

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

ROGER G. IVERSON, R.Ph.
RESPONDENT.

97 PHM 34

LS9810131PHM

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

Roger G. Iverson, R.Ph.
P.O. Box 1477
Eagle River, WI 54521

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 Roger G. Iverson (dob 11/1/48) 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 #8239, originally granted on 1/26/72. At all times relevant to the matters set forth below, respondent was the owner and managing pharmacist of Badger North Pharmacy, Eagle River, Wisconsin, where the conduct set forth below took place.

2. During the period 1995-97, respondent dispensed controlled substances (hydrocodone and lorazepam) to patient C.R., a summer resident of the area. Respondent states that he contacted C.R.'s physician's office whenever C.R. requested medication. Respondent states that he spoke to the physician's nurse, who authorized a refill by saying "O.K. We'll take care of [C.]" Respondent then dispensed either hydrocodone or lorazepam, or both, based upon the patient's past history. Respondent never reduced any of the authorizations to writing, and the only records of dispensing are those contained in respondent's computer profile records.

3. The last prescription the physician has a chart record of authorizing was in July, 1994 when he authorized 100 tablets of Lortab® (hydrocodone) 7.5/750.

4. Respondent did, through 1/20/95 and 5/20/97, dispense Lortab® (hydrocodone) and lorazepam to patient C.R., listing each dispensing as a new prescription not as a refill, as follows:

Description	Qty	Date Dispensed
Lortab 7.5mg	100	1/20/95
Lortab 7.5mg	100	2/03/95
Lortab 7.5mg	100	2/21/95
lorazepam 1mg	100	2/21/95
lorazepam 1mg	100	3/07/95
Lortab 7.5mg	100	3/07/95
Lortab 7.5mg	100	3/21/95
lorazepam 1mg	100	3/21/95
lorazepam 1mg	100	4/08/95
lorazepam 1mg	100	4/17/95
Lortab 7.5mg	100	4/17/95
Lortab 7.5mg	100	5/02/95
lorazepam 1mg	100	5/02/95
lorazepam 1mg	100	5/10/95
Lortab 7.5mg	100	5/10/95
Lortab 7.5mg	100	5/18/95
lorazepam 1mg	100	5/18/95
lorazepam 1mg	100	5/26/95
Lortab 7.5mg	100	5/26/95
Lortab 7.5mg	100	6/12/95
lorazepam 1mg	100	6/12/95
lorazepam 1mg	100	6/30/95
Lortab 7.5mg	100	7/11/95
lorazepam 1mg	100	7/11/95
lorazepam 1mg	100	7/28/95
Lortab 7.5mg	100	7/28/95
Lortab 7.5mg	100	8/17/95
lorazepam 1mg	100	8/17/95
Lortab 7.5mg	100	9/01/95
lorazepam 1mg	100	9/01/95
lorazepam 1mg	100	9/08/95
Lortab 7.5mg	100	9/08/95
Lortab 7.5mg	100	9/15/95
lorazepam 1mg	100	9/15/95
Lortab 7.5mg	100	9/21/95
Lortab 7.5mg	100	9/26/95
lorazepam 1mg	100	9/26/95
Lortab 7.5mg	100	10/04/95
lorazepam 1mg	100	10/04/95
lorazepam 1mg	100	10/19/95
Lortab 7.5mg	100	10/19/95
lorazepam 1mg	100	10/26/95
Lortab 7.5mg	100	11/09/95
lorazepam 1mg	100	11/09/95
lorazepam 1mg	100	11/12/95
Lortab 7.5mg	100	11/12/95
Lortab 7.5mg	100	11/20/95
lorazepam 1mg	100	11/20/95
lorazepam 1mg	100	11/27/95
Lortab 7.5mg	100	12/09/95
Lortab 7.5mg	100	12/21/95
lorazepam 1mg	100	12/21/95

lorazepam 1mg	100	1/04/96
Lortab 7.5mg	100	1/04/96
Lortab 7.5mg	100	1/18/96
lorazepam 1mg	100	1/18/96
lorazepam 1mg	100	1/30/96
Lortab 7.5mg	100	1/30/96
lorazepam 1mg	100	3/12/96
Lortab 7.5mg	100	3/12/96
Lortab 7.5mg	100	4/10/96
lorazepam 1mg	100	4/10/96
lorazepam 1mg	100	5/02/96
Lortab 7.5mg	100	5/02/96
Lortab 7.5mg	100	6/11/96
lorazepam 1mg	100	6/11/96
lorazepam 1mg	100	6/21/96
lorazepam 1mg	100	7/11/96
Lortab 7.5mg	100	7/11/96
Lortab 7.5mg	100	8/06/96
lorazepam 1mg	100	8/06/96
lorazepam 1mg	100	8/22/96
Lortab 7.5mg	100	8/22/96
Lortab 7.5mg	100	8/28/96
Lortab 7.5mg	100	9/14/96
lorazepam 1mg	100	9/14/96
lorazepam 1mg	100	9/19/96
Lortab 7.5mg	100	9/19/96
Lortab 7.5mg	100	10/11/96
lorazepam 1mg	100	10/11/96
lorazepam 1mg	100	10/15/96
Lortab 7.5mg	100	10/15/96
Lortab 7.5mg	100	10/31/96
lorazepam 1mg	100	10/31/96
lorazepam 1mg	100	11/26/96
Lortab 7.5mg	100	11/26/96
Lortab 7.5mg	200	12/03/96
lorazepam 1mg	200	12/03/96
lorazepam 1mg	100	12/17/96
Lortab 7.5mg	100	12/17/96
Lortab 7.5mg	100	1/12/97
lorazepam 1mg	100	1/12/97
lorazepam 1mg	100	1/28/97
Lortab 7.5mg	100	1/28/97
Lortab 7.5mg	200	2/07/97
lorazepam 1mg	200	2/07/97
Lortab 7.5mg	100	3/05/97
lorazepam 1mg	100	3/05/97
lorazepam 1mg	100	3/27/97
Lortab 7.5mg	100	3/27/97
Lortab 7.5mg	100	4/03/97
lorazepam 1mg	100	4/03/97
lorazepam 1mg	200	5/06/97
Lortab 7.5mg	200	5/06/97
Lortab 7.5mg	200	5/20/97
lorazepam 1mg	200	5/20/97

5. At no time had the physician ever written a prescription to patient C.R. for a quantity of 200, yet respondent dispensed 200 tablets of lorazepam, and 200 tablets of Lortab® on multiple occasions, as noted above.

6. The usage directions originally given by the physician were "one tablet every 4 hours prn". If taken as directed, 100 tablets should have lasted 16-17 days. Respondent dispensed on multiple occasions at 3-9 day intervals, as noted above. Additionally, on 8/27/96, respondent dispensed #60 Levo-Dromoran®, a Schedule II analgesic, on the written prescription of the same physician. On 8/22/96 and again on 8/28/96, respondent dispensed hydrocodone as noted above. The Board finds that no reasonable pharmacist would have dispensed Levo-Dromoran® on 8/27/96 or hydrocodone on 8/28/96 under these circumstances without telephoning the physician and being assured that the patient should be receiving these amounts of opiates, but there is no record of respondent having done so, nor do the physician's records indicate that any such call was received.

7. The respondent labeled the prescriptions "take as directed."

CONCLUSIONS OF LAW

A. 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.

B. The conduct of failing to create a hardcopy record for each prescription, as described in paragraph 2, above, violated §§450.10(1)(a)2. and 6., and 450.11(1), Wis. Stats., § Phar 8.05(3), Wis. Adm. Code, and 21 CFR §1306.21(a). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

C. The conduct described in paragraphs 4, 5, and 6, above, violated one or more of the following: §§450.10(1)(a)2. and 6., and 450.11(1) and (5), Wis. Stats., §§ Phar 8.05(2) and 10.03(1), (2), and (3), Wis. Adm. Code, and 21 CFR §1306.21(a). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

D. The conduct described in paragraph 7, above, violated §§ Phar 8.05(3) and 8.08(1), Wis. Adm. Code, and 21 CFR §1306.24(a). 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 Roger G. Iverson, R.Ph., is REPRIMANDED for his unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that the license of respondent to practice pharmacy is hereby LIMITED in the following manner: respondent shall not be a managing pharmacist, nor shall he practice pharmacy in any business entity in which he has an ownership interest, until Respondent takes and passes the Wisconsin edition of the Multistate 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 examination, respondent's license shall be forthwith restored to unlimited status by the staff of the department, with no further action by the board. This limitation is STAYED until April 30, 1999. If he does pass both tests before April 30, 1999, then the limitation shall not take effect.

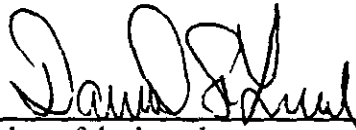
IT IS FURTHER ORDERED, that respondent shall FORFEIT \$5,300, representing \$50 for each improper dispensing, to be paid within 120 days and before any suspension is terminated.

IT IS FURTHER ORDERED, that respondent shall pay COSTS in this matter in the amount of \$600, within 60 days of this order and before any suspension is terminated.

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 October 14, 1998,

13
WISCONSIN PHARMACY EXAMINING BOARD, by:



_____ a member of the board

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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ROGER G. IVERSON, R.Ph.,
RESPONDENT.

STIPULATION
97 PHM 34

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; and the right to petition for rehearing.

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.

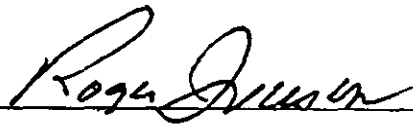
6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and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

7. The Case 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.

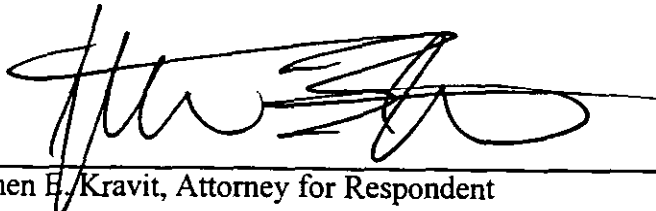
8. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

9. Respondent denies liability in this matter but stipulates that there is an adequate factual basis for the discipline imposed herein, although the Findings of Fact may not appear to justify the entire outcome. The language of the Findings has been negotiated as a matter of compromise between the parties, and respondent agrees not to claim in any forum that the discipline imposed was not justified by the Findings of Fact stated.

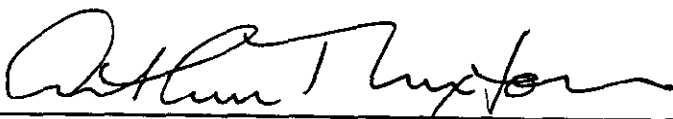
10. Respondent is informed that should the Board adopt this stipulation, the board's final decision and order is a public record and will be published in the monthly Report of Decisions issued by the department. A summary of the order will be published in the Wisconsin Regulatory Digest issued semiannually by the Board. Other reporting as required by law will occur. This is standard department procedure and in no way specially directed at Respondent.



Respondent 9/24/98
Date



Stephen E. Kravit, Attorney for Respondent 10/1/98
Date



Prosecuting Attorney
Division of Enforcement 10/5/98
Date

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 October 13, 1998, 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: \$600.00 Case #: LS9810131PHM

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$600.00

The costs and/or forfeitures are due: December 12, 1998

NAME: Roger G. Iverson, R.Ph. LICENSE NUMBER: 8239

STREET ADDRESS: P.O. Box 1477

CITY: Eagle River STATE: WI ZIP CODE: 54521

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

COSTS FORFEITURE

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

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 (Rev. 9/96)

Ch. 440.22, Stats.

G\BDLS\FM2145 DOC

Committed to Equal Opportunity in Employment and Licensing+

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 October 13, 1998, 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: _____ Case #: _____

The amount of the forfeiture is: \$5,300.00 Case # LS9810131PHM

Please submit a check or a money order in the amount of \$5,300.00

The costs and/or forfeitures are due: February 10, 1999

NAME: Roger G. Iverson, R.Ph. LICENSE NUMBER: 8239

STREET ADDRESS: P.O. Box 1477

CITY: Eagle River STATE: WI ZIP CODE: 54521

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

 COSTS X 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

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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Committed to Equal Opportunity in Employment and Licensing+

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE PHARMACY EXAMINING BOARD

In the Matter of Disciplinary Proceedings Against

Roger G. Iverson, R.Ph.,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On October 14, 1998, I served the Final Decision and Order dated October 13, 1998, and (2) Guidelines for Payment of Costs and/or Forfeitures, LS9810131PHM, upon the Respondent Roger G. Iverson's attorney by enclosing true and accurate copies of the above-described documents in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is Z 233 819 885.


Stephen E. Kravit, Attorney
825 N. Jefferson Street, Suite 500
Milwaukee WI 53202-6495



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 14th day of October, 1998.


Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: STEPHEN E KRAVIT ATTY

You have been issued an Order. For purposes of service the date of mailing of this Order is 10/14/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Order is shown above.

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

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN PHARMACY EXAMINING BOARD

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