

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
JAMES MCDUFFIE, M.D.,	:	88 MED 167
Respondent.	:	

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

James McDuffie, M.D.
4893 North Green Bay Road
Milwaukee, WI 53209

Medical 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 disposition of this matter, subject to the approval of the Medical Examining 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 McDuffie, M.D., Respondent herein, 4893 North Green Bay Road, Milwaukee, WI, 53209, is a physician duly licensed to practice medicine and surgery in the state of Wisconsin and that his license bears #12855 and was granted on October 21, 1957.
2. McDuffie, age 70, is currently practicing medicine part-time at the Blood Plasma Center, Milwaukee, Wisconsin performing physical examinations and also is a sole practitioner with an office located at 4893 North Green Bay Road, Milwaukee, Wisconsin 53209.
3. That Respondent provided medical care and treatment for eleven patients as follows:

<u>PATIENT</u>	<u>TREATMENT DATES</u>
P.C.	11/13/78 to 11/6/87
G.H.	12/17/83 to 3/30/89
D.C.	11/11/83 to 10/19/87

PATIENT

TREATMENT DATES

D.H.	1/17/85 to 2/4/88
D.R.	12/29/83 to 12/29/87
M.R.	8/29/85 to 12/11/87
L.F.	5/1/67 to 2/10/89
K.T.	6/11/84 to 10/1987
R.J.	4/30/84 to 4/3/89
A.J.	7/1985 to 4/3/89
D.R.	9/21/74 to 5/26/87

4. That Respondent administered and prescribed Percodan, Dilaudid, and Percocet otherwise than in the course of legitimate professional practice.

5. During the course of his medical care of the above patients, Respondent routinely prescribed controlled substances as shown on Exhibit 1 without conducting appropriate medical assessments or without utilizing more conservative first care treatment practices, and thereafter continued to prescribe these substances without adequate monitoring of the patients medical condition; and that such medical care constitutes a danger to the patients and the public.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to sec. 448.02(3), Wis. Stats.

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

3. Respondent's conduct, as set forth in the Findings of Fact constituted prescribing controlled substances, as defined in sec. 161.01(4), Wis. Stats., otherwise than in the course of legitimate professional practice and as otherwise prohibited by law, and thereby constitutes unprofessional conduct within the meaning of sec. 448.02(3), Wis. Stats., and sec. MED 10.02(2)(p), Wis. Adm. Code.

4. Respondent's acts and omissions, as set forth in the Findings of Fact are practice and conduct which tend to constitute a danger to the health, welfare and safety of the patient and thereby constitute unprofessional conduct within the meaning of sec. 448.02(3), Wis. Stats., and sec. MED 10.02(2)(h), Wis. Adm. Code.

ORDER

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

IT IS FURTHER ORDERED that Dr. James McDuffie, #12855, is hereby reprimanded.

IT IS FURTHER ORDERED that Dr. James McDuffie shall surrender his United States Drug Enforcement Agency registration and all controlled substances and unused DEA 222 order forms in his possession or control to the U.S. Drug Enforcement Agency no later than 30 days after the date this order is signed.

IT IS FURTHER ORDERED that, Dr. James McDuffie shall close his medical clinic located at 4893 North Green Bay Road, Milwaukee, Wisconsin within 30 days after this order is signed, and thereafter, the license of Dr. James McDuffie to practice medicine and surgery in the State of Wisconsin shall be limited on the following terms and conditions, which shall remain in effect until removed or modified by the Medical Examining Board:

1. Dr. McDuffie shall not order, dispense, prescribe, administer or distribute any controlled substances, as defined in Chapter 161, Wis. Stats., and Dr. McDuffie shall only engage in the practice of medicine consisting of performing physical examinations in his present employment at the Milwaukee Blood Plasma Center.

2. No sooner than one year after the effective date of the limitation on his license under paragraph 1, Dr. McDuffie may petition the Medical Examining Board to modify the limitation on his license under paragraph 1, except that Dr. McDuffie shall not petition the Medical Examining Board to allow him to order, dispense, prescribe, administer or distribute any Schedule II controlled substances or any narcotic drugs until he has attended and successfully completed continuing medical education courses totaling at least 30 Category I credits in chronic pain management and prescribing controlled substances.

a. If Dr. McDuffie petitions the Medical Examining Board under this paragraph to modify the limitation on his license under paragraph 1, the burden of proof shall be on Dr. McDuffie to demonstrate that if the requested modification of the limitation on his license is granted, he will not engage in conduct similar to the conduct found herein, that the requested modification of the limitation on his license will not pose any danger to his patients or to the public health, welfare or safety, and that the purposes of deterrence have been satisfied by the discipline imposed to date.

b. It shall be totally within the discretion of the Board to determine whether to modify the limitation under paragraph 1. The Board may modify the limitation on Dr. McDuffie's license in a manner different than that requested by Dr. McDuffie, including reinstating limited prescribing privileges requiring his prescribing practice to be monitored by a supervising physician. If the Board determines not to grant Dr. McDuffie's petition for modification of the limitation on his license, the Board's decision shall not be considered a denial of a license under secs. 227.01(3)(a) or 227.51, Wis. Stats., and Dr. McDuffie shall not be entitled to a hearing on the Board's decision.

3. If the Board enters an Order to reinstate limited prescribing privileges for Dr. McDuffie, pursuant to a petition by Dr. McDuffie under paragraph 2, then no sooner than 2 years after the effective date of that Board Order, Dr. McDuffie may petition the Medical Examining Board to remove or modify the remaining limitation on his license, including a petition to allow Dr. McDuffie to order, dispense, prescribe, administer or distribute Schedule II controlled substances and/or narcotic drugs.

a. If Dr. McDuffie petitions the Medical Examining Board under this paragraph to remove or modify the remaining limitation on his license, the burden of proof shall be on Dr. McDuffie to demonstrate that if the requested removal or modification of the limitation on his license is granted, he will not engage in conduct similar to the conduct found herein, that the requested modification of the limitation on his license will not pose any danger to his patients or to the public health, welfare or safety, and that the purposes of deterrence have been satisfied by the discipline imposed to date. In addition, if the Department of Regulation and Licensing, Division of Enforcement, has any evidence to establish probable cause that Dr. McDuffie has not complied with the terms of his limited prescribing privileges under paragraph 2, then the Division of Enforcement may present that evidence to the Board in opposition to Dr. McDuffie's petition under this paragraph.

b. It shall be totally within the discretion of the Board to determine whether to remove or modify the remaining limitation on Dr. McDuffie's license. The Board may modify the limitation on Dr. McDuffie's license in a manner different than that requested by Dr. McDuffie, including reinstating some or all of his prescribing privileges but requiring his prescribing practice to be monitored by a supervising physician. If the Board determines not to grant Dr. McDuffie's petition for the removal or modification of the limitation on his license, the Board's decision shall not be considered a denial of a license under secs. 227.01(3)(a) or 227.51, Wis. Stats., and Dr. McDuffie shall not be entitled to a hearing on the Board's decision.

4. If the Board reinstates some or all of Dr. McDuffie's prescribing privileges, pursuant to a petition by Dr. McDuffie under paragraph 2 or 3, then Dr. McDuffie may petition the U.S. Drug Enforcement Agency to restore his U.S. DEA registration on the same terms.

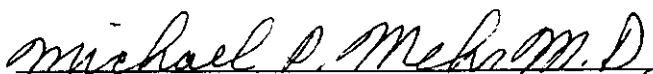
IT IS FURTHER ORDERED, that Dr. McDuffie shall abide by all federal and state statutes and administrative code provisions governing the practice of ordering, dispensing, prescribing, administering or distributing controlled substances.

IT IS FURTHER ORDERED, that pursuant to the authority of sec. 448.02(4), Wis. Stats., and ch. RL 6, Wis. Adm. Code, should the Wisconsin Medical Examining Board determine that there is probable cause to believe that James McDuffie, M.D., has violated the terms of the Final Decision and Order of the Medical Examining Board or the Stipulation upon which it is based, the Medical Examining Board may order that the license of James McDuffie, M.D., to practice medicine and surgery in the State of Wisconsin be summarily suspended pending investigation of the alleged violation.

IT IS FURTHER ORDERED, that investigative file #88 MED 167 is hereby closed by the Medical Examining Board without commencing any formal disciplinary action.

IT IS FURTHER ORDERED, that the effective date of this Order is 30 days after the date on which it is signed.

Dated this 25 day of September, 1991.

A handwritten signature in cursive script, reading "Michael P. Mehr, M.D.", written over a horizontal line.

Michael P. Mehr, M.D
Secretary
Medical Examining Board

RRH:pp
ATY-1615

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

JAMES MCDUFFIE, M.D., :
RESPONDENT. :

STIPULATION
88 MED 167

It is hereby stipulated and agreed, by and between James McDuffie, M.D., Respondent; and Roger R. Hall, attorney for Complainant, Wisconsin Department of Regulation and Licensing, Division of Enforcement, as follows:

1. The Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stats. Sec. 448.02.

2. This Stipulation is entered into as a result of a pending investigation of James McDuffie's practice of medicine and surgery by the Division of Enforcement. Dr. McDuffie consents to the resolution of this investigation by Stipulation and without the issuance of a formal disciplinary complaint and hearing.

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 clear, satisfactory and convincing 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 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. This Stipulation shall be submitted to the Medical Examining Board along with the attached Final Decision and Order in this matter.

5. The final Decision and Order attached to this Stipulation may be made and entered in this matter by the Wisconsin Medical Examining board, without prior notice, pleading, appearance or consent of any part. Respondent agrees that in the event the attached Final Decision and Order is made and entered, he will not appeal or seek review of the Final Decision and Order of the Board and hereby expressly waives any right to appeal.

6. In the event any portion of this stipulation or attached Findings of Fact, Conclusions of Law and Final Decision and Order is not accepted by the Medical Examining Board, the entire Stipulation and Findings of Fact, Conclusions of Law and Final Decision and Order shall be void and have no effect.

7. The attorney for the Complainant, and the Board Advisor assigned to this matter, may appear before the Medical Examining Board and answer questions or argue in favor of acceptance of this Stipulation and the entering and issuance of the attached Final Decision and Order in the absence of any appearance by the Respondent.

8. If this Stipulation is adopted by the Wisconsin Medical Examining Board, the attached Order shall become effective as stated in the Order.

9. James McDuffie, M.D., Respondent herein, is a physician currently licensed to practice medicine and surgery in the State of Wisconsin. His license bears #12855.

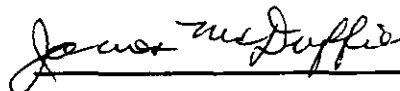
10. The Department of Regulation and Licensing has received several complaints regarding the prescriptive practices of Respondent in prescribing controlled substances as defined in sec. 161.01(4), Wis. Stats.

11. The Respondent admits that his prescriptive practices did not comply with Wisconsin law.

12. In order to bring this matter to a final resolution, the Respondent agrees to voluntarily submit to the discipline imposed by the Medical Examining Board in providing for a reprimand, surrender of his DEA registration, and limitations on his practice of medicine.


13. In view of the foregoing agreement on the part of the Respondent, the Division of Enforcement agrees to recommend to the Wisconsin Medical Examining Board that it accept this Stipulation and issue the attached Final Decision and Order.

Dated this 10 day of September, 1991.



James McDuffie, M.D. Respondent

Dated this 13 day of September, 1991.



Roger R. Hall, Attorney for Complainant
State of Wisconsin
Department of Regulation and Licensing
Division of Enforcement

EXHIBIT 1

<u>Patient</u>	<u>Drug</u>	<u>Amount</u>	<u>Date</u>	<u>Pharmacy</u>
D.C.	Percodan	50	10/4/85	Union
	Tussionex	6 oz	10/28/85	Union
	Percodan	50	1/15/86	Union
	Percodan	30	3/11/86	Union
	Percodan	50	4/29/87	Union
	Percodan	50	5/27/86	Nickel Pharmacy
	Percodan	50	7/24/86	Union
	Tussionex	180 ml	4/23/87	Union
	Percodan	50	4/27/87	Nickel Thrifty
	Tussionex	180 ml	5/14/87	Union
	Percocet	50	5/21/87	Nickel Thrifty
	Percocet	50	12/19/86	Union
	Tussionex	180 ml	7/13/87	Nickel Thrifty
	Tussionex	180 ml	7/20/87	Nickel Thrifty
	Percodan	50	9/26/87	Nickel Thrifty
P.C.	Percodan	50	3/20/86	Union
	Percodan	50	7/10/86	Union
	Percodan	50	11/25/86	Union
	Percocet	50	12/23/86	Union
	Percocet	50	4/14/87	Nickel Thrifty
	Percodan	50	5/12/87	Union
	Percocet	50	8/5/87	Union
	Percodan	50	9/1/87	Nickel Thrifty
	Percodan	50	10/28/87	Nickel Thrifty
	Percocet	50	11/6/86	Nickel Thrifty
D.H.	Percodan	50	6/26/85	Nickel Thrifty
	Percodan	50	7/19/85	Nickel Thrifty
	Percodan	50	8/28/85	Nickel Thrifty
	Talwin	50	9/12/85	Nickel Thrifty
	Tussionex		10/3/85	Union
	Percodan	50	10/18/85	Nickel Thrifty
	Tussionex	180 ml	10/26/85	Nickel Thrifty
	Tussionex	180 ml	10/31/85	Nickel Thrifty
	Tussionex	180 ml	11/11/85	Nickel Thrifty
	Tussionex	180 ml	11/25/85	Nickel Thrifty
	Tussionex	180 ml	12/19/85	Nickel Thrifty
	Dilaudid	30	1/10/86	Nickel Thrifty
	Dilaudid	30	2/18/86	Nickel Thrifty
	Dilaudid	30	3/12/86	Nickel Thrifty
	Dilaudid	30	4/16/86	Nickel Thrifty
	Valium	34	4/16/86	Nickel Thrifty

<u>Patient</u>	<u>Drug</u>	<u>Amount</u>	<u>Date</u>	<u>Pharmacy</u>
D.H. (con't)	Valium	34	5/20/86	Nickel Thrifty
	Dilaudid	30	5/20/86	Nickel Thrifty
	Dilaudid	30	6/14/86	Nickel Thrifty
	Dilaudid	30	7/2/86	Nickel Thrifty
	Dilaudid	34	10/3/86	Nickel Thrifty
	Dilaudid	34	10/1/86	Nickel Thrifty
	Tussionex	180 ml	11/4/86	Union
	Tussionex	180 ml	11/20/86	Union
	Tussionex	180 ml	11/24/86	Nickel Thrifty
	Dilaudid	30	11/25/86	Nickel Thrifty
	Tussionex	180 ml	12/16/86	Nickel Thrifty
	Tussionex	180 ml	12/18/86	Union
	Tussionex	180 ml	12/29/86	Union
	Tussionex	180 ml	12/29/85	Nickel Thrifty
	Tussionex	180 ml	2/23/87	Union
	Tussionex	180 ml	3/9/87	Union
	Tussionex	180 ml	3/23/86	Union
	Tussionex	180 ml	4/16/87	Nickel Thrifty
	Percocet	50	4/27/87	Union
	Tussionex	180 ml	5/5/87	Nickel Thrifty
	Tussionex	180 ml	5/15/85	Nickel Thrifty
	Tussionex	180 ml	5/19/87	Union
	Tussionex	180 ml	5/26/87	Nickel Thrifty
	Percocet	180 ml	5/30/87	Nickel Thrifty
	Tussionex	180 ml	6/4/87	Union
	Inderide	30	6/5/87	Nickel Thrifty
	Tussionex	180 ml	6/15/87	Nickel Thrifty
	Tussionex	180 ml	6/25/87	Union
	Tussionex	180 ml	6/29/87	Nickel Thrifty
	Percodan	50	7/2/87	Nickel Thrifty
	Tussionex	180 ml	7/7/87	Union
	Tussionex	180 ml	7/27/87	Nickel Thrifty
	Percocet	50	8/2/87	Nickel Thrifty
	Tussionex	180 ml	8/13/87	Nickel Thrifty
	Tussionex	180 ml	8/31/87	Nickel Thrifty
	Inderide	30	9/10/87	Nickel Thrifty
	Tussionex	180 ml	9/24/87	Nickel Thrifty
	Tussionex	180 ml	9/30/87	Nickel Thrifty
	Tussionex	180 ml	10/12/87	Nickel Thrifty
	Tussionex	180 ml	10/22/87	Nickel Thrifty
	Tussionex	180 ml	11/3/87	Nickel Thrifty
	Tussionex	180 ml	11/12/87	Nickel Thrifty
	Tussionex	180 ml	11/23/87	Nickel Thrifty
	Percodan	50	11/30/87	Nickel Thrifty
	Tussionex	180 ml	12/8/87	Nickel Thrifty
	Tussionex	180 ml	12/17/87	Nickel Thrifty
	Tussionex	180 ml	12/28/87	Nickel Thrifty
	Percodan	50	12/28/87	Nickel Thrifty
	Tussionex	180 ml	1/25/88	Nickel Thrifty

<u>Patient</u>	<u>Drug</u>	<u>Amount</u>	<u>Date</u>	<u>Pharmacy</u>
D.H. (con't)	Percodan	50	2/4/88	Nickel Thrifty
	Tussionex	180 ml	4/13/88	Nickel Thrifty
	Tussionex	180 ml	5/2/88	Nickel Thrifty
	Tussionex	180 ml	6/9/88	Nickel Thrifty
	Tussionex	180 ml	6/17/88	Nickel Thrifty
G.H.	Percodan	50	3/7/85	Nickel Thrifty
	Tussionex	180 ml	3/18/85	Nickel Thrifty
	Percodan	50	3/18/85	Nickel Thrifty
	Tussionex	180 ml	3/26/85	Nickel Thrifty
	Tussionex	180 ml	4/9/88	Nickel Thrifty
	Tussionex	180 ml	4/25/88	Nickel Thrifty
	Tussionex	180 ml	5/9/88	Nickel Thrifty
	Tussionex	180 ml	5/28/88	Nickel Thrifty
	Tussionex	180 ml	6/13/88	Nickel Thrifty
	Tussionex	180 ml	7/3/85	Nickel Thrifty
	Tussionex	180 ml	7/15/88	Nickel Thrifty
	Tussionex	180 ml	9/5/88	Nickel Thrifty
	Tussionex	180 ml	9/16/88	Nickel Thrifty
	Tussionex	180 ml	10/8/88	Nickel Thrifty
	Percodan	50	12/10/85	Nickel Thrifty
	Percodan	50	2/3/86	Nickel Thrifty
	Tussionex	180 ml	2/18/86	Nickel Thrifty
	Tussionex	180 ml	3/4/86	Nickel Thrifty
	Tussionex	180 ml	3/20/86	Nickel Thrifty
	Percodan	50	4/11/86	Nickel Thrifty
	Tussionex	180 ml	4/14/86	Nickel Thrifty
	Tussionex	180 ml	4/22/86	Union
	Percodan	50	5/17/86	Nickel Thrifty
	Tussionex	180 ml	6/18/86	Nickel Thrifty
	Tussionex	180 ml	7/14/86	Nickel Thrifty
	Tussionex	180 ml	7/31/86	Nickel Thrifty
	Tussionex	180 ml	8/19/86	Nickel Thrifty
	Tussionex	180 ml	9/8/86	Nickel Thrifty
	Percocet	50	9/13/86	Union
	Tussionex	180 ml	9/17/86	Nickel Thrifty
	Tussionex	180 ml	9/30/86	Nickel Thrifty
	Percocet	50	10/7/86	Nickel Thrifty
	Percodan	50	10/23/86	Nickel Thrifty
	Percocet	50	12/17/86	Nickel Thrifty
	Tussionex	180 ml	1/3/87	Nickel Thrifty
	Tussionex	180 ml	2/9/87	Nickel Thrifty
	Tussionex	180 ml	2/19/87	Nickel Thrifty
	Percodan	180 ml	2/23/87	Nickel Thrifty
	Tussionex	180 ml	2/27/87	Nickel Thrifty
	Tussionex	180 ml	4/2/87	Nickel Thrifty
	Tussionex	180 ml	4/13/87	Union
	Tussionex	180 ml	4/16/87	Nickel Thrifty
	Tussionex	180 ml	5/5/87	Union
	Percocet	50	5/6/87	Nickel Thrifty
	Tussionex	180 ml	5/22/87	Nickel Thrifty

<u>Patient</u>	<u>Drug</u>	<u>Amount</u>	<u>Date</u>	<u>Pharmacy</u>
G.H. (con't)	Tussionex	180 ml	6/1/87	Nickel Thrifty
	Tussionex	180 ml	6/22/87	Nickel Thrifty
	Tussionex	180 ml	7/8/87	Nickel Thrifty
	Percodan	50	7/16/87	Nickel Thrifty
	Tussionex	180 ml	7/20/87	Nickel Thrifty
	Tussionex	180 ml	8/28/87	Nickel Thrifty
	Tussionex	180 ml	9/14/87	Nickel Thrifty
	Percodan	50	10/3/87	Nickel Thrifty
	Percocet	50	10/19/87	Nickel Thrifty
	Percodan	50	11/9/87	Nickel Thrifty
	Tussionex	180 ml	1/17/88	Nickel Thrifty
	Percodan	30	1/21/88	Nickel Thrifty
	Tussionex	180 ml	2/4/88	Nickel Thrifty
	Tussionex	180 ml	3/11/88	Nickel Thrifty
	Tussionex	180 ml	3/20/88	Nickel Thrifty
	Propoxyphene HCL	60	6/4/88	Nickel Thrifty
	Tussionex	180 ml	4/21/88	Nickel Thrifty
	Propoxyphene HCL	60	5/20/88	Nickel Thrifty
	Tussionex	180 ml	6/4/88	Nickel Thrifty
	Tussionex	180 ml	7/1/88	Nickel Thrifty
D.R.	Percocet	50	10/30/86	Union
	Percocet	50	3/10/87	Union
	Tussionex	180 ml	6/24/87	Nickel Thrifty
	Tussionex	180 ml	7/9/87	Nickel Thrifty
	Percodan	50	7/22/87	Union
	Percocet	50	10/9/87	Union
	Tussionex	6 oz	4/9/87	Walgreen's
	Tussionex	6 oz	5/2/87	Walgreen's
	Tussionex	6 oz	5/21/87	Walgreen's
	Percodan	50	5/27/87	Walgreen's
	Tussionex	6 oz	6/18/87	Walgreen's
	Tussionex	6 oz	7/8/87	Walgreen's
	Tussionex	6 oz	7/20/87	Walgreen's
	Tussionex	6 oz	8/24/87	Walgreen's
	Tussionex	6 oz	9/8/87	Walgreen's
	Percodan	50	9/23/87	Walgreen's
	Tussionex	6 oz	10/21/87	Walgreen's
D.R.	Percodan	50	3/27/87	Nickel Thrifty
	Tussionex	6 oz	12/13/86	Walgreen's
	Tussionex	6 oz	3/5/87	Walgreen's
D.R.	Percodan	50	9/6/85	Nickel Thrifty
	Percodan	50	10/10/86	Union
	Percodan	50	3/31/87	Union
D.R.	Roxicet	50	5/26/87	Union

<u>Patient</u>	<u>Drug</u>	<u>Amount</u>	<u>Date</u>	<u>Pharmacy</u>
M.R.	Percodan	50	1/10/86	Union
	Percodan	50	4/10/86	Union
	Percocet	50	9/26/86	Union
	Percocet	50	12/22/86	Union
	Tussionex	180 ml	4/16/87	Nickel Thrifty
	Percocet	50	4/20/87	Union
	Tussionex	180 ml	4/27/87	Nickel Thrifty
	Tussionex	180 ml	6/5/87	Union
	Tussionex	180 ml	6/15/87	Union
	Percocet	50	6/16/87	Nickel Thrifty
	Percodan	30	12/11/87	Nickel Thrifty
L.F.	Percodan	50	11/14/85	Union
	Percodan	50	4/7/86	Union
	Phazyme	30	10/14/86	Union
(Generic Donnatal)	Hysophen	50	12/23/86	Union
	Percodan	50	12/23/86	Union
	Percodan	50	4/11/87	Union
	Hysophen	50	4/11/87	Union
	Hysophen	100	9/15/87	Union
(Replace Percodan)	Roxiprin	50	9/15/87	Union
	Percodan	50	12/7/87	Union
	Donnatal	100	12/7/87	Union
	Percodan	30	2/29/88	Union
A.J.	Percodan	50	7/26/85	Nickel Thrifty
	Percodan	50	8/19/85	Nickel Thrifty
	Percodan	50	9/23/85	Nickel Thrifty
	Percodan	50	11/5/85	Nickel Thrifty
	Percodan	50	11/19/85	Nickel Thrifty
	Percodan	50	12/24/85	Nickel Thrifty
	Tussionex	180 ml	1/10/86	Nickel Thrifty
	Percodan	50	2/6/86	Nickel Thrifty
	Fiorinal	100	6/7/86	Nickel Thrifty
	Percodan	50	8/19/86	Nickel Thrifty
	Percodan	50	9/18/86	Nickel Thrifty
	Seconal Sodium 100 mg.	50	10/3/86	Nickel Thrifty
	Cafergot	30	10/10/86	Nickel Thrifty
	Talwin NX	50	10/30/86	Nickel Thrifty
	Tussionex	180 ml	1/19/87	Union
	Percocet	50	3/6/87	Nickel Thrifty
	Tussionex	180 ml	5/4/87	Nickel Thrifty
	Percodan	50	7/28/87	Nickel Thrifty
	Percodan	50	8/28/87	Union
	Tussi-Organidin	180	3/29/88	Nickel Thrifty
	Cafergot	20	4/12/88	Nickel Thrifty
	Cafergot	20	5/19/88	Nickel Thrifty

<u>Patient</u>	<u>Drug</u>	<u>Amount</u>	<u>Date</u>	<u>Pharmacy</u>
R.J.	Percodan	30	5/23/85	Nickel Thrifty
	Tussionex	180 ml	5/23/85	Nickel Thrifty
	Tussionex	180 ml	6/13/85	Nickel Thrifty
	Tylox	30	6/13/85	Nickel Thrifty
	Tylox	30	7/2/85	Nickel Thrifty
	Tussionex	180 ml	7/11/85	Nickel Thrifty
	Tussionex	180 ml	7/26/85	Nickel Thrifty
	Percodan	50	8/3/85	Nickel Thrifty
	Tussionex	180 ml	8/19/85	Nickel Thrifty
	Tussionex	180	9/23/85	Nickel Thrifty
	Percodan	50	10/14/85	Nickel Thrifty
	Tussionex	180	10/25/85	Nickel Thrifty
	Seconal Sodium 100 mg.	30	11/7/85	Nickel Thrifty
	Tussionex	180 ml	11/22/85	Nickel Thrifty
	Percodan	50	12/2/85	Nickel Thrifty
	Tussionex	180 ml	12/2/85	Nickel Thrifty
	Percodan	50	1/7/86	Nickel Thrifty
	Omnipen	21	1/10/86	Nickel Thrifty
	Percodan	50	2/27/86	Nickel Thrifty
	Seconal Sodium 100 mg.	30	3/13/86	Nickel Thrifty
	Tussionex	180 ml	3/21/86	Nickel Thrifty
	Tylox	30	3/21/86	Nickel Thrifty
	Tussionex	180 ml	5/20/86	Nickel Thrifty
	Percodan	50	7/7/86	Nickel Thrifty
	Tussionex	180 ml	7/31/86	Nickel Thrifty
	Percodan	50	8/4/86	Nickel Thrifty
	Tussionex	180 ml	8/4/86	Nickel Thrifty
	Cafergot	30	8/4/86	Nickel Thrifty
	Seconal	30	9/4/86	Nickel Thrifty
	Percodan	50	9/4/86	Nickel Thrifty
	Tussionex	180 ml	9/4/86	Nickel Thrifty
	Cafergot	30	9/18/86	Nickel Thrifty
	Percodan	50	10/3/86	Nickel Thrifty
	Tussionex	180 ml	10/3/86	Nickel Thrifty
	Percodan	50	10/30/86	Nickel Thrifty
	Hydroxyzine HCL 50 mg.	20	11/4/86	Nickel Thrifty
	Ritalin, 20 mg	30	11/7/86	Nickel Thrifty
	Percodan	50	11/24/86	Nickel Thrifty
	Cafergot	30	11/25/86	Nickel Thrifty
	Tussionex	180 ml	12/1/86	Nickel Thrifty
	Sectral, 400 mg	30	12/8/86	Nickel Thrifty
	Acetaminophen #4	30	12/8/86	Nickel Thrifty
	Seconal Sodium 100 mg.	30	12/8/86	Nickel Thrifty

<u>Patient</u>	<u>Drug</u>	<u>Amount</u>	<u>Date</u>	<u>Pharmacy</u>
R.J. (con't)	Percodan	50	12/19/86	Nickel Thrifty
	Tussionex	180 ml	1/9/87	Nickel Thrifty
	Tussionex	180 ml	1/22/87	Nickel Thrifty
	Tussionex	180 ml	2/6/87	Nickel Thrifty
	Seconal Sodium 100 mg.	30	2/23/87	Nickel Thrifty
	Percodan	30	2/23/86	Nickel Thrifty
	Tussionex	180 ml	3/2/87	Nickel Thrifty
	Tussionex	180 ml	3/12/87	Nickel Thrifty
	Percocet	30	3/16/87	Nickel Thrifty
	Percocet	30	4/3/87	Nickel Thrifty
	Seconal Sodium 100 mg.	30	4/5/87	Nickel Thrifty
	Percodan	50	4/13/87	Nickel Thrifty
	Percocet	50	5/1/87	Nickel Thrifty
	Percocet	30	4/3/87	Nickel Thrifty
	Tussionex	180 ml	5/15/87	Nickel Thrifty
	Percocet	50	5/18/87	Nickel Thrifty
	Tussionex	180 ml	5/28/87	Nickel Thrifty
	Tussionex	180 ml	6/22/87	Nickel Thrifty
	Percocet	50	6/22/87	Nickel Thrifty
	Seconal Sodium 100 mg.	30	7/8/87	Union
	Percodan	50	7/21/87	Nickel Thrifty
	Tussionex	180 ml	8/18/87	Nickel Thrifty
	Percocet	50	8/28/87	Nickel Thrifty
	Percodan	50	9/24/87	Nickel Thrifty
	Percodan	50	10/15/87	Nickel Thrifty
	Percodan	50	11/30/87	Nickel Thrifty
	Percodan	50	12/28/87	Union
	Tussionex	180 ml	1/14/88	Nickel Thrifty
	Tylox	30	4/12/88	Nickel Thrifty
	Tylox	30	5/15/88	Nickel Thrifty
	Tussionex	180 ml	5/5/88	Nickel Thrifty
	Tylox	30	5/31/88	Nickel Thrifty
	Tylox	30	6/23/88	Nickel Thrifty
	Inderal, 20 mg.	30	7/8/88	Nickel Thrifty
K.T.	Percodan	50	11/4/85	Union
	Seconal Sodium 100 mg.	30	11/7/85	Union
	Percodan	50	11/22/85	Nickel Thrifty
	Percodan	50	1/28/86	Nickel Thrifty
	Tylox	50	4/9/86	Nickel Thrifty
	Talwin NX	50	6/3/86	Union
	Talwin NX	50	7/29/86	Nickel Thrifty
	Oxycodone/ASA	50	10/10/86	Nickel Thrifty
	Talwin	50	11/25/86	Nickel Thrifty

<u>Patient</u>	<u>Drug</u>	<u>Amount</u>	<u>Date</u>	<u>Pharmacy</u>
K.T. (con't)	Oxycodone/ASA	50	4/3/87	Nickel Thrifty
	Percodan	50	4/21/87	Nickel Thrifty
	Percodan	50	10/15/87	Union
	Oxycodone/APAP			
	5 mg.	50	11/9/87	Nickel Thrifty
L.T.	Tussionex	60	3/9/87	Nickel Thrifty
	Tussionex	120	3/10/87	Nickel Thrifty
	Talwin NX	50	4/5/87	Nickel Thrifty
	Oxycodone/APAP			
	5 mg.	50	5/28/87	Nickel Thrifty
	Percocet	50	7/29/87	Union
	Percodan	50	8/18/87	Nickel Thrifty
	Oxycodone/APAP			
	5 mg.	50	9/11/87	Nickel Thrifty
J.W.	Keflex, 250 mg.	28	10/4/85	Nickel Thrifty
	Ativan, 2 mg	60	10/4/85	Nickel Thrifty
	Novafed A caps	30	10/4/85	Nickel Thrifty
	Soma Compound	100	10/4/85	Nickel Thrifty
	Tussend	120	10/4/85	Nickel Thrifty
	Fiorinal	100	10/4/85	Nickel Thrifty
	Darvocet-N 100	50	10/11/85	Nickel Thrifty
	Percodan	50	10/18/85	Nickel Thrifty
	Tussend	120	10/18/85	Nickel Thrifty
	Darvocet-N 100	50	10/21/85	Nickel Thrifty
	Ativan, 2 mg	60	10/21/85	Nickel Thrifty
	Atarax, 50 mg	50	10/24/85	Nickel Thrifty
	Soma Compound	100	10/24/85	Nickel Thrifty
	Fiorinal	100	10/24/85	Nickel Thrifty
	Ionamin, 30 mg	30	10/28/85	Nickel Thrifty
	Atarax, 50 mg	50	10/31/85	Nickel Thrifty
	Tussionex	180	10/31/85	Nickel Thrifty
	Tussend	120	11/5/85	Nickel Thrifty
	Valium, 10 mg	30	11/5/85	Nickel Thrifty
	Fiorinal	100	11/5/85	Nickel Thrifty
	Valium, 10 mg	60	11/26/85	Nickel Thrifty
	Tussend	120	12/5/85	Nickel Thrifty
	Darvocet-N 100	50	12/10/85	Nickel Thrifty
	Ativan, 2 mg	60	12/16/85	Nickel Thrifty
	Tussionex	180	12/27/85	Nickel Thrifty
	Percocet	50	1/6/86	Nickel Thrifty
	Fastin, 30 mg	30	1/6/86	Nickel Thrifty
	Tussionex	280	1/6/86	Nickel Thrifty
	Ativan, 2 mg	60	2/7/86	Nickel Thrifty
	Darvocet-N 100	50	2/20/86	Nickel Thrifty
	Keflex, 250 mg	28	2/20/86	Nickel Thrifty
	Valium, 10 mg	60	2/20/86	Nickel Thrifty
	Donnatal	100	2/20/86	Nickel Thrifty
	Tussionex	180	2/26/86	Nickel Thrifty
	Percocet	50	3/13/86	Nickel Thrifty
	Darvocet-N 100	50	3/18/86	Nickel Thrifty

<u>Patient</u>	<u>Drug</u>	<u>Amount</u>	<u>Date</u>	<u>Pharmacy</u>
J.W.	Percocet	50	4/10/86	Nickel Thrifty
(con't)	Percocet	50	5/9/86	Nickel Thrifty
	Percocet	50	6/3/86	Nickel Thrifty
	Percocet	50	8/4/86	Nickel Thrifty
	Ativan, 2 mg	45	9/20/86	Nickel Thrifty
	Novafed	20	9/20/86	Nickel Thrifty
	Novafed	20	9/29/86	Nickel Thrifty
	Tussi-Organidin	180	9/29/86	Nickel Thrifty
	Percocet	50	9/30/86	Nickel Thrifty
	Percocet	50	10/25/86	Nickel Thrifty
	Tussend	180	10/25/86	Nickel Thrifty
	Desyrel Dividose	30	11/3/86	Nickel Thrifty
	150 mg			
	Novafed	30	11/24/86	Nickel Thrifty
	Phenergan			
	w/Codeine	180	11/28/86	Nickel Thrifty
	Darvocet-N 100	30	11/28/86	Nickel Thrifty
	Percocet	50	12/29/86	Nickel Thrifty
	Lorazepam, 2mg	60	2/28/87	Nickel Thrifty
	Percocet	50	3/20/87	Nickel Thrifty
	Soma Compound	50	4/13/87	Nickel Thrifty
	Tussionex	180	5/29/87	Nickel Thrifty
	Tylenol #3	30	6/3/87	Nickel Thrifty
	Soma Compound	50	6/3/87	Nickel Thrifty
	Benadryl, 50 mg	30	6/3/87	Nickel Thrifty
	Donnatal	50	7/14/87	Nickel Thrifty
	Tussionex	180	7/21/87	Nickel Thrifty
	Percodan	50	7/21/87	Nickel Thrifty
	Soma Compound	100	8/25/87	Nickel Thrifty
	Desyrel Dividose	30	10/25/87	Nickel Thrifty
	150 mg			
	Tussionex	180	12/11/87	Nickel Thrifty
	Darvocet-N 100	50	4/15/88	Nickel Thrifty

RH:vec
 ATY-1719

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 Medical 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 Medical 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 Medical Examining Board.

The date of mailing of this decision is September 30, 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 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) If, unless 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.