

## 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 DISCIPLINARY :  
PROCEEDINGS AGAINST :  
: FINAL DECISION AND ORDER  
WICKLIFFE VETERINARY PHARMACY, :  
RESPONDENT. :

**0004737**

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Division of Legal Services and Compliance Case No. 15 PHM 212

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

Wickliffe Veterinary Pharmacy  
4340 Georgetown Road  
Lexington, KY 40511

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 Wickliffe Veterinary Pharmacy is licensed in the state of Wisconsin as an out-of-state pharmacy, having license number 498-43, first granted on September 28, 2009 and current through May 31, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 4340 Georgetown Road, Lexington, Kentucky 40511.

2. On October 23, 2015, the Kentucky Board of Pharmacy entered into an Agreed Order with the Respondent.

3. The Agreed Order incorporates the following allegations:

Case No. 14-0250A

- a. On or about April 25, 2014, Kathleen Culver from the Food and Drug Administration (FDA) advised Steve Hart, the Board's Inspections and Investigations Coordinator at the time, that two horses in Kentucky had died after being administered a paste compounded by Respondent.
- b. On or about May 8, 2014, Jackie Bernard, owner of Wickliffe, advised Katie Busroe, a Pharmacy and Drug Inspector for the Board, and Kathleen Culver that a horse in Florida died after being administered a paste compounded by Respondent.
- c. Altogether, three horses died and six additional horses were hospitalized after they received the compounded suspension.
- e. The potency testing in both instances indicated that the compounded preparation was adulterated, in violation of KRS 217.055 and KRS 315.121(1)(h).

Case No. 15-0279A

- a. Marhonda Goldey worked from March 31, 2013 through May 27, 2015 without being appropriately registered with the Board. Consequently, the Respondent was in violation of KRS 315.121(1)(g).

4. Respondent agreed to the Kentucky Board of Pharmacy Agreed Order terms and conditions as follows:

- a. Wickliffe Veterinary Pharmacy was fined \$100,000.00.
- b. Wickliffe Veterinary Pharmacy was placed on probation for a minimum of three (3) years from date of the Agreed Order or until the last installment payment is made should Respondent choose to make the fourth and final installment payment as late as December 1, 2018.
- c. Wickliffe Veterinary Pharmacy agrees to follow the terms of probation.

5. 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, Respondent violated Wis. Admin. Code § Phar 10.03(17), by having a pharmacy license subject to disciplinary action by a licensing authority.

3. As a result of the above violation, Respondent is subject to discipline pursuant to Wis. Stat. § 450.10(1)(a)2.

ORDER

1. The attached Stipulation is accepted.

2. Respondent Wickliffe Veterinary Pharmacy is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Respondent Wickliffe Veterinary Pharmacy shall pay a FORFEITURE of \$500.00 and COSTS of this matter in the amount of \$175.00.

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

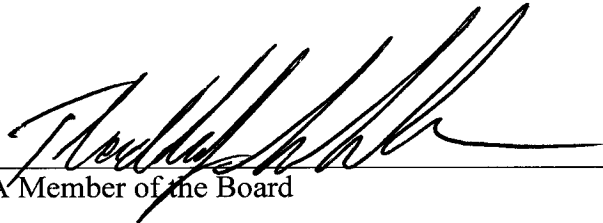
Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

5. 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 or forfeiture as ordered, Respondent's license (no. 498-43) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs.

6. 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

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
WICKLIFFE VETERINARY PHARMACY,	:	
RESPONDENT.	:	<b>0004737</b>

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Division of Legal Services and Compliance Case No. 15 PHM 212

Respondent Wickliffe Veterinary Pharmacy 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.

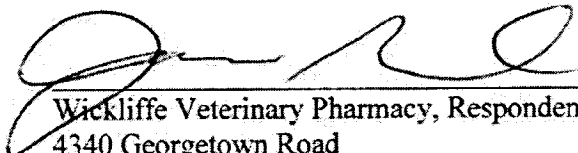
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

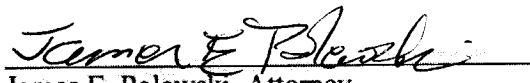
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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

  
Wickliffe Veterinary Pharmacy, Respondent  
4340 Georgetown Road  
Lexington, KY 40511  
License no. 498-43

4/12/16  
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

April 14, 2016  
Date