

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF THE :  
DISCIPLINARY PROCEEDINGS AGAINST :

JAMES D. KOBBS, R.PH., :  
RESPONDENT. :

**ORDER OF  
SUMMARY SUSPENSION**

ORDER 0002294

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Division of Legal Services and Compliance<sup>1</sup> Case No. 12 PHM 30

This matter came before the Board at its regular and properly noticed meeting on February 13, 2013. Arthur Thexton, Prosecuting Attorney, appeared on behalf of the Division; neither Respondent nor his attorney appeared.

**FINDINGS OF FACT**

1. Respondent James D. Kobs, R.Ph. (dob April 17, 1962) is licensed in the State of Wisconsin as a Registered Pharmacist, having license number 40-12985, first issued on April 9, 1999, and current through May 31, 2014. James D. Kobs, R.Ph.'s most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 12605 West North Avenue # 211, Brookfield, Wisconsin 53005.

2. Respondent has been criminally charged as follows: between October, 2009 and April, 2012, at 15170 West Greenfield Avenue, in the City of Brookfield, Waukesha County, Wisconsin, did obtain possession of Schedule II controlled substances, to-wit: 845 oral dosage units of amphetamine salts, 9 oral dosage units of oxycodone 5 mg, 190 oral dosage units of oxycodone 10 mg, 11 oral dosage units of oxycodone 30 mg, 10 oral dosage units of an extended release formulation of oxycodone, 80 mg, 2 oral dosage units of methylphenidate, 36 mg (Concerta®), 34 oral dosage units of dextroamphetamine 5 mg, 20 tablets of methadone 10 mg, 20 tablets of an extended release formulation of oxycodone 40 mg, and 10 tablets of extended release formulations of morphine, 15 mg and 30 mg, by deception, contrary to Wis. Stats. §§ 961.43(1)(a) and 939.50(3)(h), a Class H Felony.

3. Respondent has also been criminally charged as follows: between October, 2009 and April, 2012, at 15170 West Greenfield Avenue, in the City of Brookfield, Waukesha County, Wisconsin, and while employed as a pharmacist, did intentionally take and carry away movable property of Pick N Save/Roundy's, his employing pharmacy (consisting of legend medication, cash, and general merchandise), having a value greater than \$2500 but less than \$5000, without consent, and with intent to permanently deprive the owner of possession of the property, contrary to Wis. Stats. §§ 943.20(1)(a) and (3)(bf), and 939.50(3)(i), a Class I Felony.

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<sup>1</sup> The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

4. In addition to the above, Respondent admitted to police that he was taking pills out of patients' prescriptions. He stated that he would take two to five pills from a patient, for example, if the patient was to receive 30 pills, he would dispense 28 pills and keep two for himself. The only reasonable inference is that in such a case, the patient, or third party payor, was billed for 30 pills, and 30 pills were listed in the patient's records as having been dispensed.

5. On July 30, 2012, Respondent, through his attorney, assured the Board that he would not practice as a pharmacist pending resolution of the investigation of the above matters. On December 10, 2012, Respondent was ordered by the Waukesha County Circuit Court not to engage in the practice of pharmacy, or to be present in any pharmacy except as a bona fide patient, as a condition of bond, in the criminal case described above. Notwithstanding these facts, Respondent practiced pharmacy at a pharmacy from October, 2012, through January 16, 2013.

6. The above gives rise to a reasonable inference that Respondent was practicing at times while under the influence of unprescribed controlled substances, and the Board finds that there is probable cause to draw this inference, and does draw it. For Respondent to practice pharmacy while under the influence of such substances is an immediate danger to patients and the public. Respondent's conduct is such that the public health, safety and welfare imperatively require emergency suspension of Respondent's license until such time as Respondent can demonstrate that he can practice with skill and safety to patient and public.

7. Respondent was informed of this Notice and Petition for Summary Suspension on January 23, 2013 by having the documents mailed to his home on that date, and mailed and e-mailed to his attorney.

### **CONCLUSION OF LAW**

The legal requirements for summary suspension pursuant to ch. RL 6, Wis. Adm. Code, have been fulfilled.

### **ORDER**

1. The license of James D. Kobs, R.Ph., to practice as a pharmacist in the State of Wisconsin (license # 40-12985) is **SUSPENDED** pending a final decision and order in this matter. Respondent shall surrender his credentials to the Board, or any department staff requesting them, forthwith.

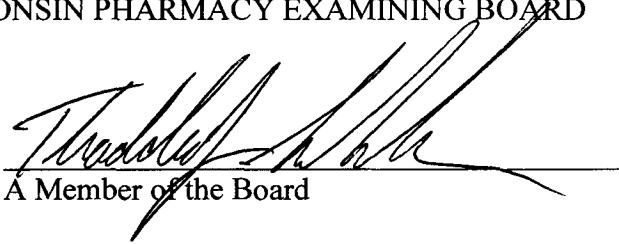
2. A formal complaint alleging that Respondent has committed unprofessional conduct shall be filed within 10 days of this order.

3. Respondent may request a hearing to show cause why this suspension order should not be continued, and may file such request with the Board. A hearing on such request shall be scheduled within 20 days of the date the Board receives such request, unless Respondent agrees to a later date.

WISCONSIN PHARMACY EXAMINING BOARD

by:

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A Member of the Board

February 13, 2013

Date