

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

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Re:	)	Case No. 2000-18971
Pharmacist License of	)	
<b>ESSEIN EDET</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 18971	)	
Respondent	)	

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**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 (1999).
3. On June 6, 1998, the Board issued Respondent, Essein Edet, a license to engage in the practice of pharmacy by reciprocity as evidenced by license number 18971, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 18971 is current and active until June 30, 2001.
5. Respondent's current address is 3122 North 151<sup>st</sup> Street, Omaha, Nebraska 68116.
6. Upon information and belief, Respondent is currently practicing as a pharmacist in Nebraska and has been practicing as such during all times relevant to this statement of charges.

**COUNT I**

The Respondent is charged under Iowa Code § 155A.12(10) (1999) and 657 Iowa Administrative Code § 36.1(4) with having had a license to practice pharmacy issued by another state canceled, revoked, or suspended for conduct substantially equivalent to conduct described in Iowa Code subsections 155A.12(1) through (9).

**THE CIRCUMSTANCES**

1. On or about May 22, 2000, the Board office received notification from the Respondent that the State of Nebraska had taken disciplinary action against Respondent's license.

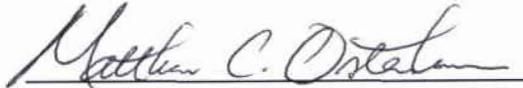
2. The Petition for Disciplinary Action against Respondent's license filed in Nebraska accused Respondent of conduct that would subject the Respondent to discipline in the State of Iowa pursuant to Iowa Code subsections 155A(1) through (9). A copy of the Petition for Disciplinary Action is attached hereto as "Exhibit A" and incorporated herein by reference.
3. On April 4, 2000, Respondent entered into an "Agreed Settlement" to resolve Nebraska's disciplinary action against his license. An Order adopting the Agreed Settlement was entered on April 25, 2000. Copies of the Order on Agreed Settlement and the Agreed Settlement are attached hereto as "Exhibit B" and incorporated herein by reference.
4. The "Order on Agreed Settlement" imposed a civil penalty in the amount of three thousand five hundred dollars and placed Defendant's license to practice pharmacy in the State of Nebraska on probation for a period of eighteen months.

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 12<sup>th</sup> day of Sept., 2000, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.



Matthew C. Osterhaus, Chairperson  
Iowa Board of Pharmacy Examiners  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Shauna Russell Shields  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

EXHIBIT A

COPY

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE  
STATE OF NEBRASKA

THE STATE OF NEBRASKA,	)	
	)	
Plaintiff,	)	
	)	PETITION FOR
v.	)	DISCIPLINARY ACTION
	)	
ESSIEN EDET, R.P.,	)	
	)	
Defendant.	)	

The Plaintiff alleges as follows:

**ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

1. Jurisdiction is based on Neb. Rev. Stat. § 71-150.
2. At all times relevant herein, the Defendant, Essien Edet, RP, has been the holder of a license which was issued by the Nebraska Department of Health and Human Services Regulation and Licensure, authorizing him to practice as a pharmacist in Nebraska. The Defendant's license number is # 10583.
3. The Department of Health and Human Services Regulation and Licensure ("Department") is the agency of the State of Nebraska authorized to enforce the provisions of the Nebraska Uniform Licensing Law regulating the practice of pharmacists.
4. The Nebraska Board of Examiners in Pharmacy considered the investigation of this matter and made its recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to Neb. Rev. Stat. §§ 71-168.01(7) and 71-168.01(8).
5. At all times relevant herein, the Defendant was employed as a pharmacist in Columbus, Nebraska.

6. On or about July 3, 1995, patient S.J. received a prescription for thirty (30) tablets of Lorcet 10 mg, with one refill. The Defendant actually dispensed sixty (60) tablets on July 3, 1995, and another sixty (60) on July 11, 1995 to patient S.J.

7. On or about August 31, 1995 patient S.J. received a prescription for twenty (20) Lorcet 7.5mg tablets, with two refills. The Defendant actually dispensed sixty (60) tablets on August 31, 1995, and the same number of tablets on September 7, 1995 and September 13, 1995.

8. On or about October 26, 1995, the Defendant dispensed sixty (60) Lorcet 10mg tablets to patient S.J. The professional listed as the prescriber did not authorize this prescription.

#### FIRST CAUSE OF ACTION

9. Paragraphs 1 through 8 are incorporated by reference.

10. The actions of the Defendant constitute practice of his profession beyond its authorized scope, and is grounds for discipline pursuant to Neb. Rev. Stat. §71-147(5)(b).

#### SECOND CAUSE OF ACTION

11. Paragraphs 1 through 8 are incorporated by reference.

12. The actions of the Defendant constitute "unprofessional conduct" pursuant to the following statutory provisions:

a. Neb. Rev. Stat. §71-148: "any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation, or the ethics of a profession . . ."

b. Neb. Rev. Stat. §71-148(22): "Such other acts as may be defined in rules and regulations adopted and promulgated by the board of examiners in the profession of . . . the licensee".

(i) 172 NAC128 Sec. 005.04A: a practitioner shall "receive and interpret the written or oral prescription, including refill authorizations" when dispensing medications.

(ii) 172 NAC 128 Sec. 005.13: "All prescription refills must be authorized either verbally or in writing by the prescriber"

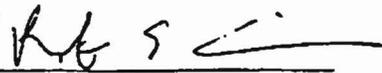
13. "Unprofessional Conduct" is grounds for discipline pursuant to Neb. Rev. Stat. §71-147(10).

### PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action concerning the Defendant's license to practice pharmacy pursuant to Neb. Rev. Stat. § 71-155, and tax the costs of this action to the Defendant.

STATE OF NEBRASKA,  
Plaintiff,

BY: DON STENBERG, #14023  
Attorney General

BY:   
Robert E. Harkins, #20934  
Assistant Attorney General  
2115 State Capitol  
Lincoln, NE 68509-8920  
Tel: (402) 471-2682

Attorneys for Plaintiff

EXHIBIT B

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE  
STATE OF NEBRASKA

**FILED**  
4-24-00 JBS  
HEALTH &  
HUMAN SERVICES

THE STATE OF NEBRASKA, )  
 )  
 Plaintiff, ) **AGREED SETTLEMENT**  
 )  
 v. )  
 )  
 ESSIEN EDET, R.P., )  
 )  
 Defendant. )

The Plaintiff and the Defendant in the above-captioned action, in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant Essien Edet was issued license number 10583 by the Nebraska Department of Health and Human Services Regulation and Licensure ("Department") to practice pharmacy in the State of Nebraska.

2. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to any hearing. The Defendant also waives any right to judicial review of an order by the Chief Medical Officer which approves the terms of this Agreed Settlement.

3. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce him to enter into this Agreed Settlement.

4. The Defendant acknowledges that he has read the Petition for Disciplinary Action filed by the Attorney General's Office. The Defendant admits the allegations of the Petition for Disciplinary Action.

5. The Defendant has at all times relevant herein been represented by Richard M. Fellman, Attorney at Law, and has received his advice and legal counsel prior to entering into this Agreed Settlement.

6. The Plaintiff and the Defendant consent to the disposition of the Petition for Disciplinary Action by agreeing that the Department's Chief Medical Officer may enter an order imposing a civil penalty against the Defendant in the amount of three thousand five hundred dollars (\$3,500.00). This penalty shall be collected pursuant to the terms of Neb. Rev. Stat. §71-155.03.

7. The Plaintiff and the Defendant also agree that the Department's Chief Medical Officer may enter an order placing the Defendant's license to practice pharmacy on probation for eighteen (18) months, said probation to commence on the day the Chief Medical Officer issues an Order approving the terms of this Agreed Settlement. The probation shall be subject to the following terms and conditions:

a. Within ten (10) days of the approval of this Agreed Settlement by the Chief Medical Officer, the Defendant shall deliver his original license and all wallet cards evidencing licensure to the Department. The Defendant shall be issued a license to practice, which license shall be marked in such manner as the Department shall determine to reflect the existence of the probation delineated herein.

b. The Defendant shall pay the fine delineated in paragraph six (6) herein within one hundred twenty (120) days of the date of the Order approving the terms of this Agreed Settlement.

c. Any pharmacy setting in which the Defendant is self-employed or employed by others as a pharmacist shall be subject to random audits of controlled substances by the Department. The Defendant shall fully cooperate with any controlled substances audit. The Defendant shall reimburse the Department for the full cost of each audit within thirty (30) days of the Department providing the Defendant notice of the cost to be reimbursed. No more than two (2) such audits may be performed at the Defendant's expense during each calendar year.

d. The Defendant shall promptly respond to all requests and inquiries by the Department concerning the Defendant's compliance with the terms of this probation.

e. The Defendant shall provide notice to all current employers or practice partners, if any, of this disciplinary action against his license. The Defendant shall also notify the licensing authorities in any other states where he has or obtains an active pharmacy license of this disciplinary action. Notification shall include providing copies of the Petition for Disciplinary Action, this Agreed Settlement, and the Order entered by the Chief Medical Officer approving this Agreed Settlement.

Written confirmation of notification to current employers, practice partners, and other State licensing authorities shall be provided by the Defendant to the Department within ten (10) days of the entry of the Order by the Chief Medical Officer approving this Agreed Settlement. In the event the Defendant later becomes licensed in another state where he is not currently licensed, he shall provide written confirmation of notification to the Department within ten (10) days of his licensure in the other state. In the event the Defendant changes employment during the probationary period, written confirmation of notification to the new employer(s) shall be provided by the Defendant to the Department within ten (10) days of the Defendant securing the new employment.

f. The Defendant shall submit written notification to the Department within seven (7) days of any change in employment, residence, or telephone.

g. The Defendant shall obey the Nebraska Uniformed Controlled Substances Act and all state and federal laws and all rules and regulations regarding the practice of pharmacy.

h. All reports, notices and other documentation requested by the Department shall be provided as directed by the Department. If any particular form of report is provided the Defendant by the Department, the Defendant shall make reports using such form of report. All reports, notices, or other documentation required to be furnished to the Department shall be furnished by sending them to the address or addresses designated by the Department.

i. The Defendant shall not act as a preceptor for pharmacy interns at anytime during the probationary period as set forth herein.

j. The Defendant shall pay the costs of this action and any costs associated with insuring compliance with this Agreed Settlement.

8. In the event the Defendant violates any of the terms of his probation, the Chief Medical Officer, after motion by the Attorney General and a hearing, may take further disciplinary action against the Defendant's license to practice pharmacy as he deems necessary, including revocation of the Defendant's license.

9. Any time period during which the Defendant holds an inactive Nebraska pharmacy license or does not engage in the active practice of pharmacy in Nebraska shall not serve to reduce the probationary period or satisfy the terms and conditions of probation.

10. The Attorney General's Office has given notice of this Agreed Settlement to the Board of Pharmacy and has received their input in accordance with Neb. Rev. Stat. § 71-161.03 (1996).

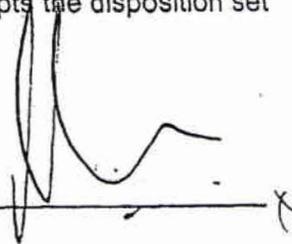
11. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

12. The Attorney General of the State of Nebraska accepts the disposition set out herein as a proper disposition of this case.

AGREED TO:

BY:

Essien Edet  
Defendant

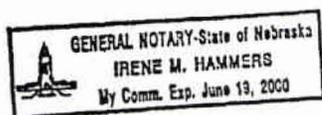


State of Nebraska

County of Douglas

)  
) ss.  
)

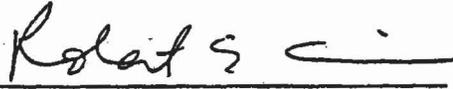
Acknowledged before me by Essien Edet, on this 4<sup>th</sup> day of April, 2000.



Irene M. Hammers  
Notary Public

THE STATE OF NEBRASKA,  
Plaintiff,

BY: DON STENBERG, #14023  
Attorney General

BY: 

Robert E. Harkins, #20934  
Assistant Attorney General  
2115 State Capitol  
Lincoln, NE 68509  
Tel: (402) 471-2686

Attorneys for Plaintiff

**APPROVED AS TO FORM:**

By: 

Richard M. Fellman  
Fellman, Moylan, Natvig & Kelly  
100 Continental Building  
209 South 19<sup>th</sup> Street  
Omaha, NE 68102

Attorneys for Defendant

46-447-13

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE  
STATE OF NEBRASKA

RECEIVED

MAY 17 2000

STATE OF NEBRASKA ex rel.,  
DON STENBERG, Attorney General,

Plaintiff,

v.

ESSIAN EDET, R. P.,

Defendant.

IOWA PHARMACY EXAMINERS

72 - 00410

ORDER ON  
AGREED SETTLEMENT

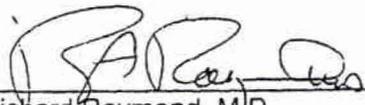
A PETITION FOR DISCIPLINARY ACTION was filed against the defendant on April 24, 2000. A proposed Agreed Settlement was also filed with the Department on April 24, 2000.

ORDER

1. The Agreed Settlement including the sanction is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the petition are taken as true and adopted herein.

DATED this 25<sup>th</sup> day of April, 2000.



  
Rickard Raymond, M.D.  
Chief Medical Officer

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CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 26<sup>th</sup> day of April, 2000, a copy of the foregoing ORDER ON AGREED SETTLEMENT was sent by certified United States mail, postage prepaid, return receipt requested, to Attorney for the Defendant, Richard M. Fellman, Fellman, Moylan, Natvig and Kelly, 100 Continental Building, 209 South 19<sup>th</sup> St., Omaha, NE 68102 and by inter-agency mail to Robert E. Harkins, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.



Joan B. Strizek  
Joan B. Strizek  
HHS R & L Administrative Services  
P.O. Box 95007  
Lincoln, NE 68509-5007  
402/471-0384

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

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Re:	)	Case No. 2000-18971
Pharmacist License of	)	
<b>ESSEIN EDET</b>	)	<b>STIPULATION</b>
License No. 18971	)	<b>AND</b>
Respondent	)	<b>CONSENT ORDER</b>
	)	

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COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Essein Edet, R.Ph. (“Respondent”) and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (1999), enter into the following Stipulation and Consent Order settling the contested case currently on file.

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 September 12, 2000, 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 June 6, 1998, by reciprocity as evidenced by Pharmacist License Number 18971, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 18971, issued to and held by Respondent is active and current until June 30, 2001.
3. Respondent is currently employed as a pharmacist in the state of Nebraska and has been practicing as such during all times relevant to this case.

4. A Statement of Charges was filed against Respondent on September 12, 2000.
5. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
6. This Stipulation and Consent Order is entered into in order to resolve disputed claims and constitutes no admission on the part of the Respondent.
7. Respondent's license shall be placed on probation until October 4, 2001, with the following conditions, beginning on the date this Stipulation and Consent Order is accepted by the Board:
  - a. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent will provide his *typewritten* policies and procedures for the following: (a) dispensing controlled substances, (b) maintaining security of controlled substances, and (c) controlled substances record keeping. The typewritten policies and procedures shall relate to Respondent's practice of pharmacy in his current work setting. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures whenever engaging in the practice of pharmacy.
  - b. Within six (6) months of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall complete the following continuing pharmacy education (CPE) courses: (1) DEA Handling Requirements for Community Pharmacies (1.0 hours) -- ACPE #406-999-00-038-H03, (2) DEA Dispensing Requirements for Community

Pharmacies (1.0 hours) -- ACPE #406-999-00-039-H03, and (3) DEA Reporting, Enforcement and Audits (1.0 hours) -- ACPE #406-999-00-040-H03. Each of these CPE courses is provided by *Community Pharmacist* and may be obtained by writing the CE Editor of the *Community Pharmacist*, 5285 West Louisiana Ave., Lakewood, Colorado 80232-5976 or from the July/August 2000 edition of *Community Pharmacist*. Documentation of satisfactory completion of the education shall be submitted to the Board. This education is in addition to the thirty (30) hours of continuing pharmacy education required every two years for license renewal.

- c. During probation, 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.
  - d. During probation, Respondent shall report to the Board or its designee quarterly. Said report shall be in writing. The report shall include the Respondent's place of employment, current address, and any further information deemed necessary by the Board from time to time. The reports are due on March 5, 2001, June 5, 2001, and September 5, 2001.
8. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.
9. Respondent shall notify all present employers and prospective employers (no later than at the time of an interview), including the pharmacist-in-charge, 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 his pharmacy employer and the pharmacist-in-charge that he 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.

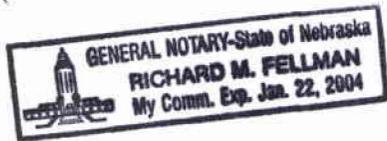
10. Should Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend the Respondent's Iowa pharmacist license or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 IAC 36.1.
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. This proposed settlement 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 party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.
13. The Board's approval of this Stipulation and Consent Order shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

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14. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 14<sup>th</sup> day of FEBRUARY, 2000

  
\_\_\_\_\_  
Essein Edet, R.Ph.  
Respondent

Subscribed and sworn to before me by Essein Edet on this 14<sup>th</sup> day of February 2000.



  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF ~~IOWA~~ NEBRASKA

15. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 6<sup>th</sup> day of March, 2000.

  
\_\_\_\_\_  
MATTHEW C. OSTERHAUS, Chairperson  
Iowa Board of Pharmacy Examiners  
400 SW Eighth Street, Suite E  
Des Moines, Iowa 50309-4688

cc: Shauna Russell Shields  
Assistant Attorney General  
Office of the Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319