

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	<b>FINAL DECISION AND ORDER</b>
	:	
THOMAS J. PHILLIPS, R.PH,	:	LS0211212PHM
RESPONDENT.	:	

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**02 PHM 004**

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

Thomas J. Phillips, R.Ph.  
2211 Hillside Drive  
Delafield, WI 53018

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 Thomas J. Phillips, R.Ph. (d.o.b. 03/13/35), 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 # 6746, originally granted on 04/07/58. At all times relevant to this action Respondent was a staff pharmacist at Kmart store number 3692, Oconomowoc, Wisconsin.

2. Between April 7, 2001, and February 10, 2002, Respondent dispensed the following medications to his spouse without a valid prescription order or other authority from an authorized practitioner, and then created what purported to be a telephoned prescription order for the medications from Dr. MS. The physician had no knowledge of the matter. Most of the prescriptions were submitted for insurance reimbursement.

Date	Drug & Quantity	Insurance Billed
04/07/01	Propoxyphene/120	
04/24/01	Triamt/hctz/100	
05/18/01	Propoxyphene/120	Yes
06/02/01	Diclofenac/100	Yes
06/15/01	Triamt/hctz/100	Yes
06/22/01	Propoxyphene/120	Yes
06/27/01	Diclofenac/100	Yes
07/02/01	Denavir/2	Yes
07/10/01	Propoxyphene/120	Yes
07/23/01	Prozac®/100	Yes
07/27/01	Diclofenac/100	Yes
09/06/01	Propoxyphene/120	Yes
09/20/01	Diclofenac/100	Yes
09/20/01	Norvasc/60	Yes
10/16/01	Propoxyphene/120	Yes
10/24/01	Diclofenac/100	Yes
10/27/01	Prempro/56	Yes
10/28/01	Fluoxetine/60	Yes
11/27/01	Propoxyphene/120	Yes
12/07/01	Norvasc/60	Yes
12/08/01	Fluoxetine/60	Yes
12/08/01	Diclofenac/100	Yes
12/28/01	Cephalexin/60	Yes
12/30/01	Triamt/hctz/100	Yes
01/07/02	Propoxyphene/120	Yes
01/14/02	Prempro/56	Yes
01/14/02	Diclofenac/100	Yes
01/14/02	Cyclobenzaprin/100	Yes
02/05/02	Propoxyphene/120	Yes

3. Between May 18, 2001, and February 9, 2002, Respondent dispensed the following medications to himself without a valid prescription order or other authority from an authorized practitioner, and then created what purported to be a telephoned prescription order for the medications from Dr. MS. The physician had no knowledge of the matter. Most of the prescriptions were submitted for insurance reimbursement.

Date	Drug & Quantity	Insurance Billed
05/18/01	Ibuprofen 800 mg/120	Yes
07/07/01	Ibuprofen 800 mg/120	Yes
07/07/01	Hydrocortizone/30	Yes
09/14/01	Ibuprofen 800 mg/120	Yes
09/20/01	Norvasc/90	Yes
10/17/01	Zestril/100	Yes
10/28/01	Claritin/60	Yes
10/30/01	Ibuprofen 800 mg/120	Yes
10/30/01	Lipitor/90	Yes
12/26/01	Claritin/60	Yes
01/03/02	Norvasc/90	Yes
01/07/02	Hydrochlorothi/100	Yes
01/10/02	Ibuprofen 800 mg/120	Yes
01/14/02	Zestril/100	Yes
01/28/02	Lipitor/90	Yes
02/05/02	Ibuprofen 800 mg/120	Yes

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 described in paragraph 2 and 3, above, violated § 450.10(1)(a)(2) and 450.11(1) and (7)(a) Stats., and Phar. 10.03(1),(2) and (5) 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, Thomas J. Phillips, R.Ph., is REPRIMANDED for his unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that the license of Thomas J. Phillips, R.Ph. to practice as a pharmacist in the state of Wisconsin is SUSPENDED for a period of at least 30 days, and until Respondent certifies the successful completion of the remedial education required by this Order. Respondent shall not be present in the professional service area of any pharmacy during the period of suspension.

IT IS FURTHER ORDERED, that the license of Respondent to practice shall be LIMITED for the period of one year from the date of this Order as follows:

1. Respondent shall certify to the Board the successful completion of the following approved course of continuing education in pharmacy jurisprudence within 30 days of the date of this order. This course requirement shall be in addition to the continuing education required under sec. 450.085 Stats. Respondent will be responsible for making arrangements with the course administrator for enrollment, attendance and completion of the training. Respondent shall be responsible for all costs of the completion of the required training. Immediately upon completion of the required training Respondent shall certify successful completion of the educational requirement to the Wisconsin Pharmacy Examining Board by the method provided in sec. Phar. 16.04 Wis. Adm. Code. All required documentation is to be filed with the Department Monitor, Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935, tel. (608) 267 3817. Upon proof to the Board of the successful completion of this requirement Department staff may remove this limitation without further formal action of the Board.

2. The approved course consists of viewing designated video lectures of course S & A PHM 511, University of Wisconsin School of Pharmacy (Jeanine Mount, PhD, RPh, professor). The video cassettes are on reserve at the pharmacy school library. In addition to the lecture material Respondent shall complete all assigned course readings pertaining to the lectures. Upon completion of the study Respondent shall take and pass written examination(s) as assigned by the course administrator.

3. Respondent shall not act as a managing pharmacist or pharmacist in charge of any pharmacy until Respondent takes and passes the Multistate Jurisprudence Exam. If Respondent intends to act as a managing pharmacist or pharmacist in charge, he must complete this requirement within nine months of the date of this Order, unless the time for completion is extended by Board order. Respondent may not take the exam more than twice without the express permission of the Board, which shall determine in its discretion under what terms and conditions Respondent may attempt to take the examination following two unsuccessful attempts. Upon proof to the Board of successful completion of this requirement Department staff may remove this limitation without further formal action by the Board.

4. Respondent shall not receive, transcribe, process, dispense, or transfer any prescription to or for

himself, his spouse, or other immediate family members.

5. Respondent shall make full restitution to all third party payers of any insurance or other payment made for the prescriptions set forth in paragraphs 2 and 3 of the Findings of Fact. Respondent shall submit proof of restitution to the Board.

6. Respondent shall provide his employer and any prospective employer with a copy of this Order immediately upon issuance, and upon any change in employment.

IT IS FURTHER ORDERED, that Respondent shall pay a FORFEITURE in the amount of \$ 1000.00, within 60 days of this Order to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, that Respondent shall pay COSTS in this matter in the amount of \$ 600.00, within 30 days of this Order to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, that an investigator of the department shall observe the practice of pharmacy at Respondent's practice location, without advance notice to respondent, at a time convenient to the department, but no less than six nor more than twelve months from the date of this Order. Respondent shall cooperate by furnishing respondent's work schedule weekly in advance to the Department Monitor during the term 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 21<sup>st</sup> day of November, 2002.

WISCONSIN PHARMACY EXAMINING BOARD

Susan Sutter

A Member of the board