

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

DOE
1981

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DENNIS M. BREIDENBACH,
RESPONDENT.

FINAL DECISION
AND ORDER

The State of Wisconsin, Pharmacy Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Hearing Examiner, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Hearing Examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Pharmacy Examining Board. Let a copy of this order be served on the respondent by certified mail.

Dated this 19th day of March, 1981.

Louisa Van Oort Smith

RECEIVED

MAY 28 1981

Dept. of Regulation & Licensing
Div. of Consumer Complaints

FM 5/26/82

JK

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : PROPOSED DECISION
DENNIS M. BREIDENBACH, :
RESPONDENT. :

A Complaint was filed in the above-captioned matter on January 14, 1981. An Answer was filed on February 3, 1981 in which respondent admitted all of the allegations contained within the Complaint.

On February 23, 1981 a hearing was held in Room 291 at 1400 East Washington Avenue, Madison, Wisconsin. The purpose of the hearing was to provide respondent with an opportunity to present testimony and other evidence in mitigation of the allegations within the Complaint. The parties presented a stipulation to the Hearing Examiner containing the terms of a proposed disposition of this case. The stipulation was received into the record as Exhibit #1. At the conclusion of the hearing, the parties agreed that the suspension agreed upon could commence the date following the decision rendered by the Pharmacy Examining Board.

Based upon the pleadings and stipulation on file herein, and the evidence heard and received at the hearing, the Hearing Examiner recommends that the Pharmacy Examining Board adopt as its final decision in this case the following Findings of Fact, Conclusions of Law, and Order which are the terms agreed upon by the parties.

FINDINGS OF FACT

1. Dennis M. Breidenbach (Breidenbach) was, at all times material to this proceeding duly licensed under the provisions of Chapter 450 of the Wisconsin Statutes, to practice as a registered pharmacist in the State of Wisconsin.
2. Breidenbach's pharmacy license number is R-8484 and was granted on June 21, 1973.
3. Breidenbach's address is Route 4, Switzke Road, Watertown, Wisconsin 53094.
4. Breidenbach was convicted of a felony violation of Section 49.49(1)(a) of the Wisconsin Statutes (Medicaid Fraud) upon a plea of guilty on December 8, 1980, in Branch 12, of the Circuit Court for Dane County, Judge Mark A. Frankel presiding.
5. The criminal complaint in said matter charged that Breidenbach, from on or about October 1, 1978, through on or about December 31, 1979, at Jefferson County, State of Wisconsin, as a pattern of continuous conduct, did knowingly and willfully make or cause to be made false statements or representations of material fact in application for payment in connection

RECEIVED

MAY 28 1981

with the Medical Assistance Program, to wit: Breidenbach claimed and received monies from the Wisconsin Medical Assistance Program for prescriptions representing that they were validly prescribed by a licensed physician, podiatrist or dentist, and that the drugs so prescribed were provided by him to the named patients, when in truth and in fact, as Breidenbach well knew, he had, himself, created fake prescriptions and never provided the drugs purported to be prescribed to the patients named in such fake prescriptions, all contrary to Section 49.49(1)(a)1. of the Wisconsin Statutes.

6. Breidenbach committed the acts as charged in said criminal complaint.

7. The maximum penalty for conviction for said felony is a fine of not more than \$25,000 or imprisonment for not more than five years or both.

8. Following conviction for said felony on December 8, 1980, the sentencing of Breidenbach on said charge was withheld and deferred and Breidenbach was placed on probation for a period of two years with a condition of probation being that restitution in the amount of \$7,000 be made to the Medical Assistance Program.

9. Breidenbach's wife, Nanette M. Breidenbach, owns all of the stock of Wisconsin Medical Care, Inc., doing business as Omro Pharmacy in Omro, Wisconsin, and that said stock owned by Breidenbach's wife was previously owned by Breidenbach.

10. Breidenbach is not now in charge of the operation of said pharmacy, is not employed by said pharmacy and is not a corporate officer of Wisconsin Medical Care, Inc.

11. Suspension or revocation of Breidenbach's license would seriously impair, if not negate, his financial ability to fulfill the terms of his probation, as set forth in paragraph 8 above.

CONCLUSIONS OF LAW

1. The Pharmacy Examining Board has jurisdiction to take disciplinary action in this proceeding pursuant to sec. 227.07(5), Wis. Stats., and sec. 450.02(7)(a), Wis. Stats.

2. The circumstances of a felony conviction for Medicaid Fraud under sec. 49.49(1)(a)1., Wis. Stats., are substantially related to the practice of pharmacy.

3. The felony conviction of Breidenbach for Medicaid Fraud under sec. 49.49(1)(a)1., Wis. Stats., is grounds for disciplinary action pursuant to sec. 450.02(7)(a), Wis. Stats.

ORDER

NOW THEREFORE, it is ordered that the license of Dennis M. Breidenbach, shall be and hereby is suspended, effective the day following the date of the Final Decision and Order rendered by the board, for a period of two

RECEIVED

MAY 28 1981

years, said suspension being stayed on the condition that Breidenbach successfully complete his probation imposed in Circuit Court, Branch 12, Dane County, Wisconsin.

IT IS FURTHER ORDERED that should Breidenbach be found to be in violation of the terms of said probation, the two-year suspension becomes effective on the date his probation is revoked and said suspension will run for two years from said date.

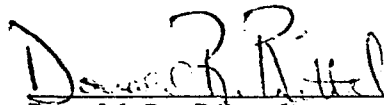
IT IS FURTHER ORDERED that should Breidenbach be convicted of a violation of Chapter 450 of the Wisconsin Statutes, Wisconsin Administrative Code Chapters Phar, or any statute or rule substantially related to the practice of pharmacy arising during the effective period of this Order, the two-year suspension becomes effective on the date of conviction and said suspension will run for two years from said date.

IT IS FURTHER ORDERED that the license of Breidenbach is limited as follows:

1. For two years from the effective date of this Order, Breidenbach may not own or be a part owner of a pharmacy unless permission is granted by the Pharmacy Examining Board;
2. For one year from the effective date of this Order, Breidenbach may not be a pharmacist-in-charge of a pharmacy unless permission is granted by the Pharmacy Examining Board; and
3. For one year from the effective date of this Order, Breidenbach may not work at, or in any way participate in the billings of the sales of the pharmacy owned by, Wisconsin Medical Care, Inc., doing business as Omro Pharmacy in Omro, Wisconsin, unless permission is granted by the Pharmacy Examining Board.

Dated at Madison, Wisconsin this 24th day of February, 1981.

Respectfully submitted,



Donald R. Rittel
Hearing Examiner

026-588

RECEIVED

MAY 28 1981

Dept. of Regulation & Licensing
Div. of Consumer Protection

BEFORE THE STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DENNIS M. BREIDENBACH,
RESPONDENT.

STIPULATION.

The parties in this matter, Barbara Fritschel, Complainant, Michael J. Berndt, Attorney for Complainant, Dennis M. Breidenbach, Respondent, and Patrick Arpin, Attorney for Respondent, agree and stipulate as follows:

1. That the Respondent freely and voluntarily waives his right to a public hearing in this cause except that the Respondent reserves the right and requests a public hearing concerning disposition;

2. That by the Answer filed in this matter, the Respondent admits the allegations of the Complaint filed in this matter, said Complaint being attached hereto and made a part of this Stipulation;

3. That the Respondent's wife, Nanette M. Breidenbach, owns all of the stock of Wisconsin Medical Care, Inc., doing business as Omro Pharmacy in Omro, Wisconsin, and that said stock owned by the Respondent's wife was previously owned by the Respondent;

4. That the Respondent is not in charge of the operation of said pharmacy, is not employed by said pharmacy, and is not a corporate officer of Wisconsin Medical Care, Inc.;

5. That the Complainant and the Respondent agree to the adoption by the Hearing Examiner and by the Pharmacy Examining Board of the Proposed Findings of Fact, Conclusions of Law, and Order attached hereto and made a part hereof;

6. That if the terms of the Stipulation are not acceptable to the Hearing Examiner or the Pharmacy Examining Board, then the parties shall not be bound by any of the provisions of the Stipulation.

Dated this 23rd day of February, 1981.

Michael J. Berndt
Michael J. Berndt
Attorney for Complainant

Dennis M. Breidenbach
Dennis M. Breidenbach
Respondent

Patrick A. Arpin
Patrick Arpin
Attorney for Respondent

915-980

RECEIVED
MAY 28 1981

Dept. of Regulation & Licensing
Div. of Consumer Protection

EX 1
2-23-81