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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST ARTHUR TEPLINSKY, R.Ph., AND THE MEDICAL-SURGICAL CLINIC, S.C., RESPONDENTS.	:	FINAL DECISION AND ORDER 87 PHM 43; 90 PHM 20

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Arthur Teplinsky, R.Ph.
1920 West Juniper Lane
Glendale, WI 53209

The Medical-Surgical Clinic, S.C.
2400 West Lincoln Avenue
Milwaukee, WI 53215-2599

Wisconsin Pharmacy Examining Board
P.O. Box 8935
Madison, WI 53708-8935

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

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 Board. The Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Respondent Arthur Teplinsky, is and was at all times relevant to the facts set forth herein a Registered Pharmacist licensed in the State of Wisconsin pursuant to license #6661. Teplinsky was, at all times relevant, the managing pharmacist of, and responsible for, the actions of co-respondent The Medical-Surgical Clinic, S.C. pharmacy operations.

2. Respondent The Medical-Surgical Clinic, S.C., is and was at all times relevant to the facts set forth herein a licensed pharmacy in the State of Wisconsin pursuant to license #5808.

3. The Respondents did, on 5/24/89, permit Judy Papec, an unlicensed person, to dispense a prescription without the supervision and inspection of a pharmacist, namely tetracycline HCL 250 mg. to patient Rosemary Chavez.

4. The Respondents did, on 5/24/89, permit Judy Papec, an unlicensed person, to dispense a prescription without the supervision and inspection of a pharmacist, namely Amoxicillin 250 mg. to patient Lisa Jackson.

5. The Respondents did, on 5/24/89, permit Diana Bern, an unlicensed person, to dispense a prescription without the supervision and inspection of a pharmacist, namely Tenormin 50 mg. and Triamterene hydrocholothiazide, to patient Algis Muncinskas.

6. The Respondents did, on 5/24/89, permit Diana Bern, an unlicensed person, to dispense a prescription without the supervision and inspection of a pharmacist, namely Caphalexin 250 mg. to patient Everett R. Rekow.

7. The Respondents did, on 5/24/89, permit Diane Bern, an unlicensed person, to dispense a prescription without the supervision and inspection of a pharmacist, names Erythromycin Ethylsuccinate 400 mg. tablets, and Guiatussin with codeine syrup, to patient Florence Franecki.

8. The Respondents did, on 6/1/89, permit Diana Bern, an unlicensed person, to dispense a prescription without the supervision and inspection of a pharmacist, namely Ibuprofen 800 mg. to patient James L. Judd.

9. The Respondents did, on 6/1/89, permit Diana Bern, an unlicensed person, to dispense a prescription without the supervision and inspection of a pharmacist, namely Amoxicillin 125 mg./5 ml. suspension, to patient Steven Bui.

10. The Respondents did, on 6/1/89, permit The Medical-Surgical Clinic, S.C. Pharmacy to be open without a pharmacist being present and without complying with § Phar 6.04(3)(a), Wis. Adm. Code.

11. The Respondents did, on and between 5/1/89 and 6/1/89, fail to note the dispensing date on 34 separate prescriptions for the dispensing of Schedule II controlled substances to patients.

12. The Respondents did, on and between 5/1/89 and 6/1/89, dispense Schedule II controlled substances without a separate prescription order meeting the requirements of § Phar 8.05, Wis. Adm. Code, permit unlicensed personnel to dispense such substances without a registered pharmacist's inspection, permit, such personnel to stamp the dispensing records with a rubber stamp of a registered pharmacist's signature instead of having a registered pharmacist, personally initialing each prescription, fail to file such prescriptions separately from other prescription records, fail to stamp such prescriptions with a red "C," and fail to file such records in chronological order, all in more than 100 separate cases.

13. The Respondents did, on and between 5/1/89 and 6/1/89, substitute and dispense Levothyroxine to some 30 patients instead of the prescribed drug, Synthroid, without recorded authorization from the prescriber.

14. The Respondents did, on 12/2/88, dispense Fioricet to patient John Glasspiegel, M.D., upon Dr. Glasspiegel's oral prescription, and did fail to reduce the oral prescription to writing.

15. The Respondents did, on 2/1/89, dispense Fioricet to patient John Glasspiegel, M.D., upon Dr. Glasspiegel's oral prescription, and did fail to reduce the oral prescription to writing, and did further falsely record in the pharmacy's records that such prescription was issued by Dr. H. E. Monato.

16. The Respondents did, on 5/19/89, dispense Fioricet to patient John Glasspiegel, M.D., upon Dr. Glasspiegel's oral prescription, and did fail to reduce the oral prescription to writing.

CONCLUSIONS OF LAW

17. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to § 450.10(1), Wis. Stats.

18. The Board is authorized to enter into the attached Stipulation pursuant to § 227.44(5), Wis. Stats.

19. The conduct described in paragraphs 3-16 above, violated one or more of the following: § 450.11(3), Wis. Stats., § Phar 10.03(14), Wis. Adm. Code, § Phar 8.05, Wis. Adm. Code, § 161.38(1), Wis. Stats., § Phar 8.02(3)(a) and (d)5. and 8.03(1) and (2) and 8.05(1) and (2), Wis. Adm. Code, § 450.13(1), Wis. Stats., § Phar 7.01(1)(a), Wis. Adm. Code, and § 450.11(1), Wis. Stats. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Arthur M. Teplinsky and The Medical-Surgical Clinic, S.C. are reprimanded for unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that The Medical-Surgical Clinic, S.C. shall pay the costs of investigation and prosecution of this matter, in the sum of $1,200.00, within 30 days of this order.

IT IS FURTHER ORDERED, that Arthur M. Teplinsky shall pay a forfeiture of $3,000 at the rate of not less than $300 per month, starting within the 15 days of the date of this order.

IT IS FURTHER ORDERED, that the license of Arthur M. Teplinsky to practice pharmacy in Wisconsin is hereby SUSPENDED for 15 days, starting July 13, 1991 at 12:01 a.m. and ending July 28, 1991 at 12:00 midnight.

IT IS FURTHER ORDERED, that the license of Arthur M. Teplinsky to practice pharmacy in this state is hereby limited in the following respect:

Arthur M. Teplinsky shall not practice pharmacy as the managing pharmacist, including temporary, acting, or interim managing pharmacist, of any pharmacy until he has taken and passed, with a grade of C or

better, a 3 credit course (based on semester hours) in pharmacy law. The course shall be the equivalent of the University of Wisconsin School of Pharmacy course entitled: "Pharmaceutical Jurisprudence and Ethics." If another course is to be taken, the Board shall be furnished with a complete course syllabus so that equivalency may be determined by the Board. Arthur M. Teplinsky shall cause a certified transcript of his grade to be transmitted directly to the Board by the school, before this limitation on his license is removed, and this limitation shall continue until the Board, by affirmative vote, removes it.

Dated this 9th day of July, 1991.

WISCONSIN PHARMACY EXAMINING BOARD

by: Dave Reynolds RPh
A Member of the Board

AT:vec
ATY-1597

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
ARTHUR TEPLINSKY, R.Ph., AND THE MEDICAL-SURGICAL CLINIC, S.C., RESPONDENTS.	:	87 PHM 43; 90 PHM 20

It is hereby stipulated between the above Respondents, personally and each on his own behalf, and the Department of Regulation and Licensing, Division of Enforcement by its undersigned attorney as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondents by the Division of Enforcement. Each Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.

2. Each Respondent is aware and understands his rights with respect to disciplinary proceedings, including the right to a statement of the allegations against him; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses by subpoena; the right to testify himself; 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondents voluntarily and knowingly waive the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

4. Each Respondent is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to execution of this Stipulation. Each has, in fact, consulted an attorney in this matter.

5. With respect to the attached Final Decision and Order, Respondents admit the facts set forth in the Findings of Fact, and further agree that the Board may reach the conclusions set forth in the Conclusions of Law, and may enter the Order.

6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event 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 the consideration of this attempted resolution.

7. If the Board accepts the terms of Stipulation, the parties to this Stipulation consent to the entry on the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

8. Respondents agree that an attorney for the Division of Enforcement may appear at any deliberative meeting of the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, with respect to this Stipulation but that appearance is limited to statements solely in support of this Stipulation, and to answering questions asked by the Board and its staff, and for no other purpose.

9. The Division of Enforcement joins Respondents in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

10. Respondents understand that should the Board adopt this Stipulation, the Board's Final Decision and Order adopting the terms of the Stipulation shall be published in the Monthly Disciplinary Report issued by the Department, and a summary of the order adopting the terms of the Stipulation shall be published in the Wisconsin Regulatory Digest issued semiannually by the Department, all of which is standard Department policy and in no way specially directed at Respondents.

6/21/91
Date

Arthur Teplinski

6/22/91
Date

Marna Tess-Mattner
Attorney for Respondent Arthur Teplinski

THE MEDICAL-SURGICAL CLINIC, S.C. by:

Date

Thomas F. Bremer, Administrator
Respondent

6/7/91
Date

Prosecuting Attorney
Division of Enforcement

AT:vec
ATY-1598

7. If the Board accepts the terms of Stipulation, the parties to this Stipulation consent to the entry on the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

8. Respondents agree that an attorney for the Division of Enforcement may appear at any deliberative meeting of the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, with respect to this Stipulation but that appearance is limited to statements solely in support of this Stipulation, and to answering questions asked by the Board and its staff, and for no other purpose.

9. The Division of Enforcement joins Respondents in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

10. Respondents understand that should the Board adopt this Stipulation, the Board's Final Decision and Order adopting the terms of the Stipulation shall be published in the Monthly Disciplinary Report issued by the Department, and a summary of the order adopting the terms of the Stipulation shall be published in the Wisconsin Regulatory Digest issued semiannually by the Department, all of which is standard Department policy and in no way specially directed at Respondents.

Date	Arthur Teplinski
Date	Marna Tess-Mattner Attorney for Respondent Arthur Teplinski
	THE MEDICAL-SURGICAL CLINIC, S.C. by:
6/24/91 Date	Thomas F. Bremer Thomas F. Bremer, Administrator Respondent
6/7/91 Date	Prosecuting Attorney Division of Enforcement

AT:vec
ATY-1598

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review, the times allowed for each, and the identification of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Pharmacy Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Pharmacy Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Pharmacy Examining Board.

The date of mailing of this decision is July 16, 1991.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employe trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.