

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

TEAMCARE PHARMACY
CRAIG A. MORRIS R.PH.
STEVEN P. HOEHN, R.PH.,
RESPONDENTS.

93 PHM 96

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

Teamcare Pharmacy
W136-N5285 Campbell Court
Menomonee Falls, WI 53051

Craig A. Morris, R.Ph.
411 Cheshire Lane
Pewaukee, WI 53072

Steven P. Hoehn, R.Ph.
N41-W27725 Ishnala Trail
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 Teamcare Pharmacy is and was at all times material to the facts set forth herein a community pharmacy licensed in the State of Wisconsin pursuant to license #7180. Respondent Craig A. Morris, R.Ph., (dob 2/19/65) 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 #11248, originally granted on 3/23/89, and was the managing pharmacist of respondent Teamcare Pharmacy. Respondent Steven P. Hoehn, R.Ph., (dob 12/5/60) 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 #10785, originally granted on 3/25/86, and was the executive director for respondent Teamcare Pharmacy.

2. The respondents did, on multiple occasions in 1993 and 1994, accept Schedule II controlled substance prescriptions by telephone from an area nursing home under nonemergency circumstances.

CONCLUSIONS OF LAW

3. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to §450.10, Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

4. The conduct described in paragraph 2, above, violated 21 CFR §1306.11(a) and (d), §450.11(1)(a)2., Wis. Stats., and §§ Phar 8.05(4) and 8.09(2)(a), Wis. Adm. Code. Such conduct is grounds for discipline pursuant to §450.10(1)(b), Wis. Stats.

ORDER

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

IT IS FURTHER ORDERED, that Teamcare Pharmacy, Craig A. Morris, R.Ph., and Steven P. Hoehn, R.Ph., are each REPRIMANDED for their conduct in this matter.

IT IS FURTHER ORDERED, that the licenses of Steven P. Hoehn, R.Ph., and Craig A. Morris, R.Ph., to practice pharmacy are hereby LIMITED in the following respect: each respondent shall not be the managing pharmacist of any pharmacy, including on a temporary or acting basis, until respondent takes and passes both the Federal Drug Law Examination and the Wisconsin Pharmacy Jurisprudence Examination. Respondent may not take either examination more than twice without express permission of the board, which shall determine in its discretion under what terms and conditions the respondent may attempt an exam after two attempts. Upon proof of passing the examinations, the staff of the department shall notify respondent of such fact, and this limitation shall be removed without formal action by the board. This limitation is STAYED until August 1, 1995; if either respondent takes and passes the examinations before that date the limitation shall not effect for that respondent.

IT IS FURTHER ORDERED, that the license of respondent Teamcare Pharmacy is LIMITED in the following manner: Teamcare Pharmacy shall implement a written procedure regulating telephonic and fax prescriptions of Schedule II controlled substances under nonemergency and emergency circumstances, which procedure shall comply fully with state and federal law. This procedure shall be approved by a designated member of the Board. A copy of the approved procedure shall be provided to each staff pharmacist of Teamcare Pharmacy (full or part time) within 5 days of this Order or (for those pharmacists commencing employment in the future, including temporary pharmacists) at the time employment is commenced. The procedure shall specifically emphasize to each pharmacist the absolute requirement of compliance. A copy of the procedure shall also be sent to the medical director and director of nursing of each nursing home and other institutions serves, now or in the future. Teamcare shall certify to the Board in writing that it has complied fully with this limitation within 15 days of this Order: Teamcare may petition the Board to remove this limitation after three years: it shall be totally within the discretion of the Board to do so and denial of such a petition shall not be deemed a denial of a license and shall not entitle Teamcare to a hearing under ch. 227, Wis. Stats., or ch. RL 1, Wis. Adm. Code.

IT IS FURTHER ORDERED, that the license of respondent Teamcare Pharmacy is further LIMITED in the following manner: Teamcare Pharmacy shall submit a log to the board of all Schedule II controlled substance prescriptions accepted by telephone, including all dispensing on or after October 1, 1994, such reports to be submitted on January 10, 1995 and each three months thereafter through and including January 10, 1997. The log shall be accompanied by a certification signed by the managing pharmacist stating that such dispensings were in complete compliance with 21 USC §1306.11 and ch. Phar 8, Wis. Adm. Code. A false certification constitutes a violation of this Order.

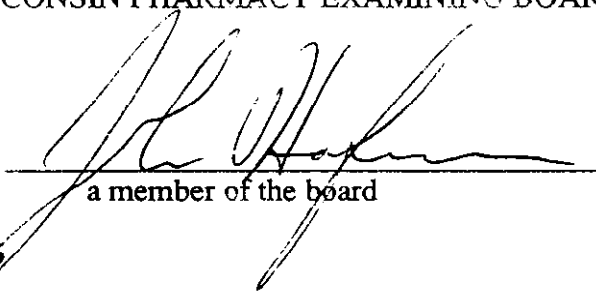
IT IS FURTHER ORDERED, that respondents shall pay COSTS in this matter in the amount of \$300, within 30 days of this order, and are jointly and severally responsible for such payment.

IT IS FURTHER ORDERED, that pursuant to §227.51(3), Wis. Stats., and ch. RL 6, Wis. Adm. Code, if the Board determines that there is probable cause to believe that any respondent has violated any term of this Final Decision and Order, the Board may order that the license of that respondent be summarily suspended pending investigation of the alleged violation.

Dated this 28 day of November, 1994.

WISCONSIN PHARMACY EXAMINING BOARD

by



a member of the board

6246
akt

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST:

TEAMCARE PHARMACY :
CRAIG A. MORRIS R.PH :
STEVEN P. HOEHN, R.PH., :
RESPONDENT. :

STIPULATION

93 PHM 96

It is hereby stipulated between the above Respondent and the undersigned prosecuting attorney for the Division of Enforcement of the Department of Regulation and Licensing, 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 agreement and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation, respondent waives the following rights with respect to disciplinary proceedings: the right to a statement of the allegations against respondent; 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 respondent; the right to call witnesses on respondent's 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 to respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Respondent is aware of respondent's right to seek legal representation and has been provided the opportunity to seek legal advice before signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives 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 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 the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and its staff may have in connection with their deliberations on the case.
7. The Board Advisor in this matter may participate freely in any deliberations of the Board regarding acceptance of this Stipulation and the proposed Final Order, and may relate to the Board any knowledge and views of the case acquired during the investigation.

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

9. Respondent is informed that should the Board adopt this stipulation, the board's final decision and order is a public record and will be published in the Monthly Disciplinary Report issued by the department. A summary of the order will be published in the Wisconsin Regulatory Digest issued semiannually by the Board. This is standard department procedure and in no way specially directed at Respondent.

TEAMCARE PHARMACY, by:

Nathan M Silver VPO 11/1/94
Name and title: NATHAN M SILVER Vice President Date

Craig A. Morris R.Ph. 11-2-94
Craig A. Morris, R.Ph., Respondent Date

Steven P. Hoehn R.Ph. 11-2-94
Steven P. Hoehn, R.Ph., Respondent Date

Ralph V. Topinka 11-7-94
Ralph V. Topinka, Attorney for Respondent Date

Arthur Huxton 11/10/94
Prosecuting Attorney Date
Division of Enforcement

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.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN PHARMACY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

DECEMBER 2, 1994.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)