

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

Re:

Pharmacist License of
HALE D. PEMBER
License No. 12292
Respondent

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Case No. 2002-12292

STATEMENT OF CHARGES

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 (2001).
3. On February 27, 1957, the Board issued Respondent, Hale D. Pember, a license to engage in the practice of pharmacy by examination as evidenced by license number 12292, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 12292 is current and active until June 30, 2003.
5. Respondent's current address is 1540 Main Street, Rock Valley, Iowa 51247.
6. Respondent is currently self employed as the pharmacist in charge at Pembers Drug, 1415 Main Street, Rock Valley, Iowa 51247, and has been employed as such during all times relevant to this statement of charges.

COUNT I

The Respondent is charged under Iowa Code § 155A.12(1) (2001) and 657 Iowa Administrative Code §§ 6.2, 6.6 & 10.10 with failing to provide and maintain effective security, controls, and procedures to guard against the theft and diversion of prescription drugs and controlled substances.

COUNT II

The Respondent is charged under Iowa Code §§ 155A.12(1), 155A.27, 155A.32(3) (2001) and 657 Iowa Administrative Code §§ 6.2(1)(i) & (k), 6.8, 8.4(3), 8.15(2) & 36.1(4) and

21 CFR 1304.11 & 1306.22(b)(3) with inadequate record keeping, including but not limited to failure to maintain controlled substances records in a readily retrievable manner.

COUNT III

The Respondent is charged under Iowa Code § 155A.12 (2001) and 657 Iowa Administrative Code §§ 36.1(4)(i) with intentional or repeated violation of Board rules including but not limited to rules 8.4 (pharmacist log), 22.16 (policies and procedures for technicians), 23.7 (pharmacy policies and procedures), 23.20 and (destruction of controlled substances).

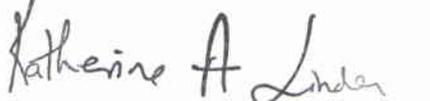
THE CIRCUMSTANCES

1. On or about December 1, 2001, the Board received a complaint alleging that a technician at the pharmacy where the Respondent serves as the pharmacist in charge had taken phenobarbital, a schedule IV controlled substance, from the pharmacy.
2. During the Board's investigation of the allegation's referred to in paragraph 1, above, the technician admitted that she had taken phenobarbital for her own use.
3. During the Board's investigation, the Respondent admitted that he knew the technician had taken phenobarbital for her own use at times when she did not have a prescription for phenobarbital.
4. An audit of controlled substances conducted at the Respondent's pharmacy revealed shortages of three separate dosages of phenobarbital and of hydrocodone.
5. During the Board's investigation, the pharmacy where the Respondent serves as the pharmacist in charge was not able to readily retrieve its controlled substances records.
6. While investigating the complaint referred to in paragraph 1, a Board investigator inspected the pharmacy and compared the inspection results to the results of an inspection of the Respondent's pharmacy, which was conducted on October 26, 1999.
7. The new inspection and comparison against the latest inspection revealed that numerous violations of the Board's rules continue to exist in the pharmacy where the Respondent serves as the pharmacist in charge. The continuing violations included 657 Iowa Administrative Code 8.4 (pharmacist log), 22.16 (policies and procedures for technicians), 23.7 (pharmacy policies and procedures), 23.20 and (destruction of controlled substances).

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 19 day of Feb., 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: 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
HALE D. PEMBER
License No. 12292
Respondent

**STIPULATION
AND
CONSENT ORDER**

On this 29 day of July, 2003, the Iowa Board of Pharmacy Examiners and Hale D. Pember, of 1540 Main Street, Rock Valley, 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 February 19, 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 27th day of February, 1957, by examination as evidenced by Pharmacist License Number 12292, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.

2. That Iowa Pharmacist License Number 12292 issued to Respondent is active and current until June 30, 2005.

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 February 19, 2003.

SECTION I

Respondent's pharmacist license number 12292 shall be placed on probation for three (3) years with the following terms and conditions, beginning on the date this Order is accepted by the Board:

1. Within thirty (30) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall submit to the Board, for its approval, a written policy and procedure for the following: (a) pharmacy record keeping; (b) control, accountability, and security for prescription drugs; (c) keeping a log of temporary or intermittent pharmacists who have worked at the pharmacy; (d) training and utilization of pharmacy technicians; (e) providing pharmaceuticals to residents of long-term care facilities; and (f) destruction of controlled substances. 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.

2. Within one (1) year of the date of approval of this Stipulation and Consent Order by the Board, the Respondent shall complete continuing pharmacy education (CPE) or other formal, structured education in controlled substance record-keeping, accountability and security. The education shall be *not less than* two (2) 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.

3. Respondent shall not dispense any controlled substance or prescription drug in any form to any person unless the controlled substance or prescription drug has been properly authorized and prescribed for the person by a licensed, treating physician or other qualified treating health care provider.

4. 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.

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

6. 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.

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.

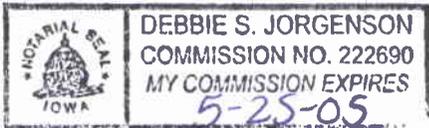
3. Upon successful completion of probation, Respondent's certificate will be fully restored.

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 10th day of July, 2003.

Hale D. Pember R.Ph
HALE D. PEMBER, R.Ph.
Respondent

Subscribed and Sworn to before me on this 10th 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, JAW
KATHERINE A. LINDER, Chairperson
Iowa Board of Pharmacy Examiners
RiverPoint Business Park
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309-4688