

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

TOBIN DRUGS, and,
THOMAS R. JONES, R.Ph.,
RESPONDENTS.

FINAL DECISION AND ORDER
91 PHM 002

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

Tobin Drugs
25260 75th Street
Paddock Lake, WI 53168

Thomas R. Jones, R.Ph.
301 Timber Lane
Lake Geneva, WI 53147

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

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

The parties in this matter agree to the terms and conditions of the
attached Stipulation as the final decision of this matter, subject to the
approval of the Board. The Board has reviewed this Stipulation and considers
it acceptable.

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

FINDINGS OF FACT

1. Thomas R. Jones (D.O.B. 11/01/52) is duly licensed in the state of
Wisconsin as a pharmacist (license #9018). This license was first granted on
June 29, 1976. .

2. Thomas R. Jones' latest address on file with the Department of
Regulation and Licensing is 301 Timber Lane, Lake Geneva, WI 53147

3. Tobin Drugs at all times relevant to this proceeding was duly licensed in the state of Wisconsin as a pharmacy (license# 6931). At all times relevant hereto, Thomas R. Jones was the managing pharmacist of Tobin Drugs of Paddock Lake.

4. An audit of the pharmacy's Schedule II prescriptions conducted June 16, 1992 revealed that the pharmacy failed to maintain an accurate inventory of Demerol/meperidine 50 mg. tablets.

5. Records of the pharmacy show that 100 one mg tablets of Dilaudid were received October 13, 1989. According to pharmacy records none of the Dilaudid had been dispensed or otherwise distributed; however none of the drug could be accounted for by the managing pharmacist.

CONCLUSIONS OF LAW

By the conduct described above, Respondents are subject to disciplinary action against their license to practice pharmacy in the state of Wisconsin, pursuant to Wis. Stats. sec. 450.10(1), and Wis. Adm. Code sec. Phar 8.02(2) and 10.03(2). Such conduct constitutes unprofessional conduct within the meaning of the Wisconsin Statutes and Administrative Code.

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

The Board is authorized to enter into the attached stipulation pursuant to Wis. Stats. sec. 227.44(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. The attached stipulation is accepted.
2. Tobin Drugs of Paddock Lake and Thomas R. Jones, R.Ph., are each reprimanded for their unprofessional conduct in this matter.
3. Thomas R. Jones shall, within 60 days of the date of this Order successfully complete the Wisconsin Pharmacy Jurisprudence Examination (which may, at the Respondent's option be taken through the PLATO professional development center. Only two attempts during this period shall be permitted). Examination results shall be reported directly to the Board. In the event the Respondent fails to receive a passing score on the examination, his license to practice pharmacy shall, without further action of the Board be LIMITED in that he shall not act as the managing pharmacist of any pharmacy until he has successfully completed both the Federal Drug Law Examination and the Wisconsin Pharmacy Jurisprudence Examination.

4. Respondents shall pay the costs of the investigation and prosecution of this matter in the sum of \$ 250.00

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

This Order shall become effective upon the date of its signing.

WISCONSIN PHARMACY EXAMINING BOARD

BY:

Thomas M. Gargul
a member of the Board

Date

12/8/92

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
TOBIN PHARMACY, and,	:	91 PHM 002
THOMAS R. JONES, R.Ph.,	:	
RESPONDENTS	:	

It is hereby stipulated between Tobin Drugs, by its duly authorized representative, Thomas R. Jones, R.Ph., personally on his own behalf and James W. Harris, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

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

2. Respondents understand that by the signing of this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; 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 them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondents are aware of their right to seek legal representation and have been provided the opportunity to seek legal advice prior to signing this stipulation.

4. Respondents agree to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this stipulation agree that the attorney for the Division of Enforcement may appear before the Board for the purpose of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberation concerning the stipulation.

7. The Division of Enforcement joins Respondents in recommending that the Wisconsin Pharmacy Examining Board adopt this stipulation and issue the attached Final Decision and Order.

Jim Hipp, V-P
Tobin Drugs, by:

11/10/92
Date

Thomas R. Jones
Thomas R. Jones R.Ph.

11/10/92
Date

James W. Harris
James W. Harris, Attorney
Division of Enforcement

November 30, 1992

NOTICE OF APPEAL INFORMATION

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

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

1. Rehearing.

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

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

2. Judicial Review.

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

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

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

The date of mailing of this decision is December 10, 1992.