

## 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  
RANDOLPH HOMETOWN PHARMACY, :  
RESPONDENT. : **0005256**

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Division of Legal Services and Compliance Case No. 15 PHM 172

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

Randolph Hometown Pharmacy  
107 North High Street  
Randolph, WI 53956

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 Randolph Hometown Pharmacy is licensed in the state of Wisconsin to practice pharmacy, having license number 8437-42, first granted on December 13, 2004, and current through May 31, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 107 North High Street, Randolph, Wisconsin 53956.

2. On October 12, 2015, a temporary pharmacy kiosk was set up inside a doorway at a grocery store in Beaver Dam.

3. This temporary pharmacy kiosk was being supplied with prescriptions from Respondent. Respondent's pharmacy chain was opening a location in Beaver Dam, and the purpose of the kiosk was to market this upcoming location to Beaver Dam residents and provide the local population with an option for a prescription delivery location given that the pharmacy previously located within the grocery store had closed.

4. Shoppers were able to order prescriptions from Respondent and pick them up at the temporary location.

5. The temporary pharmacy kiosk was not licensed as a pharmacy, and did not meet the requirements for a remote dispensing location. Respondent did not believe the kiosk constituted a remote dispensing location, but rather a delivery station. Patients could choose the kiosk as the delivery location for their prescription(s), and any undelivered prescriptions would be returned to Respondent's Randolph, Wisconsin location.

6. During an on-site inspection of the temporary pharmacy by an investigator from the Department of Safety & Professional Services, it was observed that the location was not secure, did not have a security system, had no pharmacist located on site, and did not have a telephone.

7. In five separate locations both outside the store and inside the store, signs for "Hometown Pharmacy" were posted, most of which referred to the pharmacy "coming soon."

8. The individual staffing the temporary location was a pharmacy technician. Respondent contends the pharmacy technicians staffing the kiosk were supervised by Respondent's pharmacist(s), and were instructed to make clear to customers that the kiosk itself was not a pharmacy location, and that all pharmacy services (including consultations) would be performed from the Randolph location. Customers were to be informed that prescriptions could be filled in Randolph and delivered to Beaver Dam, if requested, and that customers could contact the Respondent's pharmacist(s) for consultation.

9. The temporary pharmacy was opened and operated under the Respondent's license.

10. The Respondent does not admit to the violations alleged in this case; Respondent and its owners believed its actions were lawful because patients are permitted to designate a delivery location of their choice in accordance with the requirements of Wisconsin Administrative Code Phar §7.01(1)(e). However, in order to avoid the further time and expense in defending its innocence, 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, Randolph Hometown Pharmacy violated Wis. Stat. § 450.06(1) by dispensing at a location that is not licensed as a pharmacy by the Board.

3. By the conduct described in the Findings of Fact, Randolph Hometown Pharmacy violated Wis. Stat. § 450.06(1) by displaying the title “pharmacy” at a location that was not licensed as a pharmacy.

4. As a result of the above violations, Respondent Randolph Hometown Pharmacy has committed unprofessional conduct as described in Wis. Stat. 450.10(1)(a)2, and is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

1. The attached Stipulation is accepted.
2. Respondent Randolph Hometown Pharmacy is REPRIMANDED.
3. Within ninety (90) days from the date of this Order, Randolph Hometown Pharmacy shall pay COSTS of this matter in the amount of \$250.00, and a FORFEITURE in the amount of \$250.00.
4. Payment of costs and the 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](mailto: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 and the forfeiture as ordered, Respondent’s license (no. 8437-42) 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 and forfeiture.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:   
A Member of the Board

4/6/12  
Date

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 :  
RANDOLPH HOMETOWN PHARMACY, : STIPULATION  
RESPONDENT. :  
 :

0005256

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Division of Legal Services and Compliance Case No. 15 PHM 172

Respondent Randolph Hometown 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. Respondent is represented by Attorney James R. Phelan.

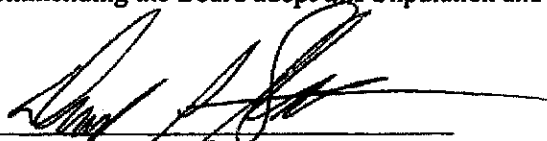
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent 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 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. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



The MD Group-II LLC  
d/b/a Randolph Hometown Pharmacy, Respondent  
By: Daniel G. Strause, Managing Member  
107 North High Street  
Randolph, WI 53956  
License no. 8437-42

2/2/17  
Date



James R. Phelan, Attorney for Respondent  
Remley & Sensenbrenner, S.C.  
219 East Wisconsin Avenue  
Neenah, WI 54956

2/20/2017  
Date



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

2/20/17  
Date