

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

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

FINAL DECISION AND ORDER

order 0002291

Division of Legal Services and Compliance¹ Case No. 12 PHM 030

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

James D. Kobs, R.Ph.
12605 West North Avenue # 211
Brookfield, WI 53005

Pharmacy Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

Respondent was summarily suspended on February 13, 2013. A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Board on February 20, 2013. Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition 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 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.

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

2. Between October, 2009 and April, 2012, at 15170 West Greenfield Avenue, in the City of Brookfield, Waukesha County, Wisconsin, Respondent did obtain possession of Schedule II controlled substances, to-wit: amphetamine salts oxycodone 5 mg, oxycodone 10 mg, oxycodone 30 mg, an extended release formulation of oxycodone, 80 mg, methylphenidate, 36 mg (Concerta®), dextroamphetamine 5 mg, methadone 10 mg, extended release formulation of oxycodone 40 mg, and 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. 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, Respondent did intentionally take and carry away movable property of Pick N Save/Roundy's, his employing pharmacy (consisting of legend medication, and other items), 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.

4. On August 29, 2013, Respondent was convicted in the Circuit Court of Waukesha County Wisconsin, of one count of feloniously obtaining a controlled substance by fraud (as described in paragraph 2, above), and one count of feloniously stealing from his employer (as described in paragraph 3, above).

5. In addition to the above, a witness would testify that Respondent was taking pills out of patients' prescriptions. For example, if the patient was to receive 30 pills, Respondent would dispense 28 pills and keep two for himself. The Board infers 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.

6. 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 community pharmacy from October, 2012, through January 16, 2013.

CONCLUSIONS OF LAW

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

2. By the conduct described in the Findings of Fact, James D. Kobs, R.Ph. violated Wis. Stat. § 450.10(1)(a)2. and (b)(3), and Wis. Admin. Code § Phar 10.03(1), (2), and (5).

3. As a result of the above violations, James D. Kobs, R.Ph. is subject to discipline pursuant to Wis. Stat. § 450.10(1).

ORDER

1. IT IS ORDERED that the attached Stipulation is accepted.

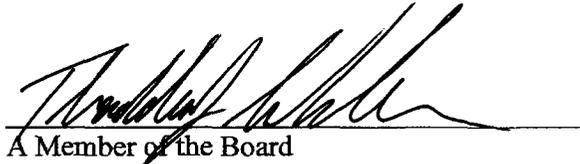
2. The SURRENDER of the license to practice pharmacy of James D. Kobs, R.Ph., is ACCEPTED.

3. The Costs of this matter are \$1,650. Respondent shall pay these costs if he ever applies for any license under Wis. Stat. chs. 440-480.

4. This order is effective on the date of signing.

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

February 12, 2014

Date

akt

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :

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

STIPULATION

order 000 2291

Division of Legal Services and Compliance Case No. 12 PHM 030

Respondent James D. Kobs, R.Ph., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Terschan, Steinle, Hodan, & Ganzer SC.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of 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.

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, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not

Stipulation

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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 to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. 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 accordance with standard Department procedure.

8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stats. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHS-licensed facility in any role, Respondent will need to pass a Rehabilitation Review through DHS prior to commencement of such employment.

9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


James D. Kobs, R.Ph., Respondent
12605 West North Ave. # 211
Brookfield, WI 53005
License no. 40-12985

12-9-13
Date


Michael John Steinle, Attorney for Respondent
Terschan, Steinle, Hodan, & Ganzer SC
Renaissance Bldg
309 N Water St Ste 215
Milwaukee, WI 53202-5713

12-10-13
Date


Arthur Thexton, Prosecuting Attorney
Division of Legal Services and Compliance
P.O. Box 8935, Madison, WI 53708-8935

12/12/13
Date