

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	:	
	:	FINAL DECISION AND ORDER
WAUTOMA PHARMACY, and,	:	92 PHM 111
KENNETH R. GOING, R.Ph.,	:	
RESPONDENTS	:	

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

Kenneth R. Going, R.Ph.
305 West Main Street
Wautoma, WI 54982

Wautoma Pharmacy
P.O. Box 237
Wautoma, WI 54982-0237

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. Kenneth R. Going (D.O.B. 11/30/32) is duly licensed in the state of Wisconsin as a pharmacist (license # 6762). This license was first granted on August 30, 1958.

2. Mr. Going's latest address on file with the Department of Regulation and Licensing is 305 West Main Street, Wautoma, WI 54982.

3. Wautoma Pharmacy is duly licensed in the state of Wisconsin as a pharmacy (license # 5319). This license was first granted January 6, 1972. The latest address of the pharmacy on file with the Department of Regulation and Licensing is P.O. Box 237, Wautoma, WI 54982. At all times relevant to this action, Kenneth R. Going was the managing pharmacist of Wautoma Pharmacy.

4. Mr. Going keeps the Wautoma Pharmacy open on sundays as a service to the community.

5. The pharmacy also contains a retail sundry sales area. Although the retail area is separate from the professional service area of the pharmacy, there is no secured physical barrier surrounding the professional service area, and nothing to preclude access to the area by unlicensed personnel.

6. Mr. Going admits that on multiple occasions in the past he has left the pharmacy to attend church functions on sunday, with only an unlicensed part-time employee in charge of the premises.

7. Mr. Going has stated that he has tried to make arrangements to have a barrier installed, but that the project has been delayed.

CONCLUSIONS OF LAW

By the conduct described above, Wautoma Pharmacy and Kenneth R. Going are subject to disciplinary action against their license to practice pharmacy in the state of Wisconsin, pursuant to Wis. Stats. sec. 450.10(1)(a) 2, and Wis. Adm. Code sec. Phar 6.04(3)(a) (1) and (2), and Phar 10.03(2).

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. 224.44(5).

ORDER.

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. The attached Stipulation is accepted.
2. Wautoma Pharmacy and Kenneth R. Going are each REPRIMANDED for their unprofessional conduct in this matter.
3. Kenneth R. Going shall, within 60 days of the date of this Order certify to the Board that a suitable barrier has been installed in the pharmacy in accordance with Wis. Adm. Code sec. Phar 6.04(3).

4. Respondents shall pay the costs of the investigation and prosecution of this matter to the Department of Regulation and Licensing in the sum of \$ 250.00 within 60 days of the date of this Order.

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:

Charles H. Dimmel RPh

Board Chair

4-13-93

Date

jwh

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
WAUTOMA PHARMACY, and,	:	92 PHM 111
KENNETH R. GOING, R.Ph.	:	
RESPONDENTS	:	

It is hereby stipulated between Kenneth R. Going, personally on his own behalf and Wautoma Pharmacy, by its duly authorized representative, 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. Respondent understands 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 purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

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

Kenneth R. Going
Kenneth R. Going

3-27-93
Date

Kenneth R. Going
Wautoma Pharmacy, by

3-27-93
Date

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

3/31/93
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 April 14, 1993.