

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
OWENS & MINOR HEALTHCARE LOGISTICS, : FINAL DECISION AND ORDER
RESPONDENT. :

0004735

Division of Legal Services and Compliance Case No. 15 PHM 154

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

Owens & Minor Healthcare Logistics
6201 Global Distribution Way, Ste. 101
Louisville, KY 40228

Wisconsin Pharmacy Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Pharmacy Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Owens & Minor Healthcare Logistics is licensed in the state of Wisconsin as a wholesale distributor of prescription drugs, having license number 2286-45, first issued on January 27, 2010 and current through May 31, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 6201 Global Distribution Way, Suite 101, Louisville, Kentucky 40228.

2. As of August 25, 2011, Respondent's license had conditions placed upon it by the State of Vermont Board of Pharmacy (Vermont Board) based on Respondent acknowledging that it had been disciplined by other jurisdictions for conduct which would constitute unprofessional conduct in the State of Vermont.

3. Respondent reported the following discipline to the Vermont Board:
 - a. On April 11, 2002, Respondent received a citation from the Louisiana State Board of Wholesale Drug Distributors as a result of an inspection which revealed violations of regulations on customer license records. All issues have been rectified and the fine has been paid in full.
 - b. In May 2006, Respondent received a citation from the California Board of Pharmacy for violations of regulations regarding timely notification of the Board when a facility's designated representative changes. All issues have been rectified and the fine has been paid in full.
 - c. In February 2007, Respondent was issued a report by the Florida Department of Health for alleged violations of regulations regarding licensing and drug pedigrees. All matters raised in the report have been resolved and the fine has been paid in full.
 - d. In May 2008, Respondent entered into a Settlement Agreement and Disciplinary Order with the Missouri Board of Pharmacy as a result of violations of regulations regarding temperature controls and monitoring. Respondent remains fully licensed, but was under probation for a period of three years.
 - e. On November 2, 2009, Respondent entered into a Stipulation Order with the Colorado State Board of Pharmacy as a result of violations of regulations regarding the inadvertent purchase and receipt of prescription drugs on March 5, 2009, from one vendor from a location not licensed by the Board to ship prescription products to Colorado. All issues have been rectified and the fine has been paid in full.
 - f. In July 2010, Respondent entered into to a Settlement Agreement with the Florida Department of Health as a result of violations of miscellaneous recordkeeping, personnel and license verification regulations. Respondent's license was placed on probation for two years and the fine was paid in full.
 - g. On March 15, 2011, Respondent entered into a Consent Agreement with the Louisiana Board of Wholesale Drug Distributors to resolve a finding in an inspection report that Respondent received a product from a supplier not licensed to sell or ship drugs into Louisiana. The fine has been paid in full.
4. The "conditions" placed upon Respondent's Vermont license required Respondent to notify the Board of all discipline, charges of unprofessional conduct or violations of previously imposed condition in any jurisdiction.
5. On January 21, 2015, Respondent violated the Vermont Board's conditions by failing to disclose any discipline prior to July 2010 in their application for a wholesale drug

outlet in Flower Mound, Texas. Specifically, Respondent failed to disclose the Vermont Board's discipline.

6. On April 23, 2015, Respondent entered into a Stipulation and Consent Order with the Vermont Board for violating the Vermont Board's conditions. Respondent was reprimanded and their license had the following "conditions" placed upon it:

- a. Respondent shall successfully complete and adhere to all obligations and conditions required by the Federal Government and all other conditions imposed in other State jurisdictions in which Respondent is licensed.
- b. Respondent shall notify the Board within ten business days of any discipline imposed upon it in any jurisdiction, any charges unprofessional conduct (or the equivalent) in any other jurisdiction, and any charges that it violated any probations or conditions it is currently required to follow.
- c. Respondent shall pay an Administrative Penalty of one thousand dollars.
- d. Respondent shall petition for removal of these conditions at the conclusion of seven years.

7. On July 27, 2015, Respondent self-reported this discipline by the Vermont Board.

8. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

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, Owens & Minor Healthcare Logistics engaged in unprofessional conduct within the meaning of Wis. Admin. Code § Phar 10.03(17), by having a license revoked or suspended in another state or United States jurisdiction or having been subject to other disciplinary action by the licensing authority thereof.

3. As a result of the above violations, Owens & Minor Healthcare Logistics is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

1. The attached Stipulation is accepted.
2. Respondent Owens & Minor Healthcare Logistics is REPRIMANDED.
3. Within ninety (90) days from the date of this Order, Owens & Minor Healthcare Logistics shall pay a FORFEITURE in the amount of \$1,000.00.

4. Within ninety (90) days from the date of this Order, Owens & Minor Healthcare Logistics shall pay COSTS of this matter in the amount of \$120.00.

5. Payment of forfeiture and costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

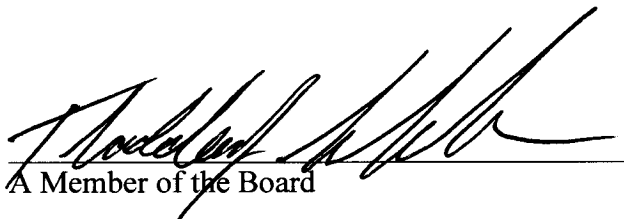
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of costs as ordered or fails to timely submit payment of the forfeiture as set forth above, Respondent's license (no. 2286-45) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the forfeiture and costs.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

5/25/16
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

OWENS & MINOR HEALTHCARE LOGISTICS,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004735

Division of Legal Services and Compliance Case No. 15 PHM 154

Respondent Owens & Minor Healthcare Logistics 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.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining (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 parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

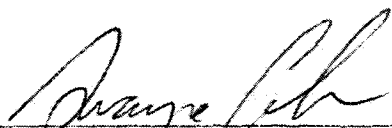
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not 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.

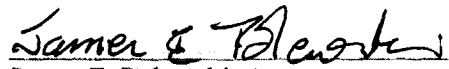
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Owens & Minor Healthcare Logistics, Respondent
Dwayne Calek, Designated Representative
6201 Global Distribution Way, Ste. 101
Louisville, KY 40228
License no. 2286-45

4/1/16
Date


James E. Polewski, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

4/4/16
Date