

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

JEFFREY JOHN OTTESON, R.PH.
RESPONDENT.

95 PHM 28

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

Jeffrey J. Otteson, R.Ph.
807 Blaine Street
Edgerton, WI 53534

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 Jeffrey John Otteson (dob 12/16/59) 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 #11133, originally granted on 8/16/88.

2. On 12/4/93, respondent was reprimanded by the Board for repeated dispensing and labelling errors which evidenced failure to perform adequate checks during the dispensing process. Respondent was required to practice in a setting which required that all prescriptions dispensed or labelled by respondent be checked for accuracy by another pharmacy employee. Periodic reports to the Board were required.

3. On or about 3/6/94, respondent refilled a prescription for an Alupent™ inhaler for patient Norma H. Instead of an Alupent™ inhaler, respondent selected from the supply shelf and then dispensed an Atrovent™ inhaler.

4. On or about 7/7/94, respondent received a prescription for patient Ursula V., who was prescribed Premarin™ 1.25 mg. Respondent selected Premarin™ 0.625 mg from the supply shelf, and an intern filled the prescription with the medication selected by respondent. Respondent was responsible for performing the final check on the prescription, and failed to detect the error.

5. On or about 9/8/94, respondent received a new written prescription for sulfasalazine 500 mg for patient Evelyn W., which a technician erroneously entered into the computer recordkeeping system at his pharmacy as being for salsalate 500 mg. Respondent filled the prescription and labeled the bottle for the patient as being salsalate, and dispensed the medication to the patient, without checking the bottle against the original prescription document. The patient then received salsalate 500 mg on that occasion and for five subsequent refills through January, 1995, when the error was discovered.

6. On or about 10/21/94, respondent received a prescription for patient Karen S., who was prescribed amitriptyline 100 mg. Respondent procured aminophylline 100 mg from the supply shelf instead, which were counted and bottled for the patient by an auxiliary staff person. Respondent was the pharmacist responsible for performing the final check on the prescription, and failed to detect the error.

7. On or about 12/1/94, respondent received and correctly transcribed a prescription by telephone for prednisone 10 mg for patient Wanda M., but the prescription was incorrectly entered into the computer as prednisone 5mg. Respondent dispensed the 5 mg strength instead by selecting the incorrect bottle from the supply shelf, based on the computer entry.

8. On or about 3/24/95, respondent received a prescription order for Ogen™ vaginal cream for patient Alice S., but dispensed Ogen™ 1.5 mg tablets instead. The patient also received estropipate 0.75mg oral tablets under the generic name (Ogen™ is a brand name for estropipate), so instead of receiving the prescribed cream and oral tablet, the patient received two sets of oral tablets of the same medication: one brand name and one generic. The error occurred because respondent failed to notice that the computer printout stated that the dosage form was a cream.

9. On or about 5/9/95, respondent filled a prescription for Levatol™ 20 mg for patient Ken K. with Lescol™ when he selected the incorrect supply bottle from the shelf.

10. In each case, another pharmacy employee also checked respondent's actions and failed to detect the error. In mitigation, respondent is prepared to offer testimony of his managing pharmacist that respondent has reduced his apparent error rate from 0.04% to 0.02% over the past 18 months, and that respondent is considered to be an excellent pharmacist with no more errors than the other pharmacists who have worked at this and other pharmacies owned or managed by the same chain.

11. In response to these incidents, respondent and his employer have adopted a set of policies, attached as Exhibit A, to further reduce errors.

CONCLUSIONS OF LAW

12. 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.

13. The facts set forth in ¶¶3-9, above, may individually and as a whole constitute violations of §450.10(1)(a)6., Wis. Stats., and §§ Phar 7.01(1) and 10.03(2), Wis. Adm. Code, in that they may give rise to an inference that respondent is not in each and every case selecting the drugs needed to dispense a prescription accurately, nor is he making a final check upon the accuracy and correctness of the prescription, nor is he providing a fully adequate consultation to the patient. Such conduct, if proved, would justify an inference of unprofessional conduct within the meaning of the Code and statutes.

14. The facts set forth in §§3-9, above, taken individually and as a whole, may give rise to an inference that respondent has not, in fact, been practicing in a setting and under a protocol which requires that each and every prescription dispensed or labeled by respondent or pursuant to telephoned prescriptions transcribed by respondent, is checked for accuracy by another pharmacy employee before being transferred to the patient or institution. Therefore, if those facts were proved at a hearing, the Board could infer a violation of the Board's order of 12/14/93, and of §450.1(a)8., Wis. Stats. Such findings and conclusions would constitute 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 the Order of the Board issued in the matter of disciplinary proceedings against Jeffrey John Otteson, R.Ph., case 92 PHM 70, dated December 14, 1993, is continued in all respects

IT IS FURTHER ORDERED, that respondent shall practice under the protocol set forth in Exhibit A at all times.

IT IS FURTHER ORDERED, that respondent shall pay COSTS in this matter in the amount of \$900, 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 January 10th, 1996

WISCONSIN PHARMACY EXAMINING BOARD

by: George F. Chintamer
a member of the board

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JEFFREY JOHN OTTESON, R.PH
PROCEDURES TO REDUCE PRESCRIPTION ERRORS

1. Retrieve computer printout and hand-written prescription (if a new prescription) from filling tray and check patient's profile for potential problems. Make note of any special instructions for the consulting pharmacist that he would not normally be aware of.
2. If it is a new prescription, compare the name, strength and directions of the hand-written prescription with those on the computer printout, each time manually placing a check mark next to those items, if correct, on both the computer printout and the hand-written copy. This should allow me to focus more fully on what is written on the two documents and avoid any quick glances that could occur during busy time periods.
3. Whether new or refill, I will then carry all appropriate documents to the shelves and use those to select the correct stock bottle from which to fill the prescription.
4. Before filling the prescription, I will compare name and strength and dosage form and also the NDC number on the computer printout with the information on the stock bottle, again manually placing checks on the document as in step 2 to help maintain my focus. I will then fill the prescription and leave all documents and bottles in the tray to be checked by a pharmacy employee.
5. Once this process has started, I will avoid any external distractions that could interrupt my focus. The staff will be instructed to ask customers to please wait a moment or put calls on hold until I am available.
6. When I am checking a prescription filled by a tech, I will repeat steps 2 through 5, save those involved in retrieving the stock bottle from the shelf. I will also open both the prescription and stock bottles to verify that what's in those bottles are identical.
7. There will be one staff member in charge of checking my work and that will be their primary responsibility until that check process is completed. In all cases, this will be the most experienced staff members or another pharmacist whenever possible.
8. Finally, during consultations, I will try to make a habit of opening the prescription bottle for the customer (especially on refills) to allow both them and me one final check of the drug. If this is not practical (mostly due to customer impatience), I will at least mention the name of the drug for recognition purposes.
9. Take Continuing Pharmaceutical Education courses.

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JEFFREY JOHN OTTESON, R.PH.,
RESPONDENT

STIPULATION
95 PHM 28

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 a hearing on the formal complaint which has been issued in this matter.

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 denies that he has committed any violation of the Board's rules or order, but solely to settle this matter and to avoid the expenses and uncertainties of litigation, 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.

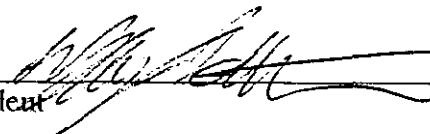
6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and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

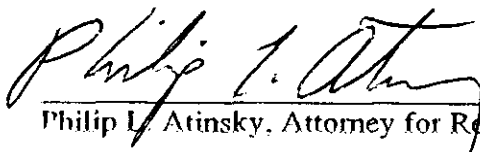
7. The Board Advisor in this matter may participate freely in any deliberations of the Board regarding acceptance of this Stipulation and the proposed Final Order, and may relate to the Board any knowledge and views of the case acquired during the investigation.

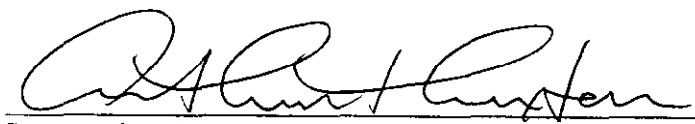
Stipulation
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8. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

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.


Respondent 12-27-95
Date


Philip L. Atinsky, Attorney for Respondent 1-2-96
Date


Prosecuting Attorney 1/8/96
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:

STATE OF WISCONSIN PHARMACY EXAMINING BOARD

1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

January 11, 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.)

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On JANUARY 10, 1996, the PHARMACY EXAMINING BOARD
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$900.00 Case #: 95 PHM 28

The amount of the forfeiture is: _____ Case #: _____

Please submit a check or a money order in the amount of \$ 900.00

The costs and/or forfeitures are due: FEBRUARY 9, 1996

NAME: JEFFREY JOHN OTTESEN LICENSE NUMBER: 040 11133

STREET ADDRESS: 807 BLAINE STREET

CITY: EDGERTON STATE: WI ZIP CODE: 53534

Check whether the payment is for costs or for a forfeiture or both:

X COSTS _____ FORFEITURE

Check whether the payment is for an individual license or an establishment license:

X INDIVIDUAL _____ ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

For Receipting Use Only

#2145 (4/95)

Ch. 440.22, Stats.