

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

JAMES A. ZDANOWICZ, R.Ph.
RESPONDENT.

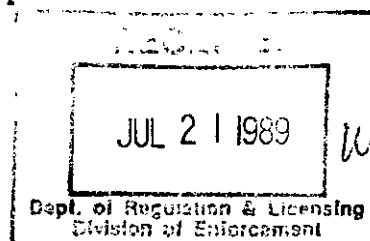
FINAL DECISION AND ORDER

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

James A. Zdanowicz, R.Ph.
7927 47th Court
Kenosha, WI 53140

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



JUL 20 1989

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.

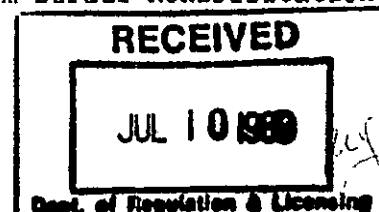
Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. That James A. Zdanowicz R.Ph., date of birth December 23, 1946, of 7927 47th Court, Kenosha, Wisconsin, 53140, Respondent herein, was at all times relevant to this proceeding duly licensed under the provisions of Chapter 450, Wis. Stats., to practice as a registered pharmacist in the State of Wisconsin under license #8146, first granted on April 14, 1971.

2. By a Final Decision and Order dated May 19, 1988, the Pharmacy Examining Board ordered suspension of Respondent's license for a period of 4 years. The Decision provided for successive three month stays of the suspension upon petition by Respondent and continuing compliance with the conditions and limitations as stated in the Order. The Final Decision and Order of May 19, 1988 in paragraph (b), Conditions of Stay, subparagraph iv, on the third page of said Final Decision and Order, provided "Mr. Zdanowicz must remain free of alcohol, prescription drugs and controlled substances not prescribed for a valid medical purpose during the period of limitation."

3. Respondent used cocaine on or about December 14, 1988, in violation of the Final Decision and Order dated May 19, 1988. On or about January 16, 1989, the Pharmacy Examining Board received notice from DePaul Rehabilitation



Hospital of a urine screen on a specimen obtained from Respondent which tested positive for benzoylecgonine, a metabolite of cocaine. The report did not specify the date of the positive drug screen. The report indicated that Respondent vehemently denied any use of cocaine, and that there was no evidence other than the positive urine drug screen that respondent had relapsed. The DePaul rehabilitation staff recommended that no changes be made in Respondent's Stipulation. On or about February 21, 1989, the Pharmacy Examining Board received clarification that the positive urine drug screen for the cocaine metabolite, benzoylecgonine, was obtained on December 14, 1988 and had been confirmed positive on December 19, 1988 by gas chromatography - mass spectrometry analysis. A copy of the DePaul January 16, 1989 report is attached hereto as Exhibit A.

4. On or about February 23, 1989 the Pharmacy Examining Board received from Respondent a written request for a three month extension of the stay of suspension under the Order dated May 19, 1988. In his request for extension of stay, Respondent represented "This letter is being sent to assure you of my compliance with the Board's decision regarding my stay of suspension." In fact, Respondent had consumed alcohol within about seven days of writing said letter to the Board.

5. Respondent used alcohol in violation of the Final Decision and Order dated May 19, 1988. On or about March 9, 1989, the Pharmacy Examining Board received notice from DePaul Rehabilitation Hospital of a urine drug screen specimen obtained from Respondent on or about February 14, 1989 which tested positive for Ethanol (alcohol), which positive urine screen was confirmed positive by gas chromatography - mass spectrometry analysis. A copy of the DePaul March 9, 1989 report is attached hereto as Exhibit B.

6. On March 23, 1989, when suspected of alcohol consumption, Respondent failed to provide, pursuant to request by his rehabilitation counselor, a urine specimen for screening and further failed to return to the treatment meeting. Respondent admits he went to treatment group meetings intoxicated.

7. By Order Denying Stay of Suspension and Reinstating Suspension dated March 27, 1989, the Pharmacy Examining Board denied Respondents request for extension of the stay of the suspension, and reinstated the four year suspension of Respondent's license under the Final Decision and Order dated May 19, 1988, effective at 12:01 a.m., April 5, 1989.

8. On or about April 12, 1989, Respondent, by his attorney, filed a Petition for Rehearing. By Order dated May 18, 1989, the Pharmacy Examining Board denied the Petition for Rehearing, construed the Petition for Rehearing as a request for a Hearing under the procedure specified in Chap. RL 1, Wis. Adm. Code, as provided for in the Final Decision and Order dated May 19, 1988.

9. A Class I hearing was scheduled for July 18, 1989 pursuant to Notice of Hearing dated June 9, 1989 and served on June 21, 1989.

10. On April 10, 1989, pursuant to recommendation of DePaul Rehabilitation Hospital, Respondent entered, for the first time, in-patient treatment for alcohol and cocaine dependency treatment. Respondent was discharged on April 28, 1989 with a discharge diagnosis of:

1. Alcohol dependency syndrome, continuous;
2. Cocaine dependency, in remission;
3. Psychosocial circumstances.

11. On April 28, 1989, pursuant to the DePaul treatment team recommendation, Respondent was discharged to the Bremen House recovery residence for one to three months continued treatment including two years Recovery Program for Professionals, weekly random drug screens, day hospital group therapy three times a week for a minimum of twelve weeks, attendance at AA/CA meetings and monthly case reviews.

12. By letter dated May 9, 1989, DePaul Rehabilitation Hospital stated it would support a recommendation for reinstatement of Respondent's license to practice pharmacy providing that Respondent follows through on all treatment recommendations. A copy of the DePaul May 9, 1989 letter is attached hereto as Exhibit C.

13. Respondent was discharged from Bremen House on June 14, 1989 at which time the facility closed. Respondent has continued with Alcoholics Anonymous, group therapy and urine screens on a frequency of eight times per month.

14. Respondent has been employed at Children's Hospital in Milwaukee as a staff clinical pharmacist. Respondent represents that Respondent's employer has taken steps to prevent and prohibit any contact with cocaine by Respondent through any activity such as stocking, taking inventory or dispensing. Respondent has entered an agreement with his employer that provides for automatic termination of his position upon any further violation of Respondent's treatment program and/or Board Order. Respondent further represents that Respondent's employer has limited Respondent's access to cocaine and controlled substances by limiting to one afternoon per week the time that Respondent actually spends in the hospital pharmacy. Furthermore, Respondent is not permitted to be alone in the hospital pharmacy.

15. Respondent represents that he has resigned membership with Elks Club two years ago and has taken leave of absence from Kiwanis Club executive and planning positions in recognition of past propensity on his part to consume alcohol in connection with such activities.

CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction over this matter and authority to take disciplinary action against the Respondent pursuant to Wis. Stats. sec. 450.10(1), and Wis. Adm. Code Ch. Phar 10.

2. The Wisconsin Pharmacy Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stats. sec. 227.44(5).

3. Respondent violated the formal disciplinary Order of the Pharmacy Examining Board dated May 19, 1988 by having consumed cocaine and alcohol contrary to paragraph (b), 11 on the third page of said Order, which constitutes unprofessional conduct under sec. Phar 10.03(22), Wis. Adm. Code and sec. 450.10(1)(a)(8), Wis. Stats., and is therefore subject to discipline under sec. 450.10(1)(b), Wis. Stats.

4. Respondent provided false information to the Pharmacy Examining Board or its agent by representing in his February 22, 1989 letter that he was in full compliance with the Board's Final Decision and Order, which conduct constitutes unprofessional conduct under sec. Phar. 10.03(11), Wis. Adm. Code and sec. 450.10(1)(b), (1) Wis. Stats., and is therefore subject to discipline under sec. 450.10(1)(b), Wis. Stats.

5. The Order Denying Stay of Suspension and Reinstating Suspension dated March 27, 1989 was an authorized and proper exercise of discretion by the Pharmacy Examining Board.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

I. That the Stipulation of the parties, attached hereto, is accepted.

II. IT IS FURTHER ORDERED that effective upon the date of this order, the pharmacist license of James A. Zdanowicz, R.Ph., Respondent, shall be SUSPENDED for a period of not less than five (5) years.

1. In consideration of Respondent's imposed suspension of license to practice pharmacy effective April 5, 1989 to the present, and his participation in more intense treatment for alcohol and cocaine abuse and dependency including inpatient treatment, and in consideration of Respondent's admissions under this Stipulation and Order, the suspension shall be stayed effective August 1, 1989, for a period of three months, conditioned upon compliance with the conditions and limitations outlined in paragraph 2., below. The conditions and limitations outlined in Paragraph 2, below are effective immediately upon issuance of this Order.

a. The Respondent may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed on the Respondent's practice during the prior three (3) month period.

b. The Board may deny without hearing an application for extension of the stay, or commence other appropriate action, upon receipt of information that Respondent has violated any of the terms or conditions of this Order. If the Board denies the petition by the Respondent for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in Wis. Adm. Code Ch. RL 1 upon timely receipt of a request for hearing.

c. The applications for extension under 1.a. and all required reports under 2.a-c. shall be due on the following dates:

must 9/8
November 1, 1989, and each and every following
February 1, May 1, August 1 and November 1
that this order is in effect.

2. CONDITIONS OF STAY AND LIMITATIONS.

a. Respondent shall remain free of alcohol, prescription drugs and controlled substances not prescribed by a practitioner for legitimate medical purposes. Respondent shall have his physician report in writing to the supervising physician or therapist under paragraph 2.b.(1) all medications prescribed to the Respondent within 3 days of such prescribing.

b. Rehabilitation Program. Respondent shall continue in a rehabilitation program acceptable to the board for the treatment of chemical abuse and dependency. Such program shall consist of the following elements and requirements:

(1) Respondent shall continue in a rehabilitation program under the direction and supervision of a physician or therapist acceptable to the Pharmacy Examining Board. Respondent shall immediately provide a copy of this Order to his supervising physician or therapist. The supervising physician or therapist shall be responsible for the Respondent's total rehabilitation program.

(2) The Rehabilitation Program shall include and Respondent shall participate in individual and/or group therapy sessions for the treatment of chemical abuse and dependency upon a schedule as recommended by the supervising physician or therapist, but not less than:

- (a) Three times per week during the first year of stayed suspension,
- (b) Two times per week during the second and third years of stayed suspension, and
- (c) One time per week during the fourth and fifth years of stayed suspension.

Respondent shall participate in quarterly evaluation with his supervising physician or therapist to review his progress in rehabilitation. Respondent shall comply with all the recommendations for continuing or additional treatment or therapy as recommended in the professional judgment by the supervising physician or therapist.

(3) Respondent shall attend Alcoholic Anonymous and/or Cocaine Anonymous meetings upon a frequency as recommended by the supervising physician or therapist, but not less than:

- (a) Two times per week for the first and second years of stayed suspension and,
- (b) One time per week for the third, fourth and fifth years of stayed suspension.

Attendance of Respondent at such meetings shall be verified and reported monthly to the supervising physician or therapist.

(4) Respondent's rehabilitation program shall include and Respondent shall participate in a program of random, witnessed collection of urine and/or blood specimens for monitoring for presence of controlled substances and alcohol in his blood and/or urine. All urine screens shall include testing and reporting of the specific gravity of the urine specimen. Random witnessed collection of specimens shall be obtained for analysis as herein required on a minimum frequency of not less than:

a. Fifteen times per month for the first three months following the date Order.

b. Twelve times per month for the fourth through sixth month following the date of this Order.

c. Nine times per month for the seventh through twenty fourth month following the date of this Order.

d. Six times per month for the twenty fifth through thirty sixth month following the date of this Order.

e. Four times per month for the ^{thirty-}seventh through sixtieth month following the date of this Order.

The random drug and alcohol screening program shall include weekends and holidays for collection of specimens. Failure of the drug and alcohol screening program to be conducted on a random basis shall be deemed a violation of this Order and may result in denial of extension of Stay of Suspension or other action as deemed appropriate by the Board.

If the physician or therapist supervising the Respondent's plan of care, Respondent's employer, or the Pharmacy Examining Board or the Department of Regulation and Licensing deems that additional blood or urine screens are warranted, Respondent shall submit to such additional screens as requested or recommended. The supervising physician or therapist shall exceed the above stated minimum frequencies for obtaining drug and alcohol screens to prevent ability of Respondent to predict that no further screens will be required for a given period because the minimum frequency for that period has been met.

The Respondent shall be responsible for obtaining a monitoring facility and reporting system acceptable to the Board. Respondent shall immediately provide a copy of this Order to the monitoring facility conducting the collection of specimen and/or chemical analyses upon specimens for the random witnessed drug and alcohol screening program. To be an acceptable program, the monitoring facility shall agree to provide random and witnessed gatherings of

specimens for analysis for all controlled substances and alcohol. Any specimen that yields a positive result for any controlled substance or alcohol shall be immediately subjected to a gas chromatography-mass spectrometry (hereinafter, "GC-MS") test to confirm the initial positive screen results. The monitoring facility shall agree to immediately file a written report directly with the Pharmacy Examining Board, the supervising physician or therapist, and the Respondent's supervising pharmacist upon any of the following occurrences: if the Respondent fails to appear upon request; or if a drug or alcohol screen and confirmatory GC-MS test prove positive; or if the specific gravity of a urine specimen is below 1.008; or if the Respondent refuses to give a specimen for analysis upon a request authorized under the terms of this Order. Respondent shall arrange for quarterly reports from the monitoring facility directly to the Board and to Respondent's supervising physician or therapist providing the dates and results of specimen analyses performed. Such reports shall be due on the dates specified in paragraph 1.c. above.

The monitoring facility shall further agree to keep a formal record of the chain of custody of all specimens collected and subjected to analysis. The facility shall further agree to preserve any specimens which yielded positive results for any controlled substance or alcohol or specific gravity below 1.008, pending further written direction from the Board.

(5) Respondent shall arrange for quarterly reports from his supervising physician or therapist directly to the Board evaluating and reporting:

- (a) A summary of Respondent's progress in his rehabilitation program to date, and all recommendations for continuing rehabilitation treatment,
- (b) Respondent's attendance in AA/CA meetings,
- (c) Respondent's participation in and results of his random witnessed urine and/or blood screening program.

Such quarterly reports shall be due on the dates specified under paragraph 1.c. of this Order.

(6) Respondent shall arrange for agreement by his supervising physician or therapist to report immediately to the Board any conduct or condition of Respondent that may constitute a danger to the public in his practice of pharmacy, and any occurrence that constitutes a failure on the part of the Respondent to comply with the requirements

of this Order or treatment recommendations by the supervising physician or therapist, including any indications of consumption of alcohol or unauthorized use of any controlled substances, notice of any positive blood and/or urine screen for alcohol or controlled substances, and any urine specimen that is below a specific gravity of 1.008.

c. Practice of Pharmacy: Limitations and Conditions. Any practice of Pharmacy by Respondent during the pendency of this Order shall be subject to the following terms and conditions:

(1) Respondent shall not practice as a pharmacist in any capacity unless he has been and continues to be in full compliance with the rehabilitation program as specified and approved under this Order.

(2) Respondent shall not be employed as or work in the capacity of a "managing pharmacist" or "pharmacist in charge" as defined in secs. Phar 1.02(2) and (5), Wis. Adm. Code.

(3) Respondent shall not be employed in the practice of pharmacy nor perform any professional pharmacy services without continuing supervision of another registered pharmacist, who is in good standing with and acceptable to the Board. In addition, Respondent shall have daily, face-to-face contact with his supervising pharmacist or the supervising pharmacist's designee. For the first year of stayed suspension, Respondent shall not have access to nor be present in the professional area of the pharmacy at his place of employment.

(4) Respondent shall not place nor be responsible for the placing of any orders for the purchase of any controlled substances, and Respondent shall not sign any orders or invoices for controlled substances.

(5) Respondent shall provide his employer and any prospective employers with a copy of this Stipulation and Final Decision and Order immediately upon issuance of this Order, and upon any change in employment.

(6) Respondent shall arrange for his supervising pharmacist to provide directly to the Board quarterly written reports due on the dates specified in paragraph l.c. evaluating Respondent's work performance, which shall include reports or information required under subparagraph (7) and (8) hereunder.

(7) Respondent shall obtain agreement from his managing pharmacist to establish a system acceptable to the Board for monitoring pharmacy operations relating to all controlled

substances, structured and implemented to reasonably detect any loss, diversion, tampering, discrepancy or other unauthorized activity relating to controlled substances. Such monitoring program shall include systems comparable to perpetual inventory and proof of use systems which shall be checked for discrepancy against inventory on a weekly basis. Respondent shall arrange for his managing pharmacist to formulate such a maintenance and monitoring system and provide to the Board a written description of such system within 30 days of the date of this Order or any change in employment. Any loss, diversion, tampering, discrepancy or other unauthorized activity discovered shall be immediately reported to the Board.

(8) In addition to the foregoing subparagraph (7), Respondent shall obtain from his managing pharmacist agreement to conduct accountability audits of all Schedule II controlled substances monthly for the first six months following the date of this Order and thereafter every six months for the duration of this Order. The audit shall be conducted by and certified by a licensed pharmacist other than Respondent, who shall be approved by the Board. A summary of the audits required under this subparagraph shall be included in the quarterly report following the audit, however, any discrepancy or missing drugs indicated by the audits shall be immediately reported in writing to the Board.

(9) After the first year of stayed suspension, Respondent may enter or be present in the professional service area of the pharmacy at which he is employed during times other than regular pharmacy business hours only with the immediate presence of his supervisor, and only for the purpose of rendering legitimate professional pharmacy services. After the first year of stayed suspension, Respondent may practice pharmacy in the professional area of the pharmacy at his place of employment only with the continuous presence and supervision of another registered pharmacist, who is in good standing with and acceptable to the Board.

(10) Respondent shall arrange for agreement by his supervising pharmacist to immediately report to the Board and to the supervising physician or therapist any conduct or condition of Respondent that may constitute a danger to the public, including any indication or notice of Respondent consuming alcohol or controlled substances.

d. Upon request of the Board, the Respondent shall provide the Board with current releases complying with state and federal laws, authorizing release of counseling, treatment and monitoring records, and employment records.

e. The Respondent shall report to the Board any change of

employment status, residence address or phone number within five (5) days of any such change.

3. Respondent shall not own in whole or in part any interest in a pharmacy except upon prior approval of the Pharmacy Examining Board.

4. Following successful compliance with and fulfillment of the provisions of paragraph 2. of this Order for a period of 2 years, and only upon the express written recommendation of the Respondent's supervising physician or therapist, the Respondent may petition the Board, in conjunction with an application for extension of the stay of suspension, for modification of the conditions or limitations for stay of suspension, except as to paragraphs 2.a., 2.c.(2), (4), (5), and paragraph 3, above. A denial of such a petition for modification shall not be deemed a denial of license under sec. 227.01(3), or 227.42, Wis. Stats., or Ch. RL 1, Wis. Adm. Code, and shall not be subject to any right to further hearing or appeal.

5. Respondent shall be responsible for all costs and expenses of complying with this Order and for arranging for alternative means for covering such costs and expenses.

6. The Board in its discretion may conduct unannounced inspections and/or audits, and make copies, of pharmacy records and inventory where Respondent is employed as a pharmacist.

III. Respondent shall pay the costs of this investigation and proceeding, pursuant to sec. 440.22, Wis. Stats., of \$1250.00 to the Department of Regulation and Licensing not later than 2 years following the date of this Order.

IV. IT IS FURTHER ORDERED that the Board, in its discretion, may restore Respondent's license to full, unlimited status only upon petition by Respondent after completion of the period of suspension and a showing that Respondent has complied with all terms and conditions of this Order, that the Respondent is rehabilitated, and that the Respondent may practice pharmacy without limitation or condition.

V. IT IS FURTHER ORDERED that Respondent shall notify the Board in writing within five days of any change in residence address, employer, and employment status. Respondent shall submit monthly reports to the Board detailing his compliance with this Order. *JJ MMT RTG*

VI. IT IS FURTHER ORDERED that violation of any of the terms of this Order or of any law substantially relating to the practice of pharmacy may result in a summary suspension of the Respondent's license; the denial of an extension of the stay of suspension; the imposition of additional conditions and limitations; or the imposition of other additional discipline. If the Board receives information that the Respondent is in violation of one or more of the conditions or limitations outlined in this Order, the Board shall immediately notify the Respondent and his attorney of the nature of the violation and may at its discretion:

1. Deny any subsequent petition for an extension of stay and thereby reinstate the suspension, or

2. Rescind the remainder of the three month stay and thereby immediately reinstate the suspension.

The Board shall afford the Respondent an opportunity for hearing following any denial of extension of the stay of suspension or a rescission of a stay, under the procedures for a Denial Proceeding under Chap. RL 1, Wis. Adm. Code. Any further use, by Respondent of alcohol or controlled substances in violation of this Order shall result in permanent revocation of his license to practice pharmacy in the State of Wisconsin.

VII. IT IS FURTHER ORDERED that this Order shall become effective immediately upon issuance by the Pharmacy Examining Board, except for provision II. 2.a., page 5, which is effective the date of signing by Respondent.

PHARMACY EXAMINING BOARD

By: Kenneth R. Schaefer, R.Ph. July 28, 1989
A Member of the Board DRR Date

I, James A. Zdanowicz, have read and understood all parts of this Order and attached Stipulation, and pursuant to the attached Stipulation, hereby consent to the entry of the foregoing Final Decision and Order by the Wisconsin Pharmacy Examining Board.

Dated this 7 day of July, 1989.

James A. Zdanowicz
James A. Zdanowicz, R.Ph., Respondent

Marna M. Tess-Mattner
Marna M. Tess-Mattner
Attorney for Respondent

RTG:caj
DOEATTY-816

De Paul Rehabilitation hospital

Edward T. Hida
President

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DEPT. OF REGULATION & LICENSING

January 16, 1989

State of Wisconsin
Pharmacy Examining Board
Dept. of Regulation & Licensing
P O BOX 8935
Madison WI 53708-8935

Ref: James Zdanowicz, R.Ph.

I am reporting to you a positive urine drug screen for Benzoyllecgonine obtained from Mr. Zdanowicz, per the final decision and order executed by the Pharmacy Examining Board with Mr. Zdanowicz.

Please understand that this is the only positive urine drug screen which has been obtained from Mr. Zdanowicz. His employer, Ms. Veronica Vincent (EAP) and Ms. Nancy Smith his therapist were also brought in for discussion regarding the positive urine drug screen. The consensus of all parties involved on his treatment team is that there is no evidence other than the positive UDS that he has relapsed. He continues to actively participate in his treatment group, attend NA and AA on a regular basis. He has a sponsor and follows the Twelve Step program. In addition, reports from work indicate he is doing an exemplary job. His EAP, Veronica Vincent has also done an investigation which indicates no problems whatsoever.

It is my opinion that this is an isolated event. Mr. Zdanowicz denies vehemently that he has used any cocaine. To reiterate, there is no evidence outside of this one positive UDS or evidence regarding a relapse. Mr. Zdanowicz continues to follow through with all recommendations of the treatment team and is compliant.

It is our recommendation that absolutely no changes be made in his current stipulation. We recommend that he continue in his current employment at Milwaukee Childrens Hospital; continue his continuing treatment group with Nancy Smith, monthly case reviews and 8 UDS per month with quarterly reports to the Board. The treatment team is in agreement with this recommendation.

If you need or desire any information, please do not hesitate to call or write.

Sincerely,

Robert G. Montgomery M.D.

Robert G. Montgomery, M.D.
Medical Director
Professional Treatment Program
De Paul Hospital

RGH/tg

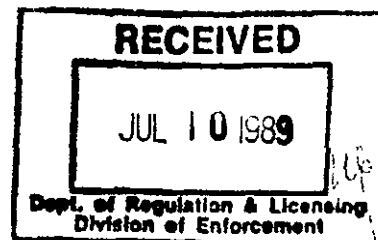


EXHIBIT A

Note



de Paul
rehabilitation hospital

Edward T. Hilde
president

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REGISTRATION & LICENSING

March 9, 1989

State of Wisconsin
Pharmacy Examining Board
Dept. of Regulation & Licensing
P O BOX 8935
Madison WI 53708-8935

Ref: James Zdanowicz, R.Ph.

In compliance with the Pharmacy Board's stipulation with Mr. Zdanowicz, we are reporting that a positive Ethanol urine drug screen was received from him. Upon receipt of this report a confirming test was ordered which again proved positive. A meeting was held with Mr. Zdanowicz and his treatment team for further examination and discussion. Although Mr. Zdanowicz denied consumption of alcohol to his therapist (Ms. Nancy Smith) during her initial confrontation with him, he apologized to her for his denial and admitted he did have one beer. He felt this would not harm him in his recovery program at the time. He was firmly reminded by the treatment team that usage of any kind is absolutely forbidden and threatening to his addiction.

Immediate steps were taken to reinstate Mr. Zdanowicz in an intensive treatment program, including PACE I (Primary Adult Counseling & Evaluation) and psychological testing. In addition to his continuing treatment group therapy sessions he will have 1:1 consultations with his therapist, along with increased random urine drug screens stipulated by the Board.

Because of this most recent use, coupled with a prior using incident, Mr. Zdanowicz has been informed that the Recovery Program for Professionals at De Paul Hospital will not tolerate another incident on his part. If he is non-compliant in any manner, he will be dismissed from the program and all support will be terminated.

You can expect our full cooperation in this matter. Please contact us for further discussion at any time.

Sincerely,

John A. Palese, M.D.
Medical Director
De Paul Hospital

Willis Reed
Program Director
Recovery Program for Professionals
De Paul Hospital

/tg

EXHIBIT B

Noted
3/1

May 9, 1989

State of Wisconsin
Dept. of Regulation & Licensing
Division of Enforcement
P O BOX 8935
Madison WI 53708-8935

Ref: James Zdanowicz, R.Ph.

This is a summary of the treatment program for Mr. Zdanowicz from April 10, 1989 to date. He entered the De Paul inpatient treatment program on April 10, 1989 and was discharged on April 28, 1989. He then accepted the treatment team recommendation to enter our recovery residence (Bremen House) to gain additional reinforcement in his recovery efforts. His therapist, Clara Conia, reports that James "bonded quickly with the inpatient group and worked hard on Steps One through Five." The treatment team was in agreement that he appears well motivated for ongoing recovery. His employer has also indicated a willingness to consider his return to work dependent, of course, upon your decision.

Taking all these matters into consideration, it is our recommendation to proceed cautiously, allow Mr. Zdanowicz to adjust to his new environment and recovery efforts; and that these efforts include continued involvement in the De Paul two year Recovery Program for Professionals (RPP), Bremen House for 1-3 months, weekly random urine drug screens, day hospital group therapy 3 times per week for a minimum of 12 weeks, attendance at AA/CA meetings, and monthly case reviews to monitor his overall progress.

If Mr. Zdanowicz follows through on all of these recommendations, the treatment team would then be willing to support a recommendation for reinstatement of his license to practice pharmacy.

Please contact us if you require additional information.

Sincerely,

John J. Duffin

John Duffin, Ph.D.
Psychologist
Recovery Program for Professionals
De Paul Hospital

Willis Reed

Willis Reed
Director
Recovery Program for Professionals
De Paul Hospital

/tg

EXHIBIT C

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER DISCIPLINARY
PROCEEDINGS AGAINST

JAMES ZDANOWICZ, R.Ph.
RESPONDENT.

STIPULATION

It is hereby stipulated between James A. Zdanowicz, Respondent herein, personally and by his attorney, Marna M. Tess-Mattner, and Robert T. Ganch, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending Class I hearing entitled In the Matter of the Disciplinary Proceedings Against James A. Zdanowicz, R.Ph., Respondent, commenced by Notice of Hearing dated June 9, 1989, and also in resolution of a pending investigation regarding James A. Zdanowicz, R.Ph, case file 88 PHM 37. James A. Zdanowicz and his attorney, Marna Tess-Mattner, consent to resolution of the aforesaid Class I hearing and the aforesaid investigation by Stipulation and without hearing or issuance of a Formal Disciplinary Complaint and Hearing.

2. This Stipulation and Proposed Final Decision and Order are predicated on Respondent admitting to the Division of Enforcement all violations of the Final Decision and Order of the Pharmacy Examining Board dated May 19, 1988. In consideration of this Stipulation and Proposed Final Decision and Order, Respondent shall file with the Department of Regulation and Licensing, Division of Enforcement, within 20 days of signing of this Stipulation by Respondent, a sworn affidavit stating each and every violation of the Final Decision and Order of the Pharmacy Examining Board dated May 19, 1988 with the dates or approximate dates of such violations to the best of Respondent's knowledge and recollection. Said affidavit shall further state all means by which Respondent attempted to or did evade detection, cover-up, thwart, impede or delay investigation or notice to the Department of Regulation and Licensing and/or the Pharmacy Examining Board of all such violations. Provided Respondent makes full disclosure as required by this paragraph, no further action beyond this Stipulation and Order will be taken based upon such admissions. However, discovery by the Department of Regulation and Licensing, Division of Enforcement or the Pharmacy Examining Board of any violations or means of evading detection, discovery or notice of such violations as required above which have not been disclosed by Respondent in the aforesaid affidavit shall be deemed a violation of this Stipulation and Final Decision and Order, may result in additional action by the Pharmacy Examining Board, and Respondent's affidavit of admissions may be admitted as evidence in any subsequent proceedings and disciplinary action taken thereon.

Failure of Respondent to file with the Department of Regulation and Licensing, Division of Enforcement, the affidavit required under this paragraph, shall be deemed a violation of this Stipulation and Final Decision and Order.

3. The Respondent understands by signing this Stipulation that he voluntarily and knowingly waives his rights in this matter, including the right to a hearing on the allegations against him, at which time the State has the burden of proving the allegations by preponderance of the evidence, the right to confront and cross-examine the witnesses against him, the right to call witnesses on his own behalf and to compel their attendance by subpoena, the right to testify in his own behalf, 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.

4. The Respondent admits the allegations and statements found in the attached Final Decision and Order.

5. The Respondent and the Division of Enforcement recommend the Pharmacy Examining Board to adopt this Stipulation and the attached Final Decision and Order in this matter.

6. If the terms of this Stipulation and attached Final Decision and Order are not acceptable to the Board, then none of the parties shall be bound by any of the terms.

7. The attached Findings of Fact, Conclusions of Law, Final Decision and Order may be made and entered in this matter by the Wisconsin Pharmacy Examining Board, without prior notice to any party.

8. All parties agree that Counsel for the Department of Regulation and Licensing, Division of Enforcement and the Board Advisor appointed in this matter may appear before the Wisconsin Pharmacy Examining Board to argue in favor of acceptance of this Stipulation and the entry of the attached Findings of Fact, Conclusions of Law, Final Decision and Order. The parties further agree that the attorney for the Division of Enforcement and the Board Advisor may further respond to any questions of the Board during its deliberation on this matter in closed session.

9. This agreement in no way prejudices the Pharmacy Examining Board from any further action against Respondent based on any acts not stated in the present Findings of Fact and Respondent's affidavit of admissions, as required by and subject to the terms of paragraph 2 above, which might be violative of the Wisconsin Pharmacy Examining Board's statutes and rules.

10. That if this Stipulation is adopted by the Wisconsin Pharmacy Examining Board, the attached Order shall become effective as stated in the Order.

July 10, 1989
Date

Robert T. Ganch
Robert T. Ganch, Attorney
Division of Enforcement

7/7/89
Date

James A. Zdanowicz
James A. Zdanowicz, R.Ph. Respondent

7/14/89
Date

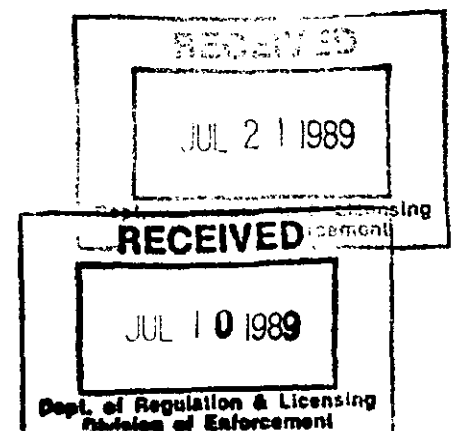
Marna M. Tess-Mattner
Marna M. Tess-Mattner
Attorney for Respondent

PHARMACY EXAMINING BOARD

July 28, 1989
Date

by Kenneth R. Schaefer, R.Ph.
A Member of the Board DKR

RTG:ej
DOEATTY-815



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 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 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: State of Wisconsin Pharmacy Examining Board.

The date of mailing of this decision is July 28, 1989.

WLD:dms
886-490

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 employee 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) 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. 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. 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) Copies 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 all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

(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.