

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

SHOPKO--BELOIT
SHOPKO--DELAN
SHOPKO--JANESVILLE
SHOPKO--MONROE,
RESPONDENTS.

96 PHM 2

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

Shopko Pharmacy
2761 Prairie Avenue
Beloit, WI 53511

Shopko Pharmacy #127
1450 E. Geneva Street
Delavan, WI 53115

Shopko Pharmacy
2500 USH 14
Janesville, WI 53545

Shopko Pharmacy
405 W. Eighth Street
Monroe, WI 53566

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 Shopko Pharmacy--Beloit is and was at all times relevant to the facts set forth herein a community pharmacy licensed in the State of Wisconsin pursuant to license #5975.
2. Respondent did, during the period June 1, 1992 through August 22, 1995, permit Eric Schuster, R.Ph., a pharmacist whose Wisconsin license had expired on May 31, 1992, to work as a pharmacist in the pharmacy on an occasional basis as a relief pharmacist. Respondent was not

aware of the fact that Mr. Schuster had permitted his license to expire, and Schuster's actions were themselves inadvertent. Respondent did not check the status of Schuster.

3. Respondent Shopko Pharmacy--127 is and was at all times relevant to the facts set forth herein a community pharmacy licensed in the State of Wisconsin pursuant to license #7432.

4. Respondent did, during the period March through August 22, 1995, permit Eric Schuster, R.Ph., a pharmacist whose Wisconsin license had expired on May 31, 1992, to work as a pharmacist in the pharmacist on two occasions as a relief pharmacist. Respondent did not check the status of Schuster, who was a new relief pharmacist to this location.

5. Respondent Shopko Pharmacy--Janesville is and was at all times relevant to the facts set forth herein a community pharmacy licensed in the State of Wisconsin pursuant to license #6253.

6. Respondent did, during the spring and summer of 1995, permit Eric Schuster, R.Ph., a pharmacist whose Wisconsin license had expired on May 31, 1992, to work as a pharmacist in the pharmacist between five and ten times as a relief pharmacist. Respondent did not check the status of Schuster, who was a new relief pharmacist to this location.

7. Respondent Shopko Pharmacy--Monroe is and was at all times relevant to the facts set forth herein a community pharmacy licensed in the State of Wisconsin pursuant to license #7376.

8. Respondent did, during the spring of 1995, permit Eric Schuster, R.Ph., a pharmacist whose Wisconsin license had expired on May 31, 1992, to work as a pharmacist in the pharmacist on approximately five occasions as a relief pharmacist. Respondent did not check the status of Schuster, who was a new relief pharmacist to this location.

9. The above incidents occurred because the pharmacist in question had previously worked for Shopko at a time when he was licensed, and was known by or to the managing pharmacists at the pharmacies. That pharmacist allowed his license to lapse through inadvertence. Since learning of the above facts, respondents' owner has implemented a policy of requiring license checks of all pharmacists before permitting any pharmacist to commence work at any of its pharmacies.

CONCLUSIONS OF LAW

10. 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.

11. The conduct described in paragraphs 2, 4, 6, and 8, above, violated § Phar 10.03(10), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

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

IT IS FURTHER ORDERED, that each of the respondents SHOPKO PHARMACY are REPRIMANDED for unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that respondents shall pay \$250 COSTS in this matter, 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 14 day of May, 1996.

WISCONSIN PHARMACY EXAMINING BOARD

George F. Cunningham
a member of the board

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APR 11 1996

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SHOPKO--BELOIT
SHOPKO--DELAVER
SHOPKO--JANESVILLE
SHOPKO--MONROE,
RESPONDENTS.

STIPULATION

96 PHM 2

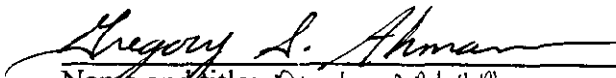
It is hereby stipulated between the above Respondents and the undersigned prosecuting attorney for the Division of Enforcement of the Department of Regulation and Licensing, as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of each Respondent by the Division of Enforcement. Each 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 obtained 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 *Report of Decisions* 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.

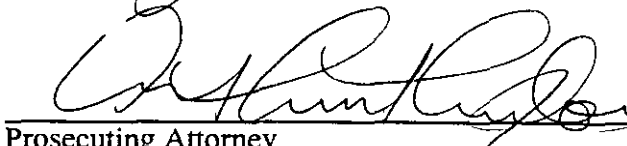
SHOPKO by:


Name and title: Director of Retail Pharmacy

4/19/96
Date


Steven J. Thomas, Attorney for Shopko

4/19/96
Date


Prosecuting Attorney
Division of Enforcement

4/29/96
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.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN PHARMACY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

May 15, 1996

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.)