

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

FILED

2020

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES
1000 W. MICHIGAN STREET, MADISON, WI 53707-7190

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
KELLY A. COBB, R.PH., :
RESPONDENT. :

0006-28

Division of Legal Services and Compliance Case No. 17 PHM 111

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

Kelly A. Cobb, R.Ph.
[REDACTED]
Green Bay, WI 54313

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. Kelly A. Cobb, R.Ph., is licensed in the state of Wisconsin to practice pharmacy, having license number 18621-40, first issued on September 14, 2016, and current through May 31, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is [REDACTED] Green Bay, Wisconsin 54313.

2. At all times relevant to this proceeding, Respondent was employed as a pharmacist at a retail pharmacy (Pharmacy) located in Howard, Wisconsin.

3. In January 2017, the managing pharmacist delegated responsibility for scheduling pharmacy staff to Respondent, who was then a staff pharmacist.

4. On May 31, 2017, and June 7, 2017, more than four (4) pharmacy technicians worked simultaneously, under the supervision of a single pharmacist.

5. Respondent contends that its pharmacy technicians were scheduled with cyclical breaks, which meant that no more than four (4) technicians were under the supervision of a single pharmacist and actually performing the duties of pharmacy technicians.

6. Multiple pharmacy technicians confirmed there were several dates on which more than four (4) pharmacy technicians worked simultaneously, under the supervision of a single pharmacist.

7. A floating pharmacist confirmed there were more than four (4) pharmacy technicians working simultaneously, under the supervision of a single pharmacist, on May 31, 2017, and June 7, 2017.

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, Respondent Kelly A. Cobb, R.Ph., violated Wis. Admin. Code. § Phar 7.01(3), when more than four (4) pharmacy technicians worked concurrently under the supervision of a single pharmacist.

3. By the conduct described in the Findings of Fact, Respondent Kelly A. Cobb, R.Ph., violated Wis. Stat. § 450.10(1)(a)2., by violating this chapter or any federal or state statute or rule which substantially related to the practice of the licensee.

4. As a result of the above violation, Respondent Kelly A. Cobb, R.Ph., license number 18621-40, is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Kelly A. Cobb, R.Ph., license number 18621-40, is hereby REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Respondent Kelly A. Cobb, R.Ph., license number 18621-40, shall pay COSTS of this matter in the amount of \$363.00.

4. Payment of 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

You may also submit this information online via DSPS' Monitoring Case Management System, here:

<https://app.wi.gov/DSPSMonitoring>

5. In the event that Respondent violates any term of this Order, Respondent's license 18621-40 to practice pharmacy in the state of Wisconsin may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN PHARMACY EXAMINING BOARD

by: Al. Rehman 4-15-19
A Member of the Board DSPS Chief Legal Counsel - Delegate Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: STIPULATION
KELLY A. COBB, R.PH., :
RESPONDENT. : 00061-2

Division of Legal Services and Compliance Case No. 17 PHM 111

Respondent Kelly A. Cobb, 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.

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.

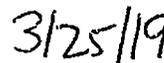
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Kelly A. Cobb, Respondent

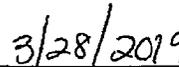

Green Bay, WI 54313
License no. 18621-40



Date



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



Date