

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

Re:	)	Case No. 2005-04
Pharmacist License of	)	
<b>KENT SUNDERMAN,</b>	)	<b>STATEMENT OF CHARGES</b>
License No. 14886,	)	
Respondent.	)	

**COMES NOW**, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners (hereinafter referred to as the "Board") 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 (2005).
3. On October 12, 1976, the Board issued Respondent, Kent Sunderman, by reciprocity, a license to engage in the practice of pharmacy in Iowa, as evidenced by license number 14886, subject to the laws of the State of Iowa and the rules of the Board.
4. Respondent's Iowa pharmacist license expires June 30, 2005.
5. Respondent's current address is 15314 Charles St., Omaha, NE 68154.

**A. CHARGES**

**COUNT I – VIOLATING ANOTHER STATE'S LAWS RELATING TO PHARMACY**

Respondent is charged under Iowa Code §§ 155A.12(1) and 657 Iowa Administrative Code § 36.1(4)(j) with violating laws of the state of Nebraska which relate to the practice of pharmacy and the distribution of prescription drugs.

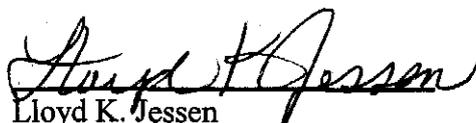
**COUNT II – HAVING LICENSE SUSPENDED IN ANOTHER STATE**

Respondent is charged under Iowa Code §§ 155A.12(1) and 155A.12(10) (2005) and 657 Iowa Administrative Code § 36.1(4)(j) with having had his license to practice pharmacy in the state of Nebraska suspended for conduct substantially equivalent to grounds for disciplinary action in Iowa.

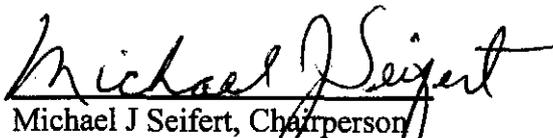
## B. CIRCUMSTANCES

On or about January 11, 2005, Respondent self-reported disciplinary action by the state of Nebraska. An investigation of the charges revealed the following:

1. Respondent was employed by Walgreens for 18 years. His last employment with Walgreens was in Omaha, Nebraska. Respondent hasn't worked in Iowa since about 1995.
2. On April 2, 2004, Respondent was terminated from employment as a result of his diversion of hydrocodone. Respondent also admits having diverted – and used – alprazolam and Ambien at his places of employment.
3. Respondent entered into an "Agreed Settlement" with the Credentialing Division, Nebraska Department of Health and Human Services, on October 15, 2004. The "Agreed Settlement" established that Respondent had violated the laws of Nebraska. The settlement further provided for a six-month suspension of Respondent's license to practice pharmacy, along with a five-year period of probation.
4. Respondent is currently unemployed and attending after-care treatment for drug abuse.

  
Lloyd K. Jessen  
Executive Secretary/Director

On this <sup>14</sup>7 day of June 2005, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.

  
Michael J. Seifert, 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

BEFORE THE BOARD OF PHARMACY EXAMINERS  
OF THE STATE OF IOWA

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Re:	)	DIA NO: 05PHB019
	)	CASE NO: 2005-04
Pharmacist License of	)	
<b>Kent Sunderman,</b>	)	
License No. 14886,	)	<b>FINDINGS of FACT,</b>
	)	<b>CONCLUSIONS of LAW,</b>
Respondent.	)	<b>and ORDER</b>

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On June 7, 2005, the Iowa Board of Pharmacy Examiners (the Board) filed a statement of charges against Kent Sunderman (respondent), a licensed pharmacist. The Board charged respondent with: 1) violating another state's laws relating to pharmacy, and 2) having his pharmacy license suspended by another state.

The case was set for hearing on November 14, 2006. The following board members were present for the hearing: Vernon Benjamin, Michael Seifert, Leman Olson, Paul Abromowitz, Susan Frey, and Kathleen Halloran. Jeffrey Farrell, an administrative law judge from the Iowa Department of Inspections and Appeals, assisted the Board. Scott Galenbeck, an assistant attorney general, represented the public interest. Respondent did not appear.

**THE RECORD**

The state's exhibits A-F were admitted. Debbie Jorgenson and Jennifer Tiffany testified on the state's behalf.

**FINDINGS OF FACT**

Respondent is licensed to practice pharmacy in Iowa and Nebraska. On January 11, 2005, the Board received notice that the State of Nebraska had taken disciplinary action against respondent's Nebraska license. The Nebraska action resulted pursuant to a stipulation between the parties. Nebraska found that respondent diverted and used at least three drugs: hydrocodone, ambien and alprazolam. Hydrocodone is a pain reliever, ambien is a sleep aid, and alprazolam is an anti-anxiety medication. (Exhibit F).

Nebraska suspended respondent's license for six months and placed him on probation for five years. Nebraska also entered a number of conditions that respondent must follow to maintain licensure. The conditions included abstaining from alcohol and drugs (unless prescribed by a physician), random chemical testing, compliance with recommendations of treatment providers, and being supervised in the workplace. (Exhibit F).

On February 4, 2005, Jennifer Tiffany (f/k/a Jennifer Kluza) from the board interviewed respondent. Respondent stated that he worked for Walgreens at various locations for 18 years. Respondent described the atmosphere at Walgreens as being high-stress, which led to him diverting drugs. Walgreens terminated his employment after learning about the drug diversions. (Exhibit F).

Respondent told Ms. Tiffany that he was looking for jobs outside the pharmacy field. He stated his concern that he not return to a job that involved dispensing controlled substances. Respondent stated that he continued to attend outpatient treatment, including a weekly group meeting. Respondent stated that he did not intend to work in the State of Iowa, but that he thought he might apply to renew his pharmacy license in Iowa. (Exhibit F).

#### CONCLUSIONS OF LAW

**Regulatory framework:** The Board was created for the express purpose to promote, preserve and protect the public health, safety, and welfare through the effective regulation of the practice of pharmacy.<sup>1</sup> The Board regulates the practice, in part, through the licensing of pharmacies, pharmacists, and others engaged in the sale, delivery, or distribution of prescription drugs and devices.

The Board has the authority to grant licenses to pharmacists, adopt regulations creating standards for licensure, and to enforce compliance with those standards.<sup>2</sup> The Board may impose discipline against the license holder, including revoking or suspending a license, putting a licensee on probation, imposing a civil penalty up to \$25,000, issuing a citation and warning, and requiring professional education.<sup>3</sup>

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<sup>1</sup> Iowa Code section 155A.2.

<sup>2</sup> Iowa Code section 272C.1(6)(q), 272C.3.

<sup>3</sup> Iowa Code sections 155A.12, 155A.18, 272C.3(2).

**Statement of charges:** The two counts are related and will be considered together. Count I alleges a violation for violating a law relating to the practice of pharmacy in another state.<sup>4</sup> Count II alleges a violation for having respondent's pharmacy license suspended by another state.<sup>5</sup>

The documentation unquestionably demonstrates that Nebraska disciplined respondent for a violation of Nebraska's laws relating to the handling of prescription drugs. Nebraska suspended respondent's license for six months, imposed a five year suspension, and issued a number of conditions that he must meet to maintain licensure. Both counts in the statement of charges are supported by the evidence.

#### **SANCTION**

In a case of this nature, it would not be unusual to enter an order that tracked the sanction imposed by the other state. That option often has appeal because the violation occurred in the other state, and it is better suited to judge the circumstances surrounding the violations. This action would also serve a potential interest in maintaining consistent remedies among the states.

However, the Board decided that Iowa's best interests in this case are served by revoking respondent's license. Respondent committed serious and repeated violations of his license in Nebraska. His conduct, had it occurred in Iowa, would likewise constitute serious violations of Iowa law. Respondent told the Board's investigator that he succumbed to the stress of his job by diverting and using controlled substances. Respondent admitted that he was concerned about working in a pharmacy setting again. Respondent did not appear before the Board at his hearing; he has not offered any reasons why the Board should maintain his license. A decision requiring probation would require the Board to monitor respondent's ongoing compliance with a list of conditions placed by another state. There is no reason to maintain respondent's license. Revocation is the appropriate sanction.<sup>6</sup>

#### **DECISION AND ORDER**

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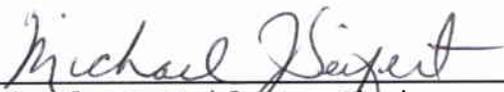
<sup>4</sup> 657 IAC 36.1(4)(j).

<sup>5</sup> *Id.*; See also Iowa Code section 155.12(10).

<sup>6</sup> The Board notes that respondent could be eligible to petition for reinstatement by complying with all provisions of 657 IAC 36.13 and any other applicable state laws and regulations.

The Iowa Board of Pharmacy Examiners revokes the pharmacy license held by respondent Kent Sunderman. Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing. Respondent shall remit payment to the Board at the following address: Iowa Board of Pharmacy Examiners, 400 SW 8<sup>th</sup> St., Suite E, Des Moines, Iowa 50309-4688. In addition, the executive secretary of the board may bill respondent for any witness fees and expenses or transcript costs associated with this disciplinary hearing. Respondent shall remit for these expenses within thirty days of receipt of the bill.

Dated this 16<sup>th</sup> day of January, 2007.

  
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Michael J. Seifert, Chairperson  
Iowa Board of Pharmacy Examiners

cc: Scott Galenbeck, Assistant Attorney General

**Notice**

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.