon issuance of this Order.
- b. Respondent shall be notified of this order as provided in 657 Iowa Administrative Code 35.30(2).
- c. A hearing regarding this Emergency Adjudicative Order and the Statement of Charges against Respondent shall be held on March 10, 2010. The hearing will commence at 9:00 A.M. and be held at the office of the Iowa Board of Pharmacy, 400 Southwest 8th Street, Suite E, Des Moines, Iowa 50309.

DATED this 2nd day of February 2010.



VERNON BENJAMIN, Chairperson
Iowa Board of Pharmacy
RiverPoint Business Park
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 50319

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BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE
STATEMENT OF CHARGES AGAINST:

CASE NO. 2009-167
DIA NO. 10PHB003

REBEKKA WATKINS
Registration No. 14937

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER

RESPONDENT

On February 2, 2010, the Iowa Board of Pharmacy (Board) found probable cause to file an Emergency Order and Statement of Charges against Rebekka Watkins (Respondent), alleging the following violations:

Count I: Unlawful possession of prescription drugs, including controlled substances, in violation of Iowa Code §§ 155A.6A(5), 155A.21 (2009), and 657 IAC 36.1(4)(j);

Count II: Distribution of drugs for unlawful purposes, in violation of Iowa Code §§124.401, 155A.6A(5), and 657 IAC 36.1(4)(h).

Count III: Violating state laws related to the practice of pharmacy and distribution of prescription medications, in violation of Iowa Code §§ 155A.6A(5), 155A.21, 155A.23(11) and 124.401 (2009), and 657 IAC 36.1(4)(h).

The hearing was held on June 2, 2010 at 10:10 a.m. The following members of the Board presided at the hearing: Vernon Benjamin, Chairperson; Susan Frey; Edward L. Maier; Mark Anliker; DeeAnn Wedemeyer Oleson; Margaret Whitworth; and Annabelle Diehl. 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)(2009) 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 the witnesses and State Exhibits 1-4.

FINDINGS OF FACT

1. The Board has issued pharmacy technician registration number 14937 to Respondent, which authorizes her to serve as a pharmacy technician subject to the laws of the state of Iowa and the rules of the Board. The Board indefinitely suspended Respondent's registration on February 2, 2010. (State Exhibits 2, 3)
2. Respondent was employed as a pharmacy technician at Hy-Vee Pharmacy in Urbandale Iowa at all times relevant to this decision. On December 17, 2009, the pharmacist-in-charge at Hy-Vee Pharmacy notified the Board that Respondent had been caught stealing drugs from the pharmacy and that the theft had been reported to the police. The Board opened an investigation. (Testimony of Jean Rhodes; State Exhibit 1)
3. Hy-Vee Pharmacy was missing 16,955 doses of twelve different controlled substances, including but not limited to oxycodone, hydrocodone, and oxycontin. All of the losses occurred during the time that Respondent was employed in the pharmacy. The pharmacy's video camera showed suspicious activity by Respondent. Respondent admitted to diverting large amounts of Schedule II controlled substances from the pharmacy beginning in September 2009. Respondent further admitted that she sold the controlled substances on the street. Respondent further admitted to adjusting the pharmacy's electronic inventory records using other employee's initials in order to conceal her diversion. (Testimony of Jean Rhodes; State Exhibits 1, 2)
4. Respondent's continued practice as a pharmacy technician presented an immediate danger to the public health, safety and welfare due to her diversion and subsequent sale of large amounts of schedule II, III, and IV controlled substances.
5. The Board initially attempted to serve Respondent with the Emergency Order and Statement of Charges by certified mail, return receipt requested at the address she has provided to the Board. When the certified mail was returned to the Board as undeliverable, Respondent was served with the Emergency Order, Statement of Charges, and Notice of Hearing by publication, as authorized by 657 IAC 35.5(1)"d." (Testimony of Debbie Jorgenson; State Exhibit 4)

6. On May 18, 2010 Respondent pled guilty to two counts of obtaining prescription drugs by fraud. (Testimony of Debbie Jorgenson)

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 § 124.401 provides, in relevant part, that it is unlawful for any person to possess a controlled substance with intent to deliver.

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.

i. Willful or repeated violations of the provisions of Iowa Code chapter 147 or Iowa Code chapter 272C. Willful or repeated violations of these Acts include, but are not limited to, a . . . pharmacy technician's intentionally or repeatedly violating a lawful rule or regulation promulgated by the board. . . .

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.

The preponderance of the evidence established that Respondent unlawfully possessed prescription drugs, including controlled substances, in violation of Iowa Code §§ 155A.6A(5), 155A.21(2009) and 657 IAC 36.1(4)(j), as alleged in Count I of the Statement of Charges.

The preponderance of the evidence established that Respondent distributed drugs for unlawful purposes, in violation of Iowa Code §§ 155A.6A(5), 124.401(2009) and 657 IAC 36.1(4)(h), as alleged in Count II of the Statement of Charges.

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), 155A.21, 155A.23(11), and 124.401(2009), and 657 IAC 36.1(4)(i) and (j), as alleged in Count III of the Statement of Charges.

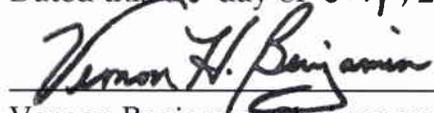
In light of these violations, Respondent's continued practice as a registered pharmacy technician presents a serious danger to the public health, safety, and welfare. Both the violations and Respondent's failure to respond to the Statement of Charges more than justify revocation of her registration.

DECISION AND ORDER

IT IS THEREFORE ORDERED that pharmacy technician registration number 14937, issued to Rebekka Watkins, is hereby REVOKED. If Respondent seeks reinstatement of her license 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 license 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 20th day of July, 2010.



Vernon Benjamin, Chairperson
Iowa Board of Pharmacy

cc: Scott Galenbeck, Assistant Attorney General
Hoover State Office Building (LOCAL)

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.