

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

Re:	)	Case No. 2003-53
Pharmacy Technician Registration of:	)	
<b>MICHAEL L. SPENCER</b>	)	<b>STATEMENT OF CHARGES</b>
Registration No. 3339	)	
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 (2003).
3. The Board issued Respondent pharmacy technician registration number 3339, registering him as a pharmacy technician, subject to the laws of the State of Iowa and the rules of the Board. His registration was renewed March 1, 2002.
4. Respondent's technician registration is current and active until 2/29/2004.
5. Respondent's current address is 501 10<sup>th</sup> Avenue NW., Altoona, Iowa 50009.
6. At all times material to this statement of charges, Respondent was employed as a pharmacy technician at Mercy Hospital Pharmacy, 1111 Sixth Avenue, Des Moines, Iowa 50314.

**A. CHARGES**

**COUNT I – INABILITY TO PRACTICE DUE TO CHEMICAL ABUSE**

Respondent is charged pursuant to Iowa Code § 155A.6(7) (2003), and 657 Iowa Administrative Code § 36.1(4)(m) with the inability to practice as a pharmacy technician, with reasonable skill and safety, by reason of chemical abuse.

**COUNT II – UNLAWFUL POSSESSION AND DISTRIBUTION OF DRUGS**

Respondent is charged pursuant to Iowa Code §§ 126.308 and 155A.6(7) (2003), and 657 Iowa Administrative Code §§ 36.1(4)(h) and 36.1(4)(j), with possession and distribution of prescription drugs, including controlled substances, for other than lawful purposes.

B. FACTUAL CIRCUMSTANCES

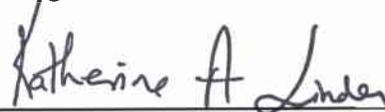
On or about June 27, 2003, Respondent self-reported the following:

1. While employed at the Mercy Hospital Pharmacy, Respondent diverted Lortab and Vicodin tablets (both combine hydrocodone with acetaminophen) to his own use. Respondent admits using the drugs personally.
2. Respondent did not have a prescription for the medication taken from the Mercy inventory.

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 29 day of July 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: Scott M. Galenbeck  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

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

---

Re: Technician Registration of  
**MICHAEL L. SPENCER**  
Registration No. 3339  
Respondent

**STIPULATION  
AND  
CONSENT ORDER**

---

On this 14<sup>th</sup> day of October, 2003, the Iowa Board of Pharmacy Examiners and Michael L. Spencer, of 501 Tenth Avenue NW, Altoona, 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 July 29, 2003, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That Respondent was first issued a pharmacy technician registration in Iowa in 1998, as evidenced by Pharmacy Technician Registration Number 3339, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That Iowa Pharmacy Technician Registration Number 3339 issued to Respondent is active and current until February 29, 2004.
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 July 19, 2003.

## SECTION I

Respondent's pharmacy technician registration number 3339 shall be placed on probation for five (5) years with the following terms and conditions, beginning on the date this Order is accepted by the Board:

- 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 this 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.

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

j. 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

pharmacy technician, 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. 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.

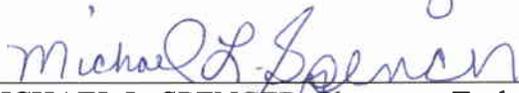
2. Should Respondent leave Iowa to reside or practice in another state, he shall notify the Board in writing fourteen (14) days prior to his departure and within fourteen (14) days of his return. Periods of residency or practice outside the State of Iowa shall not apply to reduction of the probationary period without prior request to and approval by the Board.

3. 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.

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

5. 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.

6. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 28 day of August, 2003.

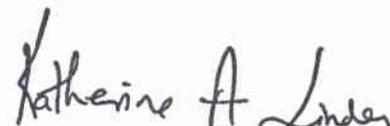
  
MICHAEL L. SPENCER, Pharmacy Technician  
Respondent

Subscribed and Sworn to before me on this 28<sup>th</sup> day of August, 2003.



  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA

7. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 14<sup>th</sup> day of October, 2003.

  
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