

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

Re:	)	Case No. 2000-14397
Pharmacist License of)	
KEITH ROGER KOUBA	)	STATEMENT OF CHARGES
License No. 14397)	
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 (1999).
3. On July 1, 1974, the Board issued Respondent, Keith Roger Kouba, a license to engage in the practice of pharmacy by examination as evidenced by license number 14397, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 14397 is current and active until June 30, 2000.
5. Upon information and belief, Respondent's current address is 419 Old Dubuque Road, Anamosa, Iowa 52205.
6. Respondent is currently employed as a pharmacist at Drugtown #1, 24 Wilson Avenue SW, Cedar Rapids, Iowa, and has been employed as such during all times relevant to this statement of charges.

COUNT I

The Respondent is charged under Iowa Code §§ 147.55(2), 155A.12(1), and 272C.10(2) (1999) and 657 Iowa Administrative Code § 36.1(4)(b) with professional incompetency, including repeated departure from, or failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the State of Iowa.

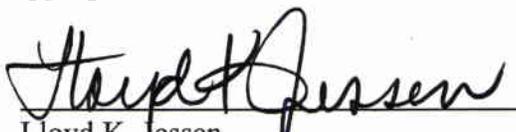
COUNT II

The Respondent is charged under Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code § 36.1(4)(m) with inability to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment.

THE CIRCUMSTANCES

1. In November 1999, a Board investigator received a report from the Cedar Rapids Police Department about an incident in which the Police Department was dispatched to the pharmacy where Respondent works because of concerns about the Respondent's physical condition.
2. The Board's investigation of the situation referred to in Paragraph 1 indicated that the Respondent made multiple dispensing errors between June 15, 1999 and December 1999 while employed at the Drugtown #1 Pharmacy located at 24 Wilson Avenue SW, Cedar Rapids, Iowa.
3. The Board's investigation of the situation referred to in Paragraph 1 also revealed that the Respondent is suffering from a physical or mental impairment that renders him unable to practice pharmacy with reasonable skill and safety.

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 7 day of January, 2000, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Arlan D. VanNorman, Chairperson
Iowa Board of Pharmacy Examiners
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Shauna Russell Shields
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. 2000-14397
Pharmacist License of)	
KEITH ROGER KOUBA	)	EMERGENCY
License No. 14397	)	ADJUDICATIVE ORDER
Respondent)	

COMES NOW the Iowa Board of Pharmacy Examiners, and finds that on January 7, 2000, it was presented with evidence which establishes that Respondent's continued practice of pharmacy without any restrictions constitutes an immediate danger to the public health, safety, and welfare. The Board has conducted a full investigation of this matter. A summary of the evidence obtained in that investigation is as follows:

FINDINGS OF FACT

1. Respondent is a staff pharmacist engaged in the retail practice of pharmacy at Drugtown #1, 24 Wilson Avenue SW, Cedar Rapids, Iowa, and has been so engaged at all times relevant to this case.
2. The Board received a report from the Cedar Rapids Police Department about an incident in which the Police Department was dispatched to the pharmacy where Respondent works because of concerns about the Respondent's physical condition.
3. During the Board's investigation of the situation referred to in Paragraph 2, above, the Board received allegations of at least 10 dispensing errors by the Respondent involving at several patients since June 1999. Patients and colleagues of the Respondent have expressed concern

regarding Respondent's ability to safely practice pharmacy. During the investigation, the Board also received other allegations regarding irregularities in the Respondent's practice of pharmacy.

4. The Board has reviewed the ten dispensing errors and other practice irregularities, and it appears that the Respondent has repeatedly failed to meet the standard of care.

5. The Respondent's apparent numerous violations of the standard of care presents a significant risk to the health and safety of his patients.

6. During the Board's investigation of the situation referred to in Paragraph 2, above, the Board also received information that the Respondent is suffering from a physical or mental impairment that causes him to experience episodes of significant physical impairment. To date, the exact cause of Respondent's physical or mental impairment has not been located, and the impairment is not currently adequately controlled by medication or other means.

7. The Board has reviewed the information it has received regarding the Respondent's physical or mental impairment, and it appears that the Respondent's physical impairment renders him unable to practice pharmacy with reasonable skill and safety without supervision by another licensed pharmacist.

8. Respondent continues to dispense drugs in the same retail setting in which the dispensing errors in question in this case occurred without having his physical or mental impairment adequately under control.

9. The Statement of Charges against the Respondent is filed by the Board in conjunction with this order.

CONCLUSIONS OF LAW

10. The facts set forth above establish that Respondent appears to have committed

professional incompetency pursuant to Iowa Code §§ 147.55(2), 155A.12(1), and 272C.10(2) (1999) and 657 Iowa Administrative Code § 36.1(4)(b).

11. The facts set forth above establish that the Respondent appears to be unable to practice pharmacy with reasonable skill and safety by reason of mental or physical impairment pursuant to Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code § 36.1(4)(m).

12. The Board concludes on the basis of the facts set forth above that this investigation has been sufficient to ensure the Board is proceeding on the basis of reliable information. Dispensing records and statements of colleagues regarding the alleged dispensing errors that are the subject of the Statement of Charges and the Respondent's medical records relating to the treatment he has received for his physical or mental impairment have been reviewed by the Board. Respondent's colleagues have been interviewed. Respondent has been interviewed and allowed an opportunity to respond to the allegations against him.

13. The facts set forth above establish that Respondent's continued practice of pharmacy without any restrictions would pose an immediate danger to the public health, safety, or welfare because his dispensing errors have already threatened harm to numerous patients. The Board believes patients will continue to suffer harm if the Respondent is allowed to continue dispensing prescription drugs without any restrictions before the Board reaches a final resolution of the formal charges pending against him.

14. The facts set forth above establish that the Respondent may not continue to engage in the unrestricted practice of pharmacy without posing an immediate danger to the public health, safety or welfare. His inability to practice within the standard of care and his uncontrolled physical or mental impairment indicate that he is unsafe to continue any aspect of the practice of

pharmacy without any restrictions.

15. The Board finds monitoring requirements and other interim safeguards -- including requiring the Respondent to practice pharmacy under the immediate physical supervision of another licensed pharmacist who verifies each prescription filled by the Respondent before that prescription is dispensed to the patient, who maintains ultimate responsibility for overseeing the work of any pharmacy technicians working with the Respondent, and who will oversee the Respondent's interaction with members of the public -- are necessary to protect the public health, safety or welfare.

16. Placing immediate restrictions on Respondent's pharmacist license is necessary to avoid immediate danger to the public.

ORDER

IT IS HEREBY ORDERED, in accordance with Iowa Code Section 17A.18A (1999 Supp.) and 657 Iowa Administrative Code 35.30, that the pharmacist license of Respondent Keith Roger Kouba be indefinitely restricted pending further order of the Board. Pursuant to this order, while the Respondent's license to practice pharmacy is indefinitely restricted and subjected to the following conditions: the Respondent may only practice pharmacy under the immediate physical supervision of another licensed pharmacist who verifies each prescription filled by the Respondent before that prescription is dispensed to the patient, who maintains ultimate responsibility for overseeing the work of any pharmacy technicians working with the Respondent, and who will oversee the Respondent's interaction with members of the public. These indefinite restrictions on the Respondent's pharmacist license are effective immediately upon issuance of this order.

Respondent shall be notified immediately of this order pursuant to 657 Iowa Administrative Code

35.30(2).

A hearing on this Emergency Adjudicative Order and the Statement of Charges, which have been filed concurrently with this order, shall be held on February 1, 2000. The hearing will be at 1:30 p.m. and will be held at 2nd Floor Conf. Room, Iowa Dept. of Economic Development, located at East Grand Office Park, 200 E. Grand Des Moines, Iowa.



ARLAN D. VAN NORMAN, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

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

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

Re:) Pharmacist License of) KEITH ROGER KOUBA) License No. 14397) Respondent)	Case No. 2000-14397 ORDER LIFTING EMERGENCY ADJUDICATIVE ORDER
---	--

COMES NOW the Iowa Board of Pharmacy Examiners (“the Board”) and, pursuant to paragraph ten of the Stipulation and Consent Order dated February 1, 2000, reviews the following information:

1. On February 17, 2000, the Board received Respondent’s MSLT test results dated February 3, 2000, from Andrew C. Peterson, M.D. In the report Dr. Peterson made the following recommendation concerning Respondent: “So long as the patient maintains a regular sleep-wake schedule and stays on medication then work and driving restrictions should be removed.”
2. In a Physician’s Report submitted by Andrew C. Peterson, M.D., dated February 9, 2000, Dr. Peterson placed the following additional restriction on Respondent: “Only to work 1st or 2nd shift, may not work 3rd shift. Should maintain regular schedule (not rotating 1st → 2nd → 3rd shift).”

Pursuant to paragraph ten of the Stipulation and Consent Order dated February 1, 2000, the Emergency Adjudicative Order entered against Respondent’s pharmacist license on January 7, 2000, is hereby lifted. Respondent’s license is hereby placed on probation for two (2) years, pursuant to

the conditions set forth in Paragraph 12 of the Stipulation and Consent Order, including Dr. Peterson's recommendations.

Dated this 17th day of February, 2000.



Lloyd K. Jessen, R.Ph., J.D.
Executive Director/Secretary
Iowa Board of Pharmacy Examiners
RiverPoint Business Park
400 SW 8th 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

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

Re:	)	Case No. 2000-14397
Pharmacist License of)	
KEITH ROGER KOUBA	)	STIPULATION
License No. 14397	)	AND
Respondent	)	CONSENT ORDER
)	

COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Keith Roger Kouba, R.Ph. (“Respondent”) and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (1999), enter into the following Stipulation and Consent Order settling contested case number 2000-14397 currently on file.

The licensee disciplinary hearing pending before the Iowa Board of Pharmacy Examiners, on the Emergency Adjudicative Order entered against Respondent’s pharmacist license on January 7, 2000, and the allegations specified in the Statement of Charges filed against Respondent on January 7, 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 the 1st day of July, 1974, by examination, as evidenced by Pharmacist License Number 14397, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 14397, issued to and held by Respondent is active and current until June 30, 2000.

3. Respondent is currently employed as a pharmacist at Drugtown #1, 24 Wilson Avenue, SW, Cedar Rapids, Iowa, and has been employed as such during all times relevant to this emergency order and statement of charges.
4. The Board entered an Emergency Adjudicative Order placing indefinite restrictions on the Respondent's license to practice pharmacy on January 7, 2000.
5. A Statement of Charges was also filed against Respondent on January 7, 2000.
6. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
7. This Stipulation and Consent Order is entered into in order to resolve disputed claims and constitutes no admission on the part of the Respondent.
8. Preliminary medical testing by Dr. Andrew C. Peterson, M.D., indicates that the Respondent's medical difficulties may be adequately addressed with proper medication. On February 3, 2000, the Respondent is scheduled to undergo a median sleep latency test (MSLT) while on medication to assess the possibility that medication may control the Respondent's medical difficulties.
9. Upon receiving the results of the MSLT referred to in paragraph 8, above, the Respondent shall submit the results to the Board. The Board designates its Executive Secretary/Director, Lloyd K. Jessen to review the evidence regarding the MSLT test submitted to the Board by the Respondent and to take appropriate action as set forth in Paragraphs 10 and 11, below.
10. Upon satisfactory showing to the Board that the Respondent's MSLT results under medication are normal, Executive Secretary/Director Jessen shall lift the

Emergency Adjudicative Order entered against Respondent's license on January 7, 2000 on behalf of the Board and the Respondent's license shall be placed on probation for two (2) years, pursuant to the conditions set forth in Paragraph 12 of this Stipulation and Consent Order, beginning on the date Mr. Jessen lifts the Emergency Adjudicative Order.

11. In the event that there is not a satisfactory showing that Respondent's MSLT results are normal, the Emergency Adjudicative Order entered against Respondent's license on January 7, 2000 shall continue to remain in effect indefinitely, and the terms of this Stipulation and Consent Order shall have no force or effect to either party.
12. In the event the Emergency Adjudicative Order is lifted pursuant to Paragraph 10, above, the Respondent's license to practice pharmacy in the state of Iowa shall be placed on probation for two (2) years with to the following conditions:
 - a. The Respondent shall follow the recommendations of his treating physician, Dr. Andrew C. Peterson, M.D., and agrees to follow any drug therapy prescribed by Dr. Peterson.
 - b. The Respondent shall provide witnessed blood or urine specimens on demand by an agent of the Board. The specimens shall be used for screening to ensure the Respondent's compliance with any drug therapy ordered by the Respondent's treating physician. All costs of such screenings shall be paid by the Respondent.
 - c. Within sixty (60) days of the date the Emergency Adjudicative Order is

lifted, approval of this Stipulation and Consent Order by the Board, the Respondent will provide his *typewritten* policies and procedures for preventing dispensing errors. 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.

- d. Within six (6) months of the date the Emergency Adjudicative Order is lifted, the Respondent shall complete continuing pharmacy education (CPE) or other formal, structured education in preventing dispensing errors. The education relating to preventing dispensing errors shall be *not less than* six (6) hours in length and shall be pre-approved by the Board. 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.
- e. During probation, Respondent shall report any dispensing errors and malpractice claims made against him to the Board within ten (10) days of learning of the error or claim.
- f. During probation, Respondent shall report to the Board or its designee in writing once every three (3) months. The reports shall be filed no later than March 5, June 5, September 5, and December 5 of each year. The

reports shall include the Respondent's current status, including home address and telephone number; Respondent's progress in medical treatment (including the recommendations of his treating physician, Respondent's compliance with those recommendations, and any problems Respondent is experiencing), a list of all medications Respondent is taking, the impact of his medical progress on his practice of pharmacy, and Respondent's compliance with all applicable federal and state drug laws. Respondents' first report shall be filed with the Board not later than March 5, 2000.

- g. Respondent shall cause his employer to file a report with the Board once every three (3) months. The reports shall be filed no later than March 5, June 5, September 5, and December 5 of each year. The reports shall include the Respondent's performance as a pharmacist during his probationary period, including the occurrence of any dispensing errors.
- h. Respondent shall release all his medical records to the Board at least once every three (3) months during the probationary period. Any new medical records shall be released to the Board no later than March 5, June 5, September 5, and December 5 of each year. The Respondent 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.
- i. During the term of his probation, Respondent shall not serve as a

pharmacist in charge of a pharmacy, as a pharmacy preceptor, or as a supervisor of registered pharmacist interns.

- j. Respondent shall appear informally before a committee of the Board or the full Board as directed by the Board, for the purpose of reviewing his performance as a pharmacist during his probationary period. Respondent shall be given reasonable notice of the date, time, and place for the appearances. Any such appearance shall be subject to the waiver provisions of 657 Iowa Administrative Code § 35.9.
- k. 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.

- 13. The Respondent may apply to the Board for modification of the provisions of his probation, including termination of the probation, upon a showing that there are adequate assurances that his medical condition is under control and there is no risk that his medical condition will impact his ability to practice pharmacy safely and without risk to the public health. The Respondent bears the burden of proving that his medical condition is under control and there is no risk that his medical condition will impact his ability to practice pharmacy safely and without risk to the public health. Respondent understands that the determination of whether to modify or terminate his probation will remain in the Board's discretion.
- 14. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy.

15. During the probationary period, 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.
16. 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.
17. 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.
18. Respondent is freely and voluntarily entering into this agreement and he agrees that the State's attorney may present the agreement to the Board.
19. 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.

- 20. If approved by the Board, this Settlement Agreement and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code Chapter 22.
- 21. The Board's approval of this Stipulation and Consent Order shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

- 22. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 28 day of JAN, 2000.

Keith R. Kouba
 Keith Roger Kouba, R.Ph.
 Respondent

Subscribed and sworn to before me by Keith Roger Kouba on this 28th day of January, 2000.



Beth E. Fields
 NOTARY PUBLIC IN AND FOR THE
 STATE OF IOWA

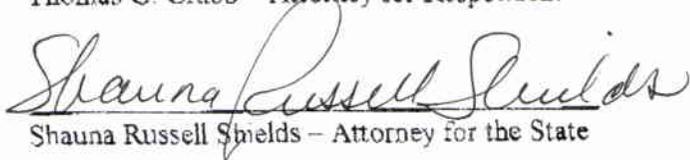
- 23. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 1st day of Feb., 2000.

Arland D. Van Norman
 ARLAN D. VAN NORMAN, Chairperson
 Iowa Board of Pharmacy Examiners
 400 SW Eighth Street, Suite E
 Des Moines, Iowa 50309-4688

APPROVED AS TO FORM:



Thomas G. Crabb - Attorney for Respondent



Shauna Russell Shields - Attorney for the State

cc: Thomas G. Crabb
Attorney at Law
604 Locust St, Suite 612
Des Moines, Iowa 50309-3719

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

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

Re:	)	Case No. 2001-14397
Pharmacist License of)	
KEITH R. KOUBA	)	STATEMENT OF CHARGES
License No. 14397)	
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 (1999) & (2001).
3. On July 1, 1974, the Board issued Respondent, Keith R. Kouba, a license to engage in the practice of pharmacy by examination as evidenced by license number 14397, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 14397 is current and active until June 30, 2002.
5. Respondent's current address is 419 Old Dubuque road, Anamosa, Iowa 52205.
6. Upon information and belief, Respondent is not currently employed as a pharmacist.

COUNT I

The Respondent is charged with unlawful possession of prescription drugs in violation of Iowa Code § 155A.21 (1999) and 657 Iowa Administrative Code §§ 36.1(4)(h), 36.1(4)(j), and 36.1(4)(u).

COUNT II

The Respondent is charged with the inability to practice pharmacy with reasonable skill and safety by reason of chemical abuse in violation of Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code §§ 36.1(4)(d), 36.1(4)(j), 36.1(4)(m), and 36.1(4)(u).

COUNT III

The Respondent is charged under Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code § 36.1(4) with failure to comply with the terms of probation ordered by the Board pursuant to a Stipulation and Informal Settlement with the Respondent and an Order Lifting Emergency Adjudicative Order.

COUNT IV

The Respondent is charged under Iowa Code § 155A.12(5) (1999) with violating §§ 124.308(1) (prescriptions of schedule II controlled substances); 124.401(1)(c)(8) (delivery of a schedule II controlled substance); and 124.403(1)(d) (to furnish or omit false or fraudulent material information required to be kept by this chapter) (1999) of the controlled substances act.

COUNT V

The Respondent is charged under Iowa Code §§ 155A.12(1) and 155A.23(2) (1999) with willfully making a false statement in any prescription, report, or record required by Chapter 155A.

COUNT VI

The Respondent is charged under Iowa Code §§ 155A.12(1) and 155A.23(4) (1999) with making or uttering any false or forged prescription or written order.

THE CIRCUMSTANCES

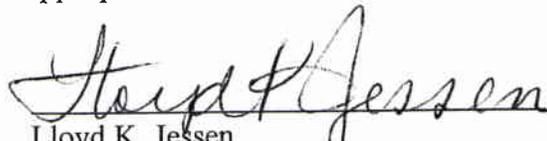
1. In December of 2000, the Board received information from the Cedar Rapids Police Department that Respondent had arrested the Respondent because he had been observed stealing controlled substances on videotape; had admitted to diverting controlled substances for his own use; and had violated the terms of his weapons permit.
2. The Board's investigation of the information referred to in paragraph 1 indicates that from since going to work at the ShopKo pharmacies in approximately July, 2000, Respondent engaged in numerous violations of the laws governing the practice of pharmacy while employed at ShopKo Pharmacy, 5001 First Avenue SE, Cedar Rapids, Iowa 52402, ShopKo Pharmacy, 3111 16th Avenue SW, Cedar Rapids, Iowa 52404, ShopKo Pharmacy 2050 Eighth Street, Coralville, Iowa 52241 as a pharmacist. These violations include but are not limited to the following:
 - A. Diverting controlled substances without a prescription for his own use.

- B. Using large amounts of controlled substances diverted without a prescription while working as a pharmacist.
 - C. Falsifying at least one prescription for hydrocodone/AP 7.5/500 mg, a schedule III controlled substance, for himself.
 - D. Tampering with at least one prescription for hydrocodone/AP 7.5/500 mg, a schedule III controlled substance, for himself.
3. An audit of the controlled substances at the pharmacies where Respondent worked revealed substantial shortages of the types of controlled substances that the Respondent admitted to diverting for his own use at all three pharmacies.
 4. The Respondent has admitted that he had unsuccessfully attempted to decrease or stop using hydrocodone and expressed a desire to enroll in the impaired pharmacist program.
 5. The results of a comprehensive psychological evaluation including, substance abuse evaluation, diagnosed the Respondent with Opioid abuse.
 6. On January 7, 2000 the Board entered an Emergency Adjudicative Order against the Respondent's license placing indefinite restrictions on the Respondent's license to practice pharmacy in the State of Iowa. The Board also filed a Statement of Charges against the Respondent's pharmacist license on January 7, 2000.
 7. On February 1, 2000, the Board accepted a Stipulation and Consent Order settling a Statement of Charges filed against Respondent's pharmacist license on January 7, 2000. The Stipulation and Consent Order also provided conditions under which the Emergency Adjudicative Order would be lifted and the Respondent's license placed on probation.
 8. Pursuant to the terms of the Stipulation and Consent Order, the Board's Executive Secretary/Director issued an Order Lifting Emergency Adjudicative Order that lifted the Emergency Adjudicative Order and placed the Respondent's license to practice pharmacy was placed on probation for a period of two years pursuant to conditions set forth in paragraph 12 of the Stipulation and Consent Order.
 9. Pursuant to the terms of the Respondent's probation, the Respondent was required to provide his typewritten policies and procedures for preventing dispensing errors within 60 days of the lifting of the Emergency Adjudicative Order, to report any dispensing errors within 10 days of learning of the error, and to submit written reports to the Board once every three months. The Respondent is required to include information regarding his compliance with all applicable federal and state

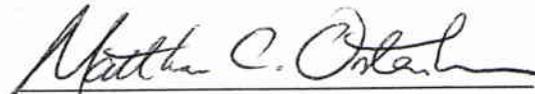
drug laws in his reports to the Board.

10. The Respondent failed to report a dispensing error to the Board within 10 days of learning of the error.
11. The Respondent submitted false probation compliance reports that indicated he was in compliance with the terms of his probation and with state and federal drug laws to the Board on or about September 2, 2000 and December 4, 2000.
12. On or about December 20, 2000, Respondent was arrested on criminal charges arising out of the same facts as this case.

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 7th day of August, 2001, 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

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

Re: Pharmacist License of
KEITH R. KOUBA
License No. 14397
Respondent

**STIPULATION
AND
CONSENT ORDER**

On this 29 day of July, 2003, the Iowa Board of Pharmacy Examiners and KEITH R. KOUBA, of 419 Old Dubuque Road, Anamosa, 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 August 7, 2001, 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 1st day of July, 1974, by examination as evidenced by Pharmacist License Number 14397, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacist License Number 14397 issued to Respondent expired on June 30, 2002, and has not been renewed.
3. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.
4. A Statement of Charges was filed against Respondent on August 7, 2001.
5. Respondent does not contest the allegations set forth in the Statement of

Charges and acknowledges that the allegations constitute grounds for the suspension of his license to practice pharmacy in Iowa and for the additional discipline as described herein.

SECTION I

1. Upon the date of the Board's approval of this Stipulation and Consent Order, Respondent's pharmacist license number 14397 shall be suspended indefinitely. Respondent agrees that, during his period of suspension, he will submit to a medical, psychiatric, and substance abuse evaluation by one or more physicians or treatment-providers approved by the Board. Upon receipt of a written report from the physician(s) or treatment-provider(s) who recommend(s) that Respondent is ready to return to the practice of pharmacy, the license suspension shall end and Respondent's license shall be placed on probation for a period of five (5) years, under the following terms and conditions:

- 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 his medical history, including his history of substance abuse. Additionally, Respondent shall not possess any controlled substance, except medications prescribed in accordance with the preceding 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 his treatment program and his physician and/or counselor. 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 his 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 as recommended by Respondent's physician or treatment-provider. 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, under the direct support of a pharmacist advocate.

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 not be the pharmacist in charge of a pharmacy, nor be employed as a pharmacy manager, nor be self-employed as a pharmacy owner/operator, nor supervise any registered intern, nor perform any of the duties of a pharmacy preceptor.

j. 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.

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

3. 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 his pharmacy employer to report to the Board in writing acknowledging that the employer has read this document and understands it.

4. Respondent agrees to release all his 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.

SECTION II

1. Should Respondent leave Iowa to reside or practice in another state, he shall notify the Board in writing fourteen (14) days prior to his departure and within fourteen (14) days of his 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.

2. 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.

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

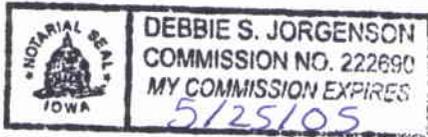
4. This proposed settlement is subject to approval of a majority of the full Board. If the Board fails to approve this proposed settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

5. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 14 day of July 03, 2003.

Keith Kouba

KEITH R. KOUBA, R.Ph.
Respondent

Subscribed and Sworn to before me on this 14th day of July, 2003.



Debbie S. Jorgenson
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

6. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 29 day of July, 2003.

Kay Bolton, for

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