

# 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	:	
	:	FINAL DECISION AND ORDER
GOLDEN SANDS RESPIRATORY	:	
CARE SERVICES, INC.	:	LS0512071PHM
	:	
RESPONDENT.	:	

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Division of Enforcement Case # 05 PHM 008

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

Golden Sands Respiratory Care Services, Inc.  
220 W. Main St.  
Wautoma, WI 54952

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Pharmacy Examining Board  
Department of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 Pharmacy Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Golden Sands Respiratory Care Services, Inc. (“Golden Sands”) is a pharmacy manufacturer/distributor that supplies home oxygen equipment. Golden Sands was licensed as a distributor from October 8, 1996 until June 7, 2002, at an address of 2001 Riverview Ave Trl, Stevens Point, Wisconsin (license # 844). Golden Sands was licensed as a manufacturer from December 13, 2000 to May 31, 2006 at its current address of 220 W. Main Street, Wautoma, Wisconsin (license # 305)
2. During a routine inspection on February 10, 2005, numerous violations were found, including: no alarm

system, no policy/procedure manual, oxygen storage area was within public access, distributor's license was expired. The owner, James Witucki, was given until March 10, 2005 to install an alarm system and develop a policy manual. The inspector said he would get back to Mr. Witucki regarding the other violations.

3. On March 7, 2005, Mr. Witucki informed the inspector that an alarm system had been installed. Nothing was said regarding the policies/procedures.

4. On March 8, 2005, Mr. Witucki renewed Golden Sands' distributor license. However, he neglected to update the address to the actual location of Golden Sands' business.

5. The inspector mailed a letter to Mr. Witucki dated April 13, 2005, advising him that he must submit a new application for a distributor's license since the renewed license was issued for a Stevens Point, Wisconsin address. The inspector also telephoned Mr. Witucki several times to follow up on the remaining violations, with no response.

6. The inspector mailed Mr. Witucki a letter dated July 6, 2005, giving him a final notice to address the violations by July 22, 2005.

7. On or about July 11, 2005, Mr. Witucki sold Golden Sands to RCS Management Corporation.

8. On July 19, 2005, the Department received two applications, one for a distributor's license and one for a manufacturer's license, for Golden Sands under its new ownership. Those applications are being granted as of the date this Stipulation and Final Decision and Order is signed, contingent upon the agreements contained in this Stipulation and Final Decision and Order.

9. On August 16, 2005, the inspector re-inspected the Golden Sands facility. He confirmed that the alarm system had been installed, and a barrier now separated the oxygen storage area from the public. He was shown a policy manual, but it did not contain policies relating to rotation of stock, disposition of expired stock, and an emergency plan. In addition, no licenses were posted.

10. On August 29, 2005, RCS Management faxed to the inspector the missing policies.

11. RCS Management has been operating without any license since it purchased the business on July 11, 2005.

#### CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 450.10, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. No pharmacy manufacturer or distributor may operate without a current license, pursuant to Wis. Stat. §§ 450.07(1) and 450.07(2), and Wis. Admin. Code § Phar 5.01(3).

3. A manufacturer's license may not be transferred from one establishment to another, nor from one person to another, pursuant to Wis. Admin. Code § Phar 12.03(3).

4. A distributor's license may not be transferred between facilities or persons, pursuant to Wis. Admin. Code § Phar 13.03.

5. Golden Sands, under both former and current ownership, operated a distributor and manufacturing business without a valid license in violation of Phar 10.03(19) and is therefore subject to discipline pursuant to Wis. Stat. § 450.10.

6. By ignoring cited violations, Golden Sands, under its former ownership, engaged in a pharmacy practice that constituted a danger to the health, welfare or safety of the patient or public pursuant to Wis. Admin. Code § Phar 10.03(2) and is therefore subject to discipline pursuant to Wis. Stat. § 450.10

ORDER

IT IS ORDERED:

The license of Golden Sands Respiratory Care Center to practice as a pharmacy manufacturer and distributor in the State of Wisconsin is REPRIMANDED.

IT IS FURTHER ORDERED:

2. Respondent shall, within thirty (30) days from the date of this Order, pay a FORFEITURE in the amount of Two Thousand, Five Hundred Fifty-Six Dollars (\$2,556.00) (representing Two Dollars per day for 1,278 days of operating without a valid license.

3. Respondent shall, within thirty (30) days from the date of this Order, pay the COSTS of this proceeding in the amount of Seven Hundred Dollars (\$700.00) dollars.

4. Payments of costs and forfeitures shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264

5. In the event Respondent fails to timely submit any payment of the forfeiture or costs as ordered the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

Pharmacy Examining Board

By: Michael Bettiga  
A Member of the Board

12/7/05  
Date