

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

MARK S. JOHNSON, R.PH.,
RESPONDENT.

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INTERIM ORDER

0005187

Division of Legal Services and Compliance Case No. 16 PHM 133

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

Mark S. Johnson, R.Ph.
8635 N. John Paul Rd.
Milton, WI 53563-9264

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

On August 8, 2016, the Division of Legal Services and Compliance commenced an investigation. A formal complaint has not been filed. Subject to the approval of the Pharmacy Examining Board (Board), the parties in this matter agree to the terms and conditions of the attached Stipulation and Interim Order until a Final Decision and Order is entered or the case is closed. 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 Mark S. Johnson, R.Ph., (dob January 23, 1961) is licensed in the state of Wisconsin to practice pharmacy, having license number 10660-40, first granted on June 18, 1985, and current through May 31, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 8635 North John Paul Road, Milton, Wisconsin 53563-9264.

2. On August 3, 2016, Respondent was charged in United States District Court for the Western District of Wisconsin, case number 16-CR-00072, with the following charges:

- a. 39 counts of submitting and causing the submission of false and fraudulent claims to Medicaid and Medicare, in violation of 18 U.S.C. § 1347.
 - b. One (1) count of knowingly and willfully making materially false, fictitious, and fraudulent statements and representations, and using materially false writings and documents knowing them to contain materially false, fictitious, and fraudulent statement and entries, in connection with the payment for health care benefits and services from Medicaid, in violation of 18 U.S.C. § 1035(a)(2).
 - c. Six (6) counts of knowingly possessing and using, without lawful authority, a means of identification of another person, during and in relation to felony violations, in violation of 18 U.S.C. § 1028A(a)(1).
3. Criminal proceedings are pending and no charges have been proven.
 4. Respondent does not admit to the charges.
 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).

ORDER

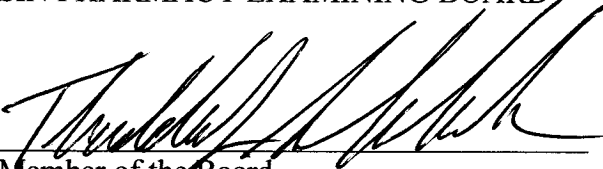
1. The attached Stipulation is accepted.
2. For the duration of this Interim Order, Respondent shall not work as a pharmacist-in-charge.
3. For the duration of this Interim Order, Respondent shall arrange for his pharmacy employer to send to the Department Monitor, at the address below, quarterly reports detailing a random audit of 10% of prescriptions filled by Respondent when Respondent works alone. Respondent is responsible for the timely submission of the quarterly reports.
4. Respondent shall provide all pharmacy employers with a copy of this Order before engaging in any pharmacy employment. Respondent shall provide the Department Monitor with written acknowledgment from each pharmacy employer that a copy of this Order was received. Such acknowledgment shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the effective date of this Order for employment current as of the date of this Order.

5. Violation of any of the terms of this Interim Order will be considered a violation of a Board order and Respondent will be subject to discipline pursuant to Wis. Stat. § 450.10(1)(a)8.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

2/23/17
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARK S. JOHNSON, R.PH.,
RESPONDENT.

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STIPULATION
FOR INTERIM ORDER

0005187

Division of Legal Services and Compliance Case No. 16 PHM 133

Respondent Mark S. Johnson, 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, ONLY AS TO THIS INTERIM ORDER. Respondent retains these rights to final resolution of this matter:

- 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 Kelly Welsh.


4. Respondent agrees to the adoption of the attached Interim Order by the Wisconsin Pharmacy Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Interim 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 Interim Order.

7. Respondent is informed that should the Board adopt this Stipulation; the Board's Interim 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 Interim Order.



Mark S. Johnson, R.Ph., Respondent
8635 N. John Paul Rd.
Milton, WI 53563-9264
License no. 10660-40

1-19-2017


Date



Kelly Welsh, Attorney for Respondent
Federal Defender Services of Wisconsin, Inc.
22 E. Mifflin St., Ste. 1000
Madison, WI 53703

1/19/17

Date



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

1/27/17

Date