

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

FILE COPY

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

MICHAEL R. RYNDERS, R.PH.
RESPONDENT.

87 PHM 52

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

Michael R. Rynders, R.Ph.
W277-N2575 Rocky Point Road
Pewaukee, WI 53072

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. Respondent Michael R. Rynders is and was at all times relevant to the facts set forth herein a registered pharmacist licensed in the State of Wisconsin pursuant to license #9808.

2. At all times material to the matters set forth herein, respondent was the managing pharmacist of ValuCare Pharmacy, 4777 South Packard Avenue, Cudahy, Wisconsin, formerly at 3604 East College Avenue, Cudahy, Wisconsin, and formerly known as Union Prescription Center, a licensed pharmacy, where all of the activity described herein took place.

3. On and between 8/13/79 and 2/27/80, respondent accepted and filled purported prescriptions from an adult person representing herself as the daughter of one Margaret Hickey (for whom the prescriptions were purportedly written), on the following schedule. These prescriptions were for dilaudid, a schedule II controlled substance. The presenting person stated that these were for her mother, although the date of birth for the patient on

respondent's profile was stated as 1953. In fact, the prescriptions were written upon a stolen prescription pad of a retired physician, and were not valid. The presenting person was taking them herself and selling them. All of these had dosage instructions of "1 qid prn" (take one up to four times per day as needed).

8/13	36	[9 day supply: new Rx after 7 days]
8/20	36	[9 day supply: new Rx after 7 days]
8/27	36	
10/9	36	[9 day supply: new Rx after 7 days]
10/16	36	[9 day supply: new Rx after 7 days]
10/23	36	[9 day supply: new Rx after 6 days]
10/29	36	[9 day supply: new Rx after 9 days]
11/7	36	[9 day supply: new Rx after 5 days]
11/12	36	[9 day supply: new Rx after 8 days]
11/20	36	[9 day supply: new Rx after 4 days]
11/24	16	[4 day supply: new Rx after 2 days]
11/26	60	[15 day supply: new Rx after 12 days]
12/7	60	[15 day supply: new Rx after 13 days]
12/20	60	[15 day supply: new Rx after 14 days]
1/3	60	[15 day supply: new Rx after 13 days]
1/16	60	[15 day supply: new Rx after 9 days]
1/25	60	[15 day supply: new Rx after 8 days]
2/2	16	[4 day supply: new Rx after 5 days]
2/7	60	[15 day supply: new Rx after 7 days]
2/14	100	[25 day supply: new Rx after 11 days]
2/25	100	(script dated 2/27, endorsed as dispensed 2/27, but profile says 2/25)

1,012 Diluadid were dispensed to this abuser/diverter.

4. On the following dates, respondent supplied the following medications to Verlestra and/or Richard Rynders, his parents, without a properly documented prescription or order.

7/28/86	Dyazide (2 Rxes)
7/28/86	Naprosyn 500 mg
7/28/86	Ativan 1 mg
8/25/86	Benadryl
8/25/86	Naprosyn 500 mg
8/25/86	Feldene 20 mg
8/25/86	Benadryl 50 mg (diphenhydramine dispensed)
9/23/86	Dyazide
9/23/86	Naprosyn 500 mg
9/23/86	Feldene 20 mg
9/23/86	Benadryl 50 mg (diphenhydramine dispensed)
10/12/86	K-Lyte
10/23/86	K-Lyte
10/23/89	Feldene 20 mg
10/23/86	Naprosyn 500 mg

10/23/89	Ativan 1 mg (2 Rxes)
10/23/86	Benadryl 50 mg (diphenhydramine dispensed)
10/23/86	Ditropan (refill of a 9/23 NR script)
11/20/86	Ditropan (refill of a 9/23 NR script)
11/20/86	Naprosyn 500 mg
11/20/86	K-Lyte
11/20/86	Feldene 20 mg
11/20/86	Benadryl 50 mg (diphenhydramine dispensed)
11/20/86	Ativan 1 mg (2 Rxes)
11/20/86	Lidex E 60 mg
11/20/86	Zantac 150 mg
12/19/86	Zantac 150 mg
12/19/86	Naprosyn 500 mg
12/19/86	Dyazide
12/19/86	K-Lyte
12/19/86	Feldene 20 mg
12/19/86	Ditropan (refill of a 9/23 NR script)
12/19/86	Ativan 1 mg (2 Rxes)
12/19/86	Lidex E 60 mg

5. On or near the following dates, respondent billed WIPA, as an agent for an insurance company, for the following medications for the indicated patients, and indicated that he did not substitute generic equivalents (as otherwise required by the insurance policy) because the physician had ordered that no substitutions be made. In fact such an order was not properly recorded on the prescription.

8/25/86	K-Lyte (V.R.) (Refilled on 9/23, 10/23, and 12/19)
8/25/86	Thyroid (T.P.) (Refilled on 10/20 and 11/24)
8/25/86	Ativan (R.R.) (Refilled on 9/23)
11/21/86	Dilantin Kapseal (J.S.)
10/24/86	Ismelin 10 mg (E.M.) (Refilled on 11/22)
10/23/86	Ativan (R.R.) (Refilled on 10/23, 11/20 twice, and 12/19 twice)

6. On or about November 8, 1988, respondent sold a 4 oz bottle of terpin hydrate with codeine, a schedule V controlled substance without a prescription, and permitted the purchaser to record his own name and address, and the name and quantity of substance sold.

7. On December 6, 1988, respondent failed to have any biennial inventory of controlled substances completed and on hand.

8. On and between 1/7/87 and 5/24/88, respondent sold 48 bottles of Schedule V codeine-containing substance to R.B., without a prescription.

9. On and between 2/18/87 and 5/9/88, respondent sold 64 bottles of Schedule V codeine-containing substance to Robert B., without a prescription.

10. On and between 5/15/87 and 12/9/87, respondent sold 24 bottles of Schedule V codeine-containing substance to Andy C., without a prescription.

11. On and between 12/29/86 and 3/3/88, respondent sold 33 bottles of Schedule V codeine-containing substance to Kelly D., without a prescription.

12. On and between 3/21/87 and 5/6/88, respondent sold 31 bottles of Schedule V codeine-containing substance to Elizabeth E., without a prescription.

13. On and between 1/15/87 and 5/23/88, respondent sold 48 bottles of Schedule V codeine-containing substance to R.L.E., without a prescription.

14. On and between 12/29/86 and 5/10/88, respondent sold 31 bottles of Schedule V codeine-containing substance to Claudia G., without a prescription.

15. On and between 1/5/87 and 4/30/88, respondent sold 31 bottles of Schedule V codeine-containing substance to Richard G., without a prescription.

16. On each of the following dates, respondent sold a bottle of Schedule V codeine-containing substance to the same Richard G., without a prescription: 7/18/91, 8/19/91, 9/16/91, 11/13/91, 2/10/92, and 7/1/92.

17. On and between 11/7/87 and 5/31/88, respondent sold 14 bottles of Schedule V codeine-containing substance to Dave H., without a prescription.

18. On and between 12/29/86 and 5/2/88, respondent sold 58 bottles of Schedule V codeine-containing substance to Christine H., without a prescription.

19. On and between 11/9/86 and 4/6/88, respondent sold 11 bottles of Schedule V codeine-containing substance to Frank K., without a prescription.

20. On and between 12/24/86 and 5/31/88, respondent sold 70 bottles of Schedule V codeine-containing substance to Pedro M., without a prescription.

21. On and between 12/23/86 and 5/21/88, respondent sold 24 bottles of Schedule V codeine-containing substance to John M., without a prescription.

22. On and between 5/13/87 and 4/20/88, respondent sold 21 bottles of Schedule V codeine-containing substance to Dave N., without a prescription.

23. On and between 12/23/86 and 3/21/87, respondent sold 10 bottles of Schedule V codeine-containing substance to Clara P., without a prescription.

24. On and between 1/19/88 and 5/31/88, respondent sold 22 bottles of Schedule V codeine-containing substance to Dale P., without a prescription.

25. On each of the following dates, respondent sold 2 bottles of Schedule V codeine-containing substance to the same Dale P., without a prescription.: 11/4/91, 1/9/92, 2/4/92, 3/3/92, and 7/2/92.

26. On August 12, 1987, respondent sold two 4 ounce bottles of Schedule V codeine-containing substance to Dan W., without a prescription.

27. On September 9, 1987, respondent sold two 4 ounce bottles of Schedule V codeine-containing substance to Dan W., without a prescription.

28. On and between 6/19/87 and 5/10/88, respondent sold 15 bottles of Schedule V codeine-containing substance to Dan W., without a prescription.

29. On and between 3/27/87 and 12/18/87, respondent sold 21 bottles of Schedule V codeine-containing substance to Dale W., without a prescription.

30. On 7/27/92, respondent either personally or through his subordinate filled a written prescription for Ventolin syrup for patient Seth M., a child and the son of patient Christine M. (see ¶30, above). The prescription contained the following dosage instructions: 2 ½ ml, by mouth, four times per day. The medication was delivered to the patient's mother without a consultation and with a label that read: "Take 2 ½ teaspoonsful by mouth four times daily."

CONCLUSIONS OF LAW

31. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to §450.10, Wis. Stats.

32. The Board is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

33. The board considers ¶3 for purposes of level of discipline only. Because of the age of the allegations, the board, in its prosecutorial discretion, does not conclude that respondent should be disciplined for this conduct.

34. The conduct described in paragraphs 4-30, above, violated one or more of the following: (¶4) §§161.38(3)[as to Ativan], 450.10(1)(a)2. and 6., and 450.11(1), (5) and (7)(c) Wis. Stats. (1985-86), and § Phar 10.03(3), (4), and (8), Wis. Adm Code (1983) and 21 CFR 1306.21(a)[as to Ativan]; (¶5) §450.10(1)(a)7., Wis. Stats.; (¶6) §161.23(4), Wis. Stats.; (¶7) § Phar 8.02(2), Wis. Adm. Code; (¶¶8-29) §161.23(1) and 161.38(4), Wis. Stats. and § Phar 10.03(1),(3),(4), and (5), Wis. Adm. Code (1987); and (¶30) §§ Phar 7.01(1)(b) and (e) 8.02(2)(e)1., 8.08(1), and 10.03(2), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

35. This order concludes all matters in file 87 Phm 52 and all Schedule V over-the-counter sales matters through July 14, 1992, as to this respondent.

ORDER

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

IT IS FURTHER ORDERED, that the license of Michael R. Rynders R.Ph., to practice pharmacy is hereby SUSPENDED for 60 days. This suspension is STAYED until April 1, 1993, and shall continue until respondent takes and passes both the Federal Drug Law Examination and the Wisconsin Pharmacy Jurisprudence Examination and pays the costs imposed herein. The state examination may, at respondent's option, be taken through the PLATO professional development center. If the examinations are taken and passed before April 1, 1993, then the suspension shall not take effect. Respondent may not attempt either exam more than twice without permission of the board, which will determine, in its sole discretion, the terms and conditions under which respondent may attempt an examination a third time.

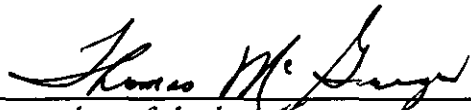
IT IS FURTHER ORDERED, that respondent shall FORFEIT \$10,000, to be paid within 6 months of the date of this order.

IT IS FURTHER ORDERED, that the license of respondent is LIMITED in the following respect: neither respondent nor any pharmacy for which respondent is managing pharmacist shall dispense any schedule V controlled substance except pursuant to a valid prescription from an authorized practitioner.

IT IS FURTHER ORDERED, that respondent shall pay the costs of the investigation and prosecution of this matter, in the amount of \$1500, within 30 days of this order.

Dated this 8th day of December, 1992.

WISCONSIN PHARMACY EXAMINING BOARD

by: 
a member of the board

akt

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

MICHAEL R. RYNDERS, R.PH.
Respondent.

STIPULATION

87 PHM 52

It is hereby stipulated between the above Respondent, personally on his own behalf, and the Department of Regulation and Licensing, Division of Enforcement by its undersigned attorney as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without a hearing on the formal complaint which has been issued in this matter.

2. Respondent is aware of and understands his rights with respect to disciplinary proceedings, including the right to a statement of the allegations against him; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel attendance of witnesses by subpoena; the right to testify personally; 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 under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. By entering into this Stipulation, Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

4. Respondent is aware of his right to seek legal representation and has obtained legal advice prior to execution of this Stipulation.

5. With respect to the attached Final Decision and Order, Respondent denies the facts set forth in the Findings of Fact, but agrees that there is evidence from which the Board could make the findings, and agrees solely for the purposes of settlement and to avoid the expense and uncertainties of litigation that the Board may reach the conclusions set forth in the Conclusions of Law, and may enter the Order.

6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, 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 either the Board or the Respondent has been prejudiced or biased in any manner by the consideration of this attempted resolution.

Stipulation
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7. If the Board accepts the terms of this Stipulation, the parties to this Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

8. Respondent agrees that an attorney for the Division of Enforcement may appear at any deliberative meeting of the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, with respect to this Stipulation but that appearance is limited to statements solely in support of this Stipulation, and to answering questions asked by the Board and its staff, and for no other purpose.

9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

10. Respondent is informed that should the board adopt this stipulation, the board's final decision and order adopting the terms of the stipulation will be published in the Monthly Disciplinary Report issued by the department, and a summary of the order adopting the terms of the stipulation shall be published in the Wisconsin Regulatory Digest issued semiannually by the department, all of which is standard Department policy and in no way specially directed at Respondent.

Mike Rynders
Respondent

11-25-92
Date

Joseph F. Preloznik
Joseph F. Preloznik, Attorney for Respondent

11-25-92
Date

Arthur Thexton
Arthur Thexton, Prosecuting Attorney
Division of Enforcement

11-25-92
Date

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.