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STATE OF WISCONSIN

BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
WALLACE L. SIMONS, R.Ph., : ORDER DENYING PETITION
CAROL L. PETERSEN, R.Ph., and : FOR REHEARING
: (SECOND AMENDED
WOMEN'S INTERNATIONAL PHARMACY, INC., : FINAL DECISION AND
RESPONDENTS : ORDER)
: LS9806121PHM

PARTIES

The parties in this matter under Wis. Stats., § 227.44, and Wis. Admin. Code § RL 2.037, and for purposes of review under Wis. Stats., § 227.53, are:

Disciplinary Authority:

Wisconsin Pharmacy Examining Board
1400 East Washington Ave.
Madison, WI 53703

Complainant:

Division of Enforcement
P.O. Box 8935
Department of Regulation and Licensing
Madison, WI 53708-8935

Respondents:

Wallace L. Simons, R.Ph.
P.O. Box 5290
Carefree, AZ 85377

Carol L. Petersen, R.Ph.
2 Marsh Court

Madison, WI 53718

Women's International Pharmacy, Inc. #8131

2 Marsh Court

Madison, WI 53718

The respondents are represented by:

Attorney Colleen O'Connor Patzer

Michael Best & Friedrich, LLP

100 E. Wisconsin Ave

Milwaukee, WI 53202

Attorney Jason T. Lundy

Duane Morris LLC

227 West Monroe Street

Chicago, IL 60606

Milwaukee, WI 53202

Non-party CC to:

Thomas J. Balistreri, Esq.

Wisconsin Attorney General's Office

123 W. Washington- 4th Fl.

Madison, WI 53707-7857

On June 12, 2002, the Wisconsin Pharmacy Examining Board adopted a Second Amended Final Decision and Order in the above referenced matter, following remand from the State of Wisconsin, Circuit Court, Dane County, Branch 1, the Honorable Robert A. DeChambeau, presiding. (Memorandum Decision and Order dated May 3, 2002, remanding the board's Amended Final Decision and Order and the Order Fixing Costs for further action consistent with the court's order of remand.)

At its August 20, 2002, meeting, the Wisconsin Pharmacy Examining Board considered a petition for rehearing in a contested case filed on behalf of the respondents pursuant to sec. 227.49 (1), Wis. Stats., seeking a rehearing of contested case LS-9806121-PHM and the board's Second Amended Final Decision and Order. Not present during the deliberation of this matter and abstaining from participating in the decision were Cynthia Benning, R.Ph., professional member, and John P. Bohlman, R.Ph., professional member.

FINDINGS OF FACT

1. The petition for rehearing does not present a sufficient basis for granting a rehearing based upon a material error of law, fact or the discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been

previously discovered by due diligence. Wis. Stats., §227.49 (3).

2. The Certification of Service affixed to the respondents' Petition for Rehearing certified that the Petition was served on the board via Fax and U.S. Mail on July 3, 2002.
3. The Department of Regulation and Licensing date stamp for the respondents' mailed Petition is stamped as received by the department on July 8.
4. The Second Amended Final Decision and Order was served upon the respondents by mail on June 14, 2002.

CONCLUSIONS OF LAW

1. The petition for rehearing does not present a sufficient basis for granting a rehearing based upon a material error of law, fact or the discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence. Wis. Stats., §227.49 (3).
2. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. Wis. Stats., §227.49 (1).
3. The board may enter an order with reference to the petition for rehearing without a hearing. Wis. Stats., § 227.49 (5).

ORDER

IT IS HEREBY ORDERED that the petition for rehearing in a contested case is denied.

Dated: August 20, 2002

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

Susan L. Sutter, R.Ph.
Chairperson