

**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:	)	EMERGENCY ORDER
Pharmacist License of	)	AND
MARY S. WILSON	)	COMPLAINT AND
License No. 18139	)	STATEMENT OF CHARGES
Respondent	)	AND
	)	NOTICE OF HEARING

NOW on this 25th day of October 1994, the Iowa Board of Pharmacy Examiners has reviewed the following evidence:

1. Respondent was issued a license to practice pharmacy in Iowa on February 14, 1994, by reciprocity.
2. Respondent currently resides at 2085 Radford Road, Dubuque, Iowa 52002.
3. Respondent was employed as a staff pharmacist at Finley Hospital, Pharmacy Department, 350 North Grandview Avenue, Dubuque, Iowa 52001.
4. Respondent's license to practice pharmacy in Iowa is current until June 30, 1995.
5. On October 24, 1994, the Board received information which alleges that on October 22, 1994, Respondent admitted to her employer that she had obtained and consumed Schedule II controlled substances from the Finley Hospital Pharmacy without



prescriber authorization. The Schedule II controlled substances which were taken without authorization included the following stimulants: #97 Ritalin 5mg tablets; #98 Ritalin 10mg tablets; #60 Methylphenidate 5mg tablets; and #24 Dexedrine 5mg tablets. It is also alleged that Respondent's addiction to alcohol and her unauthorized use of controlled substances has impaired her ability to practice pharmacy with reasonable skill and safety. Respondent resigned her position as a pharmacist at Finley Hospital on October 22, 1994.

6. The information contained in paragraph 5, together with other investigative information in the possession of the Board, indicates that Respondent would pose a threat to the public health and safety if she were allowed to continue to practice pharmacy in Iowa and thereby have access to controlled substances.

Based upon the above evidence, the Iowa Board of Pharmacy Examiners finds that the public health, safety, and welfare would be jeopardized if Mary S. Wilson were to be allowed to continue in the practice of pharmacy until a hearing can be conducted. Therefore, the Board finds that the public health, safety, and welfare makes emergency summary license suspension imperative, and so directs the Executive Secretary-Director to issue such order. It is the further order of the Board that during the period of the suspension, Respondent shall not enter any pharmacy prescription area and shall not manage any pharmacy, administer any pharmacy, or engage in any pharmacy-related service or activity.

IT IS HEREBY ORDERED, pursuant to the authority of Iowa Code section 17A.18(3), that the license of Mary S. Wilson to practice pharmacy in Iowa be temporarily suspended until such

time as a hearing before the Board of Pharmacy Examiners can be conducted.

With this notice, the Board also directs the Executive Secretary-Director of the Iowa Board of Pharmacy Examiners to file a Complaint and Statement of Charges and Notice of Hearing against Respondent, who is a pharmacist licensed pursuant to Iowa Code Chapter 155A. In filing said Complaint and Statement of Charges and Notice of Hearing, the secretary-director alleges that:

7. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Jay J. Cayner; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.

8. Respondent is guilty of violations of 1993 Iowa Code sections 155A.12(1), 155A.12(5), 155A.23(1)(a), 124.308(1), 124.402(1)(a), and 124.403(1)(c) by virtue of the allegations contained in paragraph 5.

1993 Iowa Code section 155A.12 provides, in part, the following:

...The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:...

1. Violated any provision of this chapter or any rules of the board adopted under this chapter.

....

5. Violated any provision of the controlled substances Act or rules relating to that Act.

1993 Iowa Code section 155A.23 provides, in part, the following:

A person shall not:

1. Obtain or attempt to obtain a prescription drug or procure or attempt to procure the administration of a drug by:

a. Fraud, deceit, misrepresentation, or subterfuge...

1993 Iowa Code section 124.308 provides, in part, the following:

1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner.

1993 Iowa Code section 124.402(1) provides, in part, the following:

It is unlawful for any person:

a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 124.308;...

1993 Iowa Code section 124.403(1) provides, in part, the following:

It is unlawful for any person knowingly or intentionally:...

c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;...

9. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(c), 9.1(4)(d)(2), 9.1(4)(h), 9.1(4)(m), and 9.1(4)(u) by virtue of the allegations contained in paragraph 5.

657 Iowa Administrative Code section 9.1(4) provides, in part, the following:

The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of pharmacy or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.

d. Habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to:...

(2) The excessive use of drugs which may impair a pharmacist's ability to practice pharmacy with reasonable skill or safety.

....

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 155A, 123, 123A, and 124.

....

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

....

u. Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections 147.55, 155A.12 and 155A.15.

The Iowa Board of Pharmacy Examiners finds that paragraphs 8 and 9 constitute grounds for which Respondent's license to practice pharmacy in Iowa can be disciplined.

WHEREFORE, the undersigned charges that Respondent has violated 1993 Iowa Code sections 155A.12(1), 155A.12(5), 155A.23(1)(a), 124.308(1), 124.402(1)(a), and 124.403(1)(c) and 657 Iowa Administrative Code sections 9.1(4)(c), 9.1(4)(d)(2), 9.1(4)(h), 9.1(4)(m), and 9.1(4)(u).

IT IS HEREBY ORDERED, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that Mary S. Wilson appear before the Iowa Board of Pharmacy Examiners on Wednesday, November 16, 1994, at 10:30 a.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to discipline the license to practice pharmacy issued to Mary S. Wilson on February 14, 1994, and take whatever additional action that they deem necessary and appropriate.

Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of her own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision may be rendered. The failure of Respondent to appear could result in disciplinary action including the permanent suspension or revocation of Respondent's license.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department of Inspections and Appeals. The office of the Attorney General is responsible for representation of the public interest in these proceedings. Information regarding the hearing may be obtained from Linny C. Emrich, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-3658). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS



Lloyd K. Jessen
Executive Secretary/Director

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

RE:	)	DIA NO: 94PHB-11
Pharmacist License of)	
MARY S. WILSON	)	FINDINGS OF FACT,
License No. 18139	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

TO: MARY S. WILSON

On October 25, 1994, the Executive Secretary/Director of the Iowa Board of Pharmacy Examiners (Board) filed an Emergency Order and Complaint and Statement of Charges and Notice of Hearing against Mary S. Wilson (Respondent), a licensed pharmacist, alleging that the Respondent had violated a number of pharmacy related statutes and rules.

The hearing on the Emergency Order and Complaint and Statement of Charges was held on November 16, 1994 at 10:30 a.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Des Moines, Iowa. The following members of the Board were present: Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; and Arlan D. Van Norman. The Respondent appeared pro se. The state was represented by Linny Emerich, Assistant Attorney General. The hearing was recorded by a certified court reporter. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided. The hearing was closed to the public, at the request of the Respondent, pursuant to Iowa Code Section 272C.6(1) (1993).

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 its decision. The administrative law judge was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with the Board's deliberations.

THE RECORD

The record includes the Emergency Order and Complaint and Statement of Charges and Notice of Hearing; the testimony of the witnesses; and the following exhibits:

Respondent's Exhibit A: Letter dated 11/9/94 (Erion to Board)

Respondent's Exhibit B: Letter dated 11/14/94 (Houlihan, M.D. to Board)

Respondent's Exhibit C: Mercy Health Center patient records



FINDINGS OF FACT

1. Respondent was issued a license to practice pharmacy in Iowa on February 14, 1994, by reciprocity. Her license is current until June 30, 1995.
2. Respondent was employed as a staff pharmacist at Finley Hospital, Pharmacy Department, 350 North Grandview Avenue, Dubuque, Iowa 52001 from January 24, 1994 until October 22, 1994. (Testimony of Martha Hart)
3. On October 4, 1994 an employee of the Board came to the pharmacy at Finley Hospital to destroy outdated controlled drugs. It had been three years since outdated drugs had been destroyed at Finley Hospital. The Director of Pharmacy had the outdated controlled drugs inventoried and packed in sealed boxes. The employee compared the inventory records to the contents of the sealed boxes and discovered some discrepancies. One of the boxes was missing 24 Dexedrine 5 mg. tablets, and one entire sealed box was missing. (Testimony of Martha Hart)
4. The Director of Pharmacy was most concerned about the missing Dexedrine because she specifically recalled signing it into the box. She felt that there was a possibility that the missing sealed box had been thrown away by mistake during the pharmacy remodeling. The Director of Pharmacy performed a complete inventory of all of the pharmacy's controlled substances. The last inventory had been performed on June 29, 1994. The inventory disclosed the following shortages of controlled substances: 97 Ritalin 5 mg tablets, 98 Ritalin 10 mg tablets, and 60 Methylphenidate 5 mg tablets (generic Ritalin). These drugs had just been purchased on August 23, 1994. The Drug Enforcement Administration (DEA) was informed of the shortages. (Testimony of Martha Hart)
5. The Director of Pharmacy began an investigation. She examined the nursing unit's proof of use forms in an attempt to identify when the drugs were dispensed. She discovered that some of the inventory cards for the Ritalin were missing. She decided that it was likely that one of her own staff was involved. On October 17, 1994 a mandatory staff meeting was called, and staff was informed that some controlled substances were missing and there would be an investigation. The types of drugs that were missing were not identified. (Testimony of Martha Hart)
6. On October 22, 1994 the Respondent called the Director of Pharmacy and told her she wanted to resign, effective immediately. The Respondent said that she had taken the Dexedrine and Ritalin. The Respondent denied taking the box of missing outdated drugs. (Testimony of Martha Hart)

7. The Director of Pharmacy testified that she had not observed any signs of impairment in the Respondent during the time she worked in the pharmacy. The Respondent had exhibited some mood swings, which the Director of Pharmacy had attributed to a problem with a boyfriend. There were no complaints about the quality of Respondent's work. The Respondent had more absences than average. (Testimony of Martha Hart)

8. The Respondent testified that she has had a longstanding alcohol problem which had become much worse in the past few years. In 1990 the Respondent was divorced. She had been in treatment for depression, but after the divorce she started drinking more heavily. She moved to Iowa to be closer to her family and thought she would be able to quit drinking, but she continued. The Respondent testified that she never drank on the job, but she was not always as alert as she should have been. She also testified that while she worked as a pharmacist in Arizona in 1987 to 1990 she had problems with drugs and had taken diet pills, Xanax, and Tylenol III from her place of work. These thefts were never detected. (Testimony of Respondent; Respondent's Exhibit C)

9. The Respondent testified that beginning in July, 1994 she took tablets of Ritalin from the narcotic cabinet at the Finley Hospital Pharmacy a few at a time for her own personal use. She has never had a prescription for either Dexedrine or Ritalin. At times she used the drugs while she was working and other times she used them at home. In July or August she decided to throw the inventory records away. She decided to admit her theft to the Director of Pharmacy because she did not want her co-workers to have to go through an investigation. (Testimony of Respondent)

10. After resigning her position at Finley, the Respondent went to a psychiatrist who hospitalized her. She has been diagnosed with major depressive disorder, recurrent, severe, without psychotic features; alcohol dependence; and episodic stimulant abuse. The Respondent entered the Turning Point Treatment Center on October 28, 1994 and is currently attending on an outpatient basis from 8:00 a.m. to 3:30 p.m. five days a week. She will continue in outpatient treatment until November 29, 1994. She will then be expected to participate in aftercare for six months. The Respondent is currently attending Alcoholics Anonymous (AA) meetings four to five times a week. She has been prescribed Antabuse to assist in assuring her sobriety. The treatment center reports that her chances for recovery are quite good based on her positive frame of mind and motivation for a need to work. She is making good progress and continues to show motivation in the treatment setting. (Testimony of Respondent; Respondent's Exhibits A, B)

CONCLUSIONS OF LAW

1. Iowa Code section 155A.12(1993) provides in relevant part:
...The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:
 1. Violated any provision of this chapter or any rules of the board adopted under this chapter.
...
 5. Violated any provision of the controlled substances Act or rules relating to that Act.
2. Iowa Code section 155A.23(1993) provides in relevant part:
A person shall not:
 1. Obtain or attempt to obtain a prescription drug or procure or attempt to procure the administration of a drug by:
 - a. Fraud, deceit, misrepresentation, or subterfuge...
3. Iowa Code section 124.308(1993) provides in relevant part:
 1. Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner.
4. Iowa Code section 124.402(1)(1993) provides in relevant part:
It is unlawful for any person:
 - a. Who is subject to division III to distribute or dispense a controlled substance in violation of section 124.308;...
5. Iowa Code section 124.403(1)(1993) provides in relevant part:
It is unlawful for any person knowingly or intentionally:
 - c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;
6. 657 IAC 9.1(4) provides in relevant part:
The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board deter-

mines that the licensee or registrant is guilty of the following acts or offenses:

...

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of pharmacy or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.

d. Habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to:

...

(2) The excessive use of drugs which may impair a pharmacist's ability to practice pharmacy with reasonable skill or safety.

...

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 155A, 123, 123A, and 124.

...

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

...

u. Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections 147.55, 155A.12 and 155A.15.

7. Ritalin, Methylphenidate (generic Ritalin), and Dexedrine are all Schedule II controlled substances. Iowa Code section 124.206 (4). The preponderance of the evidence established that the Respondent obtained these drugs, without a prescription and without making payment, from the pharmacy where she was employed. In addition, she destroyed the inventory control records for these drugs in an attempt to avoid detection. The Respondent has violated Iowa Code section 155A.23(1)(a) and 124.403(1)(c)(1993) because these acts constitute knowingly and intentionally obtaining a prescription drug by deceit, misrepresentation, or subterfuge. These actions also violate Iowa Code section 124.308 (1993) because as a pharmacist, the Respondent dispensed schedule II controlled substances to herself without the written prescription of a practitioner. Furthermore, as a licensed pharmacist, the Respondent is subject to division III of Iowa Code chapter 124. Therefore, her actions also constitute a violation of Iowa Code section 124.402(1)(1993). Finally, these acts also constitute unethical conduct, in violation of 657 IAC 9.1(4)(c) and distribution of drugs for other than lawful purposes, in violation of subrule 9.1(4)(h).

8. The Respondent admitted using the Dexedrine and the Ritalin and generic Ritalin, both while she was at work and while she was at home. She conceded that at times she was not as alert as she should have been while she was working in the pharmacy. 657 IAC 9.1(4)(d)(2) defines habitual intoxication or addiction to the use of drugs as including, but not limited to "the excessive use of drugs which may impair a pharmacist's ability to practice pharmacy with reasonable skill or safety." The Respondent's use of these drugs while she was working is the type of use which may impair her ability to practice pharmacy with reasonable skill or safety. Moreover, the theft of these drugs and the destruction of inventory records to conceal the theft are failures to practice pharmacy with reasonable skill and safety. Finally, the Respondent has admitted a longstanding problem with alcohol for which she has sought treatment.

DECISION AND ORDER

The Iowa Board of Pharmacy Examiners hereby finds that the Respondent, Mary S. Wilson, License No. 18139, has violated Iowa Code sections 155A.12, 155A.23(1)(a), 124.308(1), 124.402(1)(a), 124.403(1)(c)(1993) and 657 IAC 9.1(4)(c), (d)(2), and (h). THEREFORE, IT IS THE ORDER of the Board that License number 18139, issued to Mary S. Wilson, is hereby suspended for a period of one year, retroactive to the date of issuance of the Emergency Order. However, the last six months of the suspension period shall be stayed, and the Respondent shall be placed on probation for a period of five (5) years, subject to the following terms and conditions:

1. The Respondent shall successfully complete her outpatient chemical dependency treatment and her aftercare program. The Respondent shall direct her treatment program and her aftercare program to send discharge reports to the Board when the programs have been successfully completed. She shall comply with all recommendations of her aftercare program concerning psychiatric care and frequency of attendance at AA meetings.
2. The Respondent shall file quarterly written reports with the Board and shall appear before the Board if requested. The written reports shall include proof of attendance at AA meetings as required by her aftercare program.
3. The Respondent shall immediately submit a witnessed blood or urine sample whenever requested by the Board or its designee. All costs of biological fluid testing shall be borne by the Respondent.
4. The Respondent shall completely abstain from the personal use of alcohol. The Respondent shall completely abstain from the personal use of all controlled substances or drugs in any

form unless prescribed by a duly licensed treating physician. The Respondent shall advise any treating physician of her previous chemical dependency prior to accepting any prescription drug. The Respondent shall report to the Board within fourteen days any use of controlled substances prescribed by physicians to Respondent. The report shall include a copy of the prescription and the name of the pharmacy where the prescription was filled.

5. During the period of probation, the Respondent shall not manage, administer or be the pharmacist-in-charge of any pharmacy.

6. The Respondent shall obey all federal and state laws and regulations substantially related to the practice of pharmacy.

7. The Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

8. During the period of probation, the Respondent shall notify all prospective employers of this decision and order and the terms, conditions and restrictions imposed on Respondent by this decision. Within 15 days of Respondent undertaking new employment, Respondent shall cause her employer to report to the Board in writing acknowledging the employer has read the decision in this case.

9. During the period of probation, the Respondent shall not supervise any registered intern and shall not perform any of the duties of a preceptor.

10. Should Respondent leave Iowa to reside or practice outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

11. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

12. Upon successful completion of probation, Respondent's certificate will be fully restored.

DIA No. 94PHB-11
Page 8

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 9.27, that the Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive secretary/director of the Board shall bill the Respondent for any witness fees or transcript costs associated with this disciplinary hearing. The Respondent shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this 1st day of December, 1994.



Marian L. Roberts, Chairperson
Iowa Board of Pharmacy Examiners

cc: Linny Emerich, Assistant Attorney General



THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

BOARD OF PHARMACY EXAMINERS
LLOYD K. JESSEN, EXECUTIVE SECRETARY/DIRECTOR

February 23, 1999

Mary Wilson, R.Ph.
1620 Spy Glass Hill N.E., # 21C
Cedar Rapids, Iowa 52402

Re: Iowa Pharmacist License # 18139

Dear Mary:

I am writing in response to your letter dated December 3, 1998, concerning the length of your probation. Your request for early termination of your probation was considered by the Board on February 3, 1999. The Board granted your request.

***MODIFICATION OF
BOARD DECISION AND ORDER***

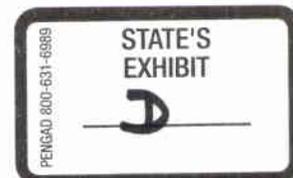
Effective February 3, 1999, the Iowa Board of Pharmacy Examiners modified the terms of Mary S. Wilson's Decision & Order dated December 1, 1994, by reducing the length of probation and terminating it on February 3, 1999. As a result, Iowa pharmacist license # 18139 issued to Mary S. Wilson is now fully restored and in good standing.

If you have any questions concerning this action, please contact me. Thank you.

Sincerely yours,

Lloyd K. Jessen
Executive Secretary/Director
IOWA BOARD OF PHARMACY EXAMINERS

cc: Lindy Pearson, Chief Investigator



**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:	)	Case No. 2003-45
Pharmacist License of)	
MARY S. WILSON	)	STATEMENT OF CHARGES
License No. 18139)	
Respondent)	

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

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners 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 (2003).
3. On February 14, 1994, the Board issued Respondent, by reciprocity, a license to engage in the practice of pharmacy as evidenced by license number 18139, 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, 2005.
5. Respondent's current address is 3827 University, Des Moines, Iowa 50311.
6. At all times material to this statement of charges, respondent was employed as a pharmacist at Walgreen Pharmacy, 104 East Euclid, Des Moines, Iowa.

A. CHARGES

COUNT I – INABILITY TO PRACTICE DUE TO CHEMICAL ABUSE

The Respondent is charged pursuant to Iowa Code § 155A.12(1) (2003), and 657 Iowa Administrative Code § 36.1(4)(m) with the inability to practice pharmacy with reasonable skill and safety by reason of chemical abuse.

COUNT II – HABITUAL ADDICTION TO USE OF DRUGS

The Respondent is charged pursuant to Iowa Code §§ 147.55(4) and 155A.12(1) (2003), and 657 Iowa Administrative Code § 36.1(4)(d) with habitual addiction to the use of drugs.



COUNT III- DISTRIBUTION OF DRUGS FOR UNLAWFUL PURPOSES

The Respondent is charged pursuant to Iowa Code § 155A.12(1) (2003), and 657 Iowa Administrative Code §§ 36.1(4)(h) and 36.1(4)(j) with distribution of drugs for unlawful purposes, including theft, distribution to herself and use of prescription drugs without a prescription for their use.

B. FACTUAL CIRCUMSTANCES

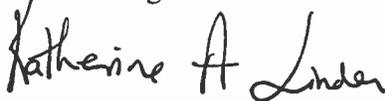
On or about May 19, 2003 an investigation was commenced which revealed the following:

1. Respondent self-reported that she had discharged from her employment for theft of phentermine from the pharmacy where she worked. Respondent admitted using the phentermine, for which she has no prescription. Respondent also admitted theft of lorazepam tablets, hydrocodone and xanax.
2. Respondent has previously been the subject of disciplinary proceedings before the Iowa Board of Pharmacy Examiners. Such proceedings related to substance abuse by Respondent.

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 Secretary/Director

On this 29 day of July 2003, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Katherine A. Linder, Chairperson
Iowa Board of Pharmacy Examiners
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

**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re: Pharmacist License of
MARY S. WILSON
License No. 18139
Respondent

**STIPULATION
AND
CONSENT ORDER**

On this 6 day of November, 2003, the Iowa Board of Pharmacy Examiners and Mary S. Wilson, of 3827 University Avenue, Des Moines, Iowa, each hereby agree with the other and stipulate as follows:

The licensee disciplinary hearing pending before the Iowa Board of Pharmacy Examiners, on the allegations specified in the Statement of Charges filed against Respondent on July 29, 2003, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That Respondent was issued a license to practice pharmacy in Iowa on the 14th day of February, 1994, by reciprocity as evidenced by Pharmacist License Number 18139, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 18139 issued to Respondent is active and current until June 30, 2005.
4. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
5. A Statement of Charges was filed against Respondent on July 29, 2003.



SECTION I

Respondent's pharmacist license number 18139 shall be placed on probation for five (5) years with the following terms and conditions, beginning on the date this Order is accepted by the Board:

- a. Respondent shall not consume alcohol.
- b. Respondent shall not 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. The Respondent shall fully inform any treating physician or other treating health care provider of her medical history. Additionally, Respondent shall not possess any controlled substance, except medications prescribed in accordance with this paragraph.
- c. Upon demand by an agent of the Board, Respondent shall provide witnessed blood or urine specimens, with costs relating to analysis to be paid for by Respondent. The specimens shall be used for alcohol and drug screening and to verify Respondent's compliance with this Stipulation and Consent Order and with any therapy ordered by Respondent's physician.
- d. Respondent shall comply with all treatment recommendations of her physician and/or counselor, if applicable. If treatment is required, the treatment program or physician/counselor shall submit quarterly reports to the Board documenting Respondent's compliance with the treatment program.
- e. Respondent shall file written, sworn quarterly reports with the Board attesting to her compliance with all the terms and conditions of this Stipulation and

Consent Order. The reports shall be filed not later than March 5, June 5 September 5 and December 5 of each year of Respondent's probation. The quarterly reports shall include Respondent's place of employment, current home address, home telephone number, work telephone number, and any further information deemed necessary by the Board from time to time.

f. Respondent shall attend aftercare meetings and Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings if recommended by Respondent's physician or treatment-provider. If such meetings are required, Respondent shall append to each quarterly report, referred to in subparagraph (e) above, statements signed or initialed by another person in attendance at the AA and NA meetings, attesting to Respondent's attendance and continuing participation. The statement shall include the time, date, and location of the meetings attended.

g. Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program.

h. Respondent shall make personal appearances before the Board or a Board committee upon request. The Board shall give Respondent reasonable notice of the date, time, and location for such appearances.

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

j. Respondent shall notify all present and prospective employers of the resolution of this case and the terms, conditions, and restrictions imposed on Respondent by this document. 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 to report to the Board in writing acknowledging that the employer has read this document and understands it.

k. Respondent shall not manage, administer or be the pharmacist in charge of any pharmacy.

l. Respondent shall not be self-employed as a pharmacy owner/operator, nor supervise any registered intern, nor perform any of the duties of a pharmacy preceptor.

m. Respondent shall inform the board in writing within ten (10) days of any change of home address, place of employment, home telephone number, or work telephone number.

SECTION II

1. Respondent agrees to release all her medical records to the Board, including all medical records pertaining to treatment for any mental conditions and for alcohol and substance abuse, and agrees to allow the free flow of information between the Board and Respondent's physician(s) and treatment provider(s) and to ensure that the Board receives all necessary information if further evaluation or treatment of Respondent is requested or required. This release of medical records, including records pertaining to treatment for alcohol and substance abuse, is effective for five years from the date of the Board's approval of this Stipulation and Consent Order.

2. Should Respondent leave Iowa to reside or practice in another state, she shall notify the Board in writing fourteen (14) days prior to her departure and within fourteen (14) days of her return. Periods of residency or practice outside the State of Iowa shall not apply to reduction of the probationary period without prior request to and approval by the Board.

3. Respondent shall fully and promptly comply with all Orders of the Board

and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a). If a statement of charges or petition to revoke probation is filed against Respondent during probation, the board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

4. Upon successful completion of probation, Respondent's certificate will be fully restored.

5. This proposed settlement is subject to approval of a majority of the full Board. If the Board fails to approve this proposed settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

6. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 28 day of October, 2003.

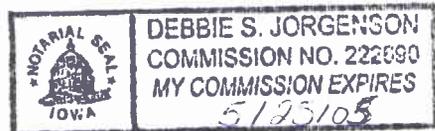


MARY S. WILSON, R.Ph.
Respondent

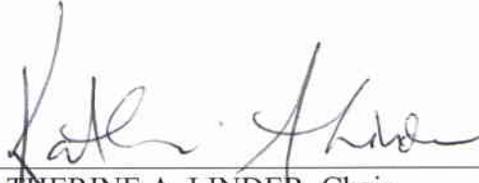
Subscribed and Sworn to before me on this 28 day of October, 2003.



NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA



7. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 6 day of November, 2003.



KATHERINE A. LINDER, Chair
Iowa Board of Pharmacy Examiners
RiverPoint Business Park
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309-4688

**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:	)	Case No. 2003-45
Pharmacist License of)	
MARY S. WILSON	)	EMERGENCY ORDER
License No. 18139)	
Respondent)	

I. JURISDICTION

The Iowa Board of Pharmacy Examiners (hereinafter, "Board") has jurisdiction over pharmacy licensees pursuant to Iowa Code Chapters 155A and 272C (2003). Respondent Mary S. Wilson possesses pharmacist license number 18139 issued by the Board. A Statement of Charges was filed against Respondent on February 18, 2004. 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 February 14, 1994 the Board issued Respondent a license to engage in the practice of pharmacy as evidenced by license number 18139, subject to the laws of the State of Iowa and the rules of the Board.
2. Respondent is currently employed as a pharmacist at Medicap Pharmacy, Knoxville, Iowa.
3. On May 19, 2003, the Board commenced an investigation of Respondent revealing the following, which the Board hereby finds:
 - a. In May, 2003, Respondent self-reported that she had been discharged from her employment at Walgreen Pharmacy, 104 East Euclid, Des Moines, Iowa, for theft of phentermine.

b. In the course of the May 2003 investigation, Respondent admitted using phentermine, for which she had no prescription. She also admitted theft of lorazepam tablets, hydrocodone and Xanax.

c. Respondent has previously been the subject of disciplinary proceedings before the Iowa Board of Pharmacy Examiners. Such proceedings related to substance abuse by Respondent.

d. Following the May 2003 investigation, a Statement of Charges was filed against Respondent by the Board. The Statement of Charges was filed July 29, 2003. Subsequently, Respondent entered into a Stipulation and Consent Order (hereinafter, "Order") with the Board on November 6, 2003. The Order provided, in part, that Respondent's license would be retained on a probationary basis for a five-year period commencing on the date of the Order. One of the conditions of Respondent's probation was that she not possess or use controlled substances unless authorized by a qualified prescriber.

e. Section I of the Order provided as follows:

"Respondent's pharmacist license number 18139 shall be placed on probation for five (5) years with the following terms and conditions, beginning on the date this Order is accepted by the Board:

a. Respondent shall not consume alcohol.

b. 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 . . ."

f. Analysis of a urine sample obtained from Respondent on February 3, 2004 revealed the presence of phentermine for which the Respondent does not have a prescription. Respondent's urine also tested positive for desmethyldiazepam, oxazepam, temazepam and alprazolam. It appears Respondent may have a valid prescription for alprazolam.

g. Another Statement of Charges was filed by the Board against Respondent on February 18, 2004, less than a year after the prior Statement of Charges.

4. The Board finds that the evidence assembled during the investigation of Respondent supports the February 18, 2004 Statement of Charges against Respondent. The Board also finds that Respondent has violated the provisions of Iowa Code Chapter 155A and Chapter 657 of the Iowa Administrative Code in the manner alleged in the Statement of Charges.

5. The Board finds that Respondent presents an immediate danger to the public health, safety and welfare for the following reasons:

- a. Respondent has repeatedly engaged in drug abuse (including use of controlled substances), with the obvious potential to affect the safety of her performance as a pharmacist. In the course of the May 2003 investigation, Respondent admitted using phentermine, a controlled substance, for which she had no prescription. The drug screen performed on February 3, 2004, establishes continued abuse of phentermine.
- b. Analysis of the urine sample obtained from Respondent on February 3, 2004 also revealed the presence of desmethyldiazepam, oxazepam, temazepam and alprazolam. Respondent appears to have a valid prescription for alprazolam
- c. The drug screen performed on February 3, 2004, accompanied by evidence of theft of drugs from Respondent's prior employer, supports a finding of ongoing chemical abuse by Respondent despite attempted supervision by the Board, including placement of her pharmacist's license on a probationary status.
- d. Respondent's concentration, attention, insight and judgment are apparently impaired due to mental and physical conditions associated with her drug abuse.
- e. Respondent's physical and mental condition is inadequate for work as a pharmacist and inconsistent with a pharmacist's professional responsibilities. If Respondent were allowed to continue to work as a pharmacist, the possibility of dispensing errors and incorrect counseling in the use of prescription medications would threaten the public health and welfare because an incorrectly dispensed or utilized prescription may cause serious physical harm – or even death – to a patient.

8. The Board finds that immediate, emergency action must be taken for the reason that if Respondent is allowed to work as a pharmacist, the public health, safety and welfare will be threatened by a drug addiction which impairs her ability to practice pharmacy. Respondent's mental and physical condition could result in Respondent incorrectly dispensing medications to members of the public and failing to communicate to members of the public regarding procedures for taking the medications, drug reactions, etc.

9. 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 (1) satisfactory evidence of Respondent's ability to resume the practice of pharmacy has been provided to the Board or (2) the February 18, 2004 Statement of Charges against respondent is otherwise resolved.

III. CONCLUSIONS OF LAW

1. Respondent's physical and mental condition prevent Respondent from working safely as a pharmacist in full compliance with the provisions of Iowa Code chapter 155A.15 and chapter 657 of the Iowa Administrative Code.

2. The provisions of Iowa Code § 17A.18A (2003) permit the Board of Pharmacy Examiners 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 (2003) and 657 Iowa Administrative Code § 35, the pharmacist license of Mary S. Wilson 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 March 16, 2004. The hearing will commence at 1:00 P.M. and be held at the office of the Iowa Board of Pharmacy Examiners, 400 SW 8th Street, Suite E, Des Moines, Iowa 50309.

DATED this 19th day of February 2004.



Katherine A. Linder, Chairperson
Iowa Board of Pharmacy Examiners
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 BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:	)	Case No. 2003-45
Pharmacist License of)	
MARY S. WILSON,	)	STATEMENT OF CHARGES
License No. 18139,)	
Respondent.)	

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

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners 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 (2003).
3. On February 14, 1994, the Board issued Respondent, by reciprocity, a license to engage in the practice of pharmacy as evidenced by license number 18139, 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, 2004.
5. Respondent's current address is 3827 University, Des Moines, Iowa 50311.
6. Respondent is currently employed as a pharmacist at the Medicap Pharmacy in Knoxville, Iowa.

A. CHARGES

COUNT I – INABILITY TO PRACTICE DUE TO CHEMICAL ABUSE

The Respondent is charged pursuant to Iowa Code § 155A.12(1) (2003), and 657 Iowa Administrative Code § 36.1(4)(m) with the inability to practice pharmacy with reasonable skill and safety by reason of chemical abuse.

COUNT II – HABITUAL ADDICTION TO USE OF DRUGS

The Respondent is charged pursuant to Iowa Code §§ 147.55(4) and 155A.12(1) (2003), and 657 Iowa Administrative Code § 36.1(4)(d) with habitual addiction to the use of drugs.

COUNT III – FAILURE TO COMPLY WITH BOARD ORDER

The Respondent is charged under Iowa Code § 272C.3(2)(a) (2003) with a failure to comply with the terms of a Stipulation and Consent Order issued by the Iowa Board of Pharmacy Examiners on November 6, 2003-- which prohibited Respondent from possession or use of controlled substances, except as authorized and prescribed by a qualified health care provider, for a five year period commencing on the date of the order.

B. FACTUAL CIRCUMSTANCES

On or about May 19, 2003 an investigation was commenced which revealed the following:

1. Respondent has previously been the subject of disciplinary proceedings before the Iowa Board of Pharmacy Examiners. Such proceedings related to substance abuse by Respondent.
2. Respondent entered into a Stipulation and Consent Order (hereinafter, "Order") with the Iowa Board of Pharmacy Examiners on November 6, 2003. A provision in the Order provided that Respondent's license would be retained on a probationary basis for a five-year period commencing on the date of the Order. One of the conditions of Respondent's probation was that she not possess or use controlled substances.
3. Section I of the Order provided as follows:

"Respondent's pharmacist license number 18139 shall be placed on probation for five (5) years with the following terms and conditions, beginning on the date this Order is accepted by the Board:

 - a. Respondent shall not consume alcohol.
 - b. 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 . . ."
4. Analysis of a urine sample obtained from Respondent on February 3, 2004 revealed the presence of phentermine for which Respondent does not have a prescription. Respondent's urine also tested positive for desmethyldiazepam, oxazepam, temazepam and alprazolam. It appears Respondent may have a valid prescription for alprazolam.

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 Secretary/Director

On this 18th day of February 2004, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Katherine A. Linder, Chairperson
Iowa Board of Pharmacy Examiners
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

Wilson-SOC.doc

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

RE:	)	CASE NO. 2003-45
Pharmacist License of:	)	DIA NO: 04PHB009
MARY S. WILSON,	)	FINDINGS OF FACT,
License No. 18139	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

TO: MARY S. WILSON

On February 18, 2004, the Iowa Board of Pharmacy Examiners (Board) found probable cause to file a Statement of Charges against Mary S. Wilson (Respondent), a licensed pharmacist. The Statement of Charges alleged two counts:

COUNT I: The inability to practice pharmacy with reasonable skill and safety by reason of chemical abuse, in violation of Iowa Code section 155A.12(1) (2003) and 657 IAC 36.1(4)m.

COUNT II: Habitual addiction to the use of drugs, in violation of Iowa Code section 147.55(4) and 155A.12(1) (2003) and 657 IAC 36.1(4)d.

COUNT III: Failure to comply with the terms of a Stipulation and Consent Order issued by the Iowa Board of Pharmacy Examiners on November 6, 2003, in violation of Iowa Code section 272C.3(2)a (2003).

A Notice of Hearing was issued setting a hearing date of March 16, 2004, but the hearing was continued. The hearing on the Statement of Charges was held on April 21, 2004 at 9:00 a.m., in the conference room at 400 SW 8th Street, Des Moines, Iowa. The following members of the Board were present: Katherine A. Linder, Chairperson; Paul Abramowitz; Michael J. Seifert; Leman Olson; Vernon Benjamin; G. Kay Bolton and Barbara Ellen O'Roake. The Respondent appeared and represented herself. Scott Galenbeck, Assistant Attorney General, represented the state. The hearing was recorded by a certified court reporter. John M. Priester, Administrative Law Judge from the Iowa Department of Inspections and Appeals, assisted the Board in conducting the hearing. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2003).

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 its decision. The administrative law judge was instructed to prepare the Board's Findings of Fact, Conclusions of Law, Decision and Order, in conformance with the Board's deliberations.

THE RECORD

The record includes the Statement of Charges; Notice of Hearing; the testimony of the witness; and Exhibits A-K for the State and Exhibits 1-3 for the Respondent.

FINDINGS OF FACT

1. On February 14, 1994, the Board issued Respondent, by reciprocity, a license to engage in the practice of pharmacy subject to the laws of the State of Iowa and the rules of the Board. The Respondent was issued license number 18139. (Ex. A, Board Records.)
2. The Respondent was the subject of disciplinary action in 1994. At that time the Respondent misappropriated Dexedrine and Ritalin while she was employed at the Finley Hospital Pharmacy Department in Dubuque, Iowa. The Respondent's license was suspended for one year and she was placed on probation for five years. (Ex. C.)
3. The Respondent petitioned the Board and on February 23, 1999, the Board terminated the Respondent's probation early. (Ex. D.)
4. The Respondent self-reported that she was terminated on May 14, 2003, from Walgreens Pharmacy in Des Moines, Iowa for taking 32 Phentermine tablets and some lorazepam 1 mg tablets. (Ex. E.)
5. The Board found probable cause to file a Statement of Charges on July 29, 2003, against the Respondent. The Statement of Charges included Count I: Inability to Practice Due to Chemical Abuse; Count II: Habitual Addiction to the Use of Drugs; and III: Distribution of Drugs For Unlawful Purposes. (Ex. F.)
6. On November 6, 2003, the Board and the Respondent entered into a Stipulation and Consent Order that resolved the Statement of Charges. The Respondent's license was placed on probation for five years with specific conditions of probation. (Ex. G.)
7. On February 3, 2004, Board Investigator Dennis Dobesh met with the Respondent and requested a urine sample pursuant to her terms of probation. The urine sample came back positive for Phentermine and benzodiazepines, substances for which she does not currently have a prescription to take. Based upon this positive result the Board filed an Emergency Order on February 19, 2004, and a Statement of Charges. (Ex. H,K.)
8. The Respondent admitted all of the allegations in the hearing. She indicated that she had remained sober for almost ten years after her first encounter with the Board. In 2003 the Respondent's boyfriend committed suicide, the Respondent was working overnights and was unable to sleep. This led to an emotional breakdown by the Respondent. She stole drugs from Walgreens and began abusing substances again.

After working at Walgreens the Respondent was hired in Knoxville, Iowa at the Medicap Pharmacy. While working at this pharmacy the Respondent again stole prescription drugs. The Respondent was employed at the Medicap Pharmacy when she submitted to the urine sample.

The Respondent relapsed and after the urine sample came back positive she hit rock bottom. The Respondent attempted suicide and was hospitalized. The Respondent was discharged from the hospital into substance abuse treatment.

The Respondent has been in treatment since February 26, 2004. According to the exhibits introduced in the hearing, the Respondent is doing well in treatment. The Respondent's counselor provided a letter dated April 20, 2004, that indicated that "Having completed her treatment program and continuing her aftercare has been and (sic) encouragement to her. If Mary continues to be patient while working diligently toward accomplishing her therapeutic goals and maintaining sobriety, she may in time be able to realize the fulfillment of her career goals as well." (Respondent's testimony and Ex. 1-3.)

CONCLUSIONS OF LAW

Count I

Iowa Code section 155A.12 provides, in relevant part:

155A.12 Pharmacist license-grounds for discipline.

... The board may ... impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

1. Violated any provision of this chapter or any rules of the board adopted under this chapter.
2. Engaged in unethical conduct as that term is defined by the rules of the board.

The Board of Pharmacy has promulgated administrative rules that provide that the Board may impose disciplinary sanctions against a licensee when a licensee found to be guilty of the "inability of a licensee or registrant to practice with reasonable skill and safety by reason of mental or physical impairment or chemical abuse." 657 IAC 36.1(4)m.

The Respondent admitted in the hearing that she has in the past used and abused chemicals and this has affected her ability to practice as a pharmacist with reasonable skill and safety. The preponderance of the evidence established that the Respondent has violated Iowa Code section 155A.12(1) and 657 IAC 36.1(4)m.

Count II

The Board of Pharmacy has promulgated administrative rules that provide that the Board may impose disciplinary sanctions against a licensee when a licensee found to be guilty of "habitual

intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to:

- (1) The inability of a licensee or registrant to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.
- (2) The excessive use of drugs which may impair a licensee's or registrant's ability to practice with reasonable skill or safety."

657 IAC 36.1(4)d.

The Respondent admits that she has been struggling with an addiction to the use of drugs. She currently is abstaining from the use of these drugs and is following through with her treatment and counseling. The preponderance of the evidence established that the Respondent has violated Iowa Code section 147.55(4) and 657 IAC 36.1(4)d.

Count III

The Board may "revoke a license, or suspend a license either until further order of the board or for a specified period, upon . . . failure of the licensee to comply with a decision of the board imposing licensee discipline." Iowa Code § 272C.3(2)a.

The Respondent does not contest that she violated the Stipulation and Consent Order that she signed on November 6, 2003. The preponderance of the evidence established that the Respondent violated the prior order of the Board in violation of Iowa Code section 272C.3(2)a.

Sanction

In determining an appropriate sanction, the Board considered the factors outlined in 657 IAC 36.1(3). The Respondent's violations are serious, numerous and repeated. The Respondent acknowledged in the hearing that she is addicted to controlled substances. She also appears to have insight into what steps she must take to remain sober. It appears that she is taking the steps necessary. However, as indicated by her counselor's letter, it is too premature to allow the Respondent to practice pharmacy considering the seriousness of her substance abuse problem.

DECISION AND ORDER

IT IS THEREFORE ORDERED that pharmacist license no. 18139, issued to Mary S. Wilson, shall be **SUSPENDED** indefinitely, for a period of not less than six (6) months, effective immediately upon service of this order. The suspension shall be reconsidered by the Board when the Respondent's substance abuse therapist indicates in writing that the Respondent is able to return to work. Once the suspension is lifted, the Respondent is indefinitely prohibited from working in any setting where controlled substances are stocked or held. Respondent shall not request lifting of this prohibition until after successful completion of probation.

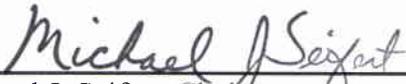
IT IS FURTHER ORDERED that the Respondent's license shall be placed on **PROBATION** for a period of five (5) years, subject to the following conditions:

- 1) The Respondent shall not consume alcohol.
- 2) The Respondent shall not 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. The Respondent shall fully inform any treating physician or other treating health care provider of her medical history. Additionally, Respondent shall not possess any controlled substance, except medications prescribed in accordance with this paragraph.
- 3) Upon demand by an agent of the Board, Respondent shall provide witnessed blood or urine specimens, with costs relating to analysis to be paid for by Respondent. The specimens shall be used for alcohol and drug screening and to verify Respondent's compliance with this Decision and with any therapy ordered by Respondent's physician.
- 4) Respondent shall comply with all treatment recommendations of her physician and/or counselor, if applicable. If treatment is required, the treatment program or physician/counselor shall submit quarterly reports to the Board documenting Respondent's compliance with the treatment program.
- 5) The Respondent shall file monthly written reports, on the fifth of each month, with the Board until she returns to work. After returning to work the Respondent shall file quarterly written reports with the Board attesting to her compliance with all the terms and conditions of this Decision. The reports shall be filed not later than June 5th, September 5th, December 5th and March 5th of each year of probation. The monthly, then quarterly, reports shall include Respondent's place of employment, current home address, home telephone number, work telephone number, and any further information deemed necessary by the Board from time to time.
- 6) Respondent shall attend aftercare meetings and Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings if recommended by Respondent's physician or treatment provider. If such meetings are required, Respondent shall append to each quarterly report, referred to in subparagraph five (5) above, statements signed or initialed by another person in attendance at the AA or NA meetings, attesting to Respondent's attendance and continuing participation. The statement shall include the time, date and location of the meetings attended.
- 7) Respondent shall participate in the Iowa Pharmacy Recovery Network (IPRN) program.
- 8) Respondent shall make personal appearances before the Board or a Board committee upon request. The Board shall give Respondent reasonable notice of the date, time and location for such appearances.
- 9) Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
- 10) During the period of probation, the Respondent shall notify all prospective employers of this decision and order and the terms, conditions and restrictions imposed on Respondent by this decision. The Respondent shall also inform employers of the prior decisions of this Board. Within 15 days of undertaking new employment, the Respondent shall cause her employer to report to the Board in writing acknowledging that the employer has read the Board's decision.

- 11) Respondent shall not manage, administer or be the pharmacist in charge of any pharmacy.
- 12) The Respondent shall notify the Board of any change in home address, place of employment, home telephone number or work telephone number within ten (10) days.
- 13) The Respondent shall release all her medical records to the Board, including all medical records pertaining to treatment for any mental conditions and for alcohol or substance abuse. The Respondent shall be required to agree to the free flow of information between the Board and Respondent's physician(s) and treatment provider(s) and to ensure that the Board receives all necessary information if further evaluation or treatment of Respondent is requested or required.
- 14) Should Respondent leave Iowa to reside or practice in another state, she shall notify the Board in writing fourteen (14) days prior to her departure and within fourteen (14) days of her return. Periods of residency or practice outside the State of Iowa shall not apply to reduction of the probationary period without prior request to and approval by the Board.
- 15) Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the practice of pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an order of the Board, in accordance with Iowa Code section 272C.3(2)a. If a statement of charges or petition to revoke probation is filed against Respondent during probation, the board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 657 IAC 36.18(2), that the Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. In addition, the executive secretary/director of the Board shall bill the Respondent for any witness fees and expenses or transcript costs associated with this disciplinary hearing. The Respondent shall remit for these expenses within thirty (30) days of receipt of the bill.

Dated this 14th day of May, 2004.



Michael J. Seifert, Chairperson
Iowa Board of Pharmacy Examiners

cc: Scott Galenbeck, Assistant Attorney General

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.