

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

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Re:

Pharmacy License of  
**PEMBERS DRUG**  
License No. 545  
Respondent

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Case No. 2002-545

**STATEMENT OF CHARGES**

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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 (2001).
3. Effective January 1, 2002, the Board renewed Respondent general pharmacy license number 545 with Hale D. Pember as pharmacist in charge, allowing Respondent to engage in the operation of pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 545 is current until December 31, 2002.
5. Respondent is currently operating a general pharmacy at 1415 Main Street, Rock Valley, Iowa 51247 with Hale D. Pember as the pharmacist in charge.

**COUNT I**

The Respondent is charged under Iowa Code § 155A.15(2)(c) & (i) (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.15(2)(c) & (h), 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.15(2)(c) (2001) and 657 Iowa Administrative Code §§ 36.1(4)(i) with intentional or repeated violation of Board 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).

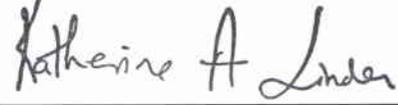
### THE CIRCUMSTANCES

1. On or about December 1, 2001, the Board received a complaint alleging that a technician at the Respondent's pharmacy 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. An audit of controlled substances conducted at the Respondent's pharmacy revealed shortages of three separate dosages of phenobarbital and of hydrocodone.
4. During the Board's investigation, the Respondent's pharmacy was not able to readily retrieve its controlled substances records.
5. 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.
6. The new inspection and comparison against the latest inspection revealed that numerous violations of the Board's rules continue to exist in the Respondent's pharmacy. 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**

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Re: Pharmacy License of  
**Pembers Drug**  
License No. 545  
Respondent

**STIPULATION  
AND  
CONSENT ORDER**

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On this 29 day of July, 2003, the Iowa Board of Pharmacy Examiners and Pembers Drug, of 1415 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's license to operate a pharmacy in Iowa was renewed on December 23, 2002, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa pharmacy license number 545 issued to Respondent is current until December 31, 2003.
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 pharmacy license number 545 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 operation of a pharmacy.

2. During probation, Respondent shall inform the board at least ten (10) days in advance of any proposed change of pharmacist in charge, ownership of business, name of business, or location of business.

3. During probation, Respondent shall report to the board or its designee quarterly. Said report shall be in writing and shall be due the 5<sup>th</sup> day of March, June, September, and December. The report shall include a summary of the Respondent's pharmacy operation for the preceding quarter and any further information deemed necessary by the board from time to time.

4. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the operation of a pharmacy.

5. Respondent shall notify all present and prospective employees 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 before hiring any new employee, Respondent shall cause all present and prospective employees, including pharmacists, to report to the Board in writing acknowledging that the employee has read this document and understands it.

6. Upon the Board's approval of this Stipulation and Consent Order, Respondent shall be assessed a civil penalty in the amount of \$1,000. The civil penalty shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board. The civil penalty shall be deposited into the State of Iowa general fund.

## SECTION II

1. 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.

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

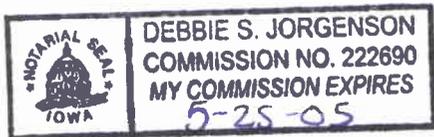
3. This proposed settlement is subject to approval of a majority of the full Board. If the Board fails to approve this proposed settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.

4. This Stipulation and Consent Order is voluntarily submitted on behalf of Respondent to the Board for its consideration on the 10<sup>th</sup> day of July, 2003.

Hale D Pember R.Ph

**HALE D. PEMBER, R.Ph.**  
Pharmacist in charge, Pembers Drug

Subscribed and Sworn to before me on this 10<sup>th</sup> day of July, 2003.



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

5. 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. 8<sup>th</sup> Street, Suite E  
Des Moines, Iowa 50309-4688