

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

RUSSELL O. STONE, R.PH.,
STONES PHARMACY INC.,
RESPONDENTS.

94 PHM 94

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

Russell O. Stone, R.Ph.
13380 Kenmar Court
Brookfield, WI 53005

Stones Pharmacy Inc.
14105 W. Greenfield Avenue
New Berlin, WI 53151

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 Russell O. Stone (dob 5/7/30) 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 #6848, originally granted on 4/10/59. At all times material to the facts set forth below, respondent was the managing pharmacist of respondent Stones Pharmacy Inc., a community pharmacy licensed in the State of Wisconsin pursuant to license #5269, originally granted on 5/19/71, where the described activity took place.
2. On 12/11/90, respondents were disciplined by the Board for inappropriate sales of Schedule V substances, and their licenses were limited to prohibit either from selling such substances without a prescription. A \$1,000 forfeiture was imposed upon respondent Russell O. Stone.
3. On August 16, 1994, an investigator for the Board observed a staff pharmacist subordinate of respondent to permit an unlicensed person to transfer three prescriptions to patients, and fail to provide consultations to any of them. The pharmacist also transferred another prescription to a patient without providing any consultation.

4. On October 6, 1994, the pharmacist referred to in paragraph 3 above was observed by a Board investigator to be providing consultations to patients.

5. On October 18, 1994, an investigator for the Board observed a different staff pharmacist of respondents transfer two prescriptions to patients, and fail to provide consultations to either of them. The investigator brought this matter to that pharmacist's attention at that time.

6. On November 29, 1994, an investigator for the Board observed the pharmacist referred to in paragraph 5 above to permit an unlicensed person to transfer prescriptions to two patients, without a consultation by a pharmacist.

7. On January 17, 1995, a board investigator observed the pharmacist referred to in paragraphs 5 and 6 above to be providing consultations to patients.

8. On none of the occasions set forth above was respondent Russell O. Stone personally present in the pharmacy.

CONCLUSIONS OF LAW

9. 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.

10. The conduct described in paragraphs 3, 5, and 6, above, violated § Phar 7.01(1)(e), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes. Each and every patient (or patient's agent) must receive a face-to-face consultation from a registered pharmacist (or supervised intern) at the time a prescribed drug or device is transferred to the patient in the pharmacy, whether the prescription is new or a refilled or renewed prescription. This duty is non-delegable and is not satisfied by having auxiliary staff ask if the patient has questions.

11. Respondents are separately responsible for repeated or persistent violations of the consultation rule by virtue of the duties imposed by §450.09(1), Wis. Stats., and the conduct of respondents is thus also unprofessional within the meaning of the statutes.

ORDER

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

IT IS FURTHER ORDERED, that Russell O. Stone, R.Ph., and Stones Pharmacy Inc. are REPRIMANDED for their unprofessional conduct in this matter.

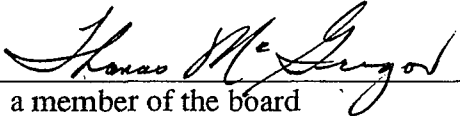
IT IS FURTHER ORDERED, that respondents shall jointly and severally FORFEIT \$500, to be paid within 30 days of this Order.

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

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 respondent has violated any term of this Final Decision and Order, the Board may order that the license of respondent be summarily suspended pending investigation of the alleged violation.

Dated this 9th day of May, 1995.

WISCONSIN PHARMACY EXAMINING BOARD

by: 
a member of the board

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143

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RUSSELL O. STONE, R.P.H.,
STONES PHARMACY INC.,
RESPONDENTS.

STIPULATION
94 PHM 94

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.

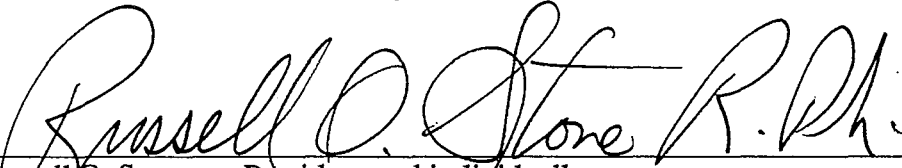
6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and 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.

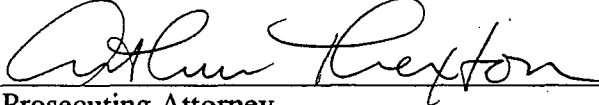
8. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

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.

STONES PHARMACY INC., by:

 4-19-95

Russell O. Stone, as President and individually Date

 4/21/95

Prosecuting Attorney Date
Division of Enforcement