

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 :
 : FINAL DECISION AND ORDER
ONCOLOGY SUPPLY, L.L.C., :
RESPONDENT. :

ORDER 0008273

Division of Legal Services and Compliance Case No. 20 PHM 123

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

Oncology Supply, L.L.C.
Dothan, AL 36303

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. Oncology Supply, L.L.C. (Respondent), is licensed in the state of Wisconsin as a wholesale distributor of prescription drugs, having license number 2068-45, first issued on July 5, 2007, and current through May 31, 2024. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Dothan, Alabama 36303.

2. At all times relevant to this matter, Respondent d/b/a ASD Healthcare Inc. was both an unincorporated subsidiary of and operated by Amerisource Bergen Specialty Group LLC (ABSG). Respondent was a pharmaceutical distributor to community oncologists and distributed chemotherapy and supportive care drugs throughout the United States.

3. On September 27, 2017, Respondent pleaded guilty to and was convicted of one (1) count of introducing a misbranded drug into interstate commerce, in violation of 21 U.S.C. §§ 331(a) and 333(a)(1), in U.S. District Court for the Eastern District of New York Case No. 17CR507 (Federal Court Settlement). Specifically, Respondent was ordered to pay a criminal fine in the amount of \$208,000,000, a criminal forfeiture in the amount of \$52,000,000, and a special assessment in the amount of \$125, and stipulated that:

In and about and between 2005 and January 2014, the defendant ABSG introduced, or caused the introduction of, misbranded drugs into interstate commerce, as such drugs were manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered with the FDA pursuant to 21 U.S.C. § 360.

4. Respondent shipped approximately 800 misbranded products into the state of Wisconsin from 2004 – 2014, which was the time period at issue in the Federal Court Settlement.

5. On June 21, 2018, the Florida Department of Business and Professional Regulation and Respondent entered into a Settlement Agreement which fined Respondent \$15,000, and was based on Respondent's violation of the Food, Drug, and Cosmetic Act by virtue of the Federal Court Settlement (2018 Florida Settlement Agreement).

6. On July 16, 2020, the State of Maine Board of Pharmacy and Respondent entered into a Consent Agreement based on Respondent's failure to report the 2018 Florida Settlement Agreement. Respondent was reprimanded and ordered to pay a civil penalty in the amount of \$250.

7. On July 20, 2020, the Alabama State Board of Pharmacy (Alabama Board) issued a Consent Order that fined Respondent \$25,000 as a result of the Federal Court Settlement and the 2018 Florida Settlement Agreement.

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

CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 450.10 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(2) by engaging in any pharmacy practice which constitutes a danger to the health, welfare, or safety of patient or public, including but not limited to, practicing in a manner which substantially departs from the standard of care ordinarily exercised by a pharmacist which harmed or could have harmed a patient.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code Phar § 10.03(17) by having a pharmacist license revoked or suspended in another state or

United States jurisdiction or having been subject to other disciplinary action by the licensing authority thereof.

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

5. Pursuant to Wis. Stat. § 450.10(2), in addition to or in lieu of a reprimand or denial, limitation, suspension, or revocation of a license or registration under sub. (1), the Board may, for the violations enumerated under sub (1), assess a forfeiture of not more than \$1,000.00 for each separate offense, with each day of violation constituting a separate offense.

ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Respondent shall pay a FORFEITURE in this matter in the amount of \$10,000.00.

4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,751.00.

5. Any requests, petitions, payments of costs and forfeiture (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dpsmonitoring.wi.gov>.

6. In the event Respondent violates any term of this Order, Respondent's license (number 2068-45) or Respondent's right to renew its license, 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.

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

WISCONSIN PHARMACY EXAMINING BOARD

By:


A Member of the Board

12/1/2022

Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ONCOLOGY SUPPLY, L.L.C.,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0008273

Division of Legal Services and Compliance Case No. 20 PHM 123

Oncology Supply, L.L.C. (Respondent), 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 (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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

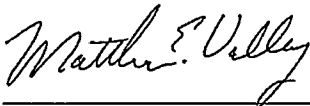


Chris Casalenuovo,
VP & Associate General Counsel

11/21/2022

for Oncology Supply, L.L.C., Respondent
Dothan, AL 36303
License No. 2068-45

Date



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

11/22/2022

Date