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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KATHRYN J. THOMSEN,
RESPONDENT

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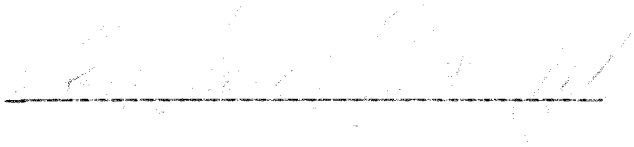
FINAL DECISION
AND ORDER

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 28th day of September, 1981.



STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : PROPOSED DECISION
 KATHRYN J. THOMSEN, :
 RESPONDENT. :
 :

The parties to this proceeding, for the purposes of Wis. Stats. sec. 227.16, are:

Kathryn J. Thomsen
2225 Brooks Road
Oshkosh, Wisconsin 54901

Pharmacy Examining Board
1400 East Washington Avenue, Room 174
Box 8936
Madison, Wisconsin 53708

A Notice of Hearing and Complaint were filed in the above-captioned matter on April 15, 1981. A prehearing conference was held on May 11, 1981 commencing at 1:30 p.m. in Room 288A, 1400 East Washington Avenue, Madison, Wisconsin. Appearing on behalf of the complainant was Attorney Michael J. Berndt. The respondent, Kathryn J. Thomsen, appeared in person and without legal counsel. The parties reached tentative agreement upon all issues in this case at the prehearing conference, and a Stipulation setting forth the terms of the agreement was filed on June 5, 1981. A copy of the Stipulation is attached hereto.

The Hearing Examiner rendered a Proposed Decision, dated June 12, 1981, based upon the Stipulation of the parties. The Pharmacy Examining Board considered the Proposed Decision at its meeting on July 15, 1981 and returned the matter to the Hearing Examiner with suggested modifications to the Order by letter dated July 30, 1981, a copy of this letter is attached hereto. The Hearing Examiner contacted the parties by letter dated August 3, 1981 with regard to the board's suggested modifications and has been informed in writing that the modifications are acceptable to the parties. Copies of the concerned communications are attached hereto.

Based upon the documents attached hereto, the Hearing Examiner recommends that the Pharmacy Examining Board adopt the following Findings of Fact, Conclusions of Law, and Order as its final decision in this case.

FINDINGS OF FACT

1. Kathryn J. Thomsen (Thomsen) was, at all times material to these proceedings, duly licensed under the provisions of Chapter 450 of the Wisconsin Statutes to practice as a registered pharmacist in the State of Wisconsin.

2. Thomsen's pharmacy license is #R-7681 and was granted on January 30, 1968.
3. Thomsen's last address reported to the Pharmacy Examining Board is 2225 Brooks Road, Oshkosh, Wisconsin 54901.
4. Thomsen was employed at, and was a one-third owner of, the Union Prescription Center in Neenah, Wisconsin from June 1, 1974 to February 28, 1978.
5. During her employment at said pharmacy, Thomsen was responsible for the preparation of Wisconsin Medical Assistance Program Claim Reports.
6. From September 1, 1975 through June 30, 1977, on 39 occasions in connection with her employment at the Union Prescription Center, Thomsen intentionally deceived a state agent, Wisconsin Physicians Service, by falsely representing on Wisconsin Medical Assistance Claim Reports that certain drugs were provided to certain Medical Assistance patients, knowing said drugs were never provided, thereby defrauding the state for the cost of said drugs, said fraud totaling approximately \$800.
7. Thomsen was shown ten of the 39 fraudulent claim forms and, upon seeing these forms, stated that the last prescription listed on each of the claim forms had been added by her, realizing that the prescription would never be dispensed to the named Medicaid patient, and that she had added these prescriptions to the claim forms because Medicaid was not adequately reimbursing the pharmacy.
8. From January 21, 1975, through December 31, 1977, in connection with her employment at the Union Prescription Center, Thomsen dispensed prescription medication on multiple dates that could have, and should have, been dispensed on one date, so as to double the amount paid by the state as a professional fee, otherwise known as "fee splitting," in violation of rules and regulations established by the State of Wisconsin for the Medical Assistance Program, said fraud totaling approximately \$500.
9. As a result of the behavior described in paragraphs 4 through 8 above, Thomsen was convicted on June 17, 1980, following pleas of guilty of three counts of misdemeanor theft by fraud as a party to the crime, contrary to sections 943.20(1)(d) and 939.05, Wisconsin Statutes.
10. The total fines and costs paid by Thomsen as a result of said three misdemeanor convictions was \$340.50.
11. As a result of the behavior described in paragraphs 4 through 8 above, Thomsen stipulated on June 17, 1980, to the entry of a civil judgment in the amount of \$2,600.08 (restitution in the amount of \$1,300.04 plus a penalty of \$1,300.04) in favor of the State of Wisconsin and against Thomsen and said judgment was satisfied by Thomsen on June 17, 1980.

CONCLUSIONS OF LAW

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

2. By engaging in the activities described in Finding of Fact 4 through 8, Thomsen has demonstrated that she is unfit to practice as a pharmacist within the meaning of section 450.02(7)(a) of the Wisconsin Statutes.

3. Unfitness within the meaning of section 450.02(7)(a) of the Wisconsin Statutes is grounds for disciplinary action pursuant to section 450.02(7)(a) of the Wisconsin Statutes.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Kathryn J. Thomsen 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 years (24 months) said suspension being stayed.

IT IS FURTHER ORDERED that should Thomsen be convicted of a violation of chapter 450, Wisconsin Stats., Wisconsin Administrative Code chapter Phar 5, or any statute or rule substantially related to the practice of pharmacy arising during the effective date of this Order, the two-year suspension becomes effective on the date of conviction and said suspension will run for the two years from said date.

IT IS FURTHER ORDERED that the license of Thomsen is limited as follows: (1) For two years from the effective date of this Order, Thomsen may not own or be part owner of a pharmacy unless permission is granted by the Pharmacy Examining Board; (2) For one year from effective date of this Order, Thomsen may not be a pharmacist-in-charge of a pharmacy unless permission is granted by the Pharmacy Examining Board; (3) For one year from the effective date of this Order, Thomsen may not practice at, or in any way participate in the billings of the sales of any pharmacy owned in part or in whole by any relative, past, present or future, or any relative of her spouse, past, present or future, unless permission is granted by the Pharmacy Examining Board.

IT IS FURTHER ORDERED that Thomsen may not petition the Pharmacy Examining Board for removal of any or all of these conditions before six months from the effective date of this Order.

Dated at Madison, Wisconsin, this 18th day of August, 1981.

Respectfully submitted,



Donald R. Rittel
Hearing Examiner