

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2011-91
Pharmacist License of)	
MEGAN WHITED)	STATEMENT OF CHARGES
License No. 21335,)	
Respondent.)	

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

1. He is the Executive Director for the Iowa Board of Pharmacy (hereinafter, "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 (2011).
3. On August 4, 2010, the Board issued Megan Whited ("Respondent") license number 21335, allowing Respondent to engage in the practice of pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's pharmacist license is current and active until June 30, 2012.
5. Respondent's most recent address of record is 2121 Coneflower Court, Ames, Iowa 50014.
6. At times material to this statement of charges, Respondent was employed as a pharmacist at Allen Memorial Hospital, Waterloo, Iowa 50703.

A. CHARGES

COUNT I – LACK OF PROFESSIONAL COMPETENCY

Respondent is charged under Iowa Code § 155A.12(1) (2011) and 657 Iowa Administrative Code § 36.1(4)(b) with lack of professional competency as demonstrated by Respondent's (a) substantial deviation from the standards of learning and skill ordinarily possessed and applied by other Iowa pharmacists, (b) failure to exercise in a substantial respect that degree of care which is ordinarily exercised by an Iowa pharmacist and (c) willful and repeated departures from, and a failure to conform to, the minimal standard and acceptable and prevailing practice of pharmacy in the state of Iowa.

COUNT II – INABILITY TO PRACTICE DUE TO CHEMICAL ABUSE

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) (2011) and 657 Iowa Administrative Code §§ 36.1(4)(d) and 36.1(4)(m).

COUNT III – VIOLATION OF CONTROLLED SUBSTANCES LAW

Respondent is charged with violating laws relating to controlled substances in violation of Iowa Code §§ 124.401(5), 155A.12(1) and 155A.12(5) (2011), and 657 Iowa Administrative Code §§ 36.1(4)(h) and 36.1(4)(j).

COUNT IV – UNLAWFUL POSSESSION OF PRESCRIPTION DRUGS

Respondent is charged with unlawful possession and use of prescription drugs in violation of Iowa Code §§ 155A.12(1) and 155A.21 (2011), and 657 Iowa Administrative Code §§ 36.1(4)(j) and 36.1(4)(u).

B. CIRCUMSTANCES

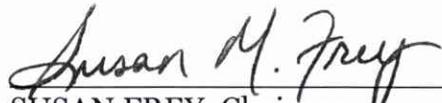
An investigation was commenced August 1, 2011, which revealed the following:

1. At all times material to this statement of charges, Respondent was employed as a pharmacist at Allen Memorial Hospital, Waterloo, Iowa 50703. Respondent was discharged on July 29, 2011 for, among other things, erratic job attendance.
2. Respondent had previously been discharged by Walgreens and St. Luke's Hospital, Cedar Rapids, each time for erratic job attendance.
3. On July 16, 2011, while still employed by Allen Memorial Hospital, Respondent was admitted to an Ames hospital for treatment of a swollen and painful hand. During the course of her treatment, several treatment providers queried Respondent regarding drug use. After a blood screen established that Respondent was using that had not been prescribed to her drugs – including oxycodone, methamphetamine and opiates – Respondent admitted to illegal drug use.

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 29th day of August 2011, the Iowa Board of Pharmacy found probable cause to file this Statement of Charges and to order a hearing in this case.



SUSAN FREY, 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

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BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2011-91
Pharmacist License of)	
MEGAN WHITED)	EMERGENCY ORDER
License No. 21335,)	
Respondent.)	

I. JURISDICTION

The Iowa Board of Pharmacy (hereinafter, "Board") has jurisdiction over pharmacy licensees pursuant to Iowa Code Chapters 155A and 272C (2011). Megan Whited (hereinafter, "Respondent") possesses pharmacist license number 21335 issued by the Board. A Statement of Charges was filed against Respondent on August 29th, 2011. 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 August 4, 2010, the Board issued Respondent license number 21334, allowing Respondent to practice pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
2. Respondent was employed as a pharmacist by Allen Memorial Hospital, Waterloo, Iowa 50703.
3. On or about August 1, 2011 an investigation was commenced which revealed the following:
 - a. At all times material to this statement of charges, Respondent was employed as a pharmacist at Allen Memorial Hospital, Waterloo, Iowa 50703.

- b. Respondent was discharged on July 29, 2011 for, among other things, erratic job attendance. Respondent had previously been discharged by Walgreens and St. Luke's Hospital, Cedar Rapids, each time for erratic job attendance.
 - c. On July 16, 2011, while still employed by Allen Memorial Hospital, Respondent was admitted to an Ames hospital for treatment of a swollen and painful hand. During the course of her treatment, several treatment providers queried Respondent regarding drug use. After a blood screen established that Respondent was using that had not been prescribed to her drugs – including oxycodone, methamphetamine and opiates – Respondent admitted to illegal drug use.
4. The Board finds that the evidence assembled during the investigation of Respondent supports the August ~~29~~, 2011 Statement of Charges against Respondent. The Board also finds that Respondent, by her own admission, has (a) repeatedly used controlled substances which were not prescribed to her, and (b) interspersed periods of drug usage with personally directed attempts at recovery and job activity. It is apparent that Respondent's erratic job attendance relates to her drug use – indicating that her drug usage was interfering with her ability to function as a pharmacist.
5. The Board finds that Respondent is an immediate danger to the public health, safety and welfare for the following reasons:
 - a. Respondent has acknowledged her use of a variety of controlled substances, including marijuana, oxycodone, heroin and methamphetamine. Respondent is addicted to controlled substances.

- b. Respondent's use of controlled substances coincides with periods of employment as a pharmacist, and has resulted in a diminished ability to practice as a pharmacist, endangering pharmacy patients.
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 pharmacist, the public health, safety and welfare will be threatened by her physical condition and impairment, and her likely neglect of pharmacist responsibilities due to drug-induced impairment. Given these facts, the Board must act in the interest of the public to suspend Respondent's license to practice pharmacy until her addiction is evaluated and treated.
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 pharmacist license.
 - b. Issuance of an order directing that Respondent's license shall remain suspended until satisfactory evidence of Respondent's ability to resume the practice of pharmacy has been provided to the Board.

III. CONCLUSIONS OF LAW

1. Respondent's admitted drug usage, impairment, likely neglect of pharmacist duties, and other violations of Iowa Code chapter 155A (2011) and the Iowa Administrative Code, establish that Respondent was not working safely as a pharmacist.
2. The provisions of Iowa Code § 17A.18A (2011) permit the Iowa Board of Pharmacy to take emergency action to protect the health, safety and welfare of the public. A basis

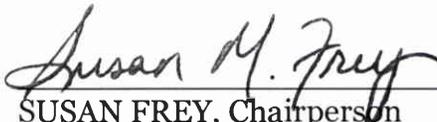
for emergency action against Respondent, pursuant to the provisions of the Iowa Code and the Iowa Administrative Code, has been established by the findings of fact adopted above.

IV. EMERGENCY ORDER

The Board ORDERS as follows:

- a. Pursuant to Iowa Code § 17A.18A, chapter 155A (2011) and 657 Iowa Administrative Code § 36.1(4)(b), the pharmacist license of Megan Whited is 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 September 14, 2011. The hearing will commence at 11:00 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 29th day of August 2011.



SUSAN FREY, 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

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BEFORE THE IOWA BOARD OF PHARMACY

Re:)	Case No. 2011-91
Pharmacist License of)	
MEGAN NICOLE WHITED)	STIPULATION
License No. 21335)	AND
Respondent)	CONSENT ORDER

Pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2011), the Iowa Board of Pharmacy (hereinafter, "Board") and Megan Nicole Whited (hereinafter, "Respondent"), enter into the following Stipulation and Consent Order settling a licensee disciplinary proceeding currently pending before the Board.

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 a license to practice pharmacy in Iowa on August 4, 2010, as evidenced by Pharmacist License Number 21335, 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, 2012.
3. Respondent was, at all times material to the Statement of Charges, employed as a pharmacist at Allen Memorial Hospital, Waterloo, Iowa 50703.
4. A Statement of Charges was filed against Respondent by the Board on August 29, 2011.
5. The Board has jurisdiction over the parties and jurisdiction over the subject matter of these proceedings.
6. Respondent has chosen not to 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 physical and mental health evaluation – including a substance abuse evaluation – from a physician/treatment provider approved in advance by the Board.
 - b. Delivers to the Board a written, fully documented and 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. Any conclusion that the Respondent is fit to return to *the practice of pharmacy* will include an assessment of Respondent's ability to cope with the presence of controlled substances in the pharmacy setting.
 - c. Permits the Board complete access to Respondent's medical records, including records of substance abuse evaluation and treatment.
 8. At such time as Respondent is able to deliver to the Board a written, fully documented and 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 Respondent's 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 agrees to comply with the terms of probation.
- b. The period of probation shall be 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.
- c. 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.
- d. Respondent shall report to the Board 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.
- e. Respondent shall notify all 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.
- f. 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.
- g. During the first six (6) months of employment during Probation, Respondent shall

not work more than 20 hours per week. Following successful completion of six months of employment, Respondent may request permission from the Board to work additional hours per week.

- h. Respondent shall appear informally before the Board, upon the request of the Board, for the purpose of reviewing her performance as a pharmacist during Respondent's probationary period. Respondent shall be given reasonable notice of the date, time, and place for the appearances.
- i. Respondent shall obey all federal and state laws, rules, and regulations related to the practice of pharmacy.
- j. 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.
- k. Respondent shall provide witnessed blood, hair or urine specimens on demand by the Board or its agents. The specimens shall be used for alcohol and drug screening, and to verify Respondent's compliance with this Stipulation and Consent Order and any drug therapy ordered by Respondent's physician or treatment provider. All costs related to the analysis of such specimens shall be paid by Respondent.
- l. To facilitate performance of the preceding paragraph, Respondent shall report to and provide a specimen to any healthcare provider specified by the Board – said

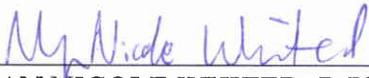
healthcare provider to be located in reasonable proximity to Respondent – within 24 hours after notice from the Board requesting that Respondent provide a specimen. Respondent agrees to cooperate with the Board in establishing a specimen testing program through FirstLab, and hereby consents to disclosure to the Board, by FirstLab or any other testing facility, of all medical information, including test results, generated by Respondent's contact with the facility.

- m. Respondent shall promptly provide, upon request of an agent of the Board, copies of or access to all her medical records.
- n. 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, including recommendations for attendance at AA and NA meetings. 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.
- o. Respondent shall not supervise any registered pharmacist-intern and shall not perform any of the duties of a pharmacy preceptor.
- p. 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. If Respondent has been found to be chemically dependent, Respondent shall participate in the Iowa Pharmacy

Recovery Network (IPRN) program, under the direct support of a pharmacist advocate.

10. Should 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 (2011) 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. The State's legal counsel may present this Stipulation and Consent Order to the Board.
13. This Stipulation and Consent 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 Stipulation and Consent Order, it shall be the full and final resolution of this matter.
14. The Board's approval of this Stipulation and Consent Order shall constitute a FINAL ORDER of the Board.

This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 28th day of November 2011.



MEGAN NICOLE WHITED, R.Ph.
Respondent

Subscribed and sworn to before me by Megan Nicole Whited on this 28th day of November 2011.

Bhonda Gabelstein
NOTARY PUBLIC IN AND FOR
THE STATE OF IOWA

8-24-13

This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy on the 19th day of January 2011.

Susan Frey
SUSAN FREY, Chairperson
Iowa Board of Pharmacy
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

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