State of Iowa
Board of Pharmacy

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JAMES MILLER

EDWARD L. MAIER
Board Chair

THERESE WITKOWSKI
Interim Director

BOARD MEMBERS
JASON HANSEL
SHARON MEYER
JUDITH TRUMPY

TELECONFERENCE MINUTES
June 4, 2015

The special meeting of the Iowa Board of Pharmacy was held on Thursday, June 4, 2015, at 10:00 a.m., via teleconference pursuant to the provisions of Iowa Code section 21.8. An in-person meeting was impractical due to the travel distances of members of the Board, the limited agenda, and the need for immediate action. Chairperson Maier called the meeting to order at 10:00 a.m.

MEMBERS PRESENT
Edward L. Maier, Chair
James Miller, Vice-Chair
LaDonna Gratias
Jason Hansel
Edward McKenna
Judith M. Trumpy

MEMBERS ABSENT
Sharon K. Meyer

STAFF PRESENT
Therese Witkowski, Interim Director/Executive Officer
Meghan Gavin, Esq., Assistant Attorney General
Laura, Steffensmeier, Esq., Assistant Attorney General
Debbie Jorgenson, Administrative Assistant
Becky Hall, Secretary

SPEAKERS
Cory Ernst, Altoona

Request

1. Request for Removal of 32-Hour Restriction for Employment -- Cory Ernst, Pharmacist License No. 20122, Altoona.

Motion by James Miller, seconded by LaDonna Gratias, to remove the restriction limiting the number of hours Mr. Ernst can work per week set forth in the Decision and Order approved by the Board on October 9, 2013. Motion approved unanimously. A copy of the 2nd Modification to Findings of Fact, Conclusions of Law, Decision and Order is attached at Addendum A.

Licensure/Registration

1. Rx Unlimited LLC, North Hills, California.

   Motion by James Miller, seconded by Judith Trumpy, to approve the Application for Nonresident Iowa Pharmacy License. Motion approved unanimously.

IPRN and the TakeAway Program

The Iowa Board of Pharmacy currently contracts with the Iowa Pharmacy Association (IPA) to implement the Impaired Pharmacist Recovery Network (IPRN) and TakeAway Program. Both of the contracts will expire on June 30, 2015.

Iowa Code section 155A.39 allows the Board the option of running the IPRN Program in-house or contracting with professional pharmaceutical associations or societies. Iowa Code section 155A.43 established a program to collect and dispose of unused pharmaceuticals. The Code allows, but does not require the Iowa Board of Pharmacy to contract with IPA.

Discussion was held regarding new and current contracts between IPA and the Iowa Board of Pharmacy for the IPRN and TakeAway Program and the renewal of those contracts with specific clauses permitting the Board to terminate the Programs at the Board's will. The new Executive Director will be directed by the Board to review all contracts and board programs to make recommendations regarding the advisability of continuing, revising, or terminating programs.

Update/Discussion on Executive Director Position Vacancy

The Board currently has received five applications and two resumes for the Executive Director's position.

At 10:42 a.m., Meghan Gavin and Laura Steffensmeier disconnected from the teleconference call.

Closed Session

At 10:42 a.m., motion by James Miller, seconded by Edward McKenna, the Board voted unanimously by roll call vote to move into closed session for the following reason:

For Findings of Fact, Conclusions of Law, Decision and Order pursuant to Iowa Code § 21.5(1)(f) to discuss the decision to be rendered in a contested case for Stephanie Wadell.

At 10:43 a.m., while still in closed session Edward McKenna, moved that the Board go into open session, seconded by Judith Trumpy. Motion approved unanimously.

In open session, the following action was taken.

1. Findings of Fact, Conclusions of Law, Decision and Order.

   Motion by Edward McKenna, seconded by Judith Trumpy, to approve the Findings of Fact, Conclusions of Law, Decision and Order in the case of Stephanie Wadell of Orange City. A copy of the Findings of Fact, Conclusions of Law, Decision and Order is attached as Addendum B.

Meeting adjourned at 10:50 a.m. on June 4, 2015.

Becky Hall

Becky Hall
Recording Secretary

Therese Witkowski
Interim Director

Edward L. Maier
Board Chair

APPROVED THIS 24th DAY OF JUNE, 2015.

ADDENDUM A

2nd MODIFICATION TO FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER

CORY JOHN ERNST
PHARMACIST LICENSE NO. 20122
ALTOONA, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

RE:	)	Case No. 2012-71
	)	
Pharmacist License of	)	2nd Modification to
CORY JOHN ERNST,	)	Findings of Fact,
License No. 20122	)	Conclusions of Law,
Respondent.	)	Decision and Order

On October 9, 2013, the Iowa Board of Pharmacy (the Board) approved the Findings of Fact, Conclusions of Law, Decision and Order (Decision and Order), reinstating Respondent's Iowa pharmacist license, subject to the terms and conditions set forth in the Decision and Order. Respondent appeared before the Board by phone on June 4, 2015, seeking a modification to the terms of the Decision and Order. Specifically, he sought changes to paragraphs "N" limiting number of hours Respondent can work per week.

IT IS HEREBY ORDERED that conditions of paragraph "N" are lifted.

Dated this 4th day of June, 2015.

Edward L. Maier
Chairperson, Iowa Board of Pharmacy

ADDENDUM B

FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION, AND ORDER

STEPHANIE WADELL ORANGE CITY, IOWA

BEFORE THE IOWA BOARD OF PHARMACY

IN THE MATTER OF THE REGISTRATION FOR PHARMACY SUPPORT PERSON/TECHNICIAN TRAINEE FOR **STEPHANIE WADELL,** Applicant.	)))))))))	DIA No. 15PHB005 **FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION, AND ORDER**

STATEMENT OF THE CASE

On January 6, 2015, the Iowa Board of Pharmacy (Board) issued a Preliminary Notice of Intent to Deny Registration to Stephanie Wadell. The notice informed Wadell that the Board had voted to deny her application for registration as a pharmacy support person. Wadell subsequently filed a notice of appeal and request for hearing regarding the preliminary notice.

A hearing was held on April 28, 2015. The following members of the Board presided at the hearing: Edward Maier, Chairperson; James Miller; LaDonna Gratias; Susan Frey; Edward McKenna and Judith Trumpy. Wadell appeared and was self-represented. Assistant attorney general Laura Steffensmeier represented the State. The hearing was open to the public and digitally recorded. Administrative Law Judge Laura Lockard assisted the Board in conducting the hearing and was instructed to prepare the Board's written decision in accordance with its deliberations.

THE RECORD

The record includes: Notice of Hearing dated March 12, 2015; Notice of Hearing dated January 30, 2015; notice of appeal and request for hearing; Application for Pharmacy Technician Trainee Registration; and Preliminary Notice of Intent to Deny Registration. The record also includes hearing testimony of Stephanie Wadell. The State introduced Exhibits 1 through 8, which were admitted as evidence. Wadell introduced Exhibit A, which was admitted as evidence.

FINDINGS OF FACT

On October 1, 2014, Stephanie Wadell filed an Initial Pharmacy Support Person Registration Application with the Board. On that application, Wadell responded "yes" to the following questions:

> 7. Do you <u>currently</u> have any physical or mental condition that in any way impairs or limits your ability to perform the duties of a pharmacy support person with reasonable skill and safety or have you <u>ever</u> used any

> drugs, alcohol, or other chemical substances that in any way impair or limit your ability to perform the duties of a pharmacy support person with reasonable skill and safety?
>
> 8. Have you ever been charged, convicted, found guilty of, or entered a plea of guilty or no contest to a felony or misdemeanor crime (*other than minor traffic violations with fines under $100*)?

(Exh. 2) (emphasis in original).

In response to a directive to explain affirmative answers on a separate sheet, Wadell wrote:

> I am a [sic] addict. I have been clean for over 3 years. I see a therapist weekly and participate in a 12 step program.
>
> I was convicted of a crime involving methamphetamine while I was using. I am now clean for 3 yrs, active in my recovery and seeing my substance abuse counselor.

(Exh. 2).

On October 16, 2014, Wadell submitted an Application for Pharmacy Technician Trainee Registration. Questions 7 and 8 were identical to those listed above, and Wadell again responded affirmatively. Wadell also attached an explanation, which stated:

> [I]n 2012 I was convicted of drug related charges and am a recovering addict. I received a sentence of 33 months in prison in 2012 and served 12 months in prison and am completing 4 years of supervised release. I have completed an inpatient treatment at New Life Treatment Center in Woodstock, MN and a 9 month residential cognitive behavioral treatment program where I was in prison in Greenville, Il. I attend weekly counseling sessions and am active in my recovery. I have been clean since September 9, 2011 and participate in a random urinary analysis program as part of my probation for the next four years.

(Exh. 3).

In addition to her own statement, Wadell submitted a letter from her prospective employer, pharmacist Jesse Kleinhesselink. Kleinhesselink wrote that he is aware of Wadell's past and will be included as a person to notify if Wadell violates her probation, including testing positive for drugs. Kleinhesselink indicated that he believes Wadell is on the "active road of recovery" and would like to give her the opportunity to change her life for the good. (Exh. 3).

On January 6, 2015, the Board issued a Preliminary Notice of Intent to Deny Registration. The Board noted in this notice that Wadell did not provide the Board with

the relevant court documents from the 2012 conviction she referenced and failed to reveal several misdemeanor charges and convictions in Iowa, including an operating while intoxicated conviction from 2010, a theft conviction from 2003, and an assault conviction from 2000. Wadell appealed the Board's notice and requested a hearing. (Exh. 1, 4).

In 2012, Wadell pleaded guilty to a federal charge of Conspiracy to Manufacture 50 Grams or More of Methamphetamine Mixture or 5 Grams or More of Methamphetamine Actual. She was sentenced to 35 months in prison and required to participate in the Bureau of Prisons' 500-Hour Comprehensive Residential Drug Abuse Treatment Program or an alternate substance abuse treatment program. Wadell was also sentenced to four years of supervised release following release from prison. As a condition of her supervision, Wadell is required to participate in and successfully complete a program of testing and treatment for substance abuse; is prohibited from using alcohol; and must participate in a mental health evaluation and/or treatment program and must take all medications prescribed to her by a licensed psychiatrist or physician. (Exh. 7).

Wadell was released from prison in July 2013, then spent six months in residential treatment in Fort Dodge, Iowa. She completed a 9-month, 500-hour substance abuse treatment program in prison prior to the program in Fort Dodge. Since September 2014, Wadell has been working at Hometown Pharmacy in Orange City, Iowa for Kleinhesselink. Wadell has known Kleinhesselink for many years and it was her connection to him, not the allure of working at the pharmacy itself, that led her to the job there. Wadell works approximately 32 hours per week at the pharmacy. On a typical shift, at least one and sometimes two pharmacists, in addition to two pharmacy technicians, are on duty while Wadell is working. (Wadell testimony).

Wadell calls in daily for random drug screens as a condition of her supervised release. Wadell has been clean for three and one-half years. She has been doing the random drug screens as part of her release for approximately one and one-half years and has never had a positive result. Wadell goes to Narcotics Anonymous meetings approximately once a week. She also is aided in her recovery by attendance at her church. Wadell's sister, who is clean and a stable presence in her life, recently moved to the area where Wadell lives. When Wadell was using drugs, she lived in LeMars; since getting clean, she avoids going back there and does not associate with her prior friends and acquaintances. (Wadell testimony).

At hearing, Wadell expressed that her first choice registration is the pharmacy technician trainee registration. If the Board does not grant that, she would like her application for pharmacy support person to be considered.

CONCLUSIONS OF LAW

Any person who is employed in a pharmacy and is receiving pharmacy technician training through work experience must obtain a pharmacy technician trainee registration within 30 days of beginning such training.[1] Application for registration as a pharmacy technician trainee must be made to the Board. The applicant is required to declare any history of having been charged, convicted, found guilty of, or entering a plea of guilty or no contest to a felony or misdemeanor crime.[2] The Board may deny an application for registration as a pharmacy technician trainee for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205, or any rule of the Board.[3]

While the Board would clearly have sufficient grounds to deny Wadell's application for registration as a pharmacy technician trainee, the Board is persuaded that Wadell has taken steps to turn her life around. Notably, Wadell has actively participated in intensive drug treatment and has been clean for approximately three and one-half years. As a condition of her supervised release, Wadell is required to submit to random drug screens; in the one and one-half years she has been doing so, she has had no positive results. Wadell has been working at Hometown Pharmacy since approximately September 2014 and, by all accounts, she is a valued and trusted employee. Wadell continues to attend NA meetings and is actively engaged in recovery efforts.

Under these circumstances, the Board is persuaded that Wadell can safely be issued a pharmacy technician trainee registration, subject to the probationary terms set forth below.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the application for registration as a pharmacy technician trainee, filed by Stephanie Wadell, is hereby granted. IT IS FURTHER ORDERED that Wadell's pharmacy technician trainee registration shall be placed on probation for its one-year duration, subject to the following terms and conditions:

A. Wadell shall report to the Board quarterly, in writing. The report shall include Wadell's place of employment, current address, most recent efforts to comply with the terms of probation, and any further information deemed necessary by the Board from time to time. The report shall include a certification from Wadell that she is in compliance with all of the terms and conditions of her supervised release. *Wadell shall also include with her written report a written and signed statement from her probation officer certifying that she is in compliance with all the terms and conditions of her supervised release.* The reports shall be filed no

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[1] 657 Iowa Administrative Code (IAC) 3.3(3).
[2] 657 IAC 3.8(1), (3).
[3] 657 IAC 3.29.

later than March 5, June 5, September 5, and December 5 of each year of Wadell's probation.

B. Wadell shall abstain from alcohol and all other intoxicants.

C. Wadell 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 Wadell by a licensed, treating physician or other qualified treating health care provider. Wadell shall inform any treating physician or treating health care provider of her medical history, including any history of chemical dependency.

D. Wadell shall participate in the Iowa Pharmacy Recovery Network (IPRN) program.

E. Wadell shall report, in writing, any changes in name, address, and telephone number and any changes in the conditions of her supervised release within 10 days to the Board.

Dated this 4th day of June, 2015

Edward Maier
Chairperson, Iowa Board of Pharmacy

cc: Laura Steffensmeier, 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.