

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
MILWAUKEE HEALTH SERVICES, INC., : LS0706272PHM  
d/b/a MLK HERITAGE PHARMACY AND:  
ISAAC COGGS HERITAGE PHARMACY :  
RESPONDENT. :

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Division of Enforcement Case Nos. 06 PHM 001 and 06 PHM 027

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Milwaukee Health Services, Inc.  
d/b/a MLK Heritage Pharmacy and  
Isaac Coggs Heritage Pharmacy  
2555 N. Dr. Martin Luther King Jr. Drive  
Milwaukee, WI 53212

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Pharmacy Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Milwaukee Health Services, Inc., is a corporation formerly named Isaac Coggs Health Connection, Inc. Milwaukee Health Services, Inc. currently owns two pharmacies, which do business under the names MLK Heritage Pharmacy and Isaac Coggs Heritage Pharmacy.

2. Milwaukee Health Services, Inc., d/b/a/ MLK Heritage Pharmacy, is duly licensed as a pharmacy in the state of Wisconsin (license # 42-8681). The most recent address on file with the Wisconsin Pharmacy Examining Board for this pharmacy is 2555 N. Dr. Martin Luther King Jr. Drive, Milwaukee, Wisconsin, 53212. The license for MLK Heritage

Pharmacy was granted on August 11, 2006.

3. Milwaukee Health Services, Inc., d/b/a/ Isaac Coggs Heritage Pharmacy, is duly licensed as a pharmacy in the state of Wisconsin (license # 42-8664). The most recent address of file with the Wisconsin Pharmacy Examining Board for this pharmacy is 8200 W. Silver Spring Drive, Milwaukee, Wisconsin, 53218. The license for Isaac Coggs Heritage Pharmacy was granted on June 21, 2006.

4. From December 7, 1990, until August 11, 2006, Milwaukee Health Services, Inc. operated Isaac Coggs Health Connection pharmacy, license # 42-7110, at 2770 N. 5<sup>th</sup> St., Milwaukee, Wisconsin, 53212.

5. From June 4, 1996, until May 31, 2002, Milwaukee Health Services, Inc. operated MLK-Heritage Pharmacy, license # 42-7550, at 2555 N. Martin Luther King Jr. Drive, Milwaukee, Wisconsin, 53212.

### **Failure to Notify Board of Changes**

6. On or about December 7, 1990, Isaac Coggs Health Connection, Inc. was granted pharmacy license number 42-7110. The address of the pharmacy was 2770 N. 5<sup>th</sup> Street, Milwaukee, Wisconsin, 53212. The managing pharmacist who signed the application was Melvin Solocheck.

7. On or about December 29, 1994, the corporate owner, Isaac Coggs Health Connection, Inc., changed its name with the Wisconsin Department of Financial Institutions to Milwaukee Health Services, Inc. The Pharmacy Examining Board was not notified of this change.

8. On June 4, 1996, Milwaukee Health Services, Inc. was granted a license to operate a second pharmacy, MLK-Heritage Pharmacy, at 2555 N. Martin Luther King Jr. Drive, Milwaukee, Wisconsin, 53212 (license # 42-7550). Robert Perthal was the managing pharmacist.

9. On or about August 5, 1999, Isaac Coggs Health Connection applied for permission to remodel. In connection with that requested change, it submitted a self inspection report stating that the applicant's name was Milwaukee Health Services, d/b/a Isaac Coggs Health Connection. The managing pharmacist was listed as Robert Perthal. The Pharmacy Examining Board was not notified of the change of owner name or managing pharmacist prior to the filing of this self inspection report. It was not notified who took over as managing pharmacist at MLK-Heritage Pharmacy when Robert Perthal became managing pharmacist at Isaac Coggs Health Connection.

10. On or about December 8, 2000, the Pharmacy Examining Board received a letter from pharmacist Jaime Cronin, who claimed to be the new managing pharmacist at MLK-Heritage Pharmacy. There was no indication of who was the managing pharmacist between August 5, 1999 and December 8, 2000.

11. On or about February 21, 2001, the Pharmacy Examining Board received a letter from pharmacist Jaime Cronin, informing the board that Yolanda Tolson "has returned from maternity leave and will resume her title as pharmacy manager at Martin Luther King Pharmacy (Lic # ?)." The letter also stated that Jaime Cronin was transferred to become the pharmacy manager at Isaac Coggs Pharmacy, license # 42-7110. The Pharmacy Examining Board had no prior notice that Yolanda Tolson was a managing pharmacist at any Milwaukee Health Services, Inc. owned pharmacy, or that Jamie Cronin had ceased to be the managing pharmacist at MLK-Heritage Pharmacy.

12. On or about May 5, 2001, the Pharmacy Examining Board received a self inspection report for MLK-Heritage Pharmacy, listing the managing pharmacist as Victor Petrovs.

13. On or about June 4, 2001, the Pharmacy Examining Board received a letter from Victor Petrovs, stating that he was no longer the "pharmacist in charge" at MLK-Heritage Pharmacy as of June 4, 2001.

14. On or about June 27, 2001, the Pharmacy Examining Board was notified that Jaimie Cronin was stepping down as the "pharmacy director" of Isaac Coggs Health Connection Pharmacy.

15. On July 13, 2001, Yolanda Tolson-Evans notified the board that she was no longer at the MLK-Heritage Pharmacy, she is now the “pharmacist in charge” at the Isaac Coggs Health Connection pharmacy.

16. On or about July 17, 2001, the Pharmacy Examining Board received notification that the MLK-Heritage Pharmacy was temporarily closing in the absence of a “pharmacist in charge.” That letter was signed by Derrick Austin, and the fax cover sheet states: “From Derrick Austin, MHSI, Pharmacy Services Manager.”

17. On or about August 30, 2001, The Pharmacy Examining Board received a letter from the interim Executive Director of Milwaukee Health Services, Inc., stating that effective September 4, 2001, Isaac Coggs Health Connection pharmacy would suspend services for thirty days. The interim executive director stated that Yolanda Tolson-Evans would remain the managing pharmacist, but directed the board to contact her or Derrick Austin with questions.

18. On or about October 10, 2001, the Pharmacy Examining Board received a notice from Milwaukee Health Services, Inc. that the Isaac Coggs pharmacy was reopening. This letter directed the board to contact Derrick Austin if further action was required.

19. On or about October 31, 2001, MLK-Heritage pharmacy closed.

20. On or about October 31, 2001, Yolanda Tolson-Evans notified the Pharmacy Examining Board that she was no longer the managing pharmacist at Isaac Coggs, and that Victor Petrovs would be assuming the duties of managing pharmacist beginning on November 1, 2001.

21. On or about November 21, 2001, an inspector for the Pharmacy Examining Board inspected Isaac Coggs pharmacy and spoke to Victor Petrovs. Mr. Petrovs claimed he was not the managing pharmacist.

22. On or about March 14, 2002, C.C. Henderson wrote to the Division of Enforcement, stating that Victor Petrovs was indeed the managing pharmacist beginning November 1, 2001, and that he or Derrick Austin could be contacted for further assistance.

23. In or about October, 2003, a dispensing machine was installed in the former pharmacy room at MLK Heritage Clinic at 2555 Martin Luther King Drive, Milwaukee, Wisconsin, 53212. From October 2003, continuing on until August of 2006, a pharmacy technician employed by Milwaukee Health Services, Inc. distributed drugs from this location. Counseling was provided by telephone by a pharmacist from Isaac Coggs Health Connection pharmacy.

24. On or about March 20, 2006, pharmacist Cormac Kehoe corresponded with the Department of Regulation and Licensing, signing his correspondence “Cormac Kehoe, Pharmacy Manager, Isaac Coggs Pharmacy.” The Pharmacy Examining Board had no prior notice that Mr. Kehoe had become the managing pharmacist at Isaac Coggs Health Connection pharmacy.

25. On or about March 28, 2006, Milwaukee Health Services, Inc., d/b/a/ Isaac Coggs Heritage Health Center, applied for a pharmacy license at 8200 Silver Spring Drive, Milwaukee, Wisconsin. The managing pharmacist was listed as Cormac Kehoe.

26. On or about April 12, 2006, Victor Petrovs notified the Department of Regulation and Licensing that Milwaukee Health Services, Inc. was moving the Isaac Coggs pharmacy from 2770 N. 5<sup>th</sup> Street, Milwaukee, Wisconsin, 53212, to 2550 Martin Luther King Drive, Milwaukee, Wisconsin, 53212, and that it would like to change the name of the pharmacy to Milwaukee Health Services, Inc. d/b/a MLK Heritage Pharmacy.

27. On or about April 13, 2006, Cormac Kehoe corresponded with the Department of Regulation and Licensing, again identifying himself as the pharmacy manager of Isaac Coggs Health Connection Pharmacy. The Pharmacy Examining Board still had not received notification of any such change in the managing pharmacist.

28. On or about May 4, 2006, Milwaukee Health Services filed an application for a pharmacy located at 2555 Martin Luther King Drive, Milwaukee, Wisconsin, named MLK Heritage Pharmacy. Victor Petrovs was listed as managing

pharmacist, Cormac Kehoe was listed as other pharmacist.

29. On or about June 21, 2006, the Pharmacy Examining Board approved an application for Milwaukee Health Services, Inc., d/b/a Isaac Coggs Heritage Health Cetner, at 8200 Silver Spring Drive, Milwaukee, Wisconsin. Cormac Kehoe was listed as the managing pharmacist.

30. In late June, 2006, Cormac Kehoe represented himself in a fax to the Department of Regulation and Licensing as being the managing pharmacist of MLK Heritage Pharmacy at 2555 Martin Luther King Drive, Milwaukee, Wisconsin. On June 26, 2006, Victor Petrovs corresponded with the Department of Regulation and Licensing indicating that he was still the managing pharmacist of the pharmacy at 2555 Martin Luther King Drive, Milwaukee, Wisconsin.

31. Throughout June and July, 2006, both Cormac Kehoe and Victor Petrovs corresponded with the Department of Regulation and Licensing regarding the application for the pharmacy at 2555 Martin Luther King Drive, Milwaukee, Wisconsin.

32. On August 1, 2006, Division of Enforcement staff accessed the Milwaukee Health Services, Inc. website. The website listed two pharmacy locations, one at 2555 N. Martin Luther King Drive, Milwaukee Wisconsin, and one at 2770 N. 5<sup>th</sup> Street, Milwaukee, Wisconsin. At that time, no pharmacy was licensed for the 2555 N. Martin Luther King Drive location, but a pharmacy was operating at that location.

33. On August 11, 2006, the application for the Milwaukee Health Services, Inc. d/b/a MLK Heritage Pharmacy was approved. The managing pharmacist was listed as Cormac Kehoe.

34. On November 17, 2006, a closing affidavit was filed by Victor Petrov for Milwaukee Health Services, d/b/a Isaac Coggs Health Connection. The closing affidavit contains the following handwritten note: "On Nov 2, 2006 at 11:30 am, Derrick Austin stated to me 'I will take care of this' after I showed him the DEA certificate and this form."

### **Unlicensed Managing Pharmacist**

35. In or about the year 2001, Derrick Austin was hired by Milwaukee Health Services, inc., as a "pharmacy director." Mr. Austin is a licensed pharmacist in Alabama, but holds no valid Wisconsin license.

36. Mr. Austin refers to himself (as do others of his staff), both verbally and in writing, as the "Pharmacy Manager."

37. Mr. Austin's business cards refer to him as Derrick Austin, R.Ph. The cards list a Wisconsin address.

38. Mr. Austin was disciplined in Alabama for running an unlicensed pharmacy and for practicing with an expired license.

39. Among other duties, Mr. Austin hires and supervises all pharmacy personnel, he makes all decisions regarding the operations of the pharmacy, and he is responsible for financial aspects of the pharmacy.

40. Although other Wisconsin-licensed pharmacists were from time to time named as the managing pharmacist on pharmacy applications and addendums, those pharmacists did not perform the duties of a managing pharmacist.

### **Unlicensed Pharmacy**

41. On or about June 4, 1996, Milwaukee Health Services received a pharmacy license for a pharmacy, known as MLK-Heritage Pharmacy, license # 42-7550, at 2555 N. Dr. Martin Luther King Jr. Drive, Milwaukee, Wisconsin, 53212.

42. On or about July 1, 2001, the MLK Heritage Pharmacy went out of business, and did not renew its license

when it expired on May 31, 2002.

43. In or about October, 2003, at the direction of Derrick Austin, a dispensing machine was installed in the former pharmacy room of MLK Heritage Pharmacy at 2555 N. Dr. Martin Luther King Jr. Drive, Milwaukee, Wisconsin. A sign was posted outside the door that read, "Pharmacy." From October 2003, continuing on until August of 2006, a pharmacy technician employed by Milwaukee Health Services, Inc. distributed drugs from this location. Counseling was provided by telephone by a pharmacist from Isaac Coggs Health Connection pharmacy.

44. Milwaukee Health Services, Inc. did not apply for or receive a Wisconsin license for this location during this time frame.

### **Drug dispensing by technicians**

45. From 2002 until the present, under the direction of Derrick Austin, Respondent has operated an indigent drug ordering system that is operated entirely by a technician. The technician interviews patients to determine eligibility, orders sample drugs from manufacturers, receives the drugs, logs in the drugs when received and calls the patients on the phone to let them know they can pick up their drugs.

46. The drugs are dispensed by pharmacists from the pharmacies of Milwaukee Health Services Inc., but the technician's activities have occurred in an office that is physically located outside the pharmacy in another part of the building, without supervision of a licensed pharmacist.

47. On occasion, the technician's separate office is used to store drugs.

### **CONCLUSIONS OF LAW**

1. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. §450.10, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct described in paragraph 7 above constitutes a violation of Wis. Admin. Code § Phar 6.02(2) and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1)(a)2.

3. The conduct described in paragraphs 6 - 34 above constitutes a violation of Wis. Admin. Code § Phar 6.03 and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1)(a)2.

4. The conduct described in paragraphs 6-40 above constitutes a violation of Wis. Stat. § 450.09(1) and Wis.Admin. Code § Phar 10.03(10) and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1)(a)2.

5. The conduct described in paragraphs 41-44 above constitutes a violation of Wis. Stat. § 450.06 and 450.08(1) and Wis. Admin. Code § Phar 5.01(3) and Phar 10.03(19) and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1)(a)2.

6. The conduct described in paragraphs 45-47 above constitutes a violation of Wis. Stat. §§ 450.06(1) and (2), 450.09(2), and Wis. Admin. Code § 10.02(12) and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1)(a)2.

## ORDER

### IT IS ORDERED:

1. The license of Milwaukee Health Services, Inc., d/b/a MLK Heritage Pharmacy (license # 42-8681) and the license of Milwaukee Health Services, Inc., d/b/a Isaac Coggs Heritage Pharmacy (license # 42-8664) are hereby SUSPENDED for an indefinite time.

2. The suspensions will be STAYED for a period of ninety days from the date of this Order.

3. After ninety days from the date of this Order, the stays MAY BE CONTINUED, if Respondent petitions the board and proves to its satisfaction that all of the following conditions are met:

- (a) All pharmacies owned by Respondent, currently or in the future, must employ managing pharmacists who perform the statutory functions of a managing pharmacist. The names of those managing pharmacists must be reported to the Department of Regulation and Licensing at least 30 days prior to any continuation of the stay and any change in managing pharmacist thereafter must be reported prior to the change.
- (b) Derrick Austin may not be employed by Respondent in any of its current or future pharmacies in any capacity unless and until he obtains a Wisconsin pharmacist license.
- (c) After the date of this Order, but prior to any continuation of the stay, all of Respondent's managing pharmacists who were employed by Respondent as managing pharmacists on or before July 31, 2006 must take and pass the Multi-state Pharmacy Jurisprudence Examination.
- (d) Respondent must hire a pharmacist Monitor, pre-approved by the Board, to inspect Respondent's current and future pharmacies once per month on a random basis. This Monitor will have no business or social ties to Respondent or any of its officers, directors, shareholders, principals, pharmacists or other employees or affiliates. The Monitor will report to the Board or its designee on a quarterly basis and will report any violation of Pharmacy Examining Board rules immediately. Respondent will be liable for all costs associated with this Monitor.
- (e) Respondent must restructure its indigent drug ordering process such that a prescriber receives and stores all drugs.
- (f) Within 90 days of the date of this Order, Respondent must have paid a forfeiture of Three Thousand Dollars (\$3,000.00).
- (g) Within 90 days of the date of this Order, Respondent must have paid the costs of this proceeding in the amount of Five Thousand, Nine Hundred Dollars (\$5,900.00) dollars. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264

- (h) Respondent may petition the Board to end the suspension, or to discontinue the requirement of a pharmacist Monitor, however no such petition shall occur earlier than two years from the date of this Order. The Board may end the suspension or discontinue the requirement for a pharmacist Monitor, in its discretion, upon satisfactory proof that the restriction is no longer necessary to protect the public. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary revocation of the stay of the suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any

of the terms of this Order. In the event Respondent fails to report changes in managing pharmacist, fails to arrange for the timely submission of monitoring reports, fails to ensure that its managing pharmacists take and pass the Multi-state Pharmacy Jurisprudence Examination, fails to timely submit any payment of the forfeiture as set forth above, or fails to pay costs as ordered, the stay of the suspensions of Respondent's pharmacy licenses (# 42-8681 and # 42-8664) shall be revoked, without further notice or hearing, until Respondent has complied with the terms of this Order.

5. This Order is effective on the date of its signing.

Pharmacy Examining Board

By: Michael Bettiga  
A Member of the Board

6/27/07  
Date

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 : STIPULATION  
MILWAUKEE HEALTH SERVICES, INC., : LS# \_\_\_\_\_  
d/b/a MLK HERITAGE PHARMACY AND:  
ISAAC COGGS HERITAGE PHARMACY :  
RESPONDENT. :

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Division of Enforcement Case Nos. 06 PHM 001 and 06 PHM 027

Milwaukee Health Services, Inc., d/b/a MLK Heritage Pharmacy and Isaac Coggs Heritage Pharmacy, by its registered agent C.C. Henderson and by its attorney Terence Schuster; and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case Nos. 06 PHM 001 and 06 PHM 027). By signing below, C.C. Henderson represents that he has the authority to enter into this agreement on behalf of Respondent. Respondent consents to the resolution of this investigation by stipulation.

2. Respondent's registered agent understands that by signing this Stipulation, he voluntarily and knowingly waives, on behalf of the Respondent, its rights, including: the right to a hearing on the allegations against it, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against it; the right to call witnesses on its behalf and to compel their attendance by subpoena; the right to testify; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to it under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has obtained the advice of legal counsel prior to signing this stipulation.

4. Respondent's registered agent agrees, on behalf of Respondent, to the adoption of the attached Final Decision and Order by the Pharmacy Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent's registered agent waives, on behalf of Respondent, all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Pharmacy Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent's registered agent or its attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent's registered agent is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent's registered agent and attorney in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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CC Henderson, registered agent for  
Milwaukee Health Services, Inc.  
d/b/a MLK Heritage Pharmacy and  
Isaac Coggs Heritage Pharmacy  
2555 N. Dr. Martin Luther King Jr. Drive  
Milwaukee, WI 53212

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Date

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Terence A. Schuster, attorney for  
Milwaukee Health Services, Inc.  
d/b/a MLK Heritage Pharmacy and  
Isaac Coggs Heritage Pharmacy  
2555 N. Dr. Martin Luther King Jr. Drive  
Milwaukee, WI 53212

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Date

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Jeanette Lytle, Attorney  
Division of Enforcement  
Wisconsin Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

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Date