

Best Copy  
Available

AWPM  
L5  
1965

**THE SUSPENSION OR REVOCATION OF A PHARMACIST'S REGISTRATION:  
A COMPARATIVE STUDY OF WISCONSIN AND ONTARIO, CANADA  
FOR THE PERIOD 1953 TO 1964**

**BY**

**NICHOLAS GEORGE LELUK**

**A thesis submitted in partial fulfillment of the  
requirements for the degree of  
MASTER OF SCIENCE  
(Pharmacy)  
at the  
UNIVERSITY OF WISCONSIN  
1965**

## PREFACE

One vital prerequisite for the continuance of pharmacy as a recognized profession -- resting, as it does, in great part upon the public licensing of its practitioners -- depends in large measure upon the full realization of their responsibilities and full utilization of their powers by state boards of pharmacy to maintain and enforce appropriate standards of practice by registered pharmacists. It is upon these responsibilities and powers as they touch the revocation or suspension of a pharmacist's registration that we plan to focus in this study, as we compare the procedures and practices in Wisconsin by the Wisconsin State Board of Pharmacy and in Ontario, Canada, by the Ontario College of Pharmacy.

To determine what measures were employed by these two agencies in the enforcement of the pharmacy laws of their respective territories, and at what levels of malfunction they have taken action through suspension or revocation of a pharmacist's registration to safeguard public health, the case files and records of the agencies were examined in detail for the period 1953 to 1964; Wisconsin information for the period 1953 to 1958 was abstracted from the case files by Sylvester H. Dretzka, Secretary-Emeritus, Wisconsin State Board of Pharmacy, and transmitted to the author through personal communication; developments prior to 1953

were reviewed less fully for the historical perspective and understanding they could provide upon the period chosen for intensive study. Personal interviews were conducted with incumbent administrative personnel and board members; questionnaires, identical to those used in these interviews, were mailed to all past board members since 1953.

The period chosen for detailed study (1953 to 1964) was selected mainly because of the key administrative change in 1953 in the law-enforcement staff of the Ontario College of Pharmacy and because it provided an opportunity to view both the Ontario College and Wisconsin Board under the direction of two successive administrative heads, both the present college registrar and board secretary having taken office in 1959.

The author is a Canadian pharmacist, registered in Ontario. His special interest in and qualification for pursuing this study stem in part from his service as a pharmacist-inspector for the Ontario College of Pharmacy for three years.

The author gratefully acknowledges the advice and guidance rendered him by his major professor, Dr. Ernst W. Stieb, in the preparation of this study. Appreciation is also expressed to Mr. P. T. Noisley, Registrar, Mr. T. E. E. Greenfield, Chief Inspector, and the participating members of the Discipline Committee of the Ontario College of Pharmacy; and to Mr. Paul A. Pumpian, Secretary, Mr.

Sylvester H. Dretzka, Secretary-Emeritus, Miss Vera V. Appleton, Administrative Assistant, and the participating members of the Wisconsin State Board of Pharmacy. Without the cooperation of these persons, the successful completion of this study would have been impossible.

Finally, the author gratefully acknowledges the support of this project allocated from the National Institutes of Health General Research Support Grant awarded to the University of Wisconsin School of Pharmacy during the academic year 1964-1965, from the Horlick Fellowship during the academic year 1963-1964, and from the Wisconsin Alumni Research Foundation during the summer of 1964, as well as the stipend provided during both years by the Ontario College of Pharmacy.

## TABLE OF CONTENTS

|  | <u>Page</u> |
|--|-------------|
| PREFACE .....  | ii          |
| TABLE OF CONTENTS .....  | v           |
| LIST OF TABLES .....   | x           |
| LIST OF FIGURES .....  | xii         |
| LIST OF EXHIBITS .....   | xiv         |
| LIST OF APPENDICES .....   | xv          |
| <br>   |             |
| CHAPTER I: INTRODUCTION .....  | 1           |
| Controls Exercised over Pharmacy Internationally,<br>during Various Times, with Emphasis on the<br>Anglo-American Countries .....                      | 1           |
| Origin of the Wisconsin State Board of Pharmacy<br>and the Ontario College of Pharmacy .....   | 9           |
| <br>   |             |
| CHAPTER II: THE WISCONSIN STATE BOARD OF PHARMACY<br>AND THE ONTARIO COLLEGE OF PHARMACY:<br>A COMPARISON OF STRUCTURE, POWERS,<br>AND PRACTICES ..... | 13          |
| Structure .....  | 13          |
| Limitations of Powers Regarding the Suspension<br>and Revocation of a Pharmacist's Registration...   | 15          |
| Trends of Disciplinary Actions Promulgated<br>Since 1882 and 1871 Respectively .....   | 25          |
| The Wisconsin State Board of Pharmacy .....  | 25          |
| The Ontario College of Pharmacy .....  | 34          |
| Present-Day Practices and Procedures<br>Exercised in the Suspension or Revocation of<br>a Pharmacist's Registration .....                              | 42          |
| The Wisconsin State Board of Pharmacy .....  | 42          |
| The Ontario College of Pharmacy .....  | 45          |

|  |    |
|--|----|
| CHAPTER III: DETAILED STUDY OF CASES FROM THE<br>FILES OF THE WISCONSIN STATE<br>BOARD OF PHARMACY AND THE ONTARIO<br>COLLEGE OF PHARMACY FOR THE<br>PERIOD 1953 TO 1964 ..... | 51 |
| Purpose .....  | 51 |
| Quantitative Data and Their Interpretation .....   | 51 |
| Qualitative Data and Their Interpretation .....  | 54 |
| 1) Professional Coverage of Pharmacies .....   | 58 |
| (a) Permitting Clerks to Dispense or<br>Compound Prescriptions .....   | 58 |
| Wisconsin--Case 1 .....  | 58 |
| Ontario--Case 1 .....  | 60 |
| Ontario--Case 2 .....  | 61 |
| Ontario--Case 3 .....  | 63 |
| (b) Permitting Clerks to Sell by Retail<br>Drugs and/or Poisons .....  | 66 |
| Wisconsin--Case 1 .....  | 66 |
| Ontario--Case 1 .....  | 67 |
| Ontario--Case 2 .....  | 69 |
| 2) Substitution .....  | 72 |
| Wisconsin--Case 1 .....  | 72 |
| Ontario--Case 1 .....  | 75 |
| Ontario--Case 2 .....  | 78 |
| 3) Unsanitary Pharmacy Premises .....  | 81 |
| Wisconsin--Case 1 .....  | 81 |
| Ontario--Case 1 .....  | 82 |
| Ontario--Case 2 .....  | 83 |
| Ontario--Case 3 .....  | 85 |

|  |     |
|--|-----|
| 4) Sale of Prescription Drugs Over the Counter .....                                     | 88  |
| (a) Without a Physician's Prescription .....   | 88  |
| Wisconsin--Case 1 .....  | 88  |
| Wisconsin--Case 2 .....  | 90  |
| Wisconsin--Case 3 .....  | 91  |
| Ontario--Case 1 .....  | 92  |
| Ontario--Case 2 .....  | 93  |
| Ontario--Case 3 .....  | 96  |
| (b) Refilling a Prescription without the Prescribing Physician's Authority .....         | 101 |
| Wisconsin--Case 1 .....  | 101 |
| Ontario--Case 1 .....  | 103 |
| Ontario--Case 2 .....  | 106 |
| Ontario--Case 3 .....  | 108 |
| 5) Failure to Keep a Record of the Purchases and Sales of Drugs as Required by Law ..... | 111 |
| Ontario--Case 1 .....  | 111 |
| Ontario--Case 2 .....  | 113 |
| 6) Failure to Operate a Pharmacy .....   | 114 |
| Ontario--Case 1 .....  | 115 |
| Ontario--Case 2 .....  | 122 |
| 7) Errors in Dispensing .....  | 124 |
| Ontario--Case 1 .....  | 125 |
| Ontario--Case 2 .....  | 127 |

|  |         |
|--|---------|
| 8) Unfitness to Practice .....   | 129     |
| (a) While Under the Influence of Alcohol....   | 129     |
| Ontario--Case 1 .....  | 129     |
| Ontario--Case 2 .....  | 130     |
| (b) While Addicted to Drugs .....  | 132     |
| Ontario--Case 1 .....  | 132     |
| <br>CHAPTER IV: PROBING THE BASIC PHILOSOPHIES OF<br>MEMBERS (1953-1964) OF THE<br>DISCIPLINARY BODIES IN WISCONSIN AND<br>ONTARIO: SURVEY-QUESTIONNAIRE ..... | <br>136 |
| Limitations .....  | 137     |
| Responses, their Analysis and Interpretation .....   | 138     |
| 1) Question 1--Sample Cases .....  | 139     |
| CASE 1 .....   | 139     |
| CASE 2 .....   | 144     |
| CASE 3 .....   | 150     |
| CASE 4 .....   | 159     |
| CASE 5 .....   | 165     |
| CASE 6 .....   | 172     |
| CASE 7 .....   | 176     |
| CASE 8 .....   | 182     |
| CASE 9 .....   | 189     |
| CASE 10 .....  | 198     |
| CASE 11 .....  | 201     |
| CASE 12 .....  | 207     |
| CASE 13 .....  | 213     |
| CASE 14 .....  | 217     |
| CASE 15 .....  | 223     |

|  | <u>Page</u> |
|--|-------------|
| 2) Question 2--Advisory Guidance .....     | 229         |
| 3) Question 3--Other Agencies .....        | 233         |
| 4) Question 4--Changes in Procedures ..... | 235         |
| Summary Interpretation .....               | 238         |
| <br>                                       |             |
| APPENDICES .....                           | 244         |
| BIBLIOGRAPHY .....                         | 277         |

LIST OF TABLES

|  | <u>Page</u> |
|--|-------------|
| TABLE 1: SUSPENSION AND REVOCATION OF<br>PHARMACISTS' REGISTRATIONS IN<br>WISCONSIN FOR THE PERIOD 1953 TO<br>1964 ..... | 56          |
| TABLE 2: SUSPENSION AND REVOCATION OF<br>PHARMACISTS' REGISTRATIONS IN<br>ONTARIO FOR THE PERIOD 1953 TO<br>1964 .....   | 57          |
| TABLE 3: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 1 .....   | 145         |
| TABLE 4: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 2 .....   | 151         |
| TABLE 5: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 3 .....   | 157         |
| TABLE 6: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 4 .....   | 163         |
| TABLE 7: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 5 .....   | 170         |
| TABLE 8: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 6 .....   | 177         |
| TABLE 9: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 7 .....   | 183         |
| TABLE 10: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 8 .....  | 190         |
| TABLE 11: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 9 .....  | 196         |
| TABLE 12: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 10 .....   | 202         |
| TABLE 13: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 11 .....   | 208         |
| TABLE 14: RECOMMENDED DISCIPLINARY ACTIONS—<br>CASE 12 .....   | 214         |

**TABLE 15: RECOMMENDED DISCIPLINARY ACTIONS---**  
**CASE 13** ..... 218

**TABLE 16: RECOMMENDED DISCIPLINARY ACTIONS---**  
**CASE 14** ..... 224

**TABLE 17: RECOMMENDED DISCIPLINARY ACTIONS---**  
**CASE 15** ..... 230

## LIST OF FIGURES

|   | <u>Page</u> |
|---|-------------|
| FIGURE 1: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 1 .....   | 146         |
| FIGURE 2: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 2 .....   | 152         |
| FIGURE 3: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 3 .....   | 158         |
| FIGURE 4: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 4 .....   | 164         |
| FIGURE 5: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 5 .....   | 171         |
| FIGURE 6: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 6 .....   | 178         |
| FIGURE 7: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 7 .....   | 184         |
| FIGURE 8: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 8 .....   | 191         |
| FIGURE 9: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 9 .....   | 197         |
| FIGURE 10: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 10 ..... | 203         |
| FIGURE 11: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 11 ..... | 209         |
| FIGURE 12: COMPARATIVE EVALUATION OF<br>RECOMMENDED DISCIPLINARY ACTION---<br>CASE 12 ..... | 215         |

|            |  |     |
|------------|--|-----|
| FIGURE 13: | EVALUATION OF RECOMMENDED DISCIPLINARY ACTION: WISCONSIN--CASE 13 .....  | 219 |
| FIGURE 14: | COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION--CASE 14 ..... | 225 |
| FIGURE 15: | COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION--CASE 15 ..... | 231 |

## LIST OF EXHIBITS

|   | <u>Page</u> |
|---|-------------|
| EXHIBIT No. 1: Some Ontario Newspaper Accounts<br>of the Conviction of a Registered<br>Pharmacist .....                           | 65          |
| EXHIBIT No. 2: A <u>Wisconsin Druggist</u> Account of<br>a Case Involving Suspension of<br>Pharmacists' Registrations .....       | 76          |
| EXHIBIT No. 3: Some Ontario Newspaper Accounts<br>of the Suspension of a Pharmacist's<br>Registration .....                       | 97          |
| EXHIBIT No. 4: A <u>Wisconsin Pharmacist</u> Account of<br>a Case Involving the Suspension<br>of a Pharmacist's Registration..... | 104         |
| EXHIBIT No. 5: Some Ontario Newspaper Accounts<br>of the Revocation of a Pharmacy<br>Registration .....                           | 121         |

## LIST OF APPENDICES

|   | <u>Page</u> |
|---|-------------|
| APPENDIX A - FORMAL NOTICE OF HEARING AND<br>STATEMENT OF ISSUES BEFORE THE<br>WISCONSIN STATE BOARD OF PHARMACY..... | 244         |
| APPENDIX B - FORMAT OF FORMAL HEARING BEFORE THE<br>WISCONSIN STATE BOARD OF PHARMACY.....                            | 247         |
| APPENDIX C - SAMPLE OF OPINION, FINDINGS OF FACT,<br>CONCLUSIONS OF LAW, ORDER FORMAL<br>HEARING .....                | 250         |
| APPENDIX D - NOTICE TO SHOW CAUSE - INFORMAL<br>HEARING .....   | 255         |
| APPENDIX E - REPLY TO THE SHOW CAUSE NOTICE .....   | 257         |
| APPENDIX F - SAMPLE OF NOTICE OF THE BOARD'S<br>DECISION SHOW CAUSE HEARING .....                                     | 258         |
| APPENDIX G - SAMPLE OF NOTICE TO SHOW CAUSE -<br>FORMAL HEARING .....   | 259         |
| APPENDIX H - REGISTRAR'S CERTIFICATE .....  | 262         |
| APPENDIX I - SAMPLE OF ANALYST'S CERTIFICATE .....  | 263         |
| APPENDIX J - NOTICE OF DECISION OF THE DISCIPLINE<br>COMMITTEE - FORMAL HEARING .....                                 | 265         |
| APPENDIX K - SAMPLE OF NOTICE TO EXPLAIN -<br>INFORMAL HEARING .....  | 266         |
| APPENDIX L - LETTER OF INTRODUCTION .....   | 267         |
| APPENDIX M - FOLLOW-UP LETTER .....   | 269         |
| APPENDIX N - SURVEY - QUESTIONNAIRE .....   | 271         |

## CHAPTER I

### INTRODUCTION

#### Controls Exercised over Pharmacy Internationally, during Various Times, with Emphasis on the Anglo-American Countries

Previous to February, 1240, the German Emperor Frederick II issued an edict for the Kingdom of the Two Sicilies (Sicily and Southern Italy) that recognized pharmacy as a profession distinct from medicine, with defined functions and legally regulated services. For the first time, with minor exceptions, in the Western World, pharmacy was thereby officially acknowledged as providing a function socially necessary for public health and welfare; and in the implementation of the edict we may see, among other things, one of the earliest forerunners of our present-day boards of pharmacy.<sup>1</sup>

Now from that time onward, to provide appropriate safeguards to the public in return for the privileges attendant upon licensure, these bodies that functioned as boards of pharmacy gradually evolved standards of practice and they controlled lack of compliance with these standards in part through suspension or revocation

---

1. Glenn Sonnedecker, ed., Kreger and Urdang's History of Pharmacy (3rd ed., Philadelphia, 1963), 39.

of the practitioner's registration. While the exact connotation of the terms "suspension" and "revocation" may vary somewhat in different times and contexts, for the purposes of this study we intend that they mean a temporary restraint from practice for a specific period of time,<sup>2</sup> and a recalling of registration,<sup>3</sup> respectively.<sup>4</sup>

The evolution of pharmacy as a distinct profession in Western Europe came under the aegis of the guilds, which developed in Italy as early as 1236 and later arose in France, Germany, and England, under powers granted by royal charter or occasionally by law. The pharmacy guilds clearly defined the functions of the gathering, preparing, compounding, and dispensing of drugs as the recognized province of the pharmacist. Their claims were acknowledged by medieval

- 
2. According to Black's Law Dictionary (4th ed., St. Paul, Minnesota, 1951): 1615, "To discontinue temporarily, but with an expectation or purpose of resumption. To forbid a public officer, attorney, employee, or ecclesiastical person from performing his duties or exercising his function for a more or less definite interval of time."
  3. Ibid., 1484, "To annul or make void by recalling or taking back, cancel, rescind, repeal, reverse."
  4. It should be noted that decisions of the Wisconsin State Board of Pharmacy, regarding suspension or revocation of registrations, are subject to court appeal as are those of the Discipline Committee of the Ontario College of Pharmacy. In the case of Ontario, a pharmacist, whose registration has been suspended or revoked may, upon application to the College Council, be reinstated. See: Wisconsin Statutes (1961), ch. 151, s. 151.02(7), p. 2337; "The Pharmacy Act," in Revised Statutes of Ontario (1960), ch. 295, s. 29(5)(6), p. 13.

society, which granted the guilds powers of economic and social self-regulation. In order to retain these powers, the guilds required that their members comply with rigid standards of performance, to the general benefit of public health and welfare as well as the social status of pharmacy. As the guilds gradually disappeared from Europe, during the Renaissance and early modern times, their functions were assumed in part by voluntary professional associations and in part by the government.<sup>5</sup>

In most European countries today, there are comprehensive laws regulating the practice of pharmacy, their enforcement and administration assumed by government agencies alone, or in conjunction with pharmaceutical associations. Present European laws restrict entry into pharmacy to those meeting certain academic and practical requirements, and provide standards of practice for the protection of the public.<sup>6</sup>

Great Britain was the exception among European countries for it was not until the nineteenth century that modern organized pharmacy emerged as a profession separate and apart from that of medical practitioners. Supervision of practitioners of pharmacy followed a pattern as complex and overlapping as that of the various groups that provided

---

5. Sennedecker, 53-57.

6. Ibid., 57-58, 67, 69, 70, 71-72, 76-84, 89-90.

the pharmaceutical services. Thus apothecaries were officially overseen by the Society of Apothecaries (founded in 1617), whose master and wardens were empowered to inspect apothecary shops and to destroy all drugs and preparations deemed to be unwholesome. Power to inspect the shops of apothecaries and "chemists and druggists"<sup>7</sup> was also given (in 1725) to the College of Physicians, while cases involving questionable drugs were judged (in 1730) by a court composed partly of physicians and partly of apothecaries. Gradually by the late eighteenth and early nineteenth century apothecaries evolved into medical practitioners and pharmaceutical practice fell within the domain of the chemists and druggists. It was the latter group who banded together to form the Pharmaceutical Society of Great Britain in 1841.

The first English Pharmacy Act (1852) gave the Pharmaceutical Society examining and licensing powers and restricted legally the use of the title "pharmaceutical chemist" to those so registered. A later Pharmacy Act (1868) established compulsory qualification and registration for all members of the profession; in addition, the sale of poisons was thereafter permitted only in pharmacies. The present regulation, stemming from the Pharmacy Act of 1933, provides

---

7. Originated about the middle of the seventeenth century, largely involved with the compounding of medicines, chiefly minerals, earths, or preparations of metals, and retailing drugs in the raw or unprepared state.

self-government for pharmacists under the supervision of the Pharmaceutical Society. The society provides for inspectors, who must be registered pharmacists, and its Statutory Committee has the power, subject to appeal to the High Court, to discipline registrants for misconduct by removing their names from the register.<sup>8</sup> The Pharmaceutical Society thus functions as a regulatory agency, as well as a professional organization, and until recently also had an educational function; the analogy to the Ontario College of Pharmacy will become apparent, and while the character and functions of the American state boards of pharmacy are now quite different, the pattern of the Pharmaceutical Society may be seen in many of the early local professional societies.

The beginning of the seventeenth century found colonization taking place in North America by Spain, France and England. Despite the influx of other nationalities, the English way of life set the predominant tone in the thirteen original colonies; it is only natural then that the few laws in Colonial America governing the practice of pharmacy reflected, in large part, their English model. During the nineteenth century state pharmaceutical associations emerged and promoted state laws which defined the difference between a pharmacist and a mere merchant, and recognized pharmacy as a professional entity. In

---

8. Sonnedecker, 92-106.

addition, they restricted the practice of pharmacy to licensed practitioners and created boards of pharmacy, composed of pharmacists, authorized to examine and license applicants, and to prosecute violators. On the whole, however, it was not until the last quarter of the nineteenth century that state pharmacy practice acts came into being to any great extent or to any great effect. These regulations retained some British characteristics, but not nearly to the same pronounced extent as those of Canada.<sup>9</sup>

Many occupational activities of pharmacy are presently controlled by federal as well as state laws and regulations. Several federal acts control the manufacture, promotion, and distribution of drugs in the United States. The federal acts, with the exception of those governing narcotics, apply essentially to drugs in interstate and foreign commerce. Enforcement of the Federal Narcotic Drug Act is accomplished through the Secretary of the Treasury Department, through the Federal Bureau of Narcotics; whereas the Federal Food, Drug and Cosmetic Act is enforced by the Secretary of the Department of Health, Education and Welfare, through the Food and Drug Administration. These federal laws are complemented by state laws that provide the machinery for the regulation of the practice of pharmacy. Administration and enforcement of state pharmacy laws is accomplished through state

---

9. Ibid., 136-138, 139-148, 179-181, 194-199.

boards of pharmacy charged with the protection of the public health and welfare by controlling the distribution of drugs in intrastate commerce. This responsibility is fulfilled by employing inspectors, directing periodic inspections of pharmacies, and disciplining members found guilty of violating the pharmacy laws of their respective states.<sup>10</sup>

The first act to regulate the practice of pharmacy in Canada was passed in November, 1788 in the province of Quebec (which at that time also included Upper Canada, or Ontario), as part of a general act controlling the practice of medicine, surgery, and midwifery, as well as pharmacy. This law prohibited the sale and distribution of medicines within the province by unlicensed persons. Licenses were granted by either the governor, or the commander-in-chief of the province, who examined and approved the applicants as to their knowledge or skill in pharmacy.<sup>11</sup>

In 1863, the governor of Lower (Quebec) and Upper Canada appointed a board to examine applicants for licensure, and upon receipt of the board's certificate, the governor issued the license. The examiners were primarily physicians and the examination was rather superficial. This power was transferred from the governor to the College of

---

10. William Pettit, Manual of Pharmaceutical Law (3rd ed., New York, 1962), 8-17, 18-21, 56-69, 81-96.

11. William Carniff, The Medical Profession in Upper Canada 1783-1850 (Toronto, 1894), 16-17.

Physicians and Surgeons in 1864, who also regulated the course of study.<sup>12</sup> However, the first pharmacy practice acts for Quebec and Ontario did not come until the 1870's, just about the same time they evolved in the United States. Early in 1867, the year in which Canada achieved independence from Great Britain as a "Dominion," local pharmaceutical societies formed in both Ontario and Quebec in an effort to secure and maintain the rights and privileges of self-government for pharmacy. The Quebec and Ontario legislatures passed pharmaceutical legislation, in 1870 and 1871 respectively, providing pharmacy with licensing power at the provincial level. The bill introduced into the Ontario legislature, and passed as the Pharmacy Act of Ontario, 1871, was modelled after that of Great Britain.<sup>13</sup> Ensuing legislation provided for the establishment of "colleges" of pharmacy,<sup>14</sup> composed of pharmacists in the provinces across the Dominion, functioning as administrative, educational and regulatory bodies.<sup>15</sup> In addition, the practice of pharmacy was restricted to licensed practitioners.

- 
12. William Saunders, "Pharmacy in Canada before 1871," in Canadian Pharmaceutical Journal, 75 (no. 12, June, 1942): 10.
13. Ibid., 10-11, 70.
14. Comparable to state boards of pharmacy in the United States.
15. "The Story of Canadian Pharmacy 1868-1942" (Editorial), in Canadian Pharmaceutical Journal, 75 (no. 12, June, 1942): 12-23, 48, 50-51, 54, 56, 58.

Today, there are extensive laws, both federal and provincial, regulating the practice of pharmacy in Canada. The Federal Narcotic Control Act and the Food and Drugs Act are administered and enforced by the Department of National Health and Welfare, Division of Narcotic Control and Food and Drug Directorate respectively. These federal acts regulate the manufacture, distribution and advertising of drugs throughout Canada. Present laws restrict entry into the profession to individuals qualified through education and experience, and provide minimum standards of practice for the protection of the public. The colleges are charged with the duty of enforcing the pharmacy practice acts of their respective provinces. For this purpose, they employ inspectors, direct intermittent inspections of pharmacies, investigate complaints and violations, and prosecute or cause the prosecution of violators. Furthermore, they provide a mechanism for disciplining those members who infringe upon the pharmacy laws within their respective provinces. Unlike the American boards of pharmacy, the members of Canadian "colleges" are elected by pharmacists and are not political appointees.

Origin of the Wisconsin State Board of Pharmacy and the Ontario College of Pharmacy

Not until 1876, a quarter century after Wisconsin became a state (in 1848), was an act passed to regulate the

practice of pharmacy and the sale of poisons in the city of Milwaukee.<sup>16</sup> Conditions existing in the medical and pharmaceutical fields during this period were deplorable. Severe illnesses and deaths, resulting from ignorant or negligent dispensing of drugs, were prevalent.<sup>17</sup>

Then on July 4, 1880, the Wisconsin Pharmaceutical Association was founded in Madison,<sup>18</sup> and as a result of association efforts, the legislature, on March 24, 1882, passed a law to regulate the practice of pharmacy and sale of drugs in the state.<sup>19</sup> Like its counterparts across the country, the Wisconsin law provided for a board of pharmacy, in this case superseding the local Milwaukee Board of Pharmacy, created by the earlier legislation. On April 13, 1882, Governor Jeremiah K. Rusk appointed five practicing pharmacists in the state, from a list of ten names supplied by the Wisconsin Pharmaceutical Association, to constitute the board.<sup>20</sup>

- 
16. John Dadd, "Early Pharmacy and Its Developments in Wisconsin," in Proceedings of Wisconsin Pharmaceutical Association (1894): 97-102.
  17. Edward Kremers, "Early Phases of the Development of Pharmaceutical Legislation in Wisconsin," in Pharmaceutical Review, 15 (1897): 202.
  18. (Kremers?), "Wisconsin Pharmaceutical Association," in Badger Pharmacist (1900): 27-29.
  19. Dadd, 101-102.
  20. First Report of the Wisconsin Board of Pharmacy (1882): 3.

The duties of the board were to examine candidates for registration, to grant certificates of registration to those persons qualified, and to prosecute violators of its provisions.<sup>21</sup> Although the board has now acquired a broader scope of responsibilities since its beginning, as we shall see, its basic functions remain unchanged.

The Ontario College of Pharmacy is a lineal descendent of the Toronto Chemists' and Druggists' Association and the Canadian Pharmaceutical Society, formed in June, 1867, after unsuccessfully attempting to have the practice of pharmacy regulated by federal legislation, the society concentrated its efforts upon securing an Ontario pharmacy act, and adopted the name "Ontario College of Pharmacy" in 1869.

On February 15, 1871, the Ontario legislature passed an act incorporating the "Ontario College of Pharmacy." By this act, administrative authority was granted to a council -- to be elected biennially by the members of the college -- that was to consist of thirteen college members. The college was granted jurisdiction over education,<sup>22</sup> examination of

---

21. Wisconsin Session Laws (1882), ch. 167, p. 494.

22. In 1882, a "teaching college" was established, however, attendance at lectures and demonstrations was not made a prerequisite to the licensing examination until 1889. Affiliation with the University of Toronto was effected in 1892, whereby those licentiates of the college, desiring the degree of Bachelor of Pharmacy (Phm.B.) might receive it upon passing University

candidates for licensure, and the practice of pharmacy in the province.<sup>25</sup> We reserve for Chapter II our consideration of the present-day responsibilities of the college.

---

22. (Cont.) examinations. The licensing examination for University of Toronto pharmacy graduates were discontinued in 1944, after which time the Phm.B. degree and later (1952) the B.Sc. in Pharmacy degree were conferred by the University without further, separate examination. On July 1, 1953, the teaching functions of the college were transferred to the University of Toronto, which then established the Faculty of Pharmacy. See: "Ontario College of Pharmacy Teaching School," in Canadian Pharmaceutical Journal, 15 (No. 8, March, 1882): 274-5, 292-8, 318-9; "Affiliation with the U. of T.," Ibid., 25 (1892): 165; "Historical Sketch," in Faculty of Pharmacy Calendar (University of Toronto Press, 1964-65), 10-11.

23. Saunders, 11.

## CHAPTER II

### THE WISCONSIN STATE BOARD OF PHARMACY AND THE ONTARIO COLLEGE OF PHARMACY: A COMPARISON OF STRUCTURE, POWERS, AND PRACTICES

#### Structure

The Wisconsin State Board of Pharmacy consists of five resident pharmacists engaged in practice at the time of their appointment by the governor, one each year, for a term of five years; customarily, although not invariably and not by law, these appointments have been made from among three names suggested by the Wisconsin Pharmaceutical Association. With subsequent reappointments by the governor, members may serve an indefinite number of terms. At an annual meeting in April, a president is elected and a secretary-treasurer appointed, each for a one-year term.<sup>1</sup> Until February 1, 1959, when the present secretary, Paul A. Pumpian, was appointed, the secretary was a member of the board.

Except for the secretary, the structure of the board has not changed since its inception in 1882; the selection of its members has, however, changed somewhat. Thus while

---

1. Wisconsin Statutes (1961), ch. 151, s. 151.01(1)(2), p. 2336.

it had become more or less the custom, it was not until 1923 that the law required pharmacists appointed to the board to be residents of Wisconsin and engaged in practice at the time; or required that the governor make his appointment from a list (of that or any previous year) of three pharmacists elected by members of the Wisconsin Pharmaceutical Association and certified by its president and secretary.<sup>2</sup> In 1927 the governor was given a free hand in the selection of future board members,<sup>3</sup> although he has traditionally chosen from among the recommendations of the association.

In contrast to the Wisconsin State Board of Pharmacy, the Ontario College of Pharmacy has a council consisting of fifteen registered pharmacists (one from each electoral division), each elected for a period of two years, from among the college members, all pharmacists registered under the Ontario Pharmacy Act of 1960.<sup>4</sup> The council elects its president and vice-president from among its members, for the duration of their two-year term,<sup>5</sup> and it appoints the chief

---

2. Wisconsin Session Laws (1923), ch. 448, sec. 91, s. 151.01(1), p. 955. Hereafter Wisconsin Session Laws will be cited as Wis. Laws.

3. (Edward Kremers?), "State Board of Pharmacy," in Badger Pharmacist, No. 14 (Feb. 1937): 4.

4. "The Pharmacy Act," in Revised Statutes of Ontario (1960), c. 295, s. 4(1)(3), s. 5, s. 7(1), p. 6. Hereafter Revised Statutes of Ontario will be abbreviated as R.S.O.

5. Ibid., s. 8, p. 7.

administrative officer of the college, the "registrar,"<sup>6</sup> who (like the present registrar, P. T. Meisley) need not be a member of the council. The council also appoints five standing committees<sup>7</sup> -- Finance and Property, Education, Infringement, By-Laws and Legislation, and Discipline -- of which the last named is most significant in our discussion, for it is the one that holds the power to suspend or revoke a pharmacist's registration.

Limitations of Powers Regarding the Suspension and Revocation of a Pharmacist's Registration

Under the present pharmacy laws, the Wisconsin State Board of Pharmacy

upon notice and hearing, may suspend or revoke the registration of one guilty of felony or gross immorality, or who is addicted to alcoholic liquors or narcotic drugs, or addicted to the use of barbiturates to an extent affecting his fitness as a pharmacist, or who is otherwise unfit to practice as a pharmacist, or whose registration was secured by fraud or mistake or the giving of misinformation in any of the applications submitted to the board of pharmacy or who has been guilty of a

- 
6. Ibid., s. 9, p. 7. The position of registrar is comparable to that of state board secretary.
7. By-Laws of the Ontario College of Pharmacy, passed by council, June, 1955, pursuant to "The Pharmacy Act, 1953," in Statutes of Ontario (2 Eliz. II, 1953), c. 79, s. 17, No. 15, p. 2. Hereafter, Ontario College of Pharmacy will be abbreviated as O.C.P.

violation of this chapter<sup>8</sup> or ch. 161<sup>9</sup> or of violations of any of the rules and regulations of the board, or who has been guilty of the acts of unprofessional conduct as herein defined.<sup>10</sup>

Although not dealing specifically with a pharmacist's registration to practice, the board also has the power to deny, suspend or revoke a pharmacy permit<sup>11</sup> for "failure

- 
8. "Wisconsin Dangerous Drug, Pharmacy and Poison Laws," in Wisconsin Statutes (1961), ch. 151.
9. "Wisconsin Narcotic Law," in Wisconsin Statutes (1961).
10. (a) Sale of adulterated drugs as defined in s. 97.25.  
 (b) Compounding, dispensing or selling, or causing or permitting the compounding, dispensing or sale of any drug which contains more or less than the proportionate quantity of ingredient or ingredients specified by the person ordering or prescribing such drug, or which contains an ingredient or ingredients other than those specified by the person ordering or prescribing such drug, or which is of a brand or which contains an ingredient or ingredients of a brand other than that specified by the person ordering or prescribing such drug, unless, in the case of a drug dispensed pursuant to a prescription the consent of the prescriber is first obtained and recorded on a prescription. Nothing herein shall be construed to prohibit the addition of such inert ingredients such as emulsifiers, wetting agents, solvents, or like items as may be required in the art of compounding, preparing, mixing, or otherwise producing drugs unless otherwise directed by the prescriber. (c) Violation of such standards as may from time to time be established or approved by the board. See: Wisconsin Statutes (1961), ch. 151, s. 151.02(7), p. 2337.
11. Issued to a drugstore, pharmacy, apothecary shop, or any similar place of business by the state board; see ibid., s. 151.02(9), p. 2338.

to maintain a pharmacy equipped with proper sanitary appliances, or in a clean and orderly manner."<sup>12</sup> The board is able to use this power, acquired in 1953,<sup>13</sup> in conjunction with or in lieu of the afore-mentioned law in certain cases involving suspension or revocation of pharmacists' registrations.

There have been a number of changes in Wisconsin pharmacy laws since the board's early beginning that have considerably strengthened the board's hand in dealing with the suspension and revocation of pharmacists' registrations. In fact, the board had no such authority for suspension or revocation until 1923,<sup>14</sup> when it was given the power to revoke the registration of any pharmacist

guilty of a felony or gross immorality, or who is addicted to alcoholic liquors or narcotic drugs to such extent as to make him unfit to practice pharmacy, or whose registration was secured by fraud.<sup>15</sup>

---

12. Ibid., s. 151.02(10), p. 2338.

13. Wis. Laws (1953), ch. 172, sec. 1, s. 151.02(10), p.164.

14. The pharmacy laws of 1882 provided for the state's attorney of the county wherein the offense was committed to prosecute all persons violating the provisions thereof. Under the 1895 laws, action could be instituted in any court having jurisdiction by any member of the board. It was the duty of the district attorney of the county where the penalties were incurred to prosecute all persons, when notified of the same, by the board. See: Ibid. (1882), ch. 167, sec. 15, p. 494; ibid. (1895), ch. 227, sec. 13, p. 433.

15. Ibid. (1923), ch. 448, sec. 91, s. 151.02(6), p. 966.

The board's authority regarding revocation of registration was strengthened in 1939 by the extension of the existing law to include a registration secured by mistake. Pharmacists could now have their registrations revoked if found guilty of repeated violations of the pharmacy law or any of the rules or regulations of the board, as well as repeated acts of unprofessional conduct, defined in the same statute to include essentially, the sale of adulterated drugs, and the compounding of prescriptions by negligently adding to or omitting substances prescribed or called for.<sup>16</sup>

In 1951, the board was given additional powers which enabled it to suspend — that is, suspend, rather than merely revoke — registrations for the same offenses.<sup>17</sup> Additions to and refinements of the statutes were made in 1953<sup>18</sup>; they were extended to include addiction to barbiturates in 1955<sup>19</sup>; and in 1959, assumed their present form.<sup>20</sup>

Unlike the Wisconsin State Board of Pharmacy, the structure of which remained unchanged over the years as a

---

16. Ibid. (1939), ch. 448, s. 151.02(7), p. 744-45.

17. Ibid. (1951), ch. 62, s. 151.02(7), p. 38.

18. Ibid. (1953), ch. 172, sec. 1, s. 151.02(7), p. 164.

19. Ibid. (1955), ch. 115, sec. 1, s. 151.02(7), p. 129.

20. Ibid. (1959), ch. 545, sec. 1, sec. 2, sec. 3, s. 151.02(7), p. 694.

five-member body, there have been some notable changes in the composition of the disciplinary body of the Ontario College of Pharmacy since the incorporation of the college in 1871, when the disciplinary body consisted of the entire council of the college.<sup>21</sup> The Discipline Committee now consists of seven members; namely, the president, vice-president, the chairmen of the Committees on Finance and Property and By-Laws and Legislation, and three members of the Infringement Committee, the council's vice-president being chairman.<sup>22</sup> Five members of the Discipline Committee

- 
21. A 1917 amendment to the law provided for a committee of the council -- consisting of the president, the chairmen of the By-Laws and Legislation Committee, and of the Infringement Committee -- that could, with the approval of the Lieutenant-Governor-in-Council, act in a limited capacity as a disciplinary body during periods between council meetings. The appearance of a Discipline Committee in its present capacity came first following the Pharmacy Act of 1927, but it consisted of only three members -- the president, the chairmen of the Committees on By-Laws and Legislation as well as Infringement. The 1953 Act provided for the appointment of a Discipline Committee to consist of not less than seven members of the council; in 1955, when the committee was finally appointed, the number of members decided upon was seven. The present-day committee consists of the same number of members. See: "The Pharmacy Act of 1871," in Statutes of Ontario (34 Vict., 1871), c. 34, s. 29, p. 106. Hereafter Statutes of Ontario will be abbreviated as S. O.; "An Act to amend The Pharmacy Act," ibid. (VII Geo. V, 1917), c. 35, s. 3, p. 214-215; By-Laws of the O.C.P., passed by council pursuant to "The Pharmacy Act," in R.S.O. (1927), c. 199, No. 7; "The Pharmacy Act, 1953," in S. O. (2 Elis. II, 1953), c. 79, s. 17 (g), p. 540.
22. By-Laws of the O.C.P., passed by council June, 1955, pursuant to "The Pharmacy Act, 1953," in S.O. (2 Elis. II, 1953), c. 79, s. 17 (g), No. 15, p. 3.

constitute a quorum for the purposes of hearings regarding suspension or revocation.<sup>23</sup> While the current Pharmacy Act empowers either the council or the Discipline Committee to suspend or revoke a pharmacist's registration, in almost all such cases the Discipline Committee has assumed this responsibility.

Under the current Pharmacy Act of Ontario, 1960, either the council or the Discipline Committee may revoke or suspend a pharmacist's registration, for such time as they deem proper,

- (a) if such person has been convicted of an offense against any Act of the Parliament of Canada or of the legislature of any province of Canada relating to the sale of drugs, poisons, medicines or alcoholic liquors; or
- (b) if such person has been declared to be mentally incompetent under The Mental Incompetency Act or has been certified or found to be mentally ill under The Mental Hospitals Act; or
- (c) if it finds that such person has been guilty of negligence, incompetency, or improper conduct in a professional respect.<sup>24</sup>

Furthermore, the Minister of Health may require any legally qualified pharmacist to report from time to time, or to

---

23. "The Pharmacy Act," in R.S.O. (1960), c. 295, s. 29(2), p. 12.

24. Ibid., s. 29(1), p. 12.

the college, the quantity of any drug referred to in "Schedule D"<sup>25</sup> of the Pharmacy Act, that he has purchased or sold during any period.<sup>26</sup> Where it appears to the Minister that a pharmacist has sold an excessive, unreasonable or improper amount of any drug referred to in Schedule D, or has failed to make a complete report under subsection 1, the Minister may report such matter to the disciplinary body of the college.<sup>27</sup> Upon receipt of such report, the disciplinary body may inquire and reprimand, suspend or revoke the registration to practice of the member of the college in question.<sup>28</sup>

Since the incorporation of the Ontario College of Pharmacy in 1871 there have been numerous changes in the pharmacy laws regarding the revocation and suspension of a pharmacist's registration. Under the Pharmacy Act of 1871, the Lieutenant-Governor-in-Council could direct the

---

25. Corresponding to Wis. "dangerous drugs," Schedule D includes barbituric acid and any salt, homologue, or derivative thereof; beta-amino propylbenzene and any salt thereof including isonyl, amphetamine, benzedrine, dexedrine and any salt thereof including inhalers; paraldehyde. See: Ibid., p. 23.

26. Ibid., s. 51(1), p. 17-18.

27. Ibid., s. 51(3), p. 18.

28. Ibid., s. 51(4), p. 18.

registrar of the college to "erase"<sup>29</sup> from the register the name of a pharmacist declared by the council to be unfit to practice as a result of his conviction of any offense(s) against the act.<sup>30</sup> Now while the legal definition of "erasure" seems to indicate an action like that of revocation, in actual practice it seemed to operate more like a suspension. Thus from 1917 to 1951, specific periods of erasure, of varying duration, were indicated by the council for offenses under the act.<sup>31</sup> Beginning in 1951,

---

29. According to Black's Law Dictionary (4th ed., St. Paul, Minnesota, 1951), 636, "the term is sometimes used for the removal of parts of a writing by any means whatever, as by cancellation."

30. "The Pharmacy Act of 1871," in S. O. (34 Vict., 1871), c. 34, s. 29, p. 106.

31. From 1917 onward, a conviction of a crime or an offense against the Pharmacy Act could invoke the erasure of a pharmacist's name from the register and nullification of his certificate authorizing him to practice as a pharmaceutical chemist, for a period of two years from the date of his conviction. The pharmacist could, after the expiration of this term and at the discretion of the council, be reinstated. A three-man committee -- consisting of the president, the chairman of the By-Laws and Legislation Committee, and the chairman of the Infringement Committee -- could, during the periods between council meetings, and with the approval of the Lieutenant-Governor-in-Council, suspend the certificate of registration of convicted pharmacists until the next meeting of council when the cases would then be duly considered. Beginning in 1924 a pharmacist's name could be erased from the register and his certificate to practice be nullified for an offense against the Opium or Narcotic Drug Act, for a period of two years; and for an offense against the Ontario Temperance Act or the Pharmacy Act, for a period of one year. As with the Pharmacy Act of 1917, council, in its discretion, could reinstate such pharmacists to practice. In 1939, the disciplinary body of the college was given the

the council was empowered to revoke the registration of a pharmacist

convicted of a crime or an offense against any act of the Parliament of Canada or of the legislature of any province of Canada relating to the sale of drugs, poisons, medicines or alcoholic liquors; or having been declared certified or mentally incompetent or mentally ill pursuant to the relevant statutes in that behalf.<sup>32</sup>

The 1953 Act provided for powers of revocation to be granted the Discipline Committee, which was appointed under a by-law by the council in 1955.<sup>33</sup> Furthermore, with a number of amendments, the law assumed its present

- 
31. (Cont.) additional power to inquire, upon receipt of a report from the Minister of Health, into the purchases and/or sales by college members, of excessive, unreasonable or improper amounts of Schedule D drugs. If proven, it could reprimand, suspend or revoke the registration of such members. See: "An Act to amend The Pharmacy Act," in S. O. (VII Geo. V, 1917), c. 35, s. 3, p. 214-215; ibid. (14 Geo. V, 1924), c. 43, s. 9, p. 116-117; "The Pharmacy Act," in R.S.O. (1937), c. 228, Schedule D, p. 2496; "An Act to amend The Pharmacy Act," in S. O. (3 Geo. VI, 1939), c. 34, s. 2(3), p. 254.
32. "An Act to amend The Pharmacy Act," in S. O. (15 Geo. VI, 1951), c. 64, s. 2, p. 331-332.
33. "The Pharmacy Act, 1953," ibid. (2 Eliz. II, 1953), c. 79, s. 27(1), p. 544.

structure.<sup>34</sup> In 1960, in addition to their powers of revocation, the council and the Discipline Committee, gained the right to "suspend" a pharmacist's registration for the same offenses<sup>35</sup>; even though, as we have seen, their prerogatives for "erasure" were much the same and extended back to 1871.

Over the years and until the present time, both the Ontario College of Pharmacy and the Wisconsin State Board of Pharmacy have slowly acquired great breadth of powers relative to the policing of the profession. Now while the powers of revocation came much later to the college than to its Wisconsin counterpart (1923 for Wisconsin, as opposed to 1951 for Ontario), the powers for suspension existed earlier in the hands of the college than of the board (for Ontario in the form of "erasure" from 1871 to 1960, then as "suspension"; for Wisconsin, from 1951). It is interesting to note that the more severe weapon of punishment, that of revocation, was in Wisconsin granted earlier

- 
34. Registration could be revoked if a pharmacist was declared mentally incompetent under The Mental Incompetency Act, or certified or found to be mentally ill under The Mental Hospitals Act. Furthermore, this was extended to include those pharmacists found guilty of negligence, incompetency or improper conduct in a professional respect. The three-man committee, empowered to act between council sessions, was dissolved. See: Ibid., s. 27(1)(b)(c), p. 544.
35. "The Pharmacy Act," in R.S.O. (1960), c. 295, s. 29(1), p. 12.

than the less stringent one of suspension; in Ontario the chronology was reversed.

Trends of Disciplinary Actions Promulgated Since 1882 and 1871 Respectively

While the primary focus of our study falls upon the suspension and revocation of pharmacists' registrations, we feel there is some significance in the general trends of disciplinary actions taken since their founding by the Wisconsin State Board of Pharmacy and the Ontario College of Pharmacy. Such actions reveal much about the guiding philosophies of these disciplinary bodies at various stages of their growth and development.

The Wisconsin State Board of Pharmacy

For the first two years after the appointment of the Wisconsin State Board of Pharmacy in 1882, there were no prosecutions of pharmacists -- although many complaints were received by the board -- to give all pharmacists an opportunity to become acquainted with the law. When a complaint was made, the secretary of the board personally wrote to or called upon the violator to explain the law and to clear up any misunderstanding. However, in 1885, the board began to act and prosecuted six different offenders.<sup>36</sup>

---

36. Fifth Annual Report of the Board of Pharmacy (1886):  
5.

By 1906, the board had instituted in the courts a total of 112 actions, or an average of 5 cases per year. The majority of these actions were taken against non-registered persons for sales of drugs and/or poisons. There were relatively few pharmacists prosecuted, by comparison, for lack of professional coverage of their pharmacies.<sup>37</sup> Among the reasons offered for the small number of actions instituted against pharmacists were lack of substantiating evidence and insufficient funds to employ inspectors. As a result, the accused parties were notified by the secretary (by letter) of the complaints against them and advised that if a second complaint was made the board would have to prosecute. In the majority of cases this action apparently proved to be sufficient for the accused pharmacists to comply with the law.<sup>38</sup> That the board intended to be as fair as it reasonably could is evident from its report of 1897, wherein it made clear its intentions to prosecute all cases of wilful violation, but not those where complaints had obviously been made "through spite or personal feeling," or where the accused was deemed ignorant of the law; if after sending the uninformed pharmacist a copy of the law he persisted in non-compliance,

---

37. Twenty-fifth Annual Report of the Wisconsin Board of Pharmacy (1906): 82-90.

38. Twelfth Annual Report of the State Board of Pharmacy (1893): 4.

then action was taken.<sup>39</sup> Thus the board chose not to follow the general principle that "ignorance of the law is no excuse" and preferred to give the accused a second chance.

A few years later the board disclosed that while they considered conditions in Wisconsin pharmacy unsatisfactory and were attempting to reach all violators, the pharmacy law was not as rigid as it ought to be and consequently conditions remained largely unchanged.<sup>40</sup> (Recall that prior to 1923 the board had no powers to revoke or suspend registrations and their only recourse against offenders lay in the courts.) All in all, in the area of law enforcement, the board was not overly active in its first twenty-one years. But that the situation in Wisconsin was not atypical of the experience elsewhere in the United States is clear from contemporary (1908) comment at a meeting of the American Pharmaceutical Association:

The causes responsible for most of the harmful effects of our pharmacy law are the permitted violations of the pharmacy law. Boards of pharmacy generally do not seem to want to enforce the law if they can help it. The enforcement of the pharmacy law rests entirely with the druggists

---

39. Sixteenth Annual Report of the Wisconsin Board of Pharmacy (1897): 5.

40. Twenty-fourth Annual Report of the Wisconsin Board of Pharmacy (1905): 5.

themselves. If they do not want the law enforced it will not be enforced.<sup>41</sup>

A study of the next thirty-one years (1906-1937) of Wisconsin board activity reveals apparently still less enforcement of the pharmacy laws. So that during the period the board reported a total of only nineteen convictions, or an average of less than one case per year.<sup>42</sup> Unfortunately with the exception of two of the nineteen convictions, which concerned lack of professional coverage of pharmacies, there is no mention of the nature of the violations.

Now during this period, the board did find funds to initiate a traditional mechanism for remaining aware of existing conditions in Wisconsin pharmacies, for keeping pharmacists informed of legal requirements and so for obtaining reasonable enforcement of the pharmacy law -- the regular inspection of pharmacies throughout the state.

- 
41. William Kaemmerer, "Harmful Effects of Our Pharmacy Laws," in Proceedings of American Pharmaceutical Association, 56 (1908): 745.
42. See: Annual Report of the Wisconsin Board of Pharmacy, 24th (1905) through 36th (1917), 43rd (1924), and 48th (1929); "37th Annual Report of the Wisconsin State Board of Pharmacy," in Proceedings of Wisconsin Pharmaceutical Association (1918): 55; 38th, ibid. (1919): 58; 39th, ibid. (1920): 53; 40th, ibid. (1921): 74; 41st, ibid. (1922): 101; 42nd, ibid. (1923): 114; 44th, ibid. (1925): 94; 45th, ibid. (1926): 113; 46th, ibid. (1927): 96; 47th, ibid. (1928): 146; and for the period 1930 to 1937, the files of the annual board reports in the board office in Milwaukee.

Accordingly, in 1911, the board employed one inspector, one of the first in its history.<sup>43</sup> During this period a number of violation complaints were being adjusted by correspondence or by visits from members of the board, but the board still chose not to prosecute on the first offense, particularly where it appeared that such violations had not been wilful.<sup>44</sup>

Inspection reports disclosed that delinquency consisted mainly in the improper keeping of poison and liquor registers and sales of drugs by unregistered persons during the pharmacist's absence from the pharmacy.<sup>45</sup> Yet continuing shortages of funds to provide for sufficient inspectors, meant that complaints died each year without receiving adequate attention from the board, or continued to be handled through correspondence with the secretary of the board.<sup>46</sup>

In an apparent attempt to explain its action, or inactions, the board reported (in 1915) that it considered its duty lay

in protecting the people of the  
commonwealth . . . better discharged

- 
43. Thirtieth Annual Report of the Wisconsin Board of Pharmacy (1911): 4.
44. Thirty-first Annual Report of the Wisconsin Board of Pharmacy (1912): 4.
45. Thirty-second Annual Report of the Wisconsin Board of Pharmacy (1913): 5.
46. Thirty-third Annual Report of the Wisconsin Board of Pharmacy (1914): 4.

by procuring an obedience of the laws than by punishing its infractions<sup>47</sup>;

and again (in 1918):

The Board of Pharmacy takes the position that they are justified in being extremely lenient in the enforcement of the law with reference to registered clerks.

However, this should not be taken to mean that the Board will permit the indiscriminate dispensing of poisonous drugs by unregistered help. The civilian population is entitled to the same protection during the war as it obtains in the time of peace.<sup>48</sup>

These statements reveal a pronounced attitude of laxity in the enforcement of the pharmacy law, whether or not tempered by wartime conditions.

A few years later (1923), the inspector's report indicated that the trouble was almost entirely confined to the general stores, sometimes department stores; but very few violations occurred in pharmacies and those that did usually involved lack of professional coverage.<sup>49</sup> Much attention was given later in the 1920's to violations by

---

47. Thirty-fourth Annual Report of the Wisconsin Board of Pharmacy (1915): 4.

48. Thirty-seventh Annual Report of the Wisconsin State Board of Pharmacy (1918): 55-56.

49. "Report of Drug Store Inspector," in Proceedings of the Forty-third Annual Meeting of the Wisconsin Pharmaceutical Association (1923): 116.

persons not legally entitled to practice pharmacy.<sup>50</sup> The inspector called upon the many wholesale grocers to inform them of the pharmacy law, and was active in scrutinizing medicine shows, house-to-house peddlers, and agency men. Because the district attorneys of the different counties wherein violations occurred interpreted the pharmacy laws differently than board members as pharmacists, the board found itself more than inconvenienced in the disposition of all cases.<sup>51</sup>

During the early years of the great depression, an attempt was made to restore normal business conditions in pharmacy at any cost. The board accordingly relaxed its vigilance against pharmacists and concentrated on the increasing threat of the sale of U.S.P. and N.F. drugs through improper channels, such as grocery stores, restaurants, and billiard parlors. Another reason for lack of actions in some instances by the board during this era finds expression in the practical board philosophy that:

Court fines and penalties for violations of pharmacy laws are not paid into the treasury of the board. Prosecutions mean all expense and no income. Hence the policy, in some minor offenses, of

---

50. Proceedings of the Forty-eighth Annual Meeting of the Wisconsin Pharmaceutical Association (1928): 52.

51. "Annual Report of the State Board of Pharmacy Inspection Department," ibid., 88.

avoiding immediate court action where other corrective measures are available.<sup>52</sup>

During the two decades from 1938 to 1958, the board was primarily concerned with the sales of drugs through numerous illicit channels. As in previous instances, funds were not readily available for the prosecution by the board of offenders in the courts or for the conducting of board hearings of violators. Consequently the board could employ only one full-time inspector and at times only a part-time inspector. It naturally followed that many complaints fell by the wayside unattended. The board received excellent cooperation from the district attorneys of the various counties wherein infractions occurred and were prosecuted. The guidance of these district attorneys proved valuable to the board, for its members lacked legal backgrounds. The board believed it necessary to relocate drugs into the pharmacies before commencing to prosecute offending pharmacists.

A total of 119 convictions were recorded during this period against unregistered persons for the illegal sales of drugs, poisons and/or contraceptive devices. Only twenty-four convictions were registered against pharmacists, the majority of the charges involving lack of professional coverage of pharmacies. During this time the

---

52. Edwin Beberg, "Wisconsin State Board of Pharmacy," in Wisconsin Druggist, 3 (October, 1935): 5-6.

policy of the board was to take the more serious cases to court. The board believed that word of mouth and newspaper publicity would alleviate the situation in the immediate vicinity where violations occurred. Aside from the afore-mentioned convictions, the board conducted a total of 228 hearings involving pharmacists. It became the constant practice to consult with the district attorneys before any cases were brought before the board. The Attorney General's Department also advised the board on various matters.

There were rare instances when, at the board's request, registrations were surrendered voluntarily. This involved pharmacists who were incapable of practicing in a safe and professional manner because of either excessive drinking or habituation or addiction to drugs or narcotics. The board believed in the rehabilitation and reinstatement of such pharmacists rather than punishment through suspension or revocation of their registrations.<sup>53</sup>

In 1959, the board was fortunate to secure the services of an administrative head who was not only a registered pharmacist but also an attorney. Through his efforts, additional state pharmaceutical

---

53. The foregoing was gleaned through person interview with Sylvester H. Dretzka, who served as board secretary during the period.

legislation was obtained to broaden the board's scope of powers regarding supervision over the practice of pharmacy. More legal formality was introduced into the board hearings. An increase in the inspection staff, to four registered pharmacists, provided closer and more frequent scrutiny of the pharmacists of the state and proved effective in the prompt detection of violations. Infractions, in various counties, were prosecuted in the courts by the local district attorney. The policy changed somewhat and the board now deemed it suitable that no hearing involving pharmacists would be held until a court conviction had been registered against the offender. This, the board thought, would prevent the overruling of their decisions by higher courts in cases of appeal.

It should be noted that while the board first received powers for revocation in 1923 and for suspension in 1951 there has been no revocation to date. The first official suspension of a pharmacist's registration took place in May, 1960, and since that time a total of five additional suspensions have been ordered at formal hearings of the board, with one voluntary surrender of registration at the board's request. We reserve for Chapter III a full discussion of this question.

#### The Ontario College of Pharmacy

Like the Wisconsin State Board of Pharmacy, the disciplinary body of the Ontario College of Pharmacy was slow

in becoming active. Beginning in 1875, numerous legal actions were taken against members of the college for recovery of back fees.<sup>54</sup> It was felt that disciplinary procedures should be handled somewhat delicately until the college gained a firm foothold. The institution of legal proceedings required a substantial outlay of funds as well as a considerable demand of the registrar's time<sup>55</sup>; hence, many infringements of the Pharmacy Act were settled by correspondence through the registrar's office, just as they had been in Wisconsin by the board secretary.<sup>56</sup>

By 1882 the college decided to secure the services of a public prosecutor to proceed in all cases of infringement, on a commission basis, replacing a detective who had been performing this task since 1880.<sup>57</sup> This proved unsatisfactory, from the members' point of view, since numerous convictions of pharmacists ensued.<sup>58</sup> Later, in 1890, it was proposed that the enforcement of the Pharmacy Act, "in

---

54. "Legal Decisions Respecting Members in Arrears" (Editorial), in Canadian Pharmaceutical Journal, 9 (1875): 179.

55. "The Manner of Dealing with Infringements of the Act, for the First Few Years Following 1871" (Editorial), ibid., 12 (1878): 93.

56. Ontario College of Pharmacy Minutes, ibid., 10 (September, 1876): 39.

57. Ibid., 13 (March, 1880): 250.

58. Ibid., 16 (No. 2, September, 1882): 42-47; 17 (No. 12, July, 1884): 173-74, 175; 19 (No. 7, February, 1886): 97-98.

protecting the druggists of the province," should be carried out by a salaried individual.<sup>59</sup> Five years later, and after much difficulty, a detective was employed for the surveillance of illicit drug sales and the collection of fees in arrears.<sup>60</sup> By 1897, the college was experiencing difficulties securing court convictions because of different interpretations of the Practice Act by the magistrates of different localities.<sup>61</sup> Even though cases of a serious nature were to be prosecuted, minor infringements were adjusted as simply as possible.<sup>62</sup>

By early in the turn of the century efforts by an inspector and his assistant were directed towards the investigation and prosecution of violations by retail merchants as well as the scrutinising of the pharmacists' observance of the act.<sup>63</sup> In many instances, the inspectors personally adjusted the irregularities and complaints. November, 1916 saw the first appearance for disciplinary action of three pharmacist-offenders before the entire council of the college.<sup>64</sup>

---

59. Ibid., 24 (September, 1890): 18.

60. "Report of Infringement Committee," in Ontario College of Pharmacy Minutes (August, 1895): 18-19.

61. Ibid. (February, 1897): 18-20.

62. Ibid. (August 5, 1897): 17-20.

63. Ibid. (December 10, 1908): 16-17.

64. "Report No. 2 of Divisional and Infringement Committee," ibid. (November 20, 1916): 20.

The first erasure of a pharmacist's name from the college register occurred in November, 1920, after the pharmacist in question had been convicted of a second offense against the Ontario Temperance Act.<sup>65</sup> With amendments to the Pharmacy Act in 1924, the college began to use its new powers and immediately caused the erasure of three pharmacists' names from the register, for the specific periods as dictated under the law; this was, in effect, the same as a suspension.

About this same time, the college took the position that the role of the inspector should be that of an instructor rather than prosecutor, since the college, like the Wisconsin board, tried to avoid prosecutions where offenses were not deliberate.<sup>66</sup> The majority of cases before the courts at this time involved non-registered persons, and the percentage of offending pharmacists was relatively low.<sup>67</sup> Even during the post World War II period, the prevailing problem was one of unqualified personnel engaging in the sales of drugs and/or poisons and dispensing of

---

65. "Report No. 1 of Infringement Committee," *ibid.* (November 17, 1920): 22-23.

66. "Report of Division and Infringement Committee," *ibid.* (June 9, 1927): 24-26.

67. *Ibid.* (June 4, 1928): 16-17.

prescriptions; this again resulted in numerous court convictions.<sup>68</sup> By 1949, thirty-three more pharmacists' names were ordered erased from the college register for offenses against the Opium or Narcotic Drug Act, the Liquor Control Act, and the Pharmacy Act, after convictions had been registered in court.<sup>69</sup> In a few cases, the disciplinary body felt that the penalty imposed by the courts was sufficient punishment and dispensed with further action.<sup>70</sup>

By 1954, it was realized that disciplinary measures, other than recourse to the courts with its attending publicity, were necessary in the interest of better public relations for pharmacy. The Committee on Division and Infringement chose to correspond with the offenders and, in most cases, achieved the desired result.<sup>71</sup> The period 1953 to 1958 found the Discipline Committee rather inactive, perhaps because of the outcry of registrants throughout the province as reflected in the following passages:

---

68. Ibid. (June 2, 1947): 125-127.

69. Ibid. (November 19, 1924); (June 7, 1926); (November 22, 1928); (November 17, 1930); (June 1, 1931); (November 18, 1931); (June 7, 1935); (June 1, 1936); (November 16, 1936); (November 17, 1937); (November 21, 1938); (November 20, 1939); (November 19, 1940); (June 2, 1941); (June 1, 1942); (November 16, 1942); (June 7, 1943); (June 4, 1945); (June 3, 1946); (June 2, 1947).

70. Ibid. (June 2, 1947): 125-127.

71. Ibid. (November 1, 1954): 942-43.

Many of our Pharmacists are now disturbed over the situation that has developed recently. Pharmacists expressed their fears of the present inspection policies <sup>72</sup> too much policing and inspecting.

We feel that it is in the best interests of pharmacy to correct and adjust many cases rather than resort to the courts.<sup>73</sup>

In 1959, under a new administrative head, the Ontario College of Pharmacy inaugurated a more stringent disciplinary policy resulting in an increase in prosecutions of pharmacists as well as non-registered persons and the number of hearings before the Discipline Committee. It became evident in 1960 that the powers granted to the Discipline Committee under the Pharmacy Act, 1960, were not being exercised to their fullest extent, for they conceded that:

While about 20 cases out of 160 involved convictions and cancellations, the large majority were satisfactorily settled by interviews and discussions with the Committee. This is ample evidence that justice <sup>74</sup> was tempered with mercy in all cases.

---

72. "Report No. 5 of Committee on Division and Infringement," *ibid.* (June 6, 1955): 1007-1008.

73. "Report No. 2 of Committee on Division and Infringement," *ibid.* (June, 1958): 1363.

74. "Special Report of Committee on Division and Infringement," *ibid.* (November, 1960): 1686.

The policy became such that any pharmacist convicted in magistrate's court was automatically required to appear before the Discipline Committee. Here, more legal formality was introduced with the employment of a solicitor appearing on behalf of the college. The inspection staff, in 1961, was increased from one to four registered pharmacists; this was necessitated by the unsatisfactory conditions relating to pharmacy throughout the province and resulted in an increase in the number of cases before the Discipline Committee and in the courts.

Late in 1963 the council again decided to avoid the unfavorable publicity accompanying court cases by ordering the pharmacist-offenders directly before the Discipline Committee to show cause why their registrations to practice pharmacy should not be suspended or revoked.

With the securing of the power to suspend registrations in 1960, in addition to their authority of revocation in effect since 1951, the Discipline Committee revoked eighteen registrations and suspended thirty-two more by the end of 1964.<sup>75</sup> This brings the total number of

---

75. "Report of Committee on Discipline," *ibid.* (November, 1959); (June, 1960); (November 10, 1960); (April, 1961); (June, 1961); (August 29, 1961); (October 31, 1961); (November 27-28, 1961); (January 25, 1962); (March, 1962); (April 12, 1962); (May 23-4, 1962); (June 21-2, 1962); (September 6-7, 1962); (October 18-19, 1962); (November 5-6, 1962); (November 27-8, 1962); (June 27-8, 1963); (August 6-7, 1963); (October 1-2, 1963); (December 3, 1963); (June 25, 1964); (September 22-3, 1964); (November 4, 1964).

suspensions of pharmacists' registrations to sixty-eight and revocations to twenty-one for the entire period 1871 to 1964.

Throughout the previous discussions on the various trends of actions, reference has repeatedly been made to the protection of the pharmacists of Wisconsin and Ontario by their respective agencies through the enforcement of their pharmacy laws. It seems evident that the two disciplinary bodies have not utilized their powers of jurisdiction nor their regulatory powers to the limit.

Giving voice to this realization, Paul Puspian, Wisconsin board secretary, recently commented before the National Association of Boards of Pharmacy:

It is the duty of a Board of Pharmacy to protect the public, not the pharmacist. There is a misconception prevalent among the pharmacists throughout the United States -- they, the pharmacists, feel that it is the duty of their Board of Pharmacy to protect pharmacy against the encroachment of others. This is not true. Members of the State Boards of Pharmacy are charged with the duty of protecting the public health, safety and welfare, not with acting in the economic interests of our professional colleagues who are but a small segment of our society . . . . if their action should benefit the registered pharmacist and the pharmacy owner, this is incidental to their action, even though beneficial to our profession . . . . It is necessary to thoroughly study the statutes of your state to determine just what power you as members of a Board of Pharmacy have under your statutes and how these powers can be expanded by regulation. It is my own opinion that the Boards of Pharmacy as a

whole are not utilizing their regulatory authority to its fullest extent and that the Boards do not regulate as much as is permissible under their statutes.<sup>76</sup>

Virtually the same sentiments with respect to unused board powers for enforcement were expressed a decade ago (in 1953) to a similar audience by then National Association of Boards of Pharmacy President, James Lynch, and more recently (in 1964) in an audit of pharmaceutical service in hospitals.<sup>77</sup>

Present-Day Practices and Procedures Exercised in the  
Suspension or Revocation of a Pharmacist's Registration

The Wisconsin State Board of Pharmacy

In Wisconsin proceedings to suspend or revoke registrations are initiated only after an inspector of the board has verified the complaint(s) registered against the accused registrant and the board has obtained a subsequent court conviction. Upon receipt of the complaint from the board, the district attorneys in the various counties where the complaints originate are charged with their prosecution.

---

76. Paul Pumpian, "Rule and Regulation Making Power of Boards of Pharmacy," in Proceedings of the National Association of Boards of Pharmacy (1963): 161-2.

77. James Lynch, "Law Enforcement," ibid. (1953): 23; "A Report of the Audit of Pharmaceutical Service in Hospitals," in Mirror to Hospital Pharmacy (Pennsylvania, 1964), 37.

A formal hearing in the matter of revocation or suspension of registration to practice pharmacy is then scheduled. A formal notice of hearing and statement of issues (see Appendix A) is mailed to the accused by the secretary of the board -- and a written reply is required "within one-half the time intervening between the notice of hearing and the date set for the hearing."<sup>78</sup> All charges set forth in the statement, if not denied, are construed as an admission of guilt by the board.<sup>79</sup> If the registrant fails to reply to the notice of hearing, or to appear at the hearing, the board may proceed in his absence and enter its order on the evidence deduced from the investigation.<sup>80</sup>

The respondent may appear on his own behalf and/or be represented by counsel; if a corporation, by any of its active officers. Prior to 1960 the assistant to the Attorney General acted as legal advisor to the board, but since 1960 the secretary of the board, who is a pharmacist-attorney, has acted in this capacity. The hearing is conducted like a regular trial (see Appendix B), with the board president presiding. The president may, on behalf of the board, swear witnesses, administer oaths, or grant adjournments for shown specific causes. Any member of the board

---

78. Wisconsin Administrative Code, Phar. 4.07 (March, 1964): 18; and 4.08, p. 19.

79. Ibid., Phar. 4.09, p. 19.

80. Ibid., Phar. 4.10, p. 19-20.

and/or its legal representative may examine witnesses.<sup>81</sup>

The registrant is notified in writing (see Appendix C) of the board's decision within thirty days of the conclusion of the hearing. A decision resulting in a revocation of a registration does not become effective until twenty days after the notice of the board's decision has been served upon the respondent.<sup>82</sup> Although it is not specified in the statutes, this practice also applies to suspension of registrations.<sup>83</sup> From the date of receipt of the board's decision, a petition to appeal such decision must be served in the circuit court of Dane County (unless a different place of review is expressly provided by law), within thirty days.<sup>84</sup> If an appeal is instituted within the twenty-day period following the receipt of the board's decision, and prior to the effective date of suspension or revocation, such order shall become effective upon the date set forth by the court; however, if the petition is not filed within this twenty-day period but within the remaining ten days, then the board's decision will have become effective and the respondent will not be allowed to practice pharmacy in the interim.<sup>85</sup>

81. Ibid., Phar. 4.12, p. 20.  
82. Wisconsin Statutes (1961), ch. 151, s. 151.02(7), p. 2337.  
83. Personal communication from Paul Pumpian, Secretary, Wisconsin State Board of Pharmacy, July 6, 1965.  
84. Wisconsin Statutes (1961), ch. 227, s. 227.16(1), p. 3073.  
85. Ibid., s. 151.02(7), p. 2337.

In cases where no convictions are registered in the courts, the board holds "show cause" hearings. In these instances, the respondent receives a notice (see Appendix B) from the secretary of the board to show cause why action should not be instituted to suspend his right to practice pharmacy in the state. A drafted reply (see Appendix E) for the respondent's signature is enclosed with the show cause notice. This type of hearing is informal; the respondent may be accompanied by legal counsel if he wishes, even though no evidence is introduced, and no cases are made. The respondent is advised of the board's decision in writing (see Appendix F) at a future date.

The matter is held open, as in a probationary period, for a stated period of time. Should the registrant commit another violation during this interval, the previous infraction will again be considered along with the second offense(s). These hearings have usually taken place in cases involving the lack of professional coverage of pharmacies or the refilling of prescriptions without the prescribing physician's authority.

#### The Ontario College of Pharmacy

Unlike Wisconsin, from 1959 to 1963 the Ontario College of Pharmacy initiated proceedings to suspend or revoke registrations whether or not a court conviction had

been first obtained. This policy changed when, late in 1963, it became the practice to summon the registrant directly before the Discipline Committee without first instituting court action in a calculated effort to stave off adverse publicity. Upon receiving a complaint, the inspection staff refer it to one of the regular meetings of the Infringement Committee, composed of four council members who decide which cases are to appear before the Discipline Committee. After review of the complaint, instructions are given to the inspection staff to investigate it fully in order to substantiate it before it is referred directly to the Discipline Committee for suspension or revocation of the offender's registration.

In all cases, two non-pharmacists are employed by the college as shoppers to obtain evidence, for purposes of corroboration, under the guidance of one of the inspectors. Non-pharmacist personnel are used because under the present Pharmacy Act it is not illegal for a pharmacist to sell drugs to another pharmacist, which the inspectors are in fact. The containers obtained in such purchases made to substantiate illegalities are each secured by means of an Attorney-General's seal, dated and initialled by the shoppers and the accompanying inspector. These containers, held in custody of the inspector, are taken directly to the Provincial Analyst, appointed by order-in-council as an analyst for purposes of the Pharmacy Act.

The date of a formal hearing, similar to that of a court trial, is scheduled and the respondent is sent a notice (see Appendix G) by the registrar to show cause why his registration to practice pharmacy should not be suspended, or revoked, for the infractions set forth therein. The respondent, if he wishes, may be represented by legal counsel.

As in the proceedings of the Wisconsin State Board, the council's president officiates as chairman at the hearings and in this capacity administers the oaths to the witnesses and, at the conclusion of the hearing, announces the decision of the committee. The solicitor for the college presents the evidence in the case on behalf of the college.

By virtue of the Pharmacy Act a certificate (see Appendix H), issued by the registrar under the seal of the college and stating that the accused is a registered pharmacist, is admissible in evidence as prima facie proof of the facts stated therein.<sup>86</sup> The act also provides for the admission in evidence of the analyst's certificate (see Appendix I) as prima facie proof of the facts stated therein.<sup>87</sup>

---

86. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 22, p. 10.

87. Ibid., s. 23, p. 10.

The Discipline Committee can proceed in the absence of the registrant and render a decision, unless extenuating circumstances have caused his absence, in which case a postponement of the hearing is granted until the next meeting of the committee.

Witnesses, sworn in to give evidence for or against the defendant may be questioned by legal counsel and any members of the committee. The defendant, under oath, is allowed to give evidence on his own behalf. All such evidence is recorded by a court stenographer. At the conclusion of the hearing the college solicitor and defense counsel sum up the pertinent facts of the case, after which everyone except the committee retires from the room. The committee deliberates, then recalls the defendant, both legal counsels, and the inspectors to deliver the verdict through the chairman.

The imposed penalty may take effect immediately or at a designated date. This decision is confirmed in writing (see Appendix J) by the registrar at a later date. Any appeals must be filed with the Supreme Court of Ontario within three months from the date of suspension or revocation of registration and the decision of the court is final.<sup>88</sup> As provided by the act the council alone may, upon application, reinstate a person whose registration has been suspended or revoked.<sup>89</sup>

---

88. Ibid., s. 29(5), p. 13.

89. Ibid., s. 29(6), p. 13.

In cases of minor offenses, the registrant is sent a notice (see Appendix K) requesting his appearance before the Infringement Committee, at a specific time, to explain the stated infraction(s). This type of hearing is informal and no evidence is introduced or case made; the chairman of the committee issues a warning as to the registrant's future conduct. Cases heard in this manner usually involve lack of professional supervision of pharmacies.<sup>90</sup>

The procedures of both agencies are alike in that they are both conducted in a manner similar to that of a regular court trial. Ontario provides a three-month period during which a registrant may appeal the decision of the Discipline Committee. Should the registrant file his petition within this period, he may continue to practice until the decision of the Supreme Court of Ontario rules otherwise. Wisconsin law, on the other hand, provides only a thirty-day period for such an appeal. The Pharmacy Act of Ontario also stipulates that a pharmacist, whose registration has been suspended or revoked, may apply to the council for reinstatement to practice; in Wisconsin, this does not exist. Each agency categorizes the infractions in that they provide formal and informal hearings for different types of violations.

---

90. The information regarding the present-day practices and procedures of the Ontario College of Pharmacy was obtained through personal communication from Thomas Greenfield, Chief Inspector, Ontario College of Pharmacy, January 15, 1965.

While in the course of our discussions in this chapter we have seen a number of similarities, in the structure, powers, and practices of the Wisconsin State Board of Pharmacy and the Ontario College of Pharmacy, certain significant differences also emerge. In general, the tendency of both bodies in the past was toward actions that educated the pharmacist to his responsibilities and obligations under the law, rather than toward hard and fast enforcement of the pharmacy practice acts. This guiding philosophy of both agencies seems to be changing markedly now, perhaps as a reflection of a growing realization that by allowing offenders to go unpunished, pharmacists stand to lose their public registration (that is through their official licensing to practice pharmacy by the State) and stand to disappear as a profession, because they fail to do what they in essence promise in return for their privileged status -- protect public health and welfare. We plan to explore in more detail in succeeding chapters how the board and the college have functioned in a specified period of time, 1953 to 1964, and what have been the basic philosophies of their members.

## CHAPTER III

### DETAILED STUDY OF CASES FROM THE FILES OF THE WISCONSIN STATE BOARD OF PHARMACY AND THE ONTARIO COLLEGE OF PHARMACY FOR THE PERIOD 1953 TO 1964

#### Purpose:

To determine what measures were employed by the Wisconsin State Board of Pharmacy and the Ontario College of Pharmacy in the enforcement of the pharmacy laws of their respective territories and at what levels of malfunction they have taken action through suspension or revocation of a pharmacist's registration to safeguard public health, we examined in detail representative sample cases drawn from the files of these two agencies. Wisconsin cases for the period 1953 to 1958, as we have already pointed out in the Preface, were selected by Sylvester H. Dretzka, Secretary-Emeritus, Wisconsin State Board of Pharmacy and transmitted to the author through personal communication. While we consider this a flaw in the methodology, we prefer to retain the period originally chosen, 1953 to 1964, for the reasons already cited. The data of suspension and revocation of registrations during this period were tabulated for Wisconsin (see Table 1) and Ontario (see Table 2).

#### Quantitative Data and Their Interpretation:

Out of a total of 60 pharmacists appearing before the board for disciplinary action during the period 1953-1964 (47, from 1960 to 1964 inclusive) only 6 (10.0%; 12.76%,

for the 5-year period 1960 to 1964) lost their privilege to practice for specific periods of time, whereas one pharmacist faced with the suspension of his registration chose to surrender it voluntarily rather than receive the adverse publicity attendant upon court action. All together then, 7 (11.66%) out of 60 pharmacists lost their privilege to practice; 7 (14.89%) out of 47 from 1960 to 1964. The other 53 (88.34%) were disciplined in some other manner; namely, through warnings, reprimands, and probations, either for specific periods of time or indefinitely. The maximum penalty, revocation of registration, was not imposed directly, but voluntarily sought by one pharmacist mentioned previously.

It is interesting to note that all of these actions were taken during the 5-year period 1960 to 1964, although the board had the power to suspend and revoke registrations during this entire period -- the power of revocation, we recall, was first gained in 1923, in contrast to that of suspension, first gained 28 years later, in 1951. The initiation of actions in 1960, following upon the change of administrative heads in 1959, points to the introduction of a different policy regarding the disciplining of pharmacist-offenders.

During the same period (1953-1964) in Ontario, by comparison, out of a total of 180 registrants who appeared before the Discipline Committee, 32 (17.78%; all after 1959) had their registrations suspended for specific periods of time, whereas 20 (11.11%; 10.00% after 1959) had their

registrations revoked. Altogether, 52 (28.89%) of the 180 pharmacists had their registrations suspended or revoked. The remaining 128 (71.11%) were disciplined through warnings and/or reprimands. A small number of actions were dismissed for lack of sufficient evidence. The maximum penalty was imposed on 20 (11.11%) of the 180 pharmacists.

Now while these actions, with the exception of two, have occurred since 1960, as in Wisconsin, the college gained powers for suspending registrations first in 1960 (for revoking, in 1951). The increased number of disciplinary actions instituted by the college after 1959 may, as in the case of Wisconsin, also be attributed to administrative changes in that year.

During the period 1953 to 1964, the Ontario College of Pharmacy has clearly used more often its powers for suspension and revocation of registrations than the Wisconsin State Board of Pharmacy. This is somewhat more striking since the college was first empowered to suspend registrations in 1960. Now while Wisconsin's unwillingness to invoke its ultimate punishment, revocation, appears telling in comparison with Ontario's disposition to mete out 20 revocations during the same interval, the frequency with which the two bodies used their powers of suspension bears closer examination. Observe that while Ontario awarded half as many more suspensions than did Wisconsin (17.78% vs. 11.66%, or ca. 1.5 times more), the Ontario actions were based on three times as many violations (180 vs. 60). The number of

actions instituted in each case might be interpreted variously as a relative function of the size and vigilance of the inspectorial staffs of the two bodies, the variation in degree of compliance (or level of practice) of pharmacists in the two domains -- perhaps in itself a reflection of the degree of success to which the two bodies have carried out their responsibilities in the past and present -- or as a function of the total number of practicing pharmacists in each sphere of responsibility.

Thus in comparing the data of Table 1 and Table 2 we find that in its peak year (1961) the Wisconsin State Board of Pharmacy called 16 (0.69%) of the state's 2,299 registered pharmacists before it for disciplinary action, while the Discipline Committee of the Ontario College of Pharmacy in its peak year (1962) called 50 (1.23%) of the 4,063 registered pharmacists in the province before it. Ontario, we see, instituted nearly twice (ca. 1.9 times) as many actions as did Wisconsin, in almost direct proportion (ca. 1.8) to the difference in the proportion of registered pharmacists. Whether we can explain this in terms of the relative level of professional practice or compliance (hence complimentary to Wisconsin pharmacists and by extension to the board) or the relative level of vigilance and willingness to institute actions by the responsible bodies (hence complimentary to Ontario) remains an open question for now. In an effort to resolve this and other questions raised by the quantitative data, we turn now to pursue the qualitative approach.

### Qualitative Data and Their Interpretation:

To attempt to gain some insight into the manner in and reasons for which the Wisconsin State Board of Pharmacy and the Ontario College of Pharmacy have carried out their powers of suspending or revoking a pharmacist's registration, we selected representative sample cases offering a good cross-section of various types of violations, along with the disciplinary measures effected by each body. These sample cases were drawn as carefully as possible to be as representative as possible, therefore we may consider that in general the conclusions could be extended to most of the cases. We refer the reader to Chapter II (pages 15-16,20) for a discussion of the various offenses for which suspensions or revocations may be invoked, but plan here to discuss, topically, the following: 1) professional coverage of pharmacies; (a) permitting clerks to dispense or compound prescriptions, (b) permitting clerks to sell drugs and/or poisons; 2) substitution; 3) unsanitary pharmacy premises; 4) sale of prescription drugs over the counter: (a) without a physician's prescription, (b) by refilling a prescription without the prescribing physician's authority; 5) failure to keep a record of the purchases and sales of drugs as required by law; 6) failure to operate a pharmacy; 7) errors in dispensing; 8) unfitness to practice: (a) while under the influence of alcohol, (b) while addicted to drugs.

TABLE 1

**SUSPENSION AND REVOCATION OF PHARMACISTS' REGISTRATIONS  
IN WISCONSIN FOR THE PERIOD 1953 TO 1964**

| Year         | Total No. Registered Pharmacists Practicing in State* | Total No. Registered Pharmacists before the Board# | Percentage of Total No. Registered Pharmacists before Board | Total No. Registrations Suspended# | Total No. Registrations Revoked# |
|--------------|---|--|---|------------------------------------|----------------------------------|
| 1953         | 2,160   | 2  | 0.092%  | 0                                  | 0                                |
| 1954         | 2,182   | 8  | 0.36  | 0                                  | 0                                |
| 1955         | 2,168   | 1  | 0.046   | 0                                  | 0                                |
| 1956         | 2,206   | 0  | -   | 0                                  | 0                                |
| 1957         | 2,227   | 1  | 0.044   | 0                                  | 0                                |
| 1958         | 2,205   | 0  | -   | 0                                  | 0                                |
| 1959         | 2,231   | 1  | 0.044   | 0                                  | 0                                |
| 1960         | 2,284   | 5  | 0.21  | 2                                  | 0                                |
| 1961         | 2,299   | 16   | 0.69  | 0                                  | 0                                |
| 1962         | 2,329   | 7  | 0.30  | 2                                  | 1**                              |
| 1963         | 2,337   | 11   | 0.47  | 0                                  | 0                                |
| 1964         | 2,267   | 8  | 0.35  | 2                                  | 0                                |
| <b>TOTAL</b> | <b>26,895</b>   | <b>60</b>  | <b>-</b>  | <b>6</b>                           | <b>1</b>                         |

\*Proceedings of National Association of Boards of Pharmacy (1953): 50; (1954): 105; (1955): 55; (1956): 61; (1957): 60; (1958): 60; (1959): 62; (1960): 63; (1961): 60; (1962): 67; (1963): 87; (1964): 108.

#From the case files of the Wisconsin State Board of Pharmacy for the period 1953 to 1964.

\*\*Voluntary surrender of registration, at board's request.

TABLE 2

**SUSPENSION AND REVOCATION OF PHARMACISTS' REGISTRATIONS  
IN ONTARIO FOR THE PERIOD 1953 TO 1964**

| Year         | Total No. Registered Pharmacists in Province* | Total No. Registered Pharmacists before the Discipline Committee# | Percentage of Total No. Registered Pharmacists before the Discipline Committee | Total No. Registrations Suspended# | Total No. Registrations Revoked# |
|--------------|---|---|--|------------------------------------|----------------------------------|
| 1953         | -   | 0   | -  | 0                                  | 0                                |
| 1954         | -   | 8   | -  | 0                                  | 0                                |
| 1955         | 3,511   | 2   | 0.056%   | 0                                  | 0                                |
| 1956         | -   | 7   | -  | 0                                  | 0                                |
| 1957         | 3,730   | 1   | 0.026  | 0                                  | 0                                |
| 1958         | 3,728   | 1   | 0.026  | 0                                  | 0                                |
| 1959         | -   | 7   | -  | 0                                  | 2                                |
| 1960         | 3,828   | 13  | 0.34   | 1                                  | 9                                |
| 1961         | -   | 28  | -  | 6                                  | 4                                |
| 1962         | 4,063   | 50  | 1.23   | 12                                 | 2                                |
| 1963         | -   | 40  | -  | 8                                  | 1                                |
| 1964         | 4,271   | 22  | 0.51   | 5                                  | 2                                |
| <b>TOTAL</b> | <b>-</b>                                      | <b>180</b>  | <b>-</b>   | <b>32</b>                          | <b>20</b>                        |

\*Figures, where available, compiled by the Ontario College of Pharmacy, November 30, 1964, in Statistics on Registration for 1964.

#From the case files of the Ontario College of Pharmacy for the period 1953 to 1964.

1) Professional Coverage of Pharmacies:

(a) Permitting Clerks to Dispense or Compound Prescriptions

Wisconsin--Case 1<sup>1</sup>

The respondent was charged with wilfully and unlawfully permitting the dispensing of drugs at a pharmacy without a registered pharmacist in charge. This was contrary to section 151.04(2) of the Wisconsin Statutes.<sup>2</sup>

In court, the respondent denied having wilfully violated the statutes, but claimed to have been temporarily out of the pharmacy and further claimed that the sale complained of was made by an employee, a relative, without his knowledge, or consent, and against his specific orders. He was convicted of the offense in the county court and was fined \$100 and costs.

At the hearing, the board contended that the evidence of two previous convictions of the same offense indicated that

- 
1. From the case files (July 25, 1962) of the Wisconsin State Board of Pharmacy, Milwaukee, Wisconsin.
  2. "Wisconsin Dangerous Drug, Pharmacy and Poison Laws," in Wisconsin Statutes (1961), ch. 151, s. 151.04(2), p. 2339: "No person shall sell, give away, barter, compound or dispense drugs, medicines or poisons, nor permit it, in a town, village or city having a population of 500 or more unless he be a registered pharmacist, nor institute nor conduct a place therefor without a registered pharmacist in charge."

the respondent was aware of the necessity of being on the premises during the hours in which the pharmacy was in operation, with the possible exception of a brief absence for meal periods, and that the violation occurred at a time other than during a meal period. It was maintained that the violation was wilful.

The respondent was represented at the hearing by an attorney who stated that as a result of the charge the respondent had sold his business, left the state, and suffered a mental breakdown. The attorney admitted, on behalf of the respondent, that he "did unlawfully allow drugs to be dispensed contrary to the statutes but denied that he did it wilfully." The attorney suggested that the board merely censure the respondent because the man intended to apply for a license in another state and any definite action now would influence the other board against him.

At the conclusion of the hearing the board stated:

It is in the public interest as well as that of the profession of pharmacy that some disciplinary action be taken, but that a suspension will be sufficient to impress the respondent with his responsibilities in the matter of permitting the dispensing of drugs at a pharmacy without a registered pharmacist in charge thereof and should very definitely serve as a warning to him that any further violations of the pharmacy law on his part will result in permanent revocation of his registration to practice pharmacy.<sup>3</sup>

---

3. Transcript of Proceedings (July 25, 1962), Wisconsin State Board of Pharmacy.

It was ordered that the respondent's pharmacy registration be suspended for a period of 90 days.

Ontario--Case 1<sup>4</sup>

A pharmacist was charged with unlawfully keeping open a pharmacy not under the personal supervision of and managed by a pharmaceutical chemist,<sup>5</sup> contrary to section 37 of the Pharmacy Act.<sup>6</sup>

As the result of a complaint, an investigation of the pharmacy in question had been ordered, in which a shopper, employed by the Ontario College of Pharmacy, obtained 12 1/4-grain Seconal capsules from a clerk, with no registered pharmacist in attendance. A court action resulted in the pharmacist's conviction and a fine of \$50 and costs or 10 days imprisonment.

The Discipline Committee scheduled a hearing at which the registrant was required to show cause why his registration as a pharmaceutical chemist should not be revoked, or

- 
4. From the case files (January 12, 1962) of the Ontario College of Pharmacy, Toronto, Ontario.
  5. A member of the college registered under the Pharmacy Act, 1960; see: "The Pharmacy Act," in Revised Statutes of Ontario (1960), ch. 295, s. 1(f), p. 3. Hereafter Revised Statutes of Ontario will be abbreviated as R.S.O.
  6. Ibid., s. 37, p. 15: "No person or corporation shall keep open or operate a pharmacy unless it is under the personal supervision of and is managed by a pharmaceutical chemist."

suspended, on the grounds that he had been convicted of an offense against the Pharmacy Act. The respondent claimed to be in his living quarters above the pharmacy at the time the sale was made. He further stated that his long-term employee, well acquainted with the operation of a dispensary, did not dispense by herself, but merely assisted him by writing labels and counting tablets.

In the summation the chairman of the Discipline Committee stated:

The main thing that we are concerned with is that the Pharmacy Act must be obeyed by all registered pharmacists in this Province and that indicates you and I. According to law, we can't allow any excuse. We are probably sympathetic but if we are going to allow these kinds of conditions to go on, then we become as guilty as the person who does it and the Discipline Committee of the Council is going to have to take a firm stand on registrants that are brought in here that have broken the Pharmacy Act.<sup>7</sup>

The respondent received a reprimand.<sup>7a</sup>

#### Ontario--Case 2<sup>8</sup>

Two pharmacist-directors of a corporate pharmacy were charged with permitting one of their pharmacies to be kept open and operating when it was not under the personal supervision of, or managed by, a pharmaceutical chemist,

7. Transcript of Proceedings (January 12, 1962), the Ontario College of Pharmacy.

7a. According to Black's Law Dictionary (4th Ed., St. Paul, Minnesota, 1951): 1466, "A public and formal censure or severe reproof, administered to a person in fault by his superior officer or by a body to which he belongs."

8. From the case files (August 7, 1963) of the Ontario College of Pharmacy.

contrary to section 37 of the Pharmacy Act. They were also charged with permitting a clerk who was not a pharmaceutical chemist, or an apprentice, as well as for allowing a registered apprentice, to dispense and compound prescriptions, contrary to section 38(1)(c).<sup>9</sup>

While on a routine inspection of the pharmacy, an inspector of the Ontario College of Pharmacy found in attendance two gentlemen attired in white smocks. One identified himself as an apprentice and claimed the other, in reality a clerk, to be the pharmacist; there was no registered pharmacist on the premises. During the visit the inspector noted in the narcotic file several oral prescriptions with the signature of a pharmacist who had left the employ of this pharmacy one week prior to the dates of the prescriptions. The handwriting was later identified to be that of the clerk, and the signatures, obviously forged.

Both respondents were summoned directly before the Discipline Committee, without having to appear in court, to show cause why their registrations as pharmaceutical chemists should not be revoked or suspended. The registration

---

9. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 38(1) (c), p. 15: "Except as otherwise provided in this Act or the regulations, no person, other than a pharmaceutical chemist, shall dispense or compound prescriptions of legally qualified medical practitioners, dentists or veterinary surgeons," Ibid., s. 38(2), p. 15: "This section does not apply to an apprentice registered under this Act when acting under the supervision of a pharmaceutical chemist."

of the director-manager of this pharmacy was suspended for six weeks. The other pharmacist-director, claiming ignorance of the conditions here as he was actively engaged as manager of their other pharmacy, was reprimanded.

Ontario--Case 3<sup>10</sup>

A pharmacist-owner was required to show cause to the Discipline Committee why his registration as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he was convicted for unlawfully permitting an unregistered clerk in his employ to commit an offense against the Pharmacy Act, in that the said clerk, not being a pharmaceutical chemist, unlawfully did dispense a prescription of a legally qualified medical practitioner, contrary to sections 38(1)(c) and 54 of the Act.<sup>11</sup>

- 
10. From the case files (September 6, 1962) of the Ontario College of Pharmacy.
11. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 38(1)(c), p. 15: "Except as otherwise provided in this Act or the regulations, no person, other than a pharmaceutical chemist, shall, dispense or compound prescriptions of legally qualified medical practitioners, dentists or veterinary surgeons." Ibid., s. 54, p. 20: "Every owner or manager of a pharmacy is liable for every offense against this Act committed by any person in his employ or under his supervision with his permission, consent or approval, express or implied."

A routine inspection of the registrant's pharmacy disclosed that an unregistered clerk was rotating shifts with the registrant in supervising the operation of the pharmacy. The clerk had been in the registrant's employ for some 8 years and during this time had been permitted to dispense drugs and/or poisons. The inspector gave the registrant a written warning that if he further condoned the clerk's illegal practices it would be in violation of the Pharmacy Act. The next day, with the owner absent from the pharmacy, the clerk dispensed a prescription for an anti-allergy drug, Periactin; the indicated dosage was an overdose and caused the death of the eight-year-old patient.

A medical witness at the coroner's inquest testified that the maximum dose should have been 3 or 4 half-tablets in one day, rather than the 7 prescribed. The Coroner offered the opinion that "druggists have a moral and legal responsibility to advise a doctor when he thinks a prescription is an overdose," and it was held that the family physician was negligent in prescribing the overdose and that the pharmacist (in reality, the clerk) was negligent in not recognizing the overdose. The 5 jurors ruled that death had been caused by the overdose.

A court action that ensued resulted in the conviction of the registrant, with a fine of \$200 and \$60 in court costs, or in default, 2 months imprisonment. (See Exhibit No. 1, p. 65, for some newspaper accounts of this case.)

EXHIBIT No. 1

Some Ontario Newspaper Accounts of the Conviction of a Registered Pharmacist

# Drugstore Warned Before Lethal Dose

A drugstore was officially warned just one day before a lethal dose of an anti-allergy drug was dispensed from it, court was told.

Insp. [redacted] of the Ontario College of Pharmacy said he visited the drugstore operated by [redacted] on [redacted]

He said he spoke to employe [redacted] who told him he was not a pharmacist although he worked in the dispensary.

Insp. [redacted] said [redacted] told him he had apprenticed in 1954 but the inspector said he pointed out that the apprenticeship expired in 1957.

### BREACH OF ACT

The inspector said he warned both [redacted] and [redacted] that it would be a breach of the Pharmacy Act if [redacted] dispensed any more drugs without supervision.

The next day, while [redacted] was out, [redacted] sold an anti-allergy drug, Periactin, which subsequently resulted in the death of [redacted]

Earlier [redacted] pleaded guilty to dispensing a drug while not a qualified pharmaceutical chemist and was fined \$100 or 20 days.

Yesterday [redacted] was convicted of unlawfully permitting [redacted] to dispense the drug and was fined \$200 or two months.

### FOUND NEGLIGENT

Following the child's death a coroner's jury found the doctor, [redacted]

[redacted] negligent in prescribing the overdose of the drug.

It also found [redacted] negligent in not recognizing that it was an overdose.

The child had been given seven tablets in a 20-hour period.

A medical witness at the inquest said the child should have received an initial dosage of no more than half a tablet three or four times a day.

## Child Died Druggist Fined \$260

[redacted] owner of a west-end drug store, was fined \$200 or \$60 [redacted] court costs yesterday for permitting an employe who was not a druggist to dispense a pharmaceutical product.

The employe, [redacted] a clerk in the [redacted] drugstore, filled a prescription of Periactin for [redacted] who later died from an overdose of the anti-histamine.

At the hearing before the Discipline Committee, the solicitor for the college directed the committee to disregard the death of the child and to deal only with the evidence that concerned them, that the registrant allowed a non-pharmacist to fill prescriptions. The registrant, testifying under oath, denied that the inspector had warned him about the status of his employee under the Pharmacy Act. The committee awarded the registrant a reprimand.

(b) Permitting Clerks to Sell Drugs and/or Poisons

Wisconsin--Case 1<sup>12</sup>

A pharmacist was charged with unlawfully permitting the sale of drugs without a registered pharmacist being in charge, contrary to section 161.08(2)(c), of the Wisconsin Statutes.<sup>12a</sup>

A sixty-two year-old woman, employed in the capacity of cook and waitress in the pharmacy in question, had opened the pharmacy one morning and sold a bottle of terpin-hydrate with codeine to a customer, without the registered pharmacist being on the premises. The patron in question was actually an inspector from the state board.

Court action resulted in the matter being held open for one year, during which time the registered pharmacist was on

12. From the case files (June 17, 1964) of the Wisconsin State Board of Pharmacy.

12a. Wisconsin Statutes (1961), ch. 161, s. 161.08(2)(c), p. 2394; "That such preparation shall be sold at retail only by a registered pharmacist when sold in a retail establishment."

probation.<sup>12b</sup> The board was urged by the court to consider that this was not a situation where a registered pharmacist knowingly, intentionally, or willingly allowed, or permitted, a clerk to sell exempt narcotics. What was involved here was the sale of a bottle of cough syrup by an elderly woman who -- in a state of confusion, a feeling to be helpful, and under the inducement of the inspector -- made a sale contrary to the explicit instructions of the pharmacist.

The board, two months later, requested the respondent's appearance to show cause why action should not be instituted to suspend his right to practice pharmacy in the state. The board, like the court, decided to hold the matter open for one year. At the conclusion of this probation period, with no further violations incurred by the respondent, the matter was dropped.

#### Ontario--Case 1<sup>13</sup>

Two pharmacist-directors of a corporate pharmacy were required to show cause to the Discipline Committee why their registrations as pharmaceutical chemists should not be revoked, or suspended, on the grounds that they were guilty of negligence in a professional respect in permitting the sale by retail of the poison methyl salicylate and the drug

12b. According to Black's Law Dictionary (4th ed., St. Paul, Minnesota, 1951): 1567, "An act of grace and clemency which may be granted by the trial court to a seemingly deserving defendant whereby such defendant may escape the extreme rigors of the penalty imposed by law for the offense of which he stands convicted."

13. From the case files (November 5, 1962) of the Ontario College of Pharmacy.

codeine phosphate by persons, not pharmaceutical chemists, contrary to section 38(1)(b) of the Pharmacy Act.<sup>14</sup>

\*

Two Ontario College of Pharmacy shoppers visited the pharmacy located in a large department store some 200 feet from either north or south end of the building where the check-out counters were located -- and obtained a bottle of oil of wintergreen (methyl salicylate) and a bottle of Frosset's 222 (A.P.C. with 1/8 gr. codeine phosphate per tablet). One paid the check-out cashier at the south end of the building and the other at the north end of the building, that is they paid two employees of the department store for the poison and drug. The same two shoppers, visiting the department store again the next day, obtained two more bottles of oil of wintergreen from the pharmacy and again paid the cashiers at the north and south check-outs respectively.

At the hearing, the solicitor for the college contended that the pharmacist in charge of the pharmacy had no control whatsoever over the sales of drugs and/or poisons. The pharmacist-manager admitted that "seventy-five percent" of the pharmacy's sales were made by check-out cashiers,

---

14. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 38(1) (b), p. 15: "Except as otherwise provided in this Act or the regulations, no person, other than a pharmaceutical chemist, shall sell, offer for sale or keep for sale, by retail any poison or drug."

employees of the department store. The committee's decision was to suspend the registrations of both pharmacist-directors to practice pharmacy for a period of ten days.

Ontario—Case 2<sup>15</sup>

A charge was laid against a pharmacist under section 35 of the Pharmacy Act, 1953,<sup>16</sup> for keeping open a pharmacy not under the personal supervision of and managed by a pharmaceutical chemist.

A shopper of the Ontario College of Pharmacy purchased an expectorant and some antibiotic lozenges from a clerk operating the pharmacy in question, with no registered pharmacist on the premises at the time of the sale. Subsequent court action resulted in the pharmacist's conviction and fine of \$50 and costs. At a hearing before the Discipline Committee, the respondent was reprimanded for his laxity and warned about future conduct.

One year later, the same pharmacist was charged with the same offense after two college shoppers purchased a poison (a jar of ammoniated mercury ointment) from a clerk, there being no registered pharmacist in attendance.

---

15. From the case files (June 8, 1960 and October 31, 1961) of the Ontario College of Pharmacy.

16. "The Pharmacy Act, 1953," in S.O. (2 Eliz. II, 1953), ch. 79, p. 546.

The respondent was convicted in court, fined \$50 and costs, and again required to show cause to the Discipline Committee why his registration as a pharmaceutical chemist should not be revoked or suspended. The chairman of the committee in his concluding address said:

I think they (the Committee) have tempered their decision with mercy . . . . It is hard for this Committee to let you off with what I would consider a very light sentence. Actually, on two occasions you have been found in contravention of the Pharmacy Act . . . . I think their decision was based on the fact that your responsibility must be to service the public and if we cancel or suspend your license we would be taking away that responsibility from you and therefore, the public in that area would not be served.<sup>17</sup>

The respondent received a "severe" reprimand.

We find neither Wisconsin nor Ontario viewing the lack of professional coverage of a pharmacy serious enough to warrant awarding the maximum penalty, that of revocation. Out of 9 respondents (2 from Wisconsin, 7 from Ontario) appearing before their respective disciplinary bodies for the first time, 4 received suspensions of their registrations (1 Wisconsin registrant for 90 days; 3 Ontario registrants, 2 for 10 days each, the other for 6 weeks. Of

---

17. Transcript of Proceedings (October 31, 1961), the Ontario College of Pharmacy.

the remaining 5 respondents (1 in Wisconsin, 4 in Ontario) the Wisconsin registrant received a one-year probationary period, while the 4 from Ontario were reprimanded. It is interesting to note that 1 of these 4 Ontario registrants was appearing for the second time within a period of a year for the same infraction. We see inconsistencies in the thinking of both agencies in the varied penalties meted out to the registrants. This is illustrated in both Wisconsin cases in which of the 2 respondents, both appearing before the board for the first time, 1 received a ninety-day suspension and the other a one-year probation.

Contradiction is even more evident in the case of Ontario, where we find out of 6 pharmacists on first appearance, 1 received a six-week suspension; 2, suspensions of 10 days each; and the other 3, reprimands. This is in direct contrast to the remaining Ontario registrant who, on a second appearance before the Discipline Committee -- with 2 previous court convictions for the same offense -- received a reprimand.

The philosophies of the members of both agencies obviously differ greatly as indicated in Wisconsin Case 1 of subsection (a) and Ontario Case 2 of subsection (b). In the instance of the Wisconsin respondent, convicted in court on 2 separate occasions for the same offense, the board contended that the violation was wilful and further acknowledged that definite action should have been taken

in the public interest; accordingly, they suspended his registration. In Ontario, on the other hand, when the respondent appeared for the second time before the committee with 2 previous court convictions on 2 different occasions for the same infraction, he was reprimanded; the committee felt that suspension, or revocation, of his registration would deprive his community of his services.

We see a reluctance in Case 3 of subsection (a) to enforce the penalty even though the respondent had been convicted of the offense in a court of law. The quotations already cited in Ontario Cases 1 of subsection (a) and 2 of (b) illustrate further the committee's unwillingness to enforce the penalties.

## 2) Substitution:

Wisconsin--Case 1<sup>18</sup>

Upon a complaint from the manufacturer of the drug Nenbutal, the State Board of Pharmacy instituted proceedings against 8 Wisconsin pharmacists for unprofessional conduct as defined in section 151.02(7)(b) of the Wisconsin Statutes.<sup>19</sup>

---

18. From the case files (November 19, 1954) of the Wisconsin State Board of Pharmacy.

19. Wisconsin Session Laws (1953), ch. 172, sec. 1, s. 151.02(7)(b), p. 164: "Compounding and dispensing a prescription by using substances not prescribed or called for, or by omitting substances prescribed or called for. This does not apply to the addition of emulsifiers, wetting agents, solvents or like items intended for proper pharmaceutical techniques."

Evidence was gathered by representatives of the company who took physicians' prescriptions specifically calling for Nembutal to the suspected pharmacists to be filled. The contents of the containers supplied were analyzed and found to contain a substitute drug in each case. Upon presentation of the evidence, the board began an investigation; and the manufacturer announced his reaction to members of the board that:

The entire pharmaceutical industry and the medical profession has had a feeling for a long time that a very few druggists, who are not representative druggists generally, are dispensing something other than what the doctor prescribes.<sup>20</sup>

The testimony presented at the hearing remained undisputed in each case; namely, that Nembutal capsules were called for in each of the prescriptions described in each of the complaints, but that none of these prescriptions as dispensed contained Nembutal. No effort was made by any of the respondents to contradict, in any material respect, the testimony offered by the complainant's witnesses. Fanciful and unconvincing explanations were offered by most of the respondents as to how, or why a generic equivalent, pentobarbital sodium, was substituted in the various prescriptions for Nembutal.

---

20. Transcript of Proceedings (November 19, 1954), Wisconsin State Board of Pharmacy.

The board's summation of the case against the registrants, pointed out:

It is in the interests of public health and safety for the patient to receive exactly what the doctor has prescribed and that the pharmacist owes the highest duty to both the patient and the doctor in filling prescriptions with the exact ingredients called for and supplied by manufacturers having the highest reputation for honor, integrity and quality of drugs used. There is no place in pharmacy for the druggist who substitutes cheap and cut-rate products for those of reliable manufacturers maintaining rigid laboratory procedures for insuring the quality and uniformity of their products.

The hazards are too great and the druggist who will expose the public to such hazards by substituting something which he may think is just as good for the sake of earning a few pennies must realize that the board has a duty to see that he is retired from practice and that the Statutes relating to substitution or omitting of substances called for in prescriptions must be rigidly enforced.<sup>21</sup>

But the board tempered its decision with leniency explaining:

Since these are the first cases of their kind which have come before the board for disciplinary action the board believes that while some punishment must be meted out, there is justification for suspending the punishment and for putting these respondents on probation for what would otherwise be the period of suspension in order that they may be given an opportunity to demonstrate that they have learned the

---

20. Transcript of Proceedings (November 19, 1954), Wisconsin State Board of Pharmacy.

seriousness of their offense and to show to the board that they are fit and proper persons to be permitted to continue in the practice of pharmacy.<sup>22</sup>

In each case the board ordered two-year suspensions, but held the execution of the sentences in abeyance during the period of suspension, contingent upon full compliance by the respondents with State and Federal laws relating to the practice of pharmacy and the rules and regulations of the board during the period of probation. (See Exhibit No. 2, page 76, for an account of this case in the Wisconsin Druggist.)

#### Ontario—Case 1<sup>23</sup>

A pharmacist was asked to appear directly before the Discipline Committee, without court action, to show cause why his registration as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he had been guilty — according to section 58, the Pharmacy Act<sup>24</sup> —

- 
22. Transcript of Proceedings (November 19, 1954), Wisconsin State Board of Pharmacy.
23. From the case files (September 25, 1961) of the Ontario College of Pharmacy.
24. "The Pharmacy Act," in R.S.O. (1960), ch. 395, s. 58, p. 20: "No person shall knowingly sell any poison or drug under the representation or pretense that it is a particular poison or drug that it is not, or contains any substance that it does not."

EXHIBIT No. 2

A Wisconsin Druggist Account of a Case Involving  
Suspension of Pharmacists' Registrations

**BOARD of PHARMACY**

by Sylvester H. Dretzka, Sec'y

**Suspensions Ordered For Substitutors**

Two Year Suspensions Effective

**Drug Frauds Are Charged**

**Cheap Substitute Used in Prescriptions,  
Official Asserts**

Eight [redacted] area druggists have been discovered using cheap substitutes for the sleep producing drug Nembutal on doctors' prescriptions, and face action by the state board of pharmacy an assistant attorney general said recently.

The eight will not be named until the board has decided what action it will take. The action will come within about 10 days, a board spokesman said.

Evidence against the eight was gathered by representatives of [redacted] Laboratories, [redacted]. They took doctors' prescriptions for Nembutal to the suspected druggists to be filled. Then they tested the prescriptions and found that a substitute had been used.

**Clarification of Action By  
State Board**

To further clarify the matter for the pharmacists of the State we quote from the official "Decision, Findings of Fact, Conclusions of Law, Order", which was signed in [redacted] after action

by the Board in Executive Session at Madison on [redacted]

"Upon complaint of [redacted] Laboratories, a corporation located at [redacted] [redacted] proceedings were instituted by this Board under sec. 151.02 (7), Wisconsin Statutes, against the respondents for unprofessional conduct as defined by sec. 151.02 (7) (b) and consisting of compounding and dispensing prescriptions by using substances not prescribed or called for, or by omitting substances prescribed or called for.

**Findings of Fact In Each Case**

1. That the respondent is a duly licensed pharmacist owning and operating a drug store.

2. That said respondent, either personally or through a licensed pharmacist employee operating under the supervision and direction of the respondent, upon appropriate physician's prescriptions being duly presented at respondent's said drug store compounding and dispensing such prescriptions.

3. That the aforesaid prescriptions called for Nembutal, but that each prescription was compounded and dispensed by using a substance other than Nembutal as prescribed or called for in each of said prescriptions, and that Nembutal was wholly omitted in each of said prescriptions.

**Conclusions of Law**

That by reason of the foregoing each of the respondents is guilty of violating sec. 151.02 (7) (b) of the Wisconsin Statutes and that the license or certificate of registration of each of said respondents is subject to suspension or revocation for unprofessional conduct within the meaning of sec. 151.02 (7)

of the Wisconsin Statutes, and that the following order of suspension and probation for the period of time hereinafter specified is reasonably necessary to protect the public health and safety."

This order of suspension will be held in abeyance during said suspension period contingent upon full compliance by said licensees with all State and Federal Laws relating to the practice of pharmacy and the rules and regulations of the Board during said probation period.

of improper conduct in a professional respect by knowingly, on two separate occasions, selling dextro-amphetamine sulphate, a generic equivalent, when Dexedrine Spansules and Dexedrine #1 Spansules were specifically prescribed.

A routine inspection, by an inspector of the Ontario College of Pharmacy, of the prescription files in the pharmacy in question disclosed evidence of substitution in two instances.

At the hearing the registrant claimed to have supplied what he considered to be a "less expensive but worthy generic product," because he believed the patient not to be in the best of financial circumstances. Yet the price charged for the substituted "spansules" was fifteen cents less than the prescription price for the genuine. He also admitted that he did not contact the prescribing physician for authority to make the change.

The second prescription was for the pharmacy scrub-woman, for whom the registrant claimed sympathy. The price charged for the 30 substitute "spansules" was \$3.60, the list price for 100 of the same. The respondent claimed to have called the prescribing physician, who verbally authorized use of the generic drug.

The solicitor for the college in his summary left it with the committee "as to the extent to which there has been a threat to the public health because of the failure

to comply with his clear-cut duty, which is to fill specifically what the doctor prescribes."<sup>25</sup> The decision of the Discipline Committee was a reprimand.

Ontario--Case 2<sup>26</sup>

A pharmacist, director-manager of a corporate pharmacy, was charged with dispensing a prescription for Tofranil (25 mg. tablets), a thymoleptic drug, by supplying Wyamine Sulphate without authority from the prescribing physician and without informing the patient of the change in the medication. Furthermore he charged the patient according to the price for the prescribed, medication, Tofranil, and not for the substitute. In addition, the registrant dispensed to another patient a prescription for 30 Dulcolax tablets, a laxative, for which he supplied 12 tablets of cascara sagrada, without the prescribing physician's authority. He charged the price for the 30 tablets of the drug originally prescribed and not for the number of tablets of the substituted drug actually received by the patient.

An investigation resulted after the physician of the patient involved complained to the college. A strong protest was registered against the respondent for deliberately

---

25. Transcript of Proceedings (September 25, 1961), the Ontario College of Pharmacy.

26. From the case files (November 27, 1962) of the Ontario College of Pharmacy.

changing a medical prescription without the prescribing physician's permission and for making false statements denying the charge to the physician while confirming it to a representative of the manufacturer of Tofranil. In his complaint the physician charged that "the simultaneous administration of thymoleptic drugs (Tofranil) and amphetamine derivatives (Wyamine Sulphate) is generally contraindicated and could lead to dangerous implications."<sup>27</sup>

Further investigation revealed that the price paid by the patient for the medication received was \$11, when the pharmacist's price for the substituted medication was \$4.75.

The second charge originated with the protest by another physician (of the same clinic with which the first physician was associated), when his patient complained that the medication received was not effective. Upon receipt of another prescription, for the patient for Dulcolax tablets, the registrant dispensed the medication called for in an unlabelled plastic vial. Pending the hearing before the Discipline Committee, the respondent attempted unsuccessfully to bribe both witnesses with substantial amounts of money so that they would refute the evidence presented.

Approximately one year prior to this hearing, the registrant had appeared before the Discipline Committee for

---

27. From the physician's letter of complaint in this case file.

other charges and received a three-month suspension of his registration. All charges were admitted in this second appearance and the committee decided to revoke his registration.

Evidently neither agency considered substitution a grave enough violation to suspend, or revoke, the registrations of the nine respondents (8 from Wisconsin, 1 from Ontario) on a first appearance. Ontario, however, did revoke the registration of a pharmacist, in an aggravated case, who had one year previously been suspended for three months for a different infraction.

We see a reluctance by the Wisconsin Board in Case 1 to set a precedent and enforce a substantial penalty. The thinking of the board members is illustrated in the statements concerning the seriousness of the infraction, yet tempered on the grounds that they represented first cases of their kind by suspended punishment and allocated probations. A probation, although not as severe as suspension or revocation of registration, in effect carries more severity than a reprimand, or a warning.<sup>27a</sup> The respondent continues to practice as long as he does not transgress the pharmacy laws during such period." By comparison, in Ontario Case 1, we detect little regard for the public safety on the part of the Discipline Committee with their reprimand of the offender and obvious disinclination to mete out a stringent penalty.

---

27a. According to Webster's Third New International Dictionary (Springfield, Massachusetts, 1961): 2577, "The action or fact of putting one on his guard by intimating danger, evil, consequences, or penalties from an act or course of conduct."

### 3) Unsanitary Pharmacy Premises:

#### Wisconsin--Case 1<sup>28</sup>

This case deals specifically with the suspension or revocation of a pharmacy permit rather than that of a pharmacist's registration to practice pharmacy.

Two non-registered pharmacy owners<sup>29</sup> were asked to appear before the board to show cause why their pharmacy permit should not be suspended or revoked in that they had failed to maintain their pharmacy in a clean and orderly manner, contrary to section 151.02(10) of the Wisconsin Statutes.<sup>30</sup>

The respondents replied to the notice of hearing informing the board that the conditions existing at the time of inspection were temporary in nature due to the renovation of the premises. However, since that time the pharmacy had been maintained in a clean and orderly manner and the board was invited to verify the situation.

---

28. From the case files (February 25, 1964) of the Wisconsin State Board of Pharmacy.

29. Wisconsin law permits ownership of pharmacies by unregistered persons as long as the pharmacies are personally supervised by a registered pharmacist.

30. Wisconsin Statutes (1961), ch. 151, s. 151.02(10), p. 2558: "Failure to maintain a pharmacy equipped with proper sanitary appliances or in a clean and orderly manner constitutes grounds for denial, suspension or revocation of a pharmacy permit."

Re-inspection disclosed that the situation had been remedied and the hearing was cancelled at the request of the board.

Ontario--Case 1<sup>31</sup>

A pharmacy owner was asked to appear before the Discipline Committee to show cause why his registration to practice as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he had been guilty of improper conduct in a professional respect in that he did conduct his pharmacy in a "dirty condition."<sup>32</sup>

\*

A routine inspection of the premises, by an Ontario College of Pharmacy inspector, had revealed the premises to be unsanitary in that much of the open stock was dust-covered and the floor was grimy with layers of dirt and cat litter; the dispensary was extremely filthy as were the few utensils therein. The only prescription files consisted of cardboard matchboxes in which the prescriptions had been kept.

---

31. From the case files (November 28, 1961 and March 6, 1962) of the Ontario College of Pharmacy.

32. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 29(1)(c), p. 12: "The Council or the Discipline Committee appointed under a by-law passed by the Council may direct that the registration of any person be suspended for such time as the Council or the Discipline Committee deems proper, if it finds that such person has been guilty of improper conduct in a professional respect."

During the hearing, the respondent claimed to be in the process of renovating his pharmacy, but because of considerable construction and demolition in the area (involving a new apartment building) he had hesitated to complete his remodelling.

The directive from the committee ordered that the pharmacy be cleaned up immediately and stated that the inspection staff would again examine the premises. The decision was reserved, with the registrant to be summoned before the committee at a future date.

One month later, two Ontario College of Pharmacy inspectors visited this pharmacy and reported a "ten per cent improvement"<sup>33</sup> of the previously existing conditions. A further inspection ensued, in thirty days, revealing a "fifty per cent improvement."<sup>34</sup> After still another thirty-day interval, the inspectors reported a definite improvement and the registrant was summoned for the conclusion of the original hearing. The committee decided to dismiss the case against the respondent.

#### Ontario--Case 2<sup>35</sup>

The registrant was requested to appear before the Discipline Committee to show cause why his registration to

---

33. From the written reports of the two inspectors (January 8, 1962) found in this case file.

34. From the written reports of two inspectors (February 26, 1962) found in this case file.

35. From the case files (December 3, 1963 and January 16, 1964) of the Ontario College of Pharmacy.

practice as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he was guilty of negligence in a professional respect in that he conducted a pharmacy in which the conditions were most unsanitary and unsatisfactory.

An inspector's report revealed the establishment to be only remotely a "pharmacy." Even though prescription signs were displayed, only an average of 6 prescriptions were being dispensed per month; the dispensary equipment was inadequate and dispensing stock was valued at less than \$1,000; prescriptions were loose, sometimes kept in cigar boxes; and the entire atmosphere was one of confusion and complete disorder.

At the scheduled hearing the respondent, because of illness, was represented by his wife. Because the committee felt the premises should be closed, the college solicitor announced:

It isn't a question of making a decision to sell the store at your husband's convenience. He must make a decision, and soon, because otherwise, this committee will make a decision and he will be deprived of the opportunity of staying in pharmacy.<sup>36</sup>

---

36. Transcript of Proceedings (December 3, 1963), the Ontario College of Pharmacy.

Prior to the second hearing, scheduled approximately six weeks later, the conditions of the premises were found to have remained unchanged. The committee declared that if the business were not disposed of in one month and a half there would be no other alternative than to revoke the registrant's registration to practice.

Approximately one month after the stated deadline, the pharmacy was disposed of by the registrant and no further action was taken.

Ontario---Case 3<sup>37</sup>

A pharmacist-proprietor was requested to appear before the Discipline Committee to show cause why his registration as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he was guilty of negligence in a professional respect in that the conditions in his pharmacy were unsanitary.

The inspector's report of the existing conditions were as follows:

The floors were very dirty, as were the display cases. The dispensary was disorganized and filthy and the dispensing equipment was old and in poor condition. There was very little fresh

---

37. From the case files (February 17, 1964) of the Ontario College of Pharmacy.

stock, and the tinctures in the dispensary had evaporated to the point where they would have been dangerous to use in dispensing because of their concentration. The general merchandise in the front of the store was, for the most part, quite old. The registrant was an elderly gentleman and ailing.<sup>38</sup>

The registrant failed to make an appearance at the scheduled hearing and further evidence was introduced that the registrant had failed to pay his renewal fees after a second unanswered notice had been sent to him by the registrar. The solicitor for the college emphasized to the committee:

The question is this, the first and primary duty is to the public. I remind you while of course you have a duty to the registrant to be fair in your disposition of this case, you also have a duty to protect the public.<sup>39</sup>

The committee unanimously decided that the registrant was guilty of improper conduct in a professional respect and that his registration to practice pharmacy should be revoked immediately.

Neither Wisconsin nor Ontario apparently considered unsanitary premises a serious infraction. In Case 1, we

---

38. From the written report of the inspector (January 24, 1964) found in this case file.

39. Transcript of Proceedings (February 17, 1964), the Ontario College of Pharmacy.

saw the Wisconsin board did not proceed with the scheduled hearing but allowed the respondents to rectify the situation. No admonishment was given for the temporary disorder in the pharmacy, and the prompt dismissal of the case suggests the board's desire to dispense with this type of violation in the most expedient manner.

Similarly, we find in Ontario Cases 1 and 2 every possible opportunity was given the two respondents to correct the conditions existing in their pharmacies. In Case 1, two hearings were scheduled over a period of three months during which time the respondent had to be prodded into carrying out the instructions of the Discipline Committee. In Case 2, we again find two hearings scheduled over a relatively lengthy period (6 weeks), with one extra month's grace granted for the registrant to dispose of his business. Levity was extended for an additional month when the business was finally sold and no further action was taken. In direct contrast to these cases, Ontario Case 3 demonstrates that circumstances other than those of keeping unsanitary premises were taken into consideration in the final decision to revoke the registration of this respondent.

Thus members of both agencies apparently were reticent to enforce penalties provided for keeping unsanitary premises.

4) Sale of Prescription Drugs Over the Counter:(a) Without a Physician's PrescriptionWisconsin--Case 1<sup>40</sup>

The respondent was charged with having wilfully and unlawfully delivered a dangerous drug, Butisol Sodium, a barbiturate compound, without the prescription of a licensed practitioner, contrary to section 151.07(2) of the Wisconsin Statutes.<sup>41</sup> He was also charged with having wilfully and unlawfully delivered this same drug without affixing to the immediate container thereof a label, contrary to section 151.07(4).<sup>42</sup>

---

40. From the case files (September 3, 1964) of the Wisconsin State Board of Pharmacy.

41. Wisconsin Statutes (1961), ch. 151, s. 151.07(2), p. 2340: "No person, except a practitioner, shall deliver any dangerous drug except upon the prescription of a practitioner. An oral prescription, by telephone or otherwise, shall be promptly reduced to writing and filed by the pharmacist."

42. Ibid., s. 151.07(4), p. 2340: "No dangerous drug shall be delivered unless there is affixed to the immediate container a label disclosing:

- a) The name and address of the owner of the establishment from which such drug was delivered.
- b) The date on which the prescription for such drug was filled.
- c) The number of such prescription as filed in the prescription file of the pharmacist who filled such prescription.
- d) The name of the practitioner who prescribed such drug.
- e) The name and address of the patient.
- f) Directions for use of the drug as contained in the prescription."

A customer, saying she was leaving on a trip, requested that the pharmacist hurriedly fill her prescription for Butisol Sodium. The pharmacist handed her an original bottle without properly labelling it. The patron gave this medication to a friend who later collapsed and was hospitalized, and the bottle of tablets was found by the police in the hospital room.

Following the latter's release from the hospital, upon the request of the vice squad, she attempted to purchase a bottle of the same medication from the registrant without a prescription. Having recognized her from a previous visit to the pharmacy, the pharmacist sold her an original bottle of the medication.

Court action was instituted against the registrant, and after pleading guilty to both charges, he was fined \$50 on the first count and the sentence was suspended on the second. Before the board, the respondent admitted he had been careless and sloppy in the labelling procedure involved in the transaction and offered no excuse as to the improper sale without a prescription. It was ordered by the board that his registration be suspended for a period of 60 days and a warning was given that any further violation of the pharmacy law on his part would result in permanent revocation of his registration to practice pharmacy.

Wisconsin—Case 2<sup>43</sup>

The pharmacist-respondent was charged with wilfully and unlawfully dispensing and selling on two separate occasions a dangerous drug, Ergocapitol with Savin, an ergot compound, without a prescription signed by a practitioner, contrary to section 151.07(2) of the Wisconsin Statutes.

•

Both sales were made to a representative of the Food and Drug Administration of the Department of Health, Education and Welfare. The respondent was subsequently found guilty of both charges in a federal district court and fined \$500 on each count for a total of \$1,000. At the conclusion of the hearing the board stated:

It is in the public interest and in the best interests of the profession of pharmacy that some disciplinary action be taken, but that a probationary suspension should be sufficient to impress the respondent with his responsibilities in the matter of selling of dangerous drugs and should very definitely serve as a warning to him that any further violations of the pharmacy law on his part will result in permanent revocation of his registration.<sup>44</sup>

Wherefore the board ordered a suspension to be stayed and not in force unless and until the respondent was found

---

43. From the case files (November 15, 1960) of the Wisconsin State Board of Pharmacy.

44. Transcript of Proceedings (November 15, 1960), Wisconsin State Board of Pharmacy.

by a state or federal court, or by the board, to have again violated this section of the Wisconsin Statutes within a succeeding twelve-month period.

Wisconsin—Case 3<sup>45</sup>

The pharmacist-respondent was invited to appear before the board to show cause why action should not be instituted to suspend his right to practice pharmacy for violating section 151.07(2) of the Wisconsin Statutes in dispensing a dangerous drug, Enovid, without a prescription.

The complaint originated with the physician of the patient, a patron well known to the registrant. At the informal hearing, the respondent admitted to having dispensed Enovid without a prescription, but requested the board to refrain from publicizing his illegal actions, in consideration for which he would voluntarily surrender his registration to practice pharmacy in the state, along with his pharmacy permit.

The board agreed not to publicize the matter and to accept his pharmacy permit and registration certificate, necessitating the closing of his pharmacy immediately and thus terminating his right to practice pharmacy in Wisconsin.

---

45. From the case files (February 7, 1962) of the Wisconsin State Board of Pharmacy.

Ontario--Case 1<sup>46</sup>

A pharmacist-manager-director of a corporate pharmacy was requested to appear directly before the Discipline Committee, without a court action, to show cause why his registration as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he had been guilty of improper conduct in a professional respect, in that he did, on three different occasions, sell Seconal without a physician's prescription, contrary to section 46(a) of the Pharmacy Act.<sup>47</sup>

Upon complaints received by the Ontario College of Pharmacy regarding illegal drug sales at the pharmacy in question, a shopper obtained from the registrant without a physician's prescription, 12 Seconal capsules, for which he was charged \$1.25. One week later, the same shopper obtained 24 capsules, without a prescription, and was charged \$2.50. Three days later, the shopper again visited the pharmacy and procured 24 more capsules at the same price of \$2.50.

---

46. From the case files (September 25, 1961) of the Ontario College of Pharmacy.

47. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 46(a), p. 17: "No person or corporation shall sell by retail, any drug referred to in Part I of Schedule D except on a written prescription signed by the prescriber."

On this last occasion, immediately after the shopper's exit from the pharmacy, the inspector entered, produced the manila envelope containing the 24 capsules, and asked the registrant if he had made the sale. The respondent seized the envelope from the inspector and destroyed the evidence by returning the medication to the original container in the dispensary.

At the hearing, the respondent admitted the charges, saying that he was promised a prescription for each sale upon the return of the shopper's physician. The Discipline Committee decided that his registration to practice pharmacy should be revoked.

#### Ontario--Case 2<sup>48</sup>

The pharmacist-respondent was asked to appear before the Discipline Committee under section 29(1)(a) of the Pharmacy Act,<sup>49</sup> to show cause why his registration as a

---

48. From the case files (November 4, 1964) of the Ontario College of Pharmacy.

49. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 29(1)(a), p. 12: "The Council or the Discipline Committee appointed under a by-law passed by the Council may direct that the registration of any person be cancelled, or that the registration of any person be suspended for such time as the Council or the Discipline Committee deems proper, if such person has been convicted of an offense against any Act of the Parliament of Canada or of the legislature of any province of Canada relating to the sale of drugs, poisons, medicines or alcoholic liquors."

pharmaceutical chemist should not be revoked, or suspended, on the grounds that he had been convicted of an offense against section 25 of the Food and Drugs Act of Canada, in that he did unlawfully sell, on 3 separate occasions, 25 mg. Wyamine Sulphate tablets, without receiving a prescription therefor.

The investigation took place as the result of an inquiry into the death of a university student. The report of the coroner's inquest expressed the opinion that "death was caused as a result of extreme fatigue induced by excessive use of the drug Wyamine Sulphate."

Two sales of the drug were made on the same day to 2 inspectors of the Food and Drug Directorate posing as university students. One inspector was able to procure 12 tablets, whereas the other obtained 20; both paid the same price of 5 cents per tablet. The following day, one of the inspectors again secured 20 of the tablets at the same price.

Subsequently, the Food and Drug Directorate laid 3 charges in court under the Food and Drugs Act of Canada. The registrant admitted selling 350 tablets without prescription to a university student, who passed them on at 5 cents each to other students, including the deceased. He admitted doing so because he believed the customer to be a medical student, and the son of a physician, and that his

father would provide a prescription. When asked why he continued to supply the tablets when no prescription was forthcoming, he said, "I was foolish." He denied that the tablets were pep pills, but described them as "very mild." The respondent pleaded that this was the first time in 32 years he had sold anything over the counter without a prescription. He was found guilty and fined \$100 or 5 days on the first charge; the other 2 charges were withdrawn.

At the hearing before the Discipline Committee, the solicitor for the college concluded:

Expert witness at the coroner's inquest could not give any opinion that there was a direct or indirect relation between the death of the student and the sale of the Wyamine Sulphate by the registrant to another student, or the consumption of them by the deceased.

You must forget about this tragedy and ask yourselves what disposition you should make of this registrant on the basis of there being three purchases of Wyamine Sulphate, a prescription item, without a prescription to people who represented themselves to be university students, who obviously wanted them for the purpose of assisting them in their studies, to keep them awake.<sup>50</sup>

The Discipline Committee decided to suspend the respondent's registration for a period of one year.

---

50. Transcript of Proceedings (November 4, 1964), the Ontario College of Pharmacy.

Following this decision the registrant appealed to the Ontario Supreme Court. He based the appeal on the claim that he had already been sufficiently punished by a \$100 court fine and the resulting publicity. The Supreme Court upheld the decision of the Ontario College of Pharmacy. (See Exhibit No. 3, page 97, for some newspaper accounts of this case.)

Ontario--Case 3<sup>51</sup>

The registrant was requested to appear before the Discipline Committee to answer certain charges of alleged "improper conduct in a professional respect," as provided in section 27 of the Pharmacy Act, Statutes of Ontario, 1953,<sup>52</sup> for selling ergot without a prescription and failing to control its sale without a prescription in his pharmacy.

A complaint was received by the college from the police, who requested assistance in an investigation of the

- 
51. From the case files (June 5, 1957) of the Ontario College of Pharmacy.
52. "The Pharmacy Act, 1953," in Statutes of Ontario (2 Elis. II, 1953), ch. 79, s. 27(1)(c), p. 544; "The Council or the Discipline Committee appointed under a by-law passed by the Council may direct that the registration of any person be cancelled, if it finds that such person has been guilty of negligence, incompetency or improper conduct in a professional respect."

## EXHIBIT No. 3

Some Ontario Newspaper Accounts of the Suspension  
of a Pharmacist's Registration

## Sold student fatal pep pills druggist loses license for year

[redacted] pharmacist, who sold pep pills which have been linked to the death of a university student last spring, has lost his license to practise for one year.

An inquest jury found University [redacted] student [redacted]

[redacted] died in [redacted] of extreme fatigue from excessive use of a wyamine sulphate, a benzedrine-type stimulant sold by [redacted]

[redacted] testifying under protection of the Canada

Evidence act, admitted selling 350 of the pills without prescription to another student who passed them on to [redacted] and others.

The suspension, announced yesterday by the discipline committee of the Ontario College of Pharmacy, is the result of three convictions against him in September for selling the drug to two food and drug inspectors posing as university students.

Mr. [redacted] who graduated in pharmacy in [redacted] said the action is an unjust

hardship. He said he only sold the drug, which is harmless in itself, to one student, who never came back with the promised prescription, and the two inspectors whom he thought were also students. "I wouldn't think of selling opium or something like that," he said.

The suspension means he won't be able to go in the store or collect any wages for a year, and will have to hire another man to look after the business, recently made into a limited company.

## Court Upholds College's Ban On Pharmacist

Mr. Justice [redacted] yesterday upheld an Ontario College of Pharmacy decision banning [redacted]

from practicing as a pharmacist for a year for selling a drug without a prescription.

Mr. [redacted] owner of [redacted]

[redacted] Drugs [redacted]

[redacted] was involved in the inquest last [redacted] of University [redacted] student [redacted]

[redacted] who died, a coroner's jury ruled, from heart failure brought on by excessive use of Wyamine sulphate.

M. Justice [redacted] ruled that Mr. [redacted] suspension start on [redacted] Mr. [redacted] was ordered suspended in a [redacted] decision by the discipline committee of the College of Pharmacy for twice selling on [redacted] wyamine sulphate without a prescription to College inspectors who posed as university students, and once again on [redacted]

[redacted] died [redacted] after using the drug as an aid while studying, although no trace of Wyamine sulphate was found in his body.

Mr. [redacted] appeal to the Ontario Supreme Court judge at Osgoode Hall was based on a claim that he had already been sufficiently punished by a \$100 court fine and the resulting publicity.

registrant. The police had a sworn statement from a pregnant, sixteen-year-old girl saying that she had purchased 100 capsules of an ergot compound (containing apiol, ergotin, oil of savin and aloin) from the registrant and was given directions for their use. Allegedly, the registrant also sold her quinine capsules and castor oil, and told her that if the medication proved ineffective she was to return with \$200 and he would send her to a physician for an operation.

The pharmacy invoices revealed that 40 packages (of 100 capsules each) of the afore-mentioned ergot compound were purchased and 38 of them sold over a 5-month period. There were no prescriptions on file to cover the sale of 14 of the packages.

The registrant was charged with unlawfully selling a drug to a female, well knowing that she intended to use it unlawfully to procure a miscarriage, contrary to section 238 of the Criminal Code of Canada. Subsequently, the charge was dismissed on the grounds that the evidence of the accomplices (the sixteen-year-old girl and her boyfriend) was not corroborated.

At a later date, the college instituted a court action charging that the registrant, being the owner and manager of the pharmacy, permitted another sale without a prescription of the same medication by a pharmacist in his

employ, contrary to section 52 of the Pharmacy Act, Statutes of Ontario, 1953.<sup>53</sup>

After a number of remands, the respondent was acquitted of the charge, the presiding magistrate being convinced that he had not been on the premises at the time the sale was made and that he, likewise, had no knowledge of it, and furthermore, that no evidence had been adduced to show that he had at any time made or condoned such unlawful sale.

The Discipline Committee, upon the conclusion of its hearing, reprimanded the registrant. Following this decision, a member of the council stated that he was "not convinced that the Committee had taken the proper course in this case" and went on to cite two other cases of this type which had appeared before the Committee. "In these cases, the defendants had admitted their guilt or were proven guilty," he continued, "but not enforcing the penalty leads to a disrespect for the law."

\*

Both Wisconsin and Ontario considered this infraction -- selling prescription drugs without a prescription -- of a

---

53. Section 52 of "The Pharmacy Act, 1953," in Statutes of Ontario (2 Eliz. II, 1953), ch. 79 became section 54 of "The Pharmacy Act," in R.S.O. (1960), ch. 295, p. 20: "Every owner or manager of a pharmacy is liable for every offence against this Act committed by any person in his employ or under his supervision with his permission, consent or approval, express or implied."

more serious nature than those we have previously discussed, as shown by their respective dispositions of the cases before them. This is indicated in Wisconsin Cases 1 and 3 where one registrant received a sixty-day suspension of his registration and the other, when also faced with a suspension, was allowed to voluntarily surrender his registration to practice pharmacy in the state. In contrast, in Ontario Cases 1 and 2, we find one registrant receiving a revocation of his registration and the other, a one-year suspension. All the registrants in these cases appeared before their respective disciplinary bodies for the first time.

It is interesting to note the apparent inconsistencies with which both agencies meted out their penalties. For instance, in Wisconsin Case 2, the respondent, after having been fined \$1,000 in a federal court, received a 12-month probation. In Case 3 the board, evidently out of sympathy, not only catered to the request of the registrant, but also dispensed with the customary formal hearing, even though he admitted his guilt. By comparison, in Ontario Cases 1, 2 and 3 we see diverse penalties allocated; namely, one respondent's registration was revoked, another's suspended for a one-year period, and the third received only a reprimand.

(b) Refilling a Prescription without the Prescribing Physician's Authority

Wisconsin--Case 1<sup>54</sup>

A pharmacist was charged with wilfully and unlawfully dispensing and selling, on 3 separate occasions, a dangerous drug, the barbiturate Seconal, without the authorization of a practitioner, contrary to section 151.07(5) of the Wisconsin Statutes.<sup>55</sup> He was further charged with wilfully and unlawfully dispensing and selling, on 3 different occasions, another dangerous drug, the amphetamine compound Dexedrine, without a prescription signed by a practitioner, contrary to section 151.07(2) of the Statutes. These sales were made by the respondent to a representative of the State Board of Pharmacy.

A court conviction ensued and the registrant was fined \$100 on one count of dispensing Dexedrine without a prescription. At the board hearing, the respondent admitted

---

54. From the case files (May 2, 1960, September 9, 1960) of the Wisconsin State Board of Pharmacy.

55. Wisconsin Statutes (1961), ch. 151, s. 151.07(5), p. 2340: "No prescription for a dangerous drug shall be refilled except as designated on such prescription, and unless accurate record of such refilling is entered on such prescription showing the date and amount thereof. No oral or written prescription shall be refilled unless the provisions of 151.07(2) have been first complied with and unless either written or oral authority has been given by the prescriber."

guilt to all charges and his registration to practice pharmacy was suspended for a period of 120 days.

The registrant appealed to a Circuit Court on the grounds that the order of suspension was "harsh and oppressive," had greatly affected his ability to operate his business and protect his financial interests pertaining thereto, had greatly aggrieved him, and "a) was unsupported by substantial evidence [and] b) was arbitrary and capricious."

In ruling on the petition to set aside the board's order of suspension, the circuit court judge announced:

Upon reviewing the record in this case, and considering the arguments of counsel, the court will affirm the order of the Wisconsin State Board of Pharmacy.

The court, in arriving at its decision here has accorded to the agency, as required by law, due weight for experience, technical competence, and specialized knowledge, as well as the discretionary authority conferred by such state agencies; and it is not for the court to substitute its judgment for that of the agency; in view of the serious nature of the matter involved and in view of the court's conclusions that all procedures were followed by the agency to afford the defendant an opportunity to appear and state his position there, which was done, and to set forth any extenuating or mitigating circumstances at such hearing as he could, that a full and fair hearing was accorded the petitioner and that the agency did not act in an arbitrary and capricious manner. The findings are supported by sufficient evidence in the record to sustain them. The conclusions of law of the agency are

supported and its order is supported. In our view, the penalty imposed, while a severe penalty, is not a harsh or oppressive penalty. The court will not upset the decision of the agency nor modify the penalty.<sup>56</sup>

(See Exhibit No. 4, page 104, for an account of this case in the Wisconsin Pharmacist.)

#### Ontario--Case 1<sup>57</sup>

A pharmacist was asked to appear before the Discipline Committee to show cause why his registration as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he was guilty of improper conduct in a professional respect, in that on 8 different occasions he sold Dexedrine on an original prescription for the same patient, without the prescribing physician's authority, contrary to section 46(a) of the Pharmacy Act.<sup>58</sup>

On a routine inspection of the pharmacy in question, the narcotic register in which sales of barbiturates and amphetamines are required by law to be recorded, disclosed

- 
56. Transcript of Appeal Proceedings (September 9, 1960), Wisconsin State Board of Pharmacy.
57. From the case files (September 6, 1962) of the Ontario College of Pharmacy.
58. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 46(a), p. 17: "No person or corporation shall sell by retail, any drug referred to in Part I of Schedule D except on a written prescription signed by the prescriber."

EXHIBIT No. 4

A Wisconsin Pharmacist Account of a Case Involving the Suspension of a Pharmacist's Registration



*From your State Board of Pharmacy*

By Paul A. Pumpian, Secretary  
Wisconsin State Board of Pharmacy

***Court Upholds License Suspension***

On [redacted] an order of the Wisconsin State Board of Pharmacy suspending the right of a pharmacist to practice in the State of Wisconsin was upheld on an appeal filed by the pharmacist in the Circuit Court of Dane County.

The pharmacist, [redacted] owner of [redacted] had received an Order from the Board of Pharmacy suspending his right to practice for a period of 120 days for dispensing Dexedrine without a prescription and for refilling a prescription for Sodium Seconal without having obtained authorization of the prescribing practitioner to do so. Prior to the hearing before the Board, [redacted] had been fined \$100 in a [redacted] District Court for dispensing dangerous drugs without a prescription.

In ruling on the petition to set aside the suspension order of the Board, the Honorable [redacted], Circuit Judge, stated: "Upon reviewing the record in this case and considering the arguments of counsel upon the hearing held this date before the court, . . . The court will affirm the order of the Wisconsin State Board of Pharmacy and direct that the suspension imposed thereby for a period of 120 days commence [redacted]. . . . The court, in arriving at its decision here,

has accorded to the agency, as required by law, due weight for experience, technical competence, and specialized knowledge, as well as the discretionary authority conferred by such state agency; and it is not for the court to substitute its judgment for that of the agency; in view of the serious nature of the matter involved and in view of the court's conclusion that all procedures were followed by the agency to afford the defendant an opportunity to appear and state his position there, which was done, and to set forth any extenuating or mitigating circumstances at such hearing as he could, that a full and fair hearing was accorded the petitioner and that the agency did not act in an arbitrary and capricious manner. The findings are supported by sufficient evidence in the record to sustain them. The conclusions of law of the agency are supported and its order is supported. In our view, the penalty imposed, while a severe penalty, is not a harsh or oppressive penalty. The court will not upset the decision of the agency nor modify the penalty. . . ."

excessive sales of 15 mg. Dexedrine Spansules to the same person at frequent intervals. The person whose name appeared in the register was known to the inspector from a previous court action in which she had been charged with forgery and the uttering of forged prescriptions for Dexedrine; she had received a suspended sentence and a two-year probation, during which time she was to receive regular treatments for her habituation to amphetamines. The registrant, at the request of the inspector, located in his files the original prescription for 30, 15 mg. Dexedrine Spansules. The other 8 prescriptions -- spaced approximately two weeks apart -- were in the registrant's handwriting and, in each case, were for the same quantity of spansules.

At the ensuing hearing the registrant admitted re-filling the original prescription on 8 different occasions for the same patient without calling the prescribing physician. He claimed that he did so because "business [wasn't] too good, and [he had] six children to support." He stated further "I should have vacated the store when my lease expired but, unfortunately, I renewed the lease and now am stuck here."

The Discipline Committee decided to suspend his registration to practice pharmacy for a period of 10 days.

Ontario—Case 2<sup>59</sup>

Two pharmacist-respondents were asked to appear before the Discipline Committee to show cause why their registrations as pharmaceutical chemists should not be revoked, or suspended, on the grounds that one, as owner, and the other, as manager, of a mail-order pharmacy, had sold on two different occasions by retail a Schedule C drug, thyroid, without a prescription, contrary to section 45 of the Pharmacy Act.<sup>60</sup>

Following up a complaint from another pharmacist that a patron had procured drugs without prescriptions from the mail-order pharmacy, the Ontario College of Pharmacy instructed a shopper to mail the pharmacy in question a prescription from a licensed physician for 100, 1 gr. thyroid tablets. Approximately 2 days later the medication was received through the mail. The prescribing physician was then contacted by the inspector and told that if he were phoned for a repeat of the prescription, he should advise the caller to have the patient see him first. One month

---

59. From the case files (March 6, 1962, April 12, 1962) of the Ontario College of Pharmacy.

60. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 45, p. 17: "Subject to the regulations, no person or corporation shall sell by retail any drug referred to in Schedule C, except on prescription given in such form, in such manner and under such conditions as the regulations prescribe."

later, the shopper wrote to the mail-order pharmacy asking for a refill of her prescription, which was received 3 days later, again through the mail. Three weeks following, another request for a refill was made and was received in one week's time.

At a later date, two Ontario College of Pharmacy inspectors visited the premises of the mail-order pharmacy, checked the prescription files, and located the original prescription. The second prescription was found undated and without the signature of the prescribing physician. When the pharmacist-owner was asked if the prescription had been taken over the telephone, he said he assumed it had and added that the manager had dispensed it. When the third prescription was located and the owner was again asked if the prescription had been an oral one, he replied, "I guess so," and informed the inspectors that he had filled it.

At the hearing before the Discipline Committee, the prescribing physician testified that he had not been contacted for authorization to refill the prescriptions in question. The owner, on the other hand, contended that he had placed a call to the prescribing physician's office, which was apparently shared with four other physicians. When he learned that the prescribing physician was temporarily out of the city, he claimed that one of the others had authorized the refill, although there was no record made of it.

The Discipline Committee suspended the registrations to practice pharmacy of both respondents, each for a period of one month, and both suspensions to run concurrently.

Ontario—Case 3<sup>61</sup>

The pharmacist-respondent was asked to appear before the Discipline Committee to show cause why his registration should not be revoked, or suspended, on the grounds that he was guilty of improper conduct in a professional respect, in that on two different occasions he sold 50 Mobenal tablets (anti-diabetic) without a prescription and that he further sold 100 thyroid tablets, also without a prescription therefor.

Two Ontario College of Pharmacy shoppers visited the pharmacy in question at which time one purchased from the respondent, without a prescription, a bottle of 50 Mobenal tablets. The other shopper presented a prescription from a physician for 100, ¼ gr. thyroid tablets that was promptly filled.

Approximately one month later, the same two shoppers again visited the pharmacy. One asked for a refill of the thyroid prescription, and the registrant complied without

---

61. From the case files (September 22, 1964) of the Ontario College of Pharmacy.

contacting the prescribing physician for authority to do so. The next day, when another shopper requested a bottle of Mobenal tablets, after checking a drawer the registrant produced the bottle and made the sale without receiving a prescription.

At the hearing, the respondent claimed he was not in the habit of selling prescription drugs over the counter and had "made a mistake." When asked if he had called the prescribing physician for authorization to refill the thyroid prescription, he thought that he had and then finally said, "I don't know, maybe I didn't." Further evidence introduced showed that the registrant had appeared before the Discipline Committee approximately one year prior to this on charges of selling drugs without complying with the labelling requirements, contrary to the Food and Drugs Act of Canada, for which he had been reprimanded.

The Discipline Committee in this case decided to revoke the respondent's registration to practice pharmacy.

Both disciplinary bodies viewed the nature of this infraction — refilling prescriptions without proper authority—grave enough to warrant, in these representative sample cases, a minimum penalty of suspension of registration, with one revocation. Out of 5 respondents (1 from Wisconsin, 4 from Ontario) all but 1 from Ontario received suspension of their registrations ranging from periods of 10 to 120 days on their

first appearance before their respective agencies; one Ontario respondent whose registration was revoked had appeared for a different infraction one year previously and was reprimanded at that time.

We see in Wisconsin Case 1 the decision of a circuit court judge upholding the order of the board thereby establishing a legal precedent for this type of violation in 1960. Yet, this case is the only one of its kind to appear on the board records from that time.

A certain laxity is shown in the disposition of Ontario Cases 1 and 2. Thus in Case 1, an aggravated condition involving 8 illegal sales of a prescription drug to the same patient, the offender received only a ten-day suspension of his registration. In rendering their decision, the committee seemingly took into account the respondent's family and adverse business situation. In Case 2, although they saw fit to suspend the registrations of both the owner and manager of the pharmacy, it is evident that they did not care to inconvenience the offenders, by allowing the suspension periods to run consecutively, thus permitting the continued operation of the pharmacy.

We see here a certain incongruity -- on the one hand a reluctance to enforce the maximum penalty for this violation, yet on the other recognition of the seriousness of the offence by both bodies.

5) Failure to Keep a Record of the Purchases and Sales of Drugs as Required by Law:

In Ontario, the law relating to this infraction specifically deals with Schedule D drugs under the Pharmacy Act (see p. 21). Schedule D drugs correspond to Wis. "dangerous drugs." Only records of sales of these drugs are required to be kept under Wisconsin law, unlike Ontario, which requires that both records of purchases and sales be kept. The records of the Wisconsin State Board of Pharmacy reveal no cases of this nature.

Ontario--Case 1<sup>62</sup>

The pharmacist-manager-director of a corporate pharmacy was asked to appear before the Discipline Committee to show cause why his registration as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he had been guilty of improper conduct in a professional respect in that he did, over a four-month period, fail to keep a record of every purchase and sale made by him of Schedule D drugs, contrary to section 50 of the Pharmacy Act.<sup>63</sup>

---

62. From the case files (April 13, 1961) of the Ontario College of Pharmacy.

63. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 50, p. 17: "Every pharmaceutical chemist shall keep a record of every purchase or sale made by him of a drug referred to in Part I of Schedule D and showing the date and quantity of the purchase or sale, the name of the person from whom it was purchased or to whom it was sold and the name of the person upon whose prescription it was sold."

A woman, addicted to barbiturates, who had been obtaining Tuinal capsules, at a cost of \$12 per 100, from the registrant without a prescription lodged a complaint with the Ontario College of Pharmacy because he had discontinued selling to her. After two unsuccessful attempts to purchase Seconal and Tuinal without a prescription by two different shoppers, two inspectors from the Ontario College of Pharmacy visited the premises to inventory the registrant's Schedule D records. A mere visual survey revealed large discrepancies.

A subsequent audit of the purchase records from drug wholesalers and one other pharmacy revealed that excessive quantities of barbiturates and amphetamines (approximately 23,500 capsules in all) had been purchased over a four-month period, but that the prescription files failed to account for their proper sale. It was also discovered that there were large quantities of narcotics of which the purchases and sales were not entered in the narcotic register as required by law.

At the Discipline Committee hearing the registrant, admitting to many sales of these drugs without prescriptions, lamented "I got caught in a vicious cycle of a fast turnover of money and I sold my soul." It was further disclosed at this hearing that the registrant had been advised by the Chief of the Division of Narcotic Control of the Department

of National Health and Welfare, that his name had been placed on their Confidential Restricted List and so he could not purchase narcotics for an indefinite period of time.

The Discipline Committee suspended the respondent's registration to practice pharmacy for three months.

Ontario--Case 2<sup>64</sup>

The registrant was asked to appear before the Discipline Committee to show cause why his registration as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he had been guilty of negligence in that he did, over a two-month period, neglect to keep a record of every purchase of drugs referred to in Part I of Schedule D to the Pharmacy Act, showing the date and quantity of the purchase and the name of the person from whom it was purchased.

The hearing followed a routine inspection of the registrant's pharmacy that disclosed Schedule D-drug entries of purchases and sales were not current, indeed none had been entered for the preceding 11 years. During this entire 11-year period the registrant had been instructed by

---

64. From the case files (November 27, 1961) of the Ontario College of Pharmacy.

3 different inspectors of the Ontario College of Pharmacy to bring his books up to date. At the time of the last inspection and shortly before the hearing, the registrant was warned that the records would be re-inspected in a month's time and would be expected to be in complete order. The subsequent inspection revealed no improvement.

Evidence was introduced at the hearing, in the form of invoices, that the registrant, between the dates of the last two inspections, had purchased Schedule D drugs from a drug wholesaler. The Discipline Committee suspended the respondent's registration to practice pharmacy for three days.

This violation is not considered serious as we see in Case 2, where over an 11-year period the registrant showed defiance of the Ontario College of Pharmacy in not heeding the instructions of three different inspectors. The token penalty meted out clearly illustrates the thinking of the committee in this matter. In Case 1, the committee chose not to award the maximum penalty, revocation, even though the case was an aggravated one.

#### 6) Failure to Operate a Pharmacy:

In Ontario the law relating to this infraction corresponds to the minimum standards set forth for the operation of pharmacies in Wisconsin as provided in the Rules of

the Wisconsin State Board of Pharmacy.<sup>65</sup> The Wisconsin Statutes provide for the denial, suspension or revocation of a pharmacy permit in such cases.<sup>66</sup> Board records revealed no cases of this nature.

Ontario--Case 1<sup>67</sup>

The pharmacist-owner of a mail-order pharmacy was required to show cause to the council of the Ontario College of Pharmacy why his registration for operating a pharmacy at the stated address, ought not be revoked on the grounds that he had failed to commence operating a pharmacy at that location on and since the date as represented in his notice to the registrar of 3 weeks previous.

The registrar, upon receipt of a notice from the registrant entered his name in the register<sup>68</sup> showing that

- 
65. Wisconsin Administrative Code, Phar. 1.04 (March, 1964), p. 2-3.
66. Wisconsin Statutes (1961), ch. 151, s. 151.02(10), p. 2338: "Every pharmacy shall be equipped with proper pharmaceutical utensils so that compounding of prescriptions and dispensing of medicaments can be properly performed . . . . Failure to maintain a pharmacy equipped with proper sanitary appliances or in a clean and orderly manner constitute grounds for denial, suspension or revocation of a pharmacy permit."
67. From the case files (September 26, 1960) of the Ontario College of Pharmacy.
68. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 19(1)(a), p. 9: "The registrar shall keep, a register of all persons registered under this Act as pharmaceutical chemists showing their place of business or employment from time to time."

as of the date specified therein, a new pharmacy would open at the address given.

The hearing before the council took place as a result of an inspection originating because of numerous complaints from pharmacists about the advertising being used by the registrant in the newspapers. One example follows:

[This company] was originally created to supply chronically ill patients with medications at low cost. It has now been decided to extend this service to other selected groups.

Because of its unique method of distribution [this company] is able to fill prescriptions at lower cost without sacrificing speed, accuracy, attention to detail or neatness or cleanliness. In other words, all the benefits of modern pharmacy have now been made available without the high costs usually associated with these services.<sup>69</sup>

Evidence presented at the hearing by the inspector of the Ontario College of Pharmacy disclosed that on his first 3 visits to the pharmacy in question, he was unable to locate the registrant's place of business. On the fourth visit, he was directed to an apartment on the second floor of the building, but could not gain access. On his last visit, however, the inspector met the registrant at the

---

69. From the actual newspaper advertisement in this case file.

apartment. The inspector described the apartment and the registrant's method of carrying on business as follows:

The apartment consists of one room about 14' by 15' in dimension. The furnishings consist of a table, a desk, two chairs, a locked cabinet and a kitchen sink with side drainboards. The registrant's stock on hand consisted of one narcotic in the cabinet, eight drugs and twenty-eight samples of drugs on the sideboard. There was no compounding or dispensing equipment such as graduates, mortars, ointment slabs or pill counter. There was no distilled water and the tap in the sink was out of order. The only water available was from a sink in the lavatory . . . . There were no reference books on the premises. While the registrant had a poison book, there were no entries in it; he told the inspector that he did not believe in carrying any poisons. A check of his prescription file revealed that fifty-five prescriptions had been filled during a four and one-half month period.<sup>70</sup>

The inspector estimated that the inventory of drugs at these premises did not exceed \$25, which the members of the council considered "was so small as to be, in effect, no inventory at all," while at the same time they admitted there was "no standard or minimum requirements as to the quantity or variety of drugs and poisons that should be kept on hand in a pharmacy."

---

70. From the inspector's written reports found in this case file.

In his evidence, the registrant stated that he was principally interested in supplying drugs by mail to persons who were chronically ill. He admitted that he was at the premises only between the hours of 9:30 and 10:30 a.m., Mondays through Fridays; the remainder of his working day was divided between promoting his mail distribution of drugs and a plumbing business in which he was financially interested.

The sole question before the council was whether or not the registrant was operating a pharmacy at the stated address. The solicitor for the college suggested that:

A pharmacy as defined in section 1(g)<sup>71</sup> of the Pharmacy Act must be a shop which is open to the public at regular hours and which has the necessary equipment for compounding and dispensing prescriptions or has sufficient stock of poisons or drugs to meet the ordinary needs of the public.<sup>72</sup>

However, it was argued, by the registrant's solicitor that any sale by retail from the shop brought the registrant's operation within the Act.

---

71. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 1(g), p. 3: "Pharmacy" means a shop operated for the purpose of,

- (i) selling by retail poisons or drugs, or
- (ii) compounding and dispensing prescriptions of legally qualified medical practitioners, dentists and veterinary surgeons."

72. Transcript of Proceedings (September 26, 1960), the Ontario College of Pharmacy.

The council was unanimously of the opinion that the latter was not what was intended by the Pharmacy Act and found that the registrant was not operating a pharmacy at the stated address. The registrar was directed to revoke the respondent's registration as operating a pharmacy at the stated address and to so notify those persons on his change list.<sup>73</sup>

Although the registrant remained a member in good standing of the college, the revocation of his registration to operate a pharmacy at the stated address and the reflection of this cancellation on the "change list" would seriously inconvenience him in that narcotics would not be supplied to him. He, then, would have to re-apply to the registrar of the college proposing to open a new pharmacy at least 30 days prior to the intended opening.<sup>74</sup>

---

73. A list of the names and addresses of persons operating pharmacies in Ontario, sent to the principal manufacturers, wholesalers, and distributors of drugs and to the Division of Narcotic Control, Department of National Health and Welfare, and from time to time, amendments to this list.

74. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 25(1)(2), p. 11: "(1) Every person who proposes to open a new pharmacy or who acquires an existing pharmacy shall, within the time prescribed in subsection 2, furnish the registrar with a signed statement showing, (a) his full name; (b) his place of residence; (c) the location of his place of business; (d) the date he proposes to commence business or, if

The registrant immediately petitioned to the courts and the decision of the council was quashed on the ground that "the college exceeded its jurisdiction." The college then appealed to the Supreme Court of Ontario (Appellate Division), one of whose judges ruled as follows:

The purpose of the Pharmacy Act is to regulate the profession or business of pharmacy and when the words place of business are found in it, they must in my opinion be interpreted as meaning the place where such business is carried on and cannot be extended to include places where activities having no relation to pharmacy are being pursued.

In my opinion the Council did not exceed its jurisdiction when it directed the amendment or correction of the register with respect to . . . and there was no ground for quashing its decision.

I would therefore allow the appeal.<sup>75</sup>

(See Exhibit No. 5, page 121 for some newspaper accounts of this case.)

- 
74. (Cont.) he has acquired an existing pharmacy, the date that he acquired it.  
 (2) If such person proposes to open a new pharmacy, he shall furnish the information required by subsection 1 at least 30 days before he opens such pharmacy, and, if he proposes to operate an existing pharmacy, he shall furnish such information before he operates the pharmacy."
75. Supreme Court Transcript of Proceedings (April 7, 1961) found in this case file.

## EXHIBIT No. 5

Some Ontario Newspaper Accounts of the Revocation  
of a Pharmacy Registration

## Mail-Order Druggist: Ban Upheld

The Ontario College of Pharmacy has the right to cancel the registration of a druggist, the Ontario Court of Appeal ruled yesterday.

The court reversed a decision by Mr. Justice [redacted] that the College had exceeded its jurisdiction in cancelling the registration of [redacted] who operates a mail-order drug store [redacted]

[redacted] a registered pharmacist, opened a small order drug business above a store last year.

[redacted] was ordered before the council of the college where an inspector said that [redacted] stock consisted of one narcotic, eight drugs and 28 samples of drugs.

There was no compounding or dispensing equipment and the only faucet was out of order, the inspector said.

[redacted] told the council he was principally interested in supplying drugs to chronically ill persons who had no immediate need for drugs.

He admitted spending only one hour a day at the premises.

The council cancelled his registration on the grounds that he failed to operate a pharmacy.

## Court Prohibits Drug Business In Apartment

The Ontario Court of Appeal ruled yesterday that the Council of the Ontario College of Pharmacy did not exceed its jurisdiction when it cancelled the registration of a pharmacist who operated a mail-order drug business in an apartment.

The court allowed with costs an appeal by the council from a judgment of Mr. Justice [redacted] who held in [redacted] that the college exceeded its jurisdiction in cancelling [redacted] registration covering the operation of a pharmacy at [redacted]

The council's action did not in any way affect Mr. [redacted] standing as a member of the college, but it removed his name from a list sent to suppliers.

Mr. Justice [redacted] said that the term "place of business" under the Pharmacy Act means more than merely a business address. He said the term cannot be extended to include places where activities which have no relation to pharmacy are being pursued.

The Court of Appeal held that Mr. [redacted] mail order business did not constitute the operation of a pharmacy.

## Ontario—Case 276

A pharmacist-owner was asked to appear before the council of the Ontario College of Pharmacy for an offense under section 19(a) of the Pharmacy Act.

•

A routine inspection of the pharmacy in question revealed existing conditions to be unsatisfactory, as reflected by the following report:

There were no labels of any kind and the poisons were not labelled as required under the Act. There were no records available of sales of poisons and there was no poison register on the premises. The dispensing equipment was inadequate in that, there were no apothecary or metric weights, only three graduates, no mortars, no sink and water supply in the dispensary, approximately \$1,000 worth of drug stock on hand. Also there were no reference texts in the dispensary. Although the pharmacy was open from 9:00 a.m. to 6:00 p.m. on Tuesdays, Wednesdays, Thursdays, and Saturdays, the pharmacist-manager was only on the premises from 10:00 a.m. until 6:00 p.m. There were a number of drugs and poisons on open display.<sup>77</sup>

Approximately one month later, a shopper from the Ontario College of Pharmacy took a prescription (for eye

---

76. From the case files (June 25, 1963) of the Ontario College of Pharmacy.

77. From the written report of the inspector (May 8, 1963) found in this case file.

drops) that required compounding to the registrant's pharmacy. The shopper was told the prescription could not be dispensed because two of the ingredients were not in stock, but that if she wished to leave the prescription over the weekend, the pharmacist-manager could obtain the necessary medication by the first of the week.

Immediately upon the departure of the shopper from the pharmacy, the inspector entered and during his discussion with the manager learned that during that month he had refused to dispense four other prescriptions because the drugs required were not in stock. A further check of the prescription files disclosed four prescriptions that required weighing in their compounding, yet there were no weights available.

At the hearing before the council, the solicitor for the college stated:

It is simply a question of whether these premises, as constituted, are a pharmacy, and in deciding that question you must decide it on the evidence you have heard. You must decide it on the question of whether or not, from the evidence you have heard, you were satisfied or otherwise that the equipment and facilities available for the dispensing of drugs to the public meet what you, as a jury of pharmacists consider to be a bare minimum having regard to the interests of the public. For the purpose of this matter it is not a question of standards of excellence.<sup>78</sup>

---

78. Transcript of Proceedings (June 25, 1963), the Ontario College of Pharmacy.

The solicitor for the registrant maintained that the respondent had in good faith taken it upon himself to correct the deficiencies complained of and further that the registrant had acted in good faith and in the best interests of the public. It was submitted by the defense, that the premises in question constituted a pharmacy within the meaning of section 1(g) of the Pharmacy Act.

The council dismissed the case against the registrant.

In Ontario Cases 1 and 2 we see an example of pronounced inconsistency in thinking of the council members in their disposal of these two similar cases, in which both registrants appeared for the first time before them. The decision in Case 2 is even more puzzling when we recall that two years earlier a legal precedent had been established by the Supreme Court of Ontario, when it upheld the decision of the Ontario College of Pharmacy to revoke a respondent's registration for a similar offense. The failure of the council to give weight to such a precedent shows a curious unwillingness to enforce the pharmacy law even though the registrant's standing in the college would in no way have been jeopardized.

#### 7) Errors in Dispensing:

There is no specific law in the Wisconsin Statutes relating to an infraction of this type; consequently there

were no cases of this nature in the board records.<sup>79</sup>

Ontario--Case 1<sup>80</sup>

A pharmacist-respondent was requested to appear before the Discipline Committee to show cause why his registration as a pharmaceutical chemist should not be revoked, or suspended, as provided under section 29(1)(c) of the Pharmacy Act,<sup>81</sup> on the grounds that he was guilty of negligence in that, he dispensed a written prescription in which the directions were "minims 1 with each injection," but labelled the medication "take 1 c.c. injection each time"; and he was further negligent in that he supplied hypodermic syringes in a calibration unfit for administering the prescribed medication.

---

79. From personal discussion with Paul Pumpian, (July 16, 1965), Secretary, Wisconsin State Board of Pharmacy.

80. From the case files (June 27, 1963) of the Ontario College of Pharmacy.

81. "The Pharmacy Act," in R.S.O. (1960), ch. 295, s. 29(1)(c), p. 12: "The Council or the discipline committee appointed under a by-law passed by the Council may direct that the registration of any person be suspended for such time as the Council or the discipline committee deems proper, if it finds that such person has been guilty of negligence, incompetency or improper conduct in a professional respect  
\* \* \* \*"

A hearing was instituted as the result of an investigation following a citizen's complaint to the Ontario College of Pharmacy regarding a dispensing error on the part of the registrant. Upon scrutinizing the prescription files at the pharmacy in question, the inspector found the prescription calling for 30 c.c. of Adrenalin 1:1000. The registrant, when questioned by the inspector, stated he had supplied a 30-c.c. vial of 1:1000 epinephrine hydrochloride solution, but was uncertain of the directions he had placed on the label. When shown the prescription he realized the dosage should have been 1 minin, instead of 1 c.c. He further stated he did not have a tuberculin syringe and needles and therefore had to obtain disposable 2½-c.c. sterile plastic syringes from another pharmacy.

The evidence disclosed that 3 injections of 1 c.c. each of the medication were administered to a 5-year-old patient. After the third injection the child's father noticed an immediate reaction in the form of prolonged vomiting, extreme whiteness of complexion, and a complaint of feeling "queer"; however, after approximately one hour, the child recovered.

At an interview with the prescribing physician, the inspector was told that the dosage of Adrenalin was in error, that the maximum dose of epinephrine hydrochloride 1:1000 was 0.5 c.c., and that if any of the injection had

been introduced into a capillary by accident, heart stoppage would probably have occurred.

At the hearing, the respondent admitted his guilt of the charges, but claimed he had made "an honest mistake," since he had misinterpreted the physician's handwriting. The Discipline Committee in reaching its decision felt the registrant had a responsibility to verify the directions with the prescribing physician and had not done this. The committee recommended that the respondent's registration to practice pharmacy be suspended for a period of 30 days.

Ontario—Case 2<sup>82</sup>

A pharmacist-respondent was required to show cause to the Discipline Committee why his registration as a pharmaceutical chemist should not be revoked, or suspended, on the grounds that he was guilty of negligence in that he dispensed a medication other than that which was prescribed.

•

An investigation arose as the result of the patient's complaint to the Ontario College of Pharmacy regarding ill effects suffered by the patient from the use of the medication dispensed by the registrant. An inspection of the pharmacy records revealed that the prescription in question

---

82. From the case files (June 21, 1962) of the Ontario College of Pharmacy.

had been for Resamid Suspension, an anti-seborrheic, whereas Resamid Lotion had been dispensed in its place. The lotion is intended to be used externally on the skin whereas the suspension has lathering properties and is used primarily as a shampoo.

In using the medication, the patient found that it would not lather or spread upon application to the scalp; there was a subsequent stinging reaction which became quite uncomfortable. She immediately called the registrant who instructed her to return the unused portion of the medication and he would refund her money. He attempted to reassure her that he had only dispensed what was on the prescription and claimed that the doctor had probably erred.

The committee, in reaching its decision, took into consideration that there was no extensive injury suffered by the patient and reprimanded the registrant.

\*

In Ontario Case 1, where the respondent's registration was suspended, we see the side effects rather than the offense viewed as serious; for in Case 2 -- where the committee deemed the extent of injury to the patient almost negligible -- the registrant was reprimanded.

### 8) Unfitness to Practice:

Although there is a law in the Wisconsin Statutes relating to this type of infraction,<sup>83</sup> the records of the Wisconsin State Board of Pharmacy reveal no cases of this nature.

#### (a) While under the Influence of Alcohol

##### Ontario--Case 1<sup>84</sup>

The pharmacist-respondent was asked to appear before the Discipline Committee to show cause why his registration as a pharmaceutical chemist, should not be revoked, or suspended, as provided for under section 29(1)(c) of the Pharmacy Act, since he was guilty of improper conduct in a professional respect in that he was under the influence of alcohol while operating a pharmacy.

This hearing originated as a result of a complaint to the Ontario College of Pharmacy from the pharmacist-

---

83. Wisconsin Statutes (1961), ch. 151, s. 151.02(7), p. 2336: "The board, upon notice and hearing, may suspend or revoke the registration of one guilty of felony or gross immorality, or who is addicted to alcoholic liquor or narcotic drugs, or addicted to the use of barbiturates to an extent affecting his fitness as a pharmacist, or who is otherwise unfit to practice as a pharmacist."

84. From the case files (June 21, 1962) of the Ontario College of Pharmacy.

owner, who had been on vacation, that the registrant, whom he had left in charge of his pharmacy, was intoxicated while on duty. The pharmacist-owner gave the provincial (i.e. state) police authority, via telegram, to relieve the registrant of his duties and take from his possession the keys to the pharmacy. The evidence of the provincial police officer who visited the pharmacy as ordered by the owner disclosed that he found the registrant under the influence of alcohol. Purchase slips from the Liquor Control Board showed that during an approximate two-week period, the registrant had purchased an "excessive" quantity (487 ounces) of liquor.

At the hearing, there was introduced evidence concerning a previous appearance of the registrant before the committee, approximately one year earlier, at which time his registration to practice had been suspended for a 30-day period.

At the second hearing, the registrant did not appear as requested, and the case was disposed of in his absence. The committee decided to revoke immediately his registration to practice pharmacy.

Ontario---Case 2<sup>85</sup>

In this case the Discipline Committee acted in the matter before them without requesting the registrant's

---

85. From the case files (March 17, 1964) of the Ontario College of Pharmacy.

appearance, after receiving from a psychiatrist a letter stating that he, along with another physician, had declared the registrant, recently hospitalized, to be mentally incompetent.

It was a known fact that prior to his hospitalization the registrant had been drinking to excess and had spent considerable periods of time incapacitated in his apartment above the pharmacy. The registrant was discharged from the hospital with the understanding that the department of psychiatry would contact the Ontario College of Pharmacy if enforced hospital care and treatment was not initiated within a month from the time of his release. One of the attending physicians stated:

It is clear that [the patient] needs care for self-protection, and that he will not seek this voluntarily because, in his opinion, nothing such is wrong. This opinion is even more to the point now that [he] is disoriented, and yet, if allowed his freedom, would be back filling prescriptions.<sup>86</sup>

Evidence presented to the Discipline Committee further revealed that the registrant, two years earlier, had appeared before them on charges of permitting his wife, who was not a registered pharmacist or an apprentice, to dispense prescriptions on two different occasions. At that time the pharmacist was reprimanded.

---

86. From the correspondence received from the psychiatrist (March 17, 1964) found in this case file.

In the matter at hand, the Discipline Committee revoked his registration to practice pharmacy and further ordered that the revocation take effect immediately.

(b) While addicted to drugs

Ontario--Case 1<sup>87</sup>

The pharmacist-respondent was requested to appear before the Discipline Committee, at which time he was to be afforded an opportunity of presenting such evidence and making such representations as he desired, as to why his registration as a pharmaceutical chemist should not be revoked on the grounds that he had been convicted of a breach of the Liquor Control Act, for illegal possession of alcohol, and the Criminal Code of Canada, for theft.

The police asked for the assistance of the Ontario College of Pharmacy in the investigation of the theft of numerous drugs found in the registrant's living quarters. It was disclosed that the police, on a previous visit to these quarters, found him unconscious. Beside his person were found 75 Esconal capsules, 40 tablets of Frosst's 222's, and some Dexanyl Spansules. A gallon container, two-thirds full of alcohol (subsequently analyzed and found to be 93.6% by volume) was also found along with \$500 worth of

---

87. From the case files (April 20, 1960) of the Ontario College of Pharmacy.

drugs (mostly barbiturates and amphetamines) and other merchandise from his employer's pharmacy.

He was hospitalized for his condition and, upon his release, arrested and charged with theft as well as illegal possession of alcohol. At this time he admitted his addiction to barbiturates. In court he pleaded guilty to both charges, and was fined \$100 and costs or three months imprisonment, with a recommendation from the magistrate that he be sent to some institution for treatment.

The decision of the Discipline Committee was to revoke the respondent's registration to practice pharmacy.

In these cases we find the Discipline Committee showing no hesitation to give the maximum penalty, revocation of registration. They apparently viewed excessive use of alcohol and addiction to drugs -- in this case, to barbiturates -- detrimental to the safe practice of pharmacy.

Our conclusions to this chapter are based largely on the sample cases carefully selected to be as representative as possible of all cases.

During the course of this chapter we have pointed out many similarities in the philosophies of the members of the Wisconsin State Board of Pharmacy and the Ontario College of Pharmacy in the manner in which they viewed the gravity of certain infractions and their subsequent disposition. In their reluctance to enforce penalties absolutely it seems evident that both agencies perhaps give undue consideration to their fellow-pharmacists and thereby

show a certain disregard for public welfare. In the majority of cases, it seems, resolute action was avoided against the offenders, thereby permitting, potentially at least, various detrimental practices to develop, continue and grow. Such inaction on the part of these two bodies might be misinterpreted by some as partial disregard for the law and ultimately might prove detrimental to all of pharmacy, which ironically they now seek to shield. This is evidenced by a number of registrants re-appearing before their respective disciplinary agencies, within a relatively short interval after their first appearance.

The majority of infractions discussed in this chapter were viewed as not overly serious by the agencies, and they considered punishments such as warnings, reprimands, probation, or even publicity sufficient to awaken pharmacists to their responsibilities. Both agencies avoid announcing the disciplinary actions instituted against pharmacist-offenders to the press being of the opinion that it would be detrimental to the public image of pharmacy to do so. However, both do reveal this information in brief form to the pharmacists of their respective territories through the medium of monthly publications (Wisconsin - in the Wisconsin Pharmacist, Ontario - in the Ontario College of Pharmacy Newsletter) in the hope that such publication will be instrumental in future resultant conformity to the pharmacy laws.

The inconsistencies in the penalties meted out for similar infractions in many of the cases may be partly explained by the inability of the members of both agencies to focus their attention directly on the legal issues involved in the matters that come before them, perhaps reflecting their lack of extensive knowledge of the legal process. We may hope for a more concerted effort by regulatory agencies to seek chief administrative officers with legal as well as pharmaceutical training.

In general, both agencies have tended -- carrying on past traditions and philosophies -- to favor measures that would educate the pharmacist to his obligations under the law rather than the absolute enforcement of the pharmacy practice acts. At the same time, we have seen inclination toward greater law enforcement in the last few years, notably following changes in administration in 1959. We may hope this is a visible manifestation that regulatory bodies have matured to a stark realization that any element of law and order, in even the smallest familial problem, requires a firm yet just control of transgressions through discipline and punishment that serves to warn others by example and so, almost imperceptibly, raises all in stature. Failing this pharmacy surely must face a harsher reality of control from without.

## CHAPTER IV

### PROBING THE BASIC PHILOSOPHIES OF MEMBERS (1953-1964) OF THE DISCIPLINARY BODIES IN WISCONSIN AND ONTARIO: SURVEY-QUESTIONNAIRE

In order to augment and complement the information obtained from the study of case files (see Chapter III), we devised a questionnaire as a further means of evaluating at what levels of malfunction the members of the Ontario College of Pharmacy and the Wisconsin State Board of Pharmacy would take action to protect the public health and welfare, and what their basic philosophies were with respect to the revocation or suspension of a pharmacist's registration. Fifteen cases from the files of both agencies served as models in these questionnaires (see Appendix N). The questionnaires used for Wisconsin and Ontario were identical, except that Case 13 was omitted from the Ontario questionnaire because no Ontario laws or regulations cover this situation.

The universe for the questionnaire consisted of past and current members of the Wisconsin State Board of Pharmacy and the Ontario College of Pharmacy from 1953 to 1964 inclusive. Questionnaires were mailed to all retired members, while personal interviews were conducted with current members of both agencies. An initial mailing

of January 6, 1965, to sixteen retired members contained an introductory letter (see Appendix L), together with a stamped, self-addressed envelope; a follow-up mailing consisting of a second copy of the questionnaire, together with a follow-up letter (see Appendix M) and a stamped, self-addressed envelope, was made January 20, 1965, to non-respondents to the first letter. Personal interviews were conducted in Wisconsin and Ontario -- during the period January 11, 1965 through March 26, 1965 -- with the thirteen present members of both agencies, four members of the administrative staffs of both agencies, as well as the solicitor for the Ontario College of Pharmacy.

The responses were edited and the data tabulated.

### Limitations

Major limitations in the administration of the questionnaires may be categorized as follows:

1. Failure of respondents to answer all parts of some questions completely precluded obtaining a complete perspective of the respondent.
2. Sample cases used in the questionnaires were brief, and the facts therein limited. More information and detail might have produced responses other than those received.

3. Failure to specify a particular infraction, in subsection (c) in each question, made it difficult to answer this part satisfactorily.
4. Editing and tabulating of open-end questions could have resulted in the introduction of bias by the interviewer into a particular response.
5. Semantic problems--it is possible that some respondents did not express their intended views clearly or that the interviewer failed to interpret them correctly.

#### Responses, their Analysis and Interpretation

Of the 13 Wisconsin respondents, a total of 11 responses, including that of the secretary of the board of pharmacy (84.67%) was received; whereas 21 out of 22 responses (95.45%) were received from members of the Discipline Committee, the administrative staff, and the solicitor of the Ontario College of Pharmacy. The responses from the members of both agencies (10 from Wisconsin, 17 from Ontario) will be discussed separately from those of the administrative staffs and the solicitor of the Ontario College of Pharmacy.

In the following discussions the term "responses" rather than respondents will be used because in Question 1

of the questionnaire some of the Wisconsin respondents recommended more than one action in each part, and in some cases did not answer all parts.

1) Question 1--Sample Cases

CASE 1

A pharmacist sold Benzedrine tablets to a student from a nearby university without a prescription from a licensed practitioner. The pharmacist admitted making sales on three separate occasions, but claimed he felt sorry for the student and that the sales were not a profit-making venture.

\*

For the defendant's first appearance for the stated infractions in Case 1, 2 out of 12 (16.7%) of the Wisconsin responses called for a suspension of registration to practice pharmacy, for periods ranging from 30 days to 6 months; 1 out of 12 (8.3%) recommended court action; whereas 2 out of 12 (16.7%) advocated a 1-year probation. The remaining responses defined other forms of disciplinary action.

The respondent recommending the 6-month suspension stated:

A pharmacist accepts a responsibility on entering the profession to protect the public health. Sympathy for a patient is no excuse. The damage to the student is too great.

The other respondents expressed the view that the registrant

deserved a second chance since no serious repercussions resulted from the infractions. One respondent suggested:

Explain in a nice friendly way that this is breaking the law--it gets results and does not make him angry at the board.

In comparison, of the Ontario responses, 11 out of 17 (64.7%) recommended a suspension of registration, for periods ranging from 14 days to 1 year; 2 out of 17 (11.8%) advocated a revocation. The following pertinent quotations are taken from the respondents' replies:

The law is clear on the sale of these tablets--feeling sorry for the student is no excuse and the end result could be serious.

A severe penalty to the registrant would act as a deterrent to other members of the profession.

This is something that every pharmacist must know is wrong, both morally and legally, and should not be condoned.

Of the 4 responses designating other disciplinary action, 1 respondent called this "a compassionate case."

For a second appearance by the accused for the same infraction, 5 out of 11 (45.4%) of the Wisconsin responses advised a suspension, for periods ranging from 30 to 90 days; 2 out of 11 (18.2%) called for a revocation; and 3

out of 11 (27.3%) recommended court action. The reasons for this sterner attitude are reflected in the following reactions:

This action is necessary to jar this pharmacist's conscience and sense of responsibility to society.

Previous action by the board did not impress on him that he must obey the law.

In contrast, 5 out of 17 (29.4%) of the Ontario responses recommended a suspension, for periods ranging from 90 days to 6 months; 12 out of 17 (70.5%) called for a revocation. The following quotations reflect some of the respondents' views:

Obviously he paid no attention to the action taken by the Committee on his first appearance, and therefore is not responsible enough to be entrusted with public safety.

The pharmacist has shown complete lack of regard for law governing the practice of pharmacy and the protection of the public by his misuse of potent drugs.

This man is a menace to the public and an undesirable member of the profession.

For the defendant's second appearance for a "different" infraction, 4 out of 12 (33.3%) of the Wisconsin responses designated a suspension, for varying periods of 30 days to 1 year; 1 out of 12 (8.3%) called for a revocation; 2 out of 12 (16.7%) recommended court action; and 1 out of 12 (8.3%) advocated a 5-year probation. No action was called for by 2 out of 12 (16.7%) as it was felt that more information regarding the "different" infraction was needed.

On the other hand, 8 out of 17 (47.0%) of the Ontario responses advised a suspension, for periods ranging from 30 days to 6 months; 7 out of 17 (41.1%) recommended revocation; and 2 out of 17 (11.8%) suggested no action be taken -- as in Wisconsin, they require more information about the "different" infraction.

\*

For the defendant's first appearance, Paul Pumpian, Secretary of the Wisconsin State Board of Pharmacy, recommended a 30-day suspension on each of the 3 counts, for a total of 90 days. He suggested a revocation on the second appearance, regardless of the type of infraction. His reasons were:

The board policy is to suspend a registration on a first appearance for the sale of any amphetamine . . . . . In the order handed down by the board, on a defendant's first appearance, at

a formal hearing, it is stated that any further violation of law will result in a permanent revocation of registration.

Two members of the administrative staff of the Ontario College of Pharmacy, as well as their solicitor, advocated a suspension, for periods of 30 days to 1 year, for a pharmacist's first appearance; whereas 1 member recommended a warning. For the defendant's second appearance for the same infraction, 2 members of the staff and the solicitor called for a revocation; and 1 recommended a 1-month suspension. For a "different" infraction on the defendant's second appearance, 2 staff members advocated a revocation; whereas 1 member and the solicitor designated no action be taken because they desired more information regarding the "different" infraction. The following represent some interesting reactions:

Supplying of prescription drugs over the counter is a dangerous practice in any degree.

First, he is not entitled to prescribe drugs and is practicing medicine. Secondly, he should be aware of the harmful effects of an amphetamine and its habituating properties.

Having been warned on the previous appearance, the excuse no longer applies.

There was a noticeable difference in the recommended disposition of this case by both agencies (see Table 3 and Figure 1). Ontario regarded the matter more seriously on the offender's first appearance with most respondents advocating a suspension or revocation of registration. On the pharmacist's second appearance, for the same infraction, the recommendations of the Ontario respondents were decidedly more severe. A minority of respondents from both agencies advocated that no action be taken for the defendant's second appearance for a "different" infraction, because of lack of information regarding this "different" infraction.

## CASE 2

A pharmacist sold 60 Dexedrine Spansules for \$14.00 to a patron on 4 separate occasions during a 6-month period, without a prescription from a licensed practitioner. The pharmacist claimed that he helped this patron because the patron had extended many favors to the pharmacist years ago and because he had been a customer for 20 years.

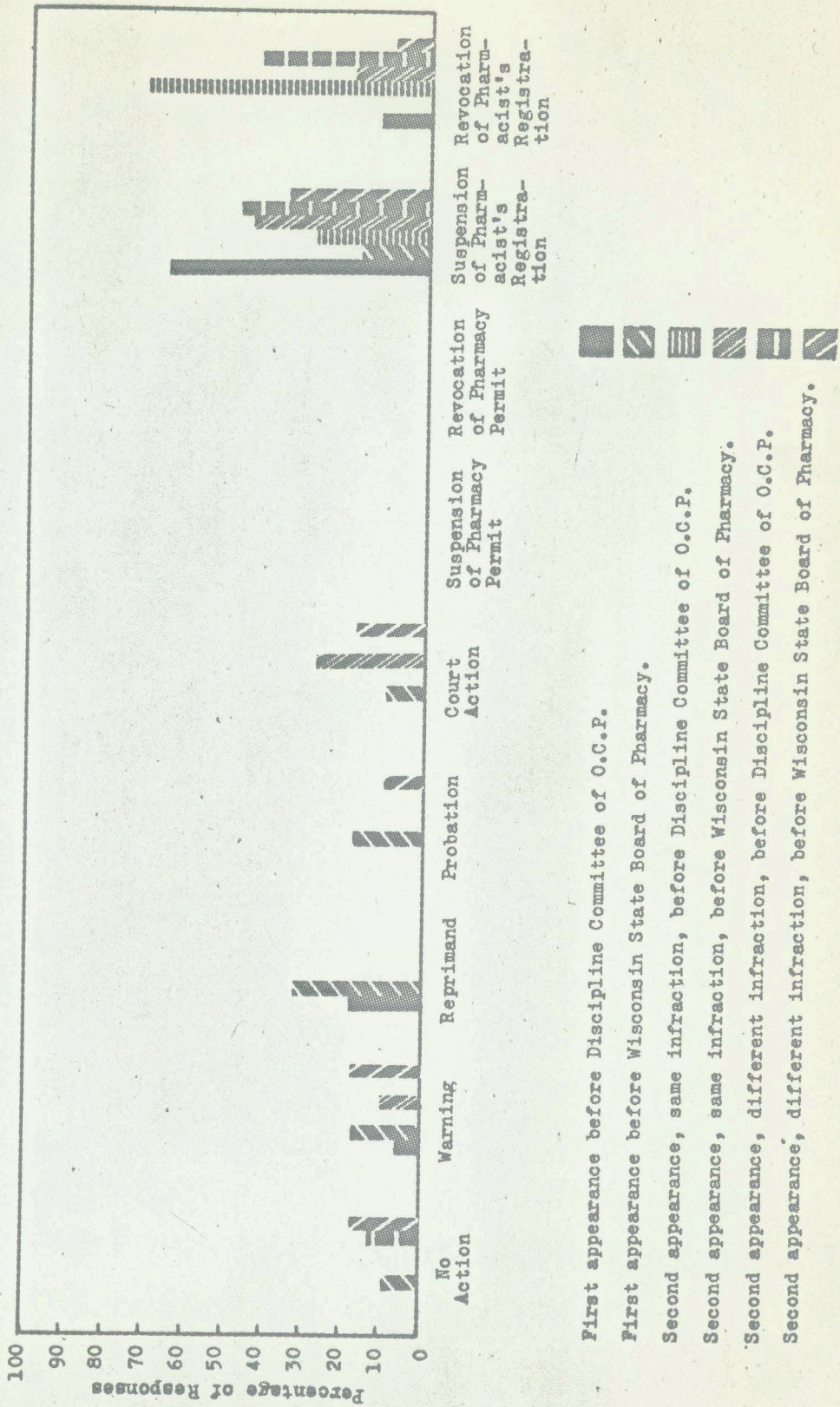
For the offender's first appearance for the stated infractions in Case 2, 4 out of 12 (33.3%) of the Wisconsin responses recommended a suspension, for periods of 30 to 60 days; 1 out of 12 (8.3%) designated a revocation;

TABLE 3  
RECOMMENDED DISCIPLINARY ACTIONS—CASE 1

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 1         | 0                                 | 0         | 0                                      | 2         | 2         | 3         |
| Warning                                 | 2                | 1         | 1                                 | 0         | 2                                      | 0         | 5         | 1         |
| Reprimand                               | 4                | 3         | 0                                 | 0         | 0                                      | 0         | 4         | 3         |
| Probation                               | 2                | 0         | 0                                 | 0         | 1                                      | 0         | 3         | 0         |
| Court Action                            | 1                | 0         | 3                                 | 0         | 2                                      | 0         | 6         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Suspension of Pharmacist's Registration | 2                | 11        | 5                                 | 5         | 4                                      | 8         | 11        | 24        |
| Revocation of Pharmacist's Registration | 0                | 2         | 2                                 | 12        | 1                                      | 7         | 3         | 21        |
| <b>Total</b>                            | <b>12</b>        | <b>17</b> | <b>11</b>                         | <b>17</b> | <b>12</b>                              | <b>17</b> | <b>35</b> | <b>51</b> |

FIGURE 1

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 1



- First appearance before Discipline Committee of O.C.P.
- First appearance before Wisconsin State Board of Pharmacy.
- Second appearance, same infraction, before Discipline Committee of O.C.P.
- Second appearance, same infraction, before Wisconsin State Board of Pharmacy.
- Second appearance, different infraction, before Discipline Committee of O.C.P.
- Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

3 out of 12 (25.0%) called for court action; and 1 out of 12 (8.3%) advocated a probation. The thinking of the majority is expressed in the statement of one respondent:

This pharmacist not only violated the law but all ethics as well, because he was after monetary gain which was evidenced by the prices charged.

Of the Ontario responses, 9 out of 17 (52.9%) called for a suspension, for varying periods of 30 days to 6 months; 4 out of 17 (23.5%) recommended a revocation. The following express some respondents' reasons for their recommended actions:

The pharmacist has ceased to be one.  
He has become a dope-peddler.

Because of the price obtained for the Dexedrine, he was obviously trying to make a profit. It seems that he has such weak character that he would do the same thing with others and so should be dealt with rather severely.

For a second appearance by the accused for the same infraction, 5 out of 10 (50.0%) of the Wisconsin responses advised a suspension, for periods ranging from 90 days to 1 year; 3 out of 10 (30.0%) recommended a revocation; whereas 1 out of 10 (10.0%) suggested a probation. Some explained their recommendations as follows:

It is felt that, in fairness to the community, drastic action is necessary.

He must be taught what the law means and how much his license means to him.

On the other hand, 5 out of 17 (29.4%) of the Ontario responses recommended a suspension, for periods of 30 days to 1 year; 12 out of 17 (70.5%) called for a revocation. Some of the reasons for the severity of actions recommended lie in the following replies:

The registrant must be impressed that the act which he committed was a serious one, and that his previous appearance before the Discipline Committee should not have been taken lightly.

A complete disregard is shown by this pharmacist of the laws designed for public protection.

This pharmacist does not appreciate his position as a guardian of the public health.

For a "different" infraction on the defendant's second appearance, 5 out of 11 (45.5%) of the Wisconsin responses recommended a suspension, for periods ranging from 30 days to 1 year; 3 out of 11 (27.4%) advocated a revocation; and 1 out of 11 (9.0%) designated court action.

In contrast, 7 out of 17 (41.1%) of the Ontario responses called for a suspension, for periods from 30 days to 1 year; 9 out of 17 (52.9%) suggested a revocation.

Paul Pumpian, secretary of the board, recommended a 30-day suspension on each of the four counts, for a total of 120 days on the defendant's first appearance; a revocation on the second, regardless of the type of infraction.

Two administrative staff members and the solicitor for the Ontario College of Pharmacy, recommended a suspension, for periods ranging from 3 months to 1 year on the pharmacist's first appearance; and 1 member called for a reprimand. On the offender's second appearance for the same infraction, 1 member together with the solicitor called for a revocation; 2 members advocated a 6-month suspension. On the violator's second appearance for a "different" infraction, 1 member called for a revocation; one advocated a reprimand; whereas the remaining member and the solicitor suggested that no action be taken because of insufficient information about this "different" infraction. The following quotations reflect the views of some of the respondents:

A pharmacist is not entitled to practice medicine. He should be aware of the harmful effects of Dexedrine and its habituating properties.

A breach of duty to keep a customer is not justifiable on any grounds.

Although each agency regarded these violations as serious, more Ontario respondents recommended suspension, or revocation, of registration on the pharmacist's first appearance than did Wisconsin (see Table 4 and Figure 2). For the same infraction on the pharmacist's second appearance, the more severe judgment of Ontario respondents was equally noteworthy. One respondent from each agency indicated no action be taken because of insufficient information regarding this "different" infraction.

### CASE 3

A pharmacist delivered an original bottle of Butisol Sodium tablets to a patient with a prescription, without affixing a proper label to the immediate container. The patron professed to be leaving on a trip and in a hurry. This patron gave these tablets to a friend who subsequently collapsed and was hospitalized. The police found the bottle of tablets in the friend's hospital room. Following the patient's release from the hospital, the pharmacist sold her an original bottle of Butisol Sodium tablets without receiving a prescription order for them.

For the defendant's first appearance for the stated infractions in Case 3, 5 out of 12 (41.6%) of the Wisconsin responses advocated a suspension, for periods ranging from 30 days to 6 months; 3 out of 12 (25.0%) called for court action; whereas 2 out of 12 (16.7%) recommended a 1-year probation.

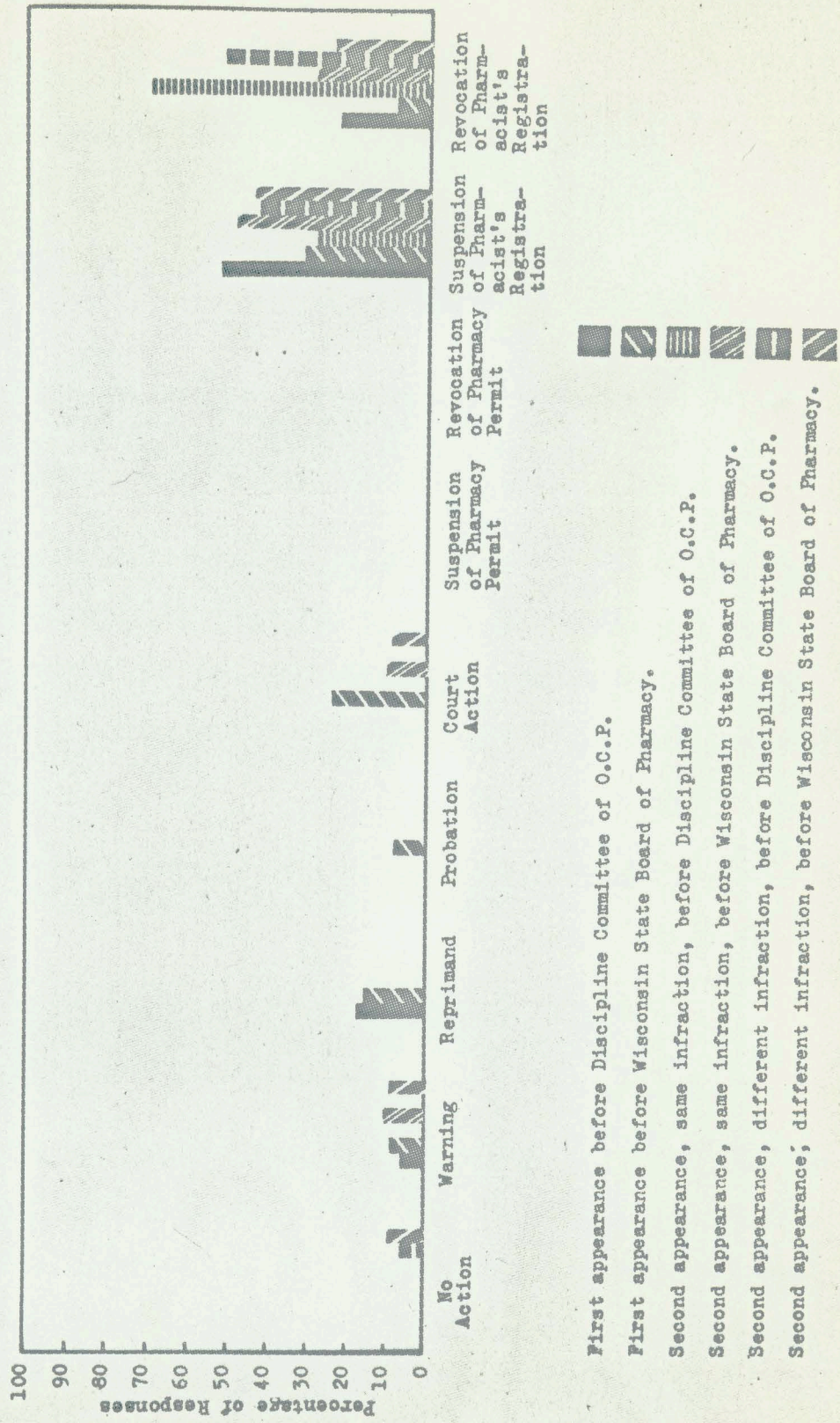
TABLE 4

## RECOMMENDED DISCIPLINARY ACTIONS--CASE 2

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 0         | 0                                 | 0         | 0                                      | 1         | 1         | 1         |
| Warning                                 | 1                | 1         | 1                                 | 0         | 1                                      | 0         | 3         | 1         |
| Reprimand                               | 2                | 3         | 0                                 | 0         | 0                                      | 0         | 2         | 3         |
| Probation                               | 1                | 0         | 0                                 | 0         | 0                                      | 0         | 1         | 0         |
| Court Action                            | 3                | 0         | 1                                 | 0         | 1                                      | 0         | 5         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Suspension of Pharmacist's Registration | 4                | 9         | 5                                 | 5         | 5                                      | 7         | 14        | 21        |
| Revocation of Pharmacist's Registration | 1                | 4         | 3                                 | 12        | 3                                      | 9         | 7         | 25        |
| <b>Total</b>                            | <b>12</b>        | <b>17</b> | <b>10</b>                         | <b>17</b> | <b>11</b>                              | <b>17</b> | <b>33</b> | <b>51</b> |

FIGURE 2

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 2



First appearance before Discipline Committee of O.C.P.

First appearance before Wisconsin State Board of Pharmacy.

Second appearance, same infraction, before Discipline Committee of O.C.P.

Second appearance, same infraction, before Wisconsin State Board of Pharmacy.

Second appearance, different infraction, before Discipline Committee of O.C.P.

Second appearance; different infraction, before Wisconsin State Board of Pharmacy.

The following quotations express some respondents' views:

The first sale was legitimate but not in good pharmaceutical practice. The pharmacist did not know the patient was giving the medication to a friend. The second sale was a grave infraction of the law.

This is such a vivid case of a pharmacist being irresponsible and unfit to practice. He or she must be taught a lesson and be made an example for others.

Of the Ontario responses, 8 out of 17 (47.0%) called for a suspension, for periods varying from 60 days to 6 months; 4 out of 17 (23.5%) responses advocated a revocation. Some reasons for these recommendations are expressed as follows:

Sales of this drug without prescriptions constitute trafficking.

This pharmacist is a menace to the public and should be in no position to sell these drugs.

For the violator's second appearance for the same infractions, 4 out of 9 (44.4%) of the Wisconsin responses called for a suspension, for periods ranging from 30 days to 6 months; 3 out of 9 (33.3%) recommended a revocation; and 2 out of 9 (22.2%) advocated court action.

Stern attitudes were reflected in the following replies:

He was fairly warned on the first appearance. This man shows no respect for law and order.

A second offense is too serious to allow this pharmacist to continue in practice.

One respondent who advocated a more lenient penalty said:

A warning gives him one more chance to go without action that would hurt him and damage the profession in the public eye.

On the other hand, 6 out of 17 (35.3%) of the Ontario responses recommended a suspension, for varying periods of 30 days to 2 years; 9 out of 17 (52.9%) designated a revocation. The following offer some stated reasons for severe actions:

It is quite evident that this man is not aware of the serious nature of his role in pharmacy.

It should be clear by now that he has no intention of trying to protect the public or himself, hence, the temptation should be removed.

This shows an unwillingness to abide by regulations designed to protect the public.

For a "different" infraction on a second appearance by the accused, 5 out of 9 (55.5%) of the Wisconsin responses recommended a suspension, for periods varying from 60 days to 6 months; 1 out of 9 (11.1%) called for court action; however 2 out of 9 (22.2%) designated no action be taken because of insufficient information about the "different" infraction.

Of the Ontario responses, 8 out of 17 (47.0%) called for a suspension, for periods of 30 days to 2 years; 8 out of 17 (47.0%) recommended a revocation. The remaining respondent advocated no action claiming that he wanted more information regarding the "different" infraction.

\*

The board secretary, Paul Pumpian, advocated a 30-day suspension on the offender's first appearance, and a revocation on the second, regardless of the type of infraction. His reason was:

The policy of the board, on a first appearance, for sale of drugs subject to abuse, for example, amphetamines and barbiturates, is to suspend the registration for a 30-day period on each count. A second appearance would automatically result in a revocation.

Two members, of the administrative staff, together with the solicitor, of the Ontario College of Pharmacy recommended a suspension, ranging from periods of 6 months to 1 year;

whereas the remaining member called for a revocation, on the pharmacist's first appearance. For the defendant's second appearance for the same infractions, 2 members advocated a suspension, for varying periods of 6 months to 2 years; the other member, along with the solicitor called for a revocation.

On the defendant's second appearance for a "different" infraction, 2 members recommended a suspension, for a 3-year period; the other member, including the solicitor, suggested that no action be taken as they wanted more information about the "different" infraction. The following views were expressed to support the various recommendations:

This criminal act should not be countenanced by the Discipline Committee.

Criminal acts merit severe punishment, more particularly, to a registrant who should know the harm that he could cause.

In this instance, Ontario on the offender's first appearance treated the misdemeanors with more resolution than did Wisconsin (see Table 5 and Figure 3). With regard to the defendant's second appearance for the same infractions, Ontario's stringency of recommendations was even more apparent.

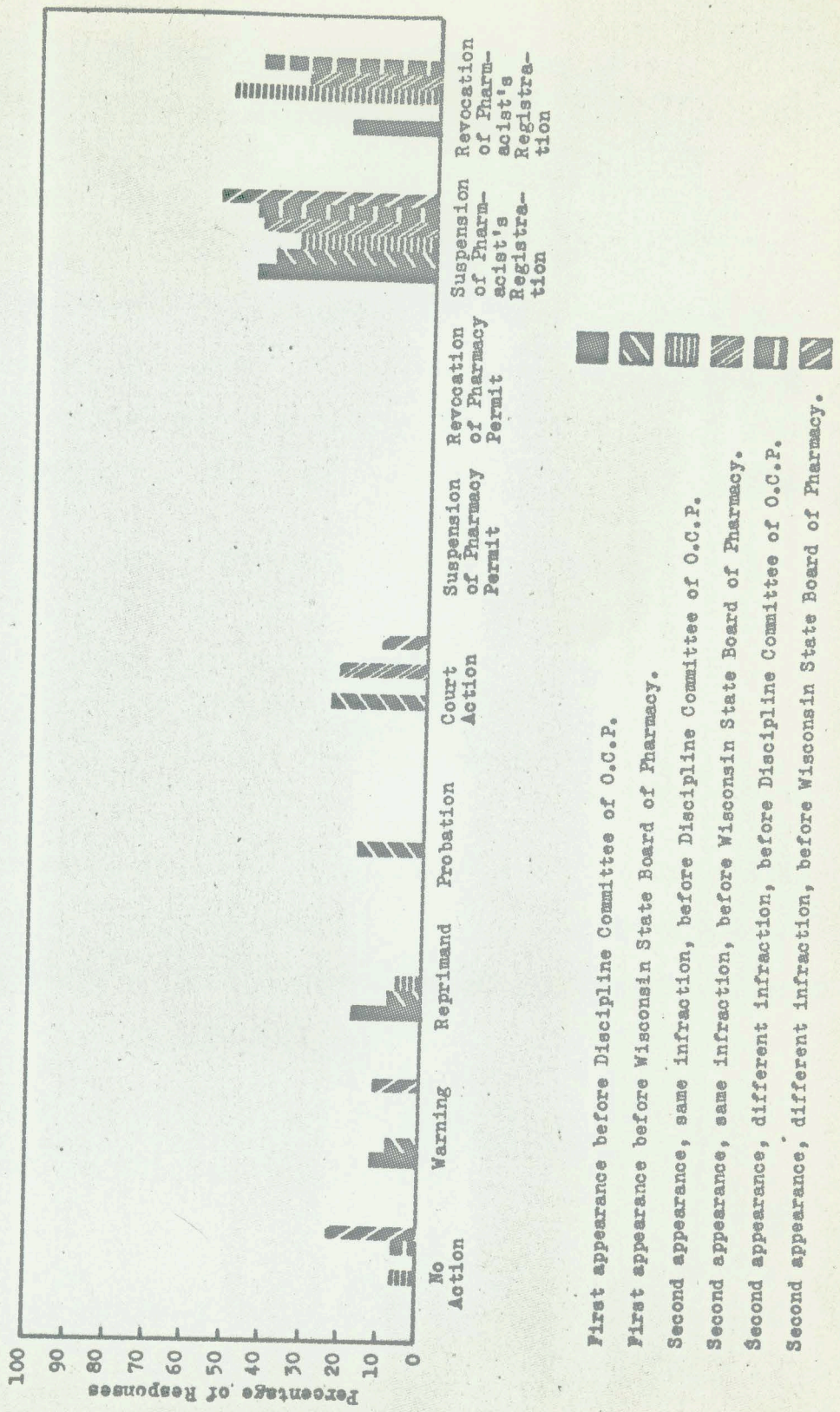
TABLE 5

## RECOMMENDED DISCIPLINARY ACTIONS--CASE 3

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 0         | 0                                 | 0         | 1                                      | 2         | 1         | 2         |
| Warning                                 | 1                | 2         | 0                                 | 0         | 1                                      | 0         | 2         | 2         |
| Reprimand                               | 1                | 3         | 0                                 | 1         | 0                                      | 0         | 1         | 4         |
| Probation                               | 2                | 0         | 0                                 | 0         | 0                                      | 0         | 2         | 0         |
| Court Action                            | 3                | 0         | 2                                 | 0         | 1                                      | 0         | 6         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Suspension of Pharmacist's Registration | 5                | 8         | 4                                 | 6         | 5                                      | 8         | 14        | 22        |
| Revocation of Pharmacist's Registration | 0                | 4         | 3                                 | 9         | 0                                      | 8         | 3         | 21        |
| <b>Total</b>                            | <b>12</b>        | <b>17</b> | <b>9</b>                          | <b>17</b> | <b>9</b>                               | <b>17</b> | <b>30</b> | <b>51</b> |

FIGURE 3

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 3



- First appearance before Discipline Committee of O.C.P.
- First appearance before Wisconsin State Board of Pharmacy.
- Second appearance, same infraction, before Discipline Committee of O.C.P.
- Second appearance, same infraction, before Wisconsin State Board of Pharmacy.
- Second appearance, different infraction, before Discipline Committee of O.C.P.
- Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

## CASE 4

While conducting a routine inspection of a pharmacy, a State Board of Pharmacy inspector found that the proprietor had failed to maintain the premises in a clean and orderly manner. The conditions of the pharmacy were described as filthy and unsanitary.

Of the Wisconsin responses, for the offender's first appearance for the stated infraction in Case 4, 7 out of 10 (70.0%) recommended a warning; 2 out of 10 (20.0%) advocated a reprimand. Some respondents thought the following:

Give him a chance to change his ways.

Many times, because of daily routine and heavy duties, a pharmacist may slip away from the realization of his duty to maintain cleanliness in his pharmacy.

In comparison, 9 out of 17 (47.0%) of the Ontario responses called for a reprimand; 5 out of 17 (23.5%) advocated a warning. A few supported their recommendations as follows:

Give the pharmacist an opportunity to rectify the situation as there may be extenuating circumstances.

It is the duty of a pharmacist to keep the pharmacy premises in a satisfactory condition to protect the public health.

The pharmacist, in this instance, is hurting himself as well as degrading his profession.

For the offender's second appearance for the same infraction, 6 out of 11 (54.5%) of the Wisconsin responses suggested a suspension of the pharmacy permit, for a minimum period of 10 days or until the conditions were rectified; whereas 1 out of 11 (9.0%) advocated court action. The opinion of the majority is mirrored in this representative statement:

It is necessary to prevent the continuation of lax habits and to instill the thought of professionalism as well as the protection of the public health and safety.

Of the Ontario responses, 8 out of 17 (47.0%) recommended a suspension, for varying periods of 10 days to 1 month; 1 out of 17 (5.9%) called for a revocation. The following are some of the views expressed in the recommendations:

This pharmacist is a discredit to the profession in not keeping his premises in such condition as to gain public confidence.

It is essential to impress the pharmacist that he must realize his responsibility to the public as well as to his profession.

For a "different" infraction on the defendant's second appearance, 2 out of 10 (20.0%) of the Wisconsin responses advocated a suspension for a 60-day period; whereas 1 out of 10 (10.0%) called for a suspension of the pharmacy permit for a 1-month period. Claiming to have insufficient information about the "different" infraction, 3 out of 10 (30.0%) suggested no action.

On the other hand, 5 out of 17 (29.4%) of the Ontario responses recommended a suspension, for varying periods of 30 days to 6 months; 8 out of 17 (52.9%) called for a reprimand. No action was suggested by 2 out of 17 (11.8%) as they wished more information regarding the "different" infraction.

The board secretary, Paul Pumpian, recommended a 30-day period, on the pharmacist's first appearance, to rectify the situation with a warning that, upon a future misdemeanor, the pharmacy permit be suspended. For the same infraction on the offender's second appearance, he advocated a suspension of the pharmacy permit for a period sufficient to allow for a correction of the existing conditions. On the pharmacist's second appearance for a "different" infraction, no action was recommended because he believed that the "different" infraction had no bearing on the unsanitary conditions of the pharmacy.

By comparison, 2 members of the administrative staff and the solicitor for the Ontario College of Pharmacy called for no action suggesting that the registrant be given time to remedy the situation; whereas 1 member called for a reprimand with instructions to make the conditions in the pharmacy satisfactory, on the first appearance by the accused. For the offender's second appearance for the same infraction, 1 member recommended a 3-month suspension; the solicitor advised a revocation. Of the remaining 2 members, 1 called for a reprimand, and the other, no action. For a "different" infraction on the defendant's second appearance, 1 member advocated a 3-month suspension; another member and the solicitor recommended no action; and the remaining member suggested a reprimand. To support their recommendations, they stated:

This is not a serious violation. The pharmacist should be given an opportunity to clean up his pharmacy.

The Ontario College of Pharmacy is charged with the protection of the public. Unsanitary premises contribute neither to this nor to the public image of the profession.

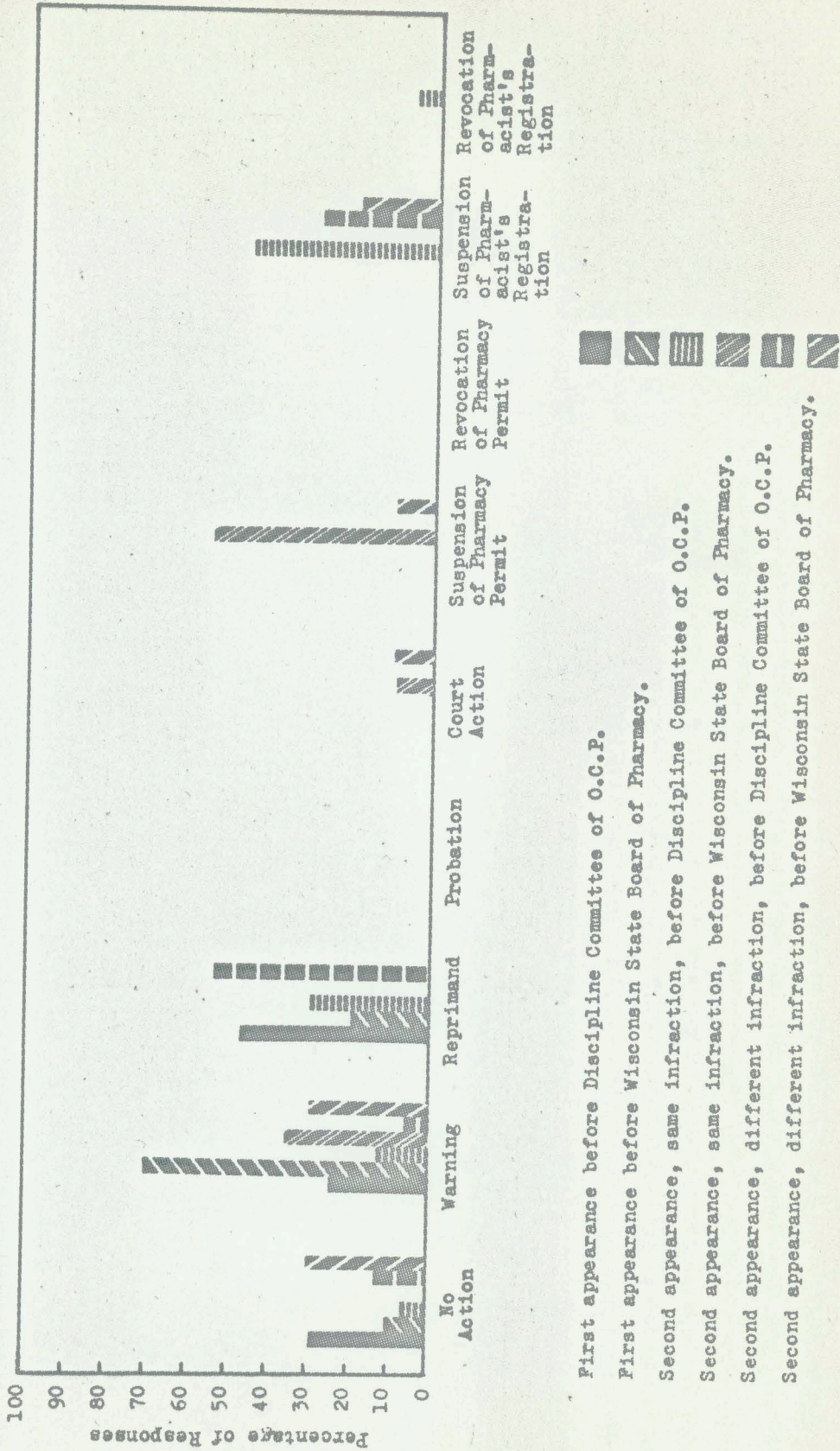
Neither agency regarded the infraction in this case serious enough to warrant a recommendation of suspension or revocation of registration on the offender's first appearance (see Table 6 and Figure 4). However, on the defendant's

TABLE 6  
RECOMMENDED DISCIPLINARY ACTIONS--CASE 4

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 1         | 3                                 | 0         | 0                                      | 3         | 2         | 4         |
| Warning                                 | 7                | 5         | 4                                 | 3         | 3                                      | 2         | 14        | 10        |
| Reprimand                               | 2                | 9         | 0                                 | 5         | 0                                      | 8         | 2         | 22        |
| Probation                               | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Court Action                            | 0                | 0         | 1                                 | 0         | 1                                      | 0         | 2         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 6                                 | 0         | 1                                      | 0         | 7         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Suspension of Pharmacist's Registration | 0                | 0         | 0                                 | 8         | 2                                      | 5         | 2         | 13        |
| Revocation of Pharmacist's Registration | 0                | 0         | 0                                 | 1         | 0                                      | 0         | 0         | 1         |
| <b>Total</b>                            | <b>10</b>        | <b>17</b> | <b>11</b>                         | <b>17</b> | <b>10</b>                              | <b>17</b> | <b>31</b> | <b>51</b> |

FIGURE 4

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 4



First appearance before Discipline Committee of O.C.P.

First appearance before Wisconsin State Board of Pharmacy.

Second appearance, same infraction, before Discipline Committee of O.C.P.

Second appearance, same infraction, before Wisconsin State Board of Pharmacy.

Second appearance, different infraction, before Discipline Committee of O.C.P.

Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

second appearance for the same infraction, both agencies suggested more drastic action with a number of Ontario respondents recommending suspension as opposed to none from Wisconsin.

### CASE 5

Upon receiving a prescription order for 30 c.c. of 1:1000 Adrenalin Hydrochloride with directions n 1 with each injection, a pharmacist dispensed epinephrine hydrochloride 1:1000 with directions to "Take 1 c.c. injection each time." He further supplied a number of 2½-c.c. disposable plastic syringes. This medication was for a 5-year-old child, who after receiving the third injection appeared pale, clammy, and perspiring. The prescribing physician indicated the maximum dose of epinephrine hydrochloride 1:1000 was 0.5 c.c. and that if the injection had gone into a capillary by accident, heart stoppage would probably have occurred.

\*

On the defendant's first appearance for the stated infractions in Case 5, 5 out of 9 (55.5%) of the Wisconsin responses recommended a warning; 2 out of 9 (22.2%) a reprimand; and 2 out of 9 (22.2%) advocated no action. Some reasons for recommended actions were expressed as follows:

Mitigating circumstances may have been responsible for the error.

\*

The Board of Pharmacy regrets the unfortunate incident, but cannot hold the pharmacist solely responsible.

The pharmacist is the check on the physician. Most physicians know this and appreciate it. Such action hurts the pharmacist and all of pharmacy.

Of the Ontario responses, 3 out of 17 (17.6%) called for suspension for a 30-day period; 2 out of 17 (11.8%) recommended a revocation; and 8 out of 17 (47.0%) suggested a reprimand. Respondents expressed their views along the following lines:

Anyone can make a mistake, especially with some of the handwriting one has to contend with on prescriptions. In this case the pharmacist would likely have suffered considerably.

This is a case of malpractice. The pharmacist should have checked with the doctor before going ahead with the filling of the prescription.

This was a serious error on the part of the pharmacist. Anyone not capable of realizing this ought not have the right to practice pharmacy.

This would be considered a case of sloppy dispensing and he should consider himself lucky that the child is alive.

For the pharmacist's second appearance for the same infractions, 4 out of 9 (44.4%) of the Wisconsin responses suggested a suspension, for periods ranging from 30 days to

3 months; whereas 2 out of 9 (22.2%) recommended court action. The following quotations are taken from some of the respondents' replies:

A careless person must be taught that his first appearance before the board was for his benefit, as well as proof of the board's good intention.

The pharmacist is obviously not up on his pharmacy, and should be urged to go back to school for a year.

By comparison, 2 out of 17 (11.8%) of the Ontario responses advocated a suspension; 11 out of 17 (64.7%) called for a revocation. Some of the reasons given for the severity of the actions recommended were:

He is too careless to be allowed to practice his profession.

He is unfit to be a pharmacist for he betrays the trust reposed in him by the public through his carelessness.

Of the Wisconsin responses for a pharmacist's second appearance for a "different" infraction, 1 out of 9 (11.1%) advocated a suspension for a 30-day period; 1 out of 9 (11.1%) suggested a revocation; and 2 out of 9 (22.2%) recommended court action. No action was designated by 2 out of 9 (22.2%) as they wished more information about the "different" infraction.

On the other hand, 3 out of 17 (17.7%) of the Ontario responses recommended a suspension, for varying periods of

30 to 60 days; 7 out of 17 (41.1%) advocated a revocation; and 1 out of 17 (5.9%) suggested no action for lack of information regarding the "different" infraction.

\*

Paul Puzpian, the board secretary, recommended a warning on the pharmacist's first appearance, another warning on the offender's second appearance for the same infractions and a further warning on the pharmacist's second appearance for a "different" infraction. His reasons were stated as follows:

Anyone can make an honest mistake. Negligence in this case was not wilful, hence, on a first appearance, he deserves a second chance.

.

If a definite pattern of negligence exists, I would recommend that he work with another registered pharmacist.

Two administrative staff members and the solicitor for the Ontario College of Pharmacy recommended a suspension, for periods ranging from 10 days to 6 months; however 1 member advocated a reprimand on the defendant's first appearance. For the same infractions on the pharmacist's second appearance, 3 members suggested a 3-month suspension; the solicitor called for a revocation. For the offender's second appearance for a "different" infraction, 1 member recommended a 30-day suspension; 1 called for a reprimand;

and the third member and the solicitor advised no action because they wished more information about the "different" infraction. Their reasons are reflected in the following replies:

The public, entitled to the protection of accurate dispensing, rely on the skills of the pharmacist.

Carelessness of this nature cannot be condoned.

This was a serious mistake. I suggest that the pharmacist take a refresher course in dispensing techniques.

Both agencies differed greatly in their respective recommendations in the disposition of this matter (see Table 7 and Figure 5). This is attributable to the difference previously cited in the Wisconsin Statutes and the Ontario Pharmacy Act respecting this type of infraction. A minority of the Ontario respondents, as opposed to none in Wisconsin, considered the offenses grave enough to suggest suspension and revocation of registration on the first appearance of the pharmacist. This reaction is more apparent in the Ontario respondents' recommended actions for the defendant's second appearance for the same infractions.

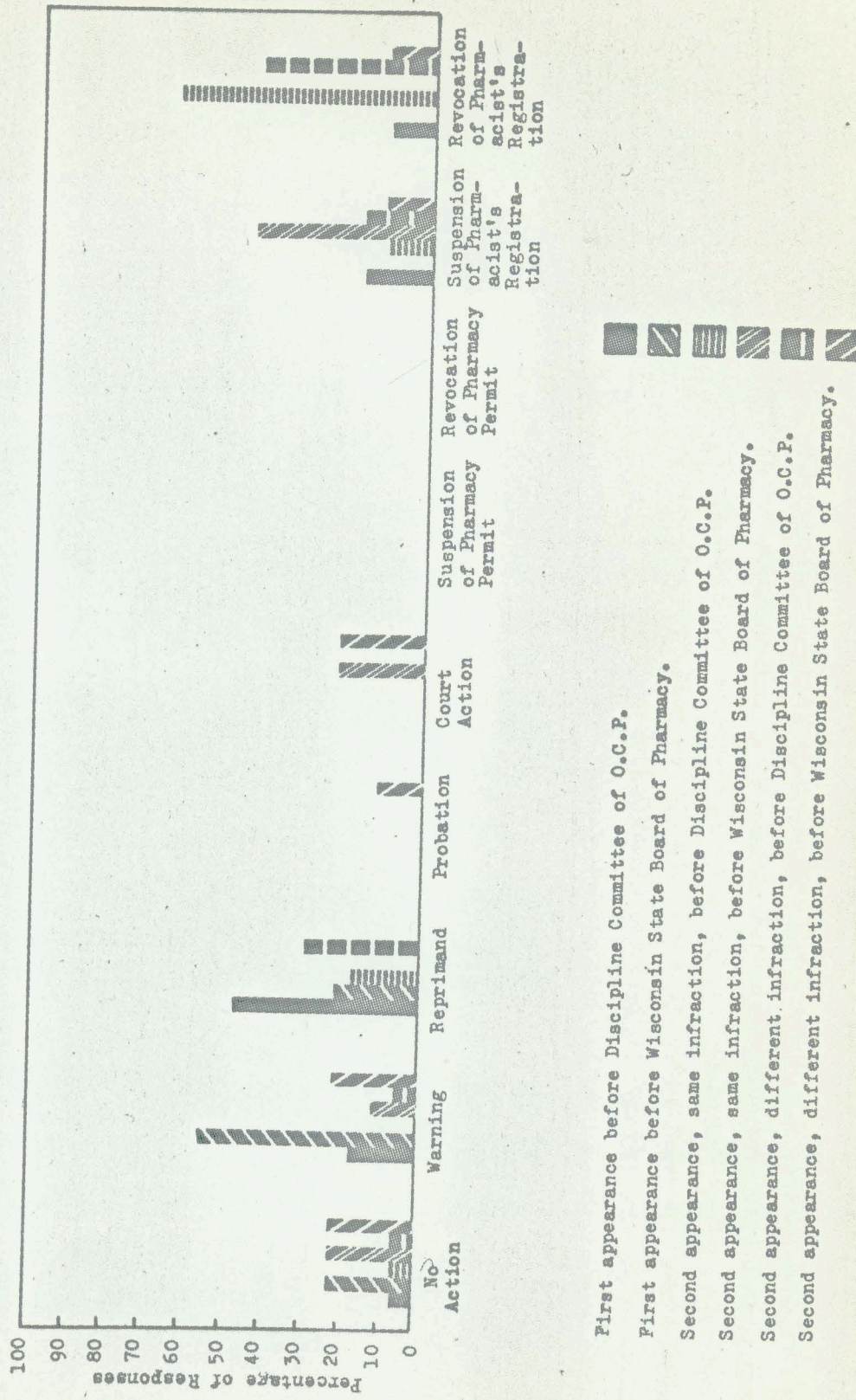
TABLE 7

## RECOMMENDED DISCIPLINARY ACTIONS--CASE 5

| Action<br>Recommended                         | First<br>Appearance |           | Second<br>Appearance<br>Same<br>Infraction |           | Second<br>Appearance<br>Different<br>Infraction |           | Total     |           |
|---|---------------------|-----------|--|-----------|---|-----------|-----------|-----------|
|   | Wis.                | Ont.      | Wis.                                       | Ont.      | Wis.  | Ont.      | Wis.      | Ont.      |
|   | No Action           | 2         | 1  | 2         | 1   | 2         | 1         | 6         |
| Warning                                       | 5                   | 3         | 1  | 0         | 2   | 1         | 8         | 4         |
| Reprimand                                     | 2                   | 8         | 0  | 3         | 0   | 5         | 2         | 16        |
| Probation                                     | 0                   | 0         | 0  | 0         | 1   | 0         | 1         | 0         |
| Court Action                                  | 0                   | 0         | 2  | 0         | 2   | 0         | 4         | 0         |
| Suspension of<br>Pharmacy<br>Permit           | 0                   | 0         | 0  | 0         | 0   | 0         | 0         | 0         |
| Revocation<br>of Pharmacy<br>Permit           | 0                   | 0         | 0  | 0         | 0   | 0         | 0         | 0         |
| Suspension of<br>Pharmacist's<br>Registration | 0                   | 3         | 4  | 2         | 1   | 3         | 5         | 8         |
| Revocation of<br>Pharmacist's<br>Registration | 0                   | 2         | 0  | 11        | 1   | 7         | 1         | 20        |
| <b>Total</b>                                  | <b>9</b>            | <b>17</b> | <b>9</b>                                   | <b>17</b> | <b>9</b>  | <b>17</b> | <b>27</b> | <b>51</b> |

FIGURE 5

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 5



First appearance before Discipline Committee of O.C.P.

First appearance before Wisconsin State Board of Pharmacy.

Second appearance, same infraction, before Discipline Committee of O.C.P.

Second appearance, same infraction, before Wisconsin State Board of Pharmacy.

Second appearance, different infraction, before Discipline Committee of O.C.P.

Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

## CASE 6

A pharmacist serving as pharmacist-in-charge of a pharmacy permitted the dispensing of drugs without a registered pharmacist being on the premises thereof. Occurring at a time other than during a meal period, the pharmacist claimed he was temporarily absent from the pharmacy and the sale was made by one of his employees, without his knowledge, or consent, and against his specific orders.

For the offender's first appearance for the stated infraction in Case 6, 3 out of 11 (27.3%) of the Wisconsin responses suggested court action; 2 out of 11 (18.2%) called for a 1-year probation. Some of their reasons are expressed in the following quotations:

He may be telling the truth and we have to take his word, except, how did the clerk know how to fill the prescription?

The clerk would not have attempted to violate the law if he had not been in the habit of so doing when the registered pharmacist was unavailable.

Of the Ontario responses, 2 out of 17 (11.8%) recommended a 30-day suspension; whereas 10 out of 17 (58.8%) advocated a reprimand. Some representative opinions follow:

I have little or no sympathy for the character who lets anyone other than a pharmacist dispense prescriptions.

There are enough possible hazards when a pharmacist dispenses without adding to them.

I've heard this story too often!

This man may be giving the community the needed pharmacy service and unable to afford the necessary registered help at all times.

Perhaps he was not fully cognizant of his authority as a pharmacist.

For the same infraction on the defendant's second appearance, 5 out of 11 (45.4%) of the Wisconsin responses recommended suspension, for periods varying from 30 days to 3 months; 1 out of 11 (9.1%) called for a revocation; and 1 out of 11 (9.1%) suggested a suspension of the pharmacy permit. Court action was designated by 2 out of 11 (18.2%); whereas 1 out of 11 (9.1%) suggested a probation. Some of the respondents expressed their views along the following lines:

This pharmacist is not fit to operate his pharmacy. He has no control over his employees.

This must be a common practice in his pharmacy, he is an irresponsible person.

By comparison, on the pharmacist's second appearance for the same infraction, 12 out of 17 (70.5%) of the Ontario responses recommended a suspension, for varying periods of 15 days to 1 year; 2 out of 17 (11.8%) suggested a revocation. A few of the supporting statements are:

His story is obviously untrue and this condition is here to stay unless more drastic action than a reprimand is taken.

It was probably wrong to give him a "break" on the first appearance.

Any pharmacist who is as careless as this, after a previous warning, should be dealt with severely in order to protect him from himself as well as protect others.

On the defendant's second appearance for a "different" infraction, 5 out of 10 (50.0%) of the Wisconsin responses called for a suspension, for varying periods of 30 to 90 days; 1 out of 10 (10.0%) advocated a revocation; and 1 out of 10 (10.0%) recommended court action. Only 1 out of 10 (10.0%) suggested no action because he wished more information regarding the "different" infraction.

On the other hand, 8 out of 17 (47.0%) of the Ontario responses recommended suspension, for periods ranging from 15 days to 1 year; 1 out of 17 (5.9%) called for a revocation.

The board secretary, Paul Puspian, on the pharmacist's first appearance, recommended a warning; whereas on a second appearance by the defendant for the same infraction, he advocated a 60-day suspension. On the offender's second appearance for a "different" infraction, he suggested a warning claiming that the "different" infraction had no bearing on the recommended action. Puspian reasoned, in part:

Board policy regarding professional coverage of pharmacies on a first appearance is a warning.

For repeated violations of the same nature, the policy is to administer a 30-day suspension of registration on each count. This infraction is just as serious as a pharmacist selling drugs over the counter without prescriptions therefor.

Two members of the administrative staff of the Ontario College of Pharmacy, on the defendant's first appearance, recommended a reprimand; 1 member, a 30-day suspension; and the solicitor designated no action by accepting the pharmacist's story and assuming that he would take the necessary steps to avoid a repetition of the incident. For the same infraction on the pharmacist's second appearance, 2 staff members called for a 90-day suspension;

1 recommended a reprimand; whereas the solicitor advocated no action again. On the offender's second appearance for a "different" infraction, 1 member suggested a 90-day suspension; 1 a reprimand; the third member and the solicitor recommending no action.

Ontario, here, deemed this violation more serious, with a greater number than Wisconsin (none) of the respondents calling for suspension of registration on the defendant's first appearance (see Table 8 and Figure 6). On the pharmacist's second appearance for the same infraction, the number of members of both agencies recommending suspension was greater by far in Ontario than in Wisconsin.

#### CASE 7

A pharmacist refilled a prescription for Seconal capsules without receiving the prescriber's authorization. The pharmacist claimed he often recommended that the patient see his physician and did not think he had violated the laws very often.

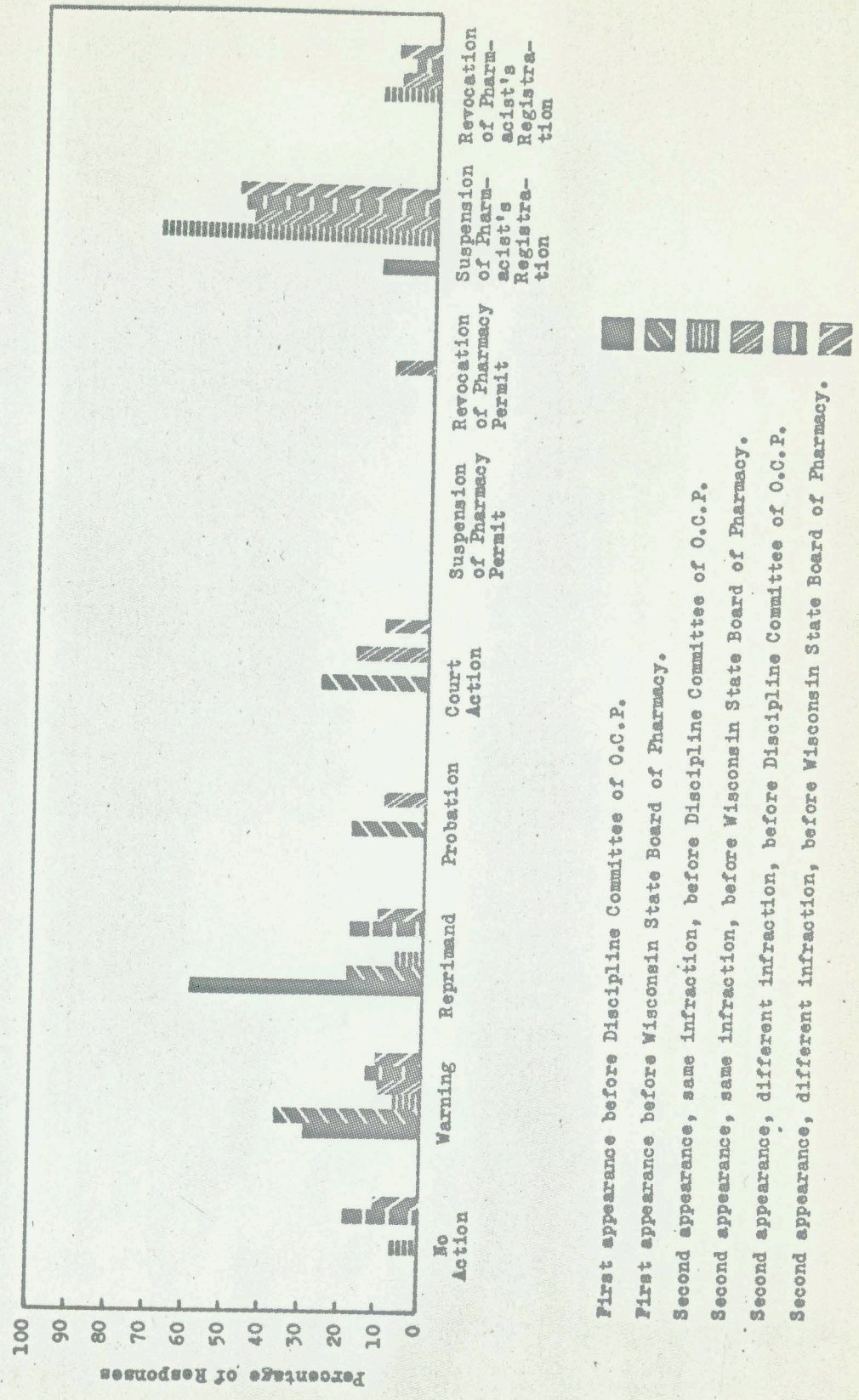
Of the Wisconsin responses on the offender's first appearance for the stated infraction in Case 7, 1 out of 11 (9.1%) recommended a 60-day suspension; 1 out of 11 (9.1%) called for court action; whereas 3 out of 11 (27.3%) suggested a 1-year probation. Some reasons given for these decisions were:

TABLE 8  
RECOMMENDED DISCIPLINARY ACTIONS---CASE 6

| Action<br>Recommended                         | First<br>Appearance |           | Second<br>Appearance<br>Same<br>Infraction |           | Second<br>Appearance<br>Different<br>Infraction |           | Total     |           |
|---|---------------------|-----------|--|-----------|---|-----------|-----------|-----------|
|   | Wis.                | Ont.      | Wis.                                       | Ont.      | Wis.  | Ont.      | Wis.      | Ont.      |
|   | No Action           | 0         | 0  | 0         | 1   | 1         | 3         | 1         |
| Warning                                       | 4                   | 5         | 1  | 1         | 1   | 2         | 6         | 8         |
| Reprimand                                     | 2                   | 10        | 0  | 1         | 1   | 3         | 3         | 14        |
| Probation                                     | 2                   | 0         | 1  | 0         | 0   | 0         | 3         | 0         |
| Court Action                                  | 3                   | 0         | 2  | 0         | 1   | 0         | 6         | 0         |
| Suspension of<br>Pharmacy<br>Permit           | 0                   | 0         | 0  | 0         | 0   | 0         | 0         | 0         |
| Revocation<br>of Pharmacy<br>Permit           | 0                   | 0         | 1  | 0         | 0   | 0         | 1         | 0         |
| Suspension of<br>Pharmacist's<br>Registration | 0                   | 2         | 5  | 12        | 5   | 8         | 10        | 22        |
| Revocation of<br>Pharmacist's<br>Registration | 0                   | 0         | 1  | 2         | 1   | 1         | 2         | 3         |
| <b>Total</b>                                  | <b>11</b>           | <b>17</b> | <b>11</b>                                  | <b>17</b> | <b>10</b>                                       | <b>17</b> | <b>32</b> | <b>51</b> |

FIGURE 6

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 6



First appearance before Discipline Committee of O.C.P.  
 First appearance before Wisconsin State Board of Pharmacy.  
 Second appearance, same infraction, before Discipline Committee of O.C.P.  
 Second appearance, same infraction, before Wisconsin State Board of Pharmacy.  
 Second appearance, different infraction, before Discipline Committee of O.C.P.  
 Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

The pharmacist deserves a second chance. Any pharmacist could be guilty of the same infraction.

Many doctors want a pharmacist to use his best judgment in the re-filling of prescriptions and to call only when he thinks it is necessary.

In comparison, 6 out of 17 (35.3%) of the Ontario responses suggested suspension, for varying periods of 1 week to 3 months; 8 out of 17 (47.0%) advocated a reprimand. Some representative opinions follow:

Everyone should be allowed one error in judgment, if not too serious.

No harm was done. There seems to be a close relationship between the patient, doctor and the pharmacist.

It is necessary to point out his professional responsibilities and to impress him with the serious results that could arise.

For the same infraction on the defendant's second appearance, 5 out of 12 (41.6%) of the Wisconsin responses called for a suspension, for periods varying from 30 days to 1 year; 2 out of 12 (16.7%) designated a revocation; 3 out of 12 (25.0%) recommended court action; and 1 out of 12 (8.3%) suggested a 5-year probation. Some reasons

behind the more stringent actions recommended were expressed variously:

The pharmacist has no respect for his profession or humanity.

Because of the board's leniency on his previous appearance, he should be forcefully reminded this time of the seriousness of his offense and that community safety is paramount.

Of the Ontario responses, 12 out of 17 (70.5%) called for a suspension, for periods ranging from 10 days to 6 months; 5 out of 17 (29.4%) advocated a revocation. Some of their suggestions are reflected in the following:

A repetition of this infraction shows a pattern of wilful violation of the law.

The pharmacist must be impressed with the need to practice in accordance with the laws.

For the pharmacist's second appearance for a "different" infraction, 3 out of 12 (25.0%) of the Wisconsin responses suggested suspension, for 30 to 60-day periods; 1 out of 12 (8.3%) called for a revocation; 2 out of 12 (16.7%) recommended court action; and 1 out of 12 (8.3%) designated a probation. No action was advised by 4 out of 12 (33.3%) as

they wished more information regarding the "different" infraction.

In contrast, 12 out of 17 (70.5%) of the Ontario responses recommended suspension, for periods of 15 days to 2 months; 3 out of 17 (17.6%) called for a revocation; and only 1 out of 17 (5.9%) designated no action as more information regarding the "different" infraction was required.

The board secretary, Paul Pumpian, recommended a warning on the offender's first appearance; a 30-day suspension on the pharmacist's second appearance for the same infraction. For a "different" infraction, on the defendant's second appearance, he suggested a warning, claiming that the previous infraction had no bearing on the disposition of this case.

One member of the Ontario College of Pharmacy administrative staff as well as the solicitor, advocated a suspension, for periods varying from 30 to 90 days, on the pharmacist's first appearance; the other 2 members suggested a reprimand. For the same infraction on the defendant's second appearance, 2 members called for a 1-year suspension; the solicitor recommended a revocation; and the third member, a reprimand. For the offender's second appearance for a "different" infraction, 1 member suggested a 6-month suspension; 1 called for a reprimand; and the third along with

the solicitor advised no action. The following comments reflect some views on this matter:

The pharmacist has no authority to prescribe. In this case, he sold a drug without a prescription.

Action, other than a revocation of registration, after the first incident, is to disregard the public interest and make a mockery of the rules.

Ontario viewed this violation in a more serious light than did Wisconsin as is illustrated by the number of Ontario respondents recommending a suspension of registration on the offender's first appearance (see Table 9 and Figure 7). With regard to the pharmacist's second appearance for the same infraction, the number of Ontario respondents suggesting suspension or revocation exceeded that of Wisconsin.

#### CASE 8

A number of pharmacists engaged in individual community practice in the same city routinely dispensed generic pentobarbital upon receipt of prescription orders for Nembutal capsules. The manufacturer of Nembutal obtained evidence of these substitutions and issued a formal complaint to the State Board of Pharmacy.

For the defendants' first appearances for the stated infraction in Case 8, 3 out of 12 (25.0%) of the Wisconsin

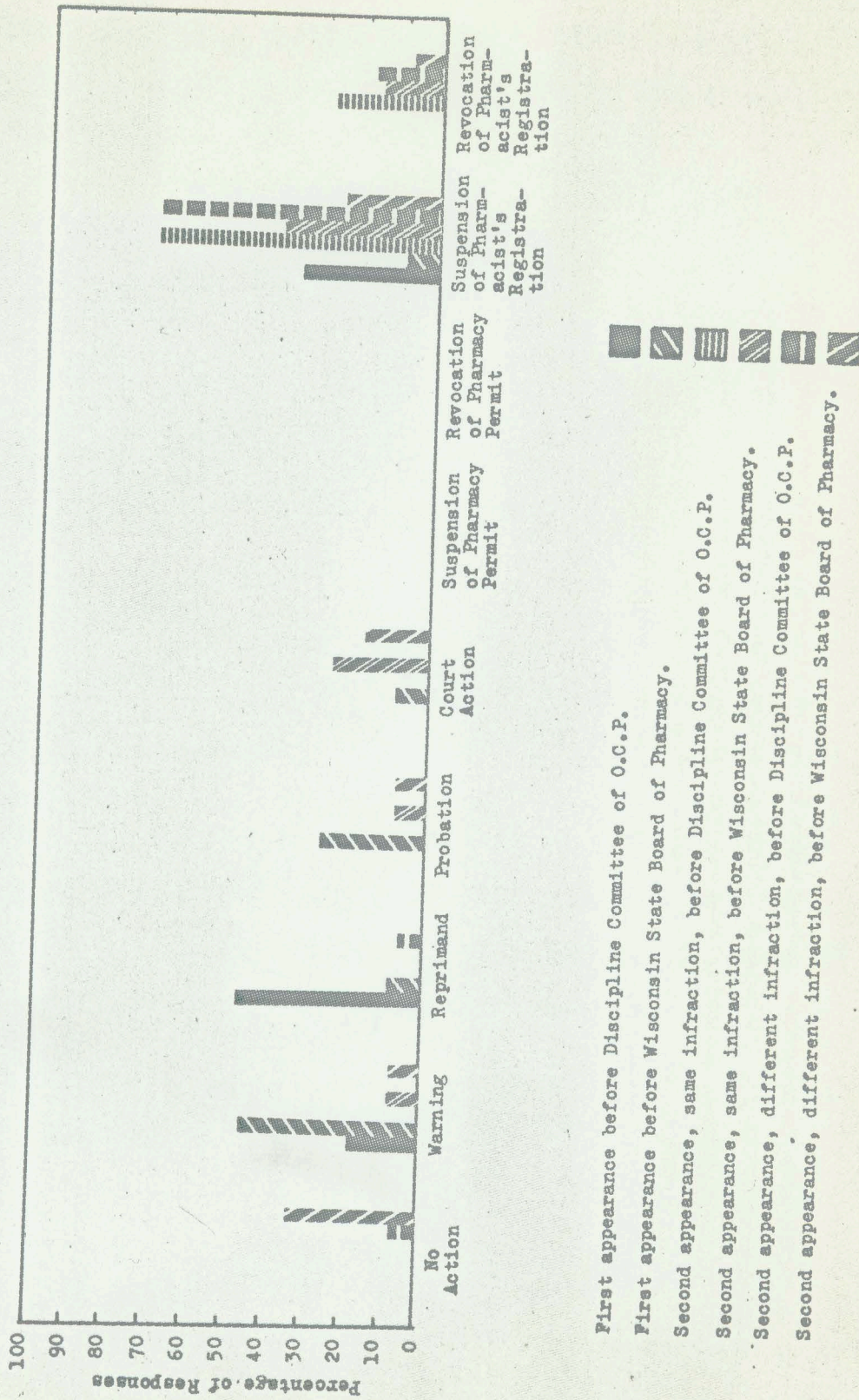
TABLE 9

## RECOMMENDED DISCIPLINARY ACTIONS—CASE 7

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 0         | 0                                 | 0         | 0                                      | 4         | 1         | 4         |
| Warning                                 | 5                | 3         | 1                                 | 0         | 1                                      | 0         | 7         | 3         |
| Reprimand                               | 1                | 8         | 0                                 | 0         | 0                                      | 1         | 1         | 9         |
| Probation                               | 3                | 0         | 1                                 | 0         | 1                                      | 0         | 5         | 0         |
| Court Action                            | 1                | 0         | 3                                 | 0         | 2                                      | 0         | 6         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Suspension of Pharmacist's Registration | 1                | 6         | 5                                 | 12        | 3                                      | 12        | 9         | 30        |
| Revocation of Pharmacist's Registration | 0                | 0         | 2                                 | 5         | 1                                      | 3         | 3         | 8         |
| <b>Total</b>                            | <b>11</b>        | <b>17</b> | <b>12</b>                         | <b>17</b> | <b>12</b>                              | <b>17</b> | <b>35</b> | <b>51</b> |

FIGURE 7

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 7



First appearance before Discipline Committee of O.C.P.

First appearance before Wisconsin State Board of Pharmacy.

Second appearance, same infraction, before Discipline Committee of O.C.P.

Second appearance, same infraction, before Wisconsin State Board of Pharmacy.

Second appearance, different infraction, before Discipline Committee of O.C.P.

Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

responses suggested suspensions, for periods varying from 60 days to 3 months; 1 out of 12 (8.3%) called for probation. Some of their views are reflected by the following representative statements:

These pharmacists have no ethics and are merely interested in economics rather than the welfare of their patients.

On a first appearance, I don't think substitution (of a good substitute) is serious enough to warrant taking away a pharmacist's registration.

This practice is illegal and unethical; it has caused some manufacturers to encourage physicians to dispense. These companies, by selling directly to physicians, know that there will be no substitution.

Of the Ontario responses, 7 out of 17 (41.1%) recommended suspensions, for periods varying from 2 weeks to 6 months; 7 out of 17 (41.1%) suggested reprimands. Some of their reasons are reflected in these statements:

This is a callous disregard for the health of the patient and the profession.

This is a ticklish situation and not very serious unless the physician complained.

Pharmacists guilty of such practice are doing this for personal gain.

Generic drugs, the majority of which come on the market with no control, are a menace to the public health.

It is only the loyalty to the manufacturer or loyalty of the manufacturer to the pharmacists that was violated, presuming the generic drug was of equal quality.

On the offenders' second appearances for the same infraction, 7 out of 11 (63.6%) of the Wisconsin responses suggested suspensions, for periods ranging from 30 days to 1 year; 2 out of 11 (18.2%) designated court action; and 1 out of 11 (9.1%) called for 5-year probations. Two recommendations were supported by the following statements:

The pharmacists, in committing this offense, were strictly motivated by price; this is outright substitution!

These pharmacists have become chronic violators. Stringent action is necessary to protect the patrons in their communities.

By comparison, 12 out of 17 (70.5%) of the Ontario responses recommended suspensions, for periods ranging from 30 days to 6 months; whereas 4 out of 17 (29.4%)

responses suggested revocations. Some of the comments made were:

The pharmacists are taking advantage of the price of generic products to the detriment of the patient as well as the prescribing physician.

The profit motive seemingly is more important to these pharmacists than trying to get someone well in the shortest possible time.

The pharmacists need be impressed with the fact that the directions of the prescriber must be followed as substitution of generic drugs is a serious matter.

For a "different" infraction on the pharmacists' second appearances, 3 out of 10 (30.0%) of the Wisconsin responses advocated suspensions, from 3 to 6 months; 1 out of 10 (10.0%) advised court action; whereas 4 out of 10 (40.0%) called for no action as they wanted more information about the "different" infraction.

In contrast, 13 out of 17 (76.4%) of the Ontario responses advised suspensions for 10 days to 6 months; 2 out of 17 (11.8%) recommended revocations; and 1 out of 17 (5.9%) suggested no action on the grounds that it was felt that additional information was required about the "different" infraction.

The board secretary, Paul Pumpian, on the offenders' first appearances, advocated 30-day suspensions; revocations on the pharmacists' second appearances for the same infraction; and 30-day suspensions for the "different" infraction on the pharmacists' second appearances.

Two members of the Ontario College of Pharmacy administrative staff, as well as the solicitor advised reprimands on the defendants' first appearances; 1 member called for no action. For the same infraction on the pharmacists' second appearances, 1 staff member and the solicitor suggested 1-month suspensions; 1 member designated revocations; the third member called for no action. On the offenders' second appearances for a "different" infraction, 1 member advocated reprimands; whereas 2 members, along with the solicitor suggested no action as more information was required regarding this "different" infraction. Their suggestions are reflected in the following:

It is not for the registrants to make the decision to substitute.

This is evidently a habit. These pharmacists could have no respect for public health and safety.

While this is not a fundamentally serious matter, continued disregard for the requirements should not be tolerated.

There was a marked difference in the thinking of both agencies concerning the serious nature of the infraction in this case (see Table 10 and Figure 8). Ontario took a more drastic approach in its recommendations for suspensions of registrations on the pharmacists' first appearances than did Wisconsin. Although both agencies regarded the defendants' second appearances for the same infraction more seriously, Ontario was more stringent than its counterpart in suggesting revocations.

#### CASE 9

A number of Ergospiel and Savin capsules were sold over the counter by a pharmacist on two separate occasions. The pharmacist was found guilty in the Federal court and was fined \$500 on each of the two counts.

For the defendant's first appearance for the stated infractions in Case 9, 6 out of 11 (54.5%) of the Wisconsin responses advocated a suspension, for periods ranging from 30 days to 1 year; 2 out of 11 (18.2%) recommended court action; and 1 out of 11 (9.1%) suggested a probation. The following quotations express some of the respondents' views:

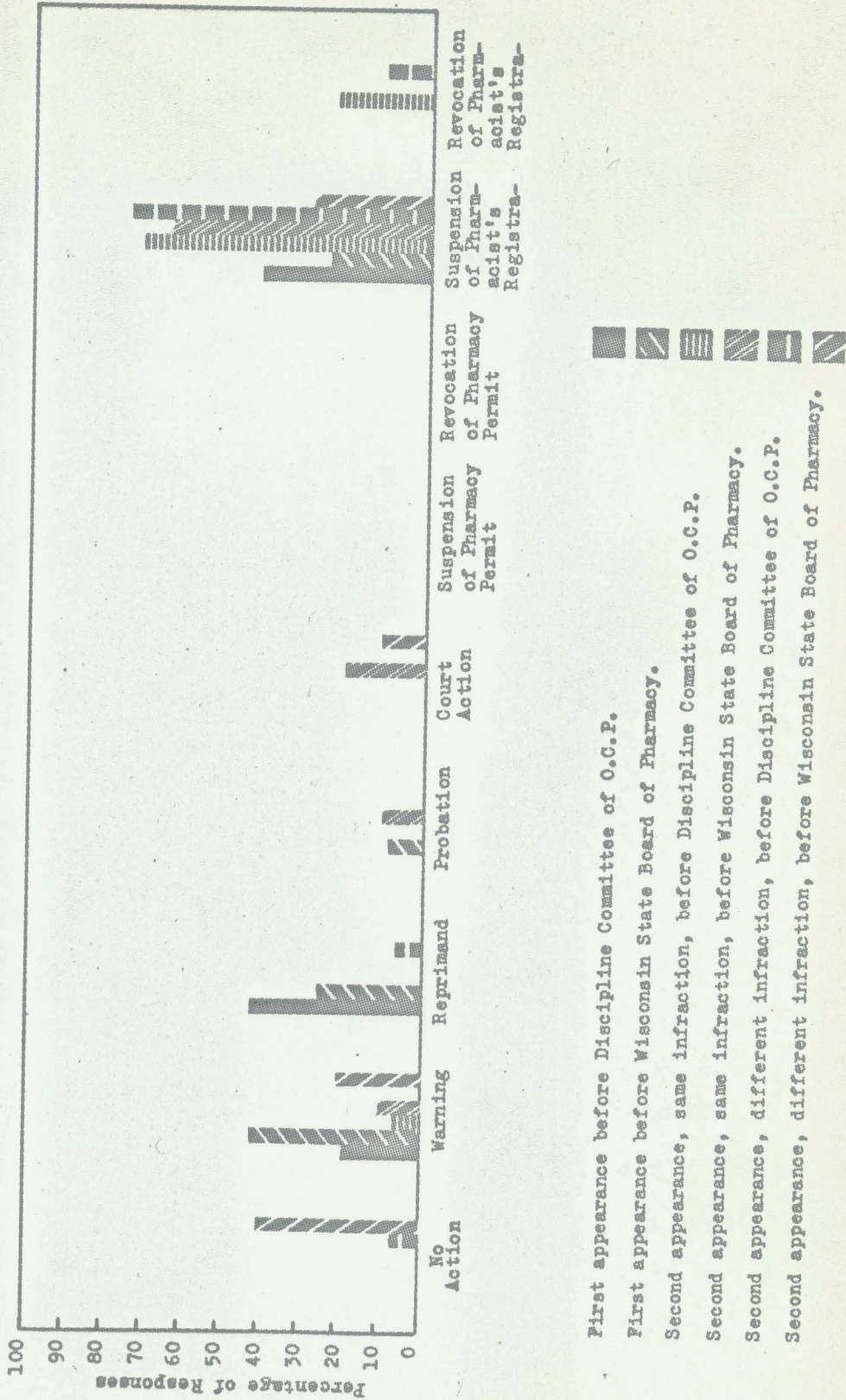
In committing this offense, the pharmacist becomes an accessory to an abortion.

TABLE 10  
RECOMMENDED DISCIPLINARY ACTIONS--CASE 8

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 0         | 0                                 | 0         | 0                                      | 4         | 1         | 4         |
| Warning                                 | 5                | 3         | 1                                 | 1         | 2                                      | 0         | 8         | 4         |
| Reprimand                               | 3                | 7         | 0                                 | 0         | 0                                      | 1         | 3         | 8         |
| Probation                               | 1                | 0         | 1                                 | 0         | 0                                      | 0         | 2         | 0         |
| Court Action                            | 0                | 0         | 2                                 | 0         | 1                                      | 0         | 3         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Suspension of Pharmacist's Registration | 3                | 7         | 7                                 | 12        | 3                                      | 13        | 13        | 32        |
| Revocation of Pharmacist's Registration | 0                | 0         | 0                                 | 4         | 0                                      | 2         | 0         | 6         |
| <b>Total</b>                            | <b>12</b>        | <b>17</b> | <b>11</b>                         | <b>17</b> | <b>10</b>                              | <b>17</b> | <b>33</b> | <b>51</b> |

FIGURE 8

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 8



First appearance before Discipline Committee of O.C.P.  
 First appearance before Wisconsin State Board of Pharmacy.  
 Second appearance, same infraction, before Discipline Committee of O.C.P.  
 Second appearance, same infraction, before Wisconsin State Board of Pharmacy.  
 Second appearance, different infraction, before Discipline Committee of O.C.P.  
 Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

The pharmacist endangered a person's life.

This offense demands a penalty to make the pharmacist realize the seriousness of the crime committed.

Of the Ontario responses, 5 out of 17 (29.4%) suggested a suspension, varying from 60 days to 1 year; 5 out of 17 (29.4%) advised revocation. Some of the reasons for the decisions are expressed in the following:

A five-hundred-dollar-fine is sufficient punishment.

He was acting as an abortionist and not as a pharmacist.

This act is akin to murder.

Forget it--the magistrate made him pay his penalty, and under British jurisprudence, one may not be tried twice for the same offense.

For the same infraction on the pharmacist's second appearance, 4 out of 10 (40.0%) of the Wisconsin responses designated a suspension, for periods from 90 days to 1 year; 4 out of 10 (40.0%) called for a revocation; 1 out of 10 (10.0%) recommended a revocation of the pharmacy permit;

and 1 out of 10 (10.0%) advised court action. Most views expressed followed lines such as:

This is too serious a violation to permit him to continue in practice.

Apparently, he is an abortionist.

The pharmacist has no regard for the laws governing his actions.

In contrast, 3 out of 17 (17.6%) of the Ontario responses called for a suspension, for varying periods of 30 days to 3 months; 13 out of 17 (76.4%) recommended revocation. The following viewpoints were expressed to support the various recommendations:

This pharmacist is obviously not capable of practicing pharmacy with the safety of the public in mind.

Any pharmacist who would assist in murder, ought not have the privilege to remain a pharmacist.

The pharmacist apparently has no regard for the health of his patients and is selling these capsules only for profit.

For a "different" infraction on the defendant's second appearance, 5 out of 11 (45.4%) of the Wisconsin responses called for a 30-day suspension; 1 out of 11 (9.1%) suggested

a revocation of the pharmacy permit; and 1 out of 11 (9.1%) advised a 5-year probation. No action was recommended by 3 out of 11 (27.3%) for lack of information regarding the "different" infraction.

In contrast, 3 out of 17 (17.6%) of the Ontario responses advised suspension, for periods of 30 days to 3 months; 10 out of 17 (58.8%) suggested a revocation; and 2 out of 17 (11.8%) advocated no action wanting more information about the "different" infraction.

\*

Paul Pumpian, the board secretary, recommended a 60-day suspension on the defendant's first appearance; a revocation on the pharmacist's second appearance for the same infraction. For a "different" infraction, on the second appearance of the offender, he advised a 60-day suspension. He supported these recommendations by making the following statement:

This drug, being a dangerous one, the board policy on the first appearance, calls for a 30-day suspension on each count with a second appearance automatically resulting in a revocation.

In comparison, 2 administrative staff members and the solicitor of the Ontario College of Pharmacy recommended a 1-year suspension, on the pharmacist's first appearance; whereas the third member advised a revocation. On the

second appearance of the defendant for the same infraction, 1 member advocated a 5-year suspension; the remaining 2 and the solicitor suggested a revocation. For a "different" infraction on the offender's second appearance, 1 member called for a revocation; another suggested a 3-year suspension; and the third advocated a reprimand. The solicitor, however, suggested no action be taken. Various views such as the following were expressed:

Ergot and Savin have only one use.  
Anyone selling these indiscriminately  
should be aware that they may cause  
death.

There are no mitigating circumstances  
in this case. The pharmacist knowingly  
sold this medication for the intended  
purpose.

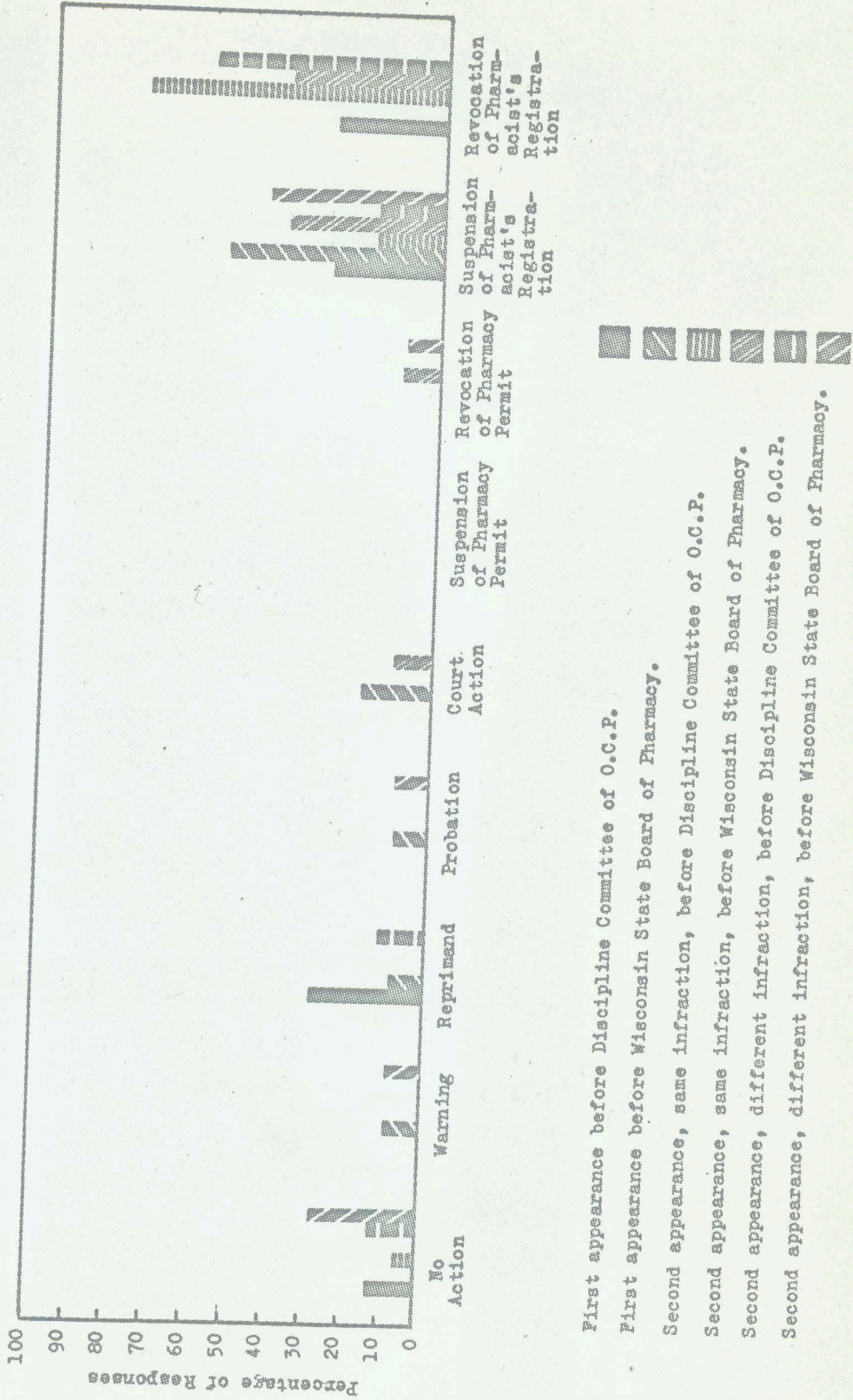
This case, although considered serious by both agencies, was viewed with more concern by Ontario; no one from Wisconsin suggested revocation of registration on the offender's first appearance (see Table 11 and Figure 9). For the same infraction, on the pharmacist's second appearance, many more Ontario respondents advocated the maximum penalty, revocation, than did Wisconsin.

TABLE 11  
RECOMMENDED DISCIPLINARY ACTIONS--CASE 9

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 0         | 2                                 | 0         | 1                                      | 3         | 2         | 3         |
| Warning                                 | 1                | 0         | 0                                 | 0         | 1                                      | 0         | 2         | 0         |
| Reprimand                               | 1                | 5         | 0                                 | 0         | 0                                      | 2         | 1         | 7         |
| Probation                               | 1                | 0         | 0                                 | 0         | 1                                      | 0         | 2         | 0         |
| Court Action                            | 2                | 0         | 1                                 | 0         | 0                                      | 0         | 3         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 1                                 | 0         | 1                                      | 0         | 2         | 0         |
| Suspension of Pharmacist's Registration | 6                | 5         | 4                                 | 3         | 5                                      | 3         | 15        | 11        |
| Revocation of Pharmacist's Registration | 0                | 5         | 4                                 | 13        | 0                                      | 10        | 4         | 28        |
| <b>Total</b>                            | <b>11</b>        | <b>17</b> | <b>10</b>                         | <b>17</b> | <b>11</b>                              | <b>17</b> | <b>32</b> | <b>51</b> |

FIGURE 9

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 9



- First appearance before Discipline Committee of O.C.P.
- First appearance before Wisconsin State Board of Pharmacy.
- Second appearance, same infraction, before Discipline Committee of O.C.P.
- Second appearance, same infraction, before Wisconsin State Board of Pharmacy.
- Second appearance, different infraction, before Discipline Committee of O.C.P.
- Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

## CASE 10

A pharmacist sold Wyamine Sulphate tablets without a prescription from a licensed practitioner to a university student who subsequently died of an overdose of these tablets. Investigation by Food and Drug inspectors resulted in sales of Wyamine Sulphate tablets over the counter to 2 of them on 3 different occasions. The pharmacist was found guilty in the Federal court and was fined \$100.

Of the Wisconsin responses on the pharmacist's first appearance for the stated infractions in Case 10, 4 out of 11 (36.3%) recommended a suspension, for designated periods of 60 days to 1 year; 3 out of 11 (27.3%) advised revocation; 2 out of 11 (18.2%) called for court action; and 1 out of 11 (9.1%) suggested a probation. Two of the reasons given for the recommendation of revocation were:

This case is so serious that the pharmacist should not be allowed another chance.

Death resulted from the indiscriminate sale of the drug.

In contrast, 4 out of 17 (23.5%) of the Ontario responses recommended suspension, for periods of 90 days to 1 year; whereas 10 out of 17 (58.8%) advised revocation. Among some of the reasons mentioned for these drastic recommendations were:

A death was the result of this man's wilful sales of Wyamine Sulphate.

The Act has been written for public protection and if there are no severe deterrents, incidents such as this will continue to arise; this is bad for the profession generally.

If we expect to have the assistance of other enforcement agencies, it is necessary that we make the fine fit the crime.

For the same infraction on the defendant's second appearance, 4 out of 10 (40.0%) of the Wisconsin responses called for a 120-day suspension; 5 out of 10 (50.0%) recommended revocation; and 1 out of 10 (10.0%) advised court action. The general consensus of opinion is reflected in the ensuing statement:

Pharmacy is a profession and we need law-abiding and moral individuals for its elevation.

On the other hand, of the Ontario responses, 1 out of 17 (5.9%) recommended suspension; whereas 15 out of 17 (88.3%) advised revocation. To support some of the recommendations of revocation, it was stated:

One such offense is more than enough!

The pharmacist is either so ignorant or callous that he should be removed from doing further harm.

For the defendant's second appearance for a "different" infraction, 4 out of 10 (40.0%) of the Wisconsin responses advised a 30-day suspension; 5 out of 10 (50.0%) recommended revocation.

In Ontario, 1 out of 17 (5.9%) called for a 2-month suspension; 14 out of 17 (82.3%) advocated a revocation; and 1 out of 17 (5.9%) suggested no action for lack of information about the "different" infraction.

\*

The board secretary, Paul Pumpian, advocated a 1-year suspension on the offender's first appearance, stating that this was "a necessary penalty in order to establish a precedent." He, on the pharmacist's second appearance for the same infraction, suggested a revocation; however on the violator's second appearance for a "different" infraction, advised a 1-year suspension.

Three administrative staff members of the Ontario College of Pharmacy, on the pharmacist's first appearance, recommended a 1-year suspension; the solicitor designated a revocation. For the same infraction on the offender's second appearance, 1 member advocated a 5-year suspension; whereas the remaining 2 members and the solicitor advised a revocation. On the pharmacist's second appearance for a "different" infraction, 1 member called for a 3-year suspension; the solicitor, a revocation. A second member

recommended a reprimand; whereas a third suggested no action. Some reasons for their recommendations are as follows:

If the consumption of the drug resulted in death, then there is no alternative but to revoke.

Action must be taken to protect the public and to show the registrant that he cannot violate the laws with impunity.

Ontario respondents obviously regarded this matter more seriously as evidenced by the majority recommending revocation of registration on a pharmacist's first appearance; only a small percentage of Wisconsin respondents advocated similar action (see Table 12 and Figure 10). For the same infraction on the offender's second appearance, Ontario respondents recommending the maximum penalty, revocation, greatly out-numbered Wisconsin.

#### CASE 11

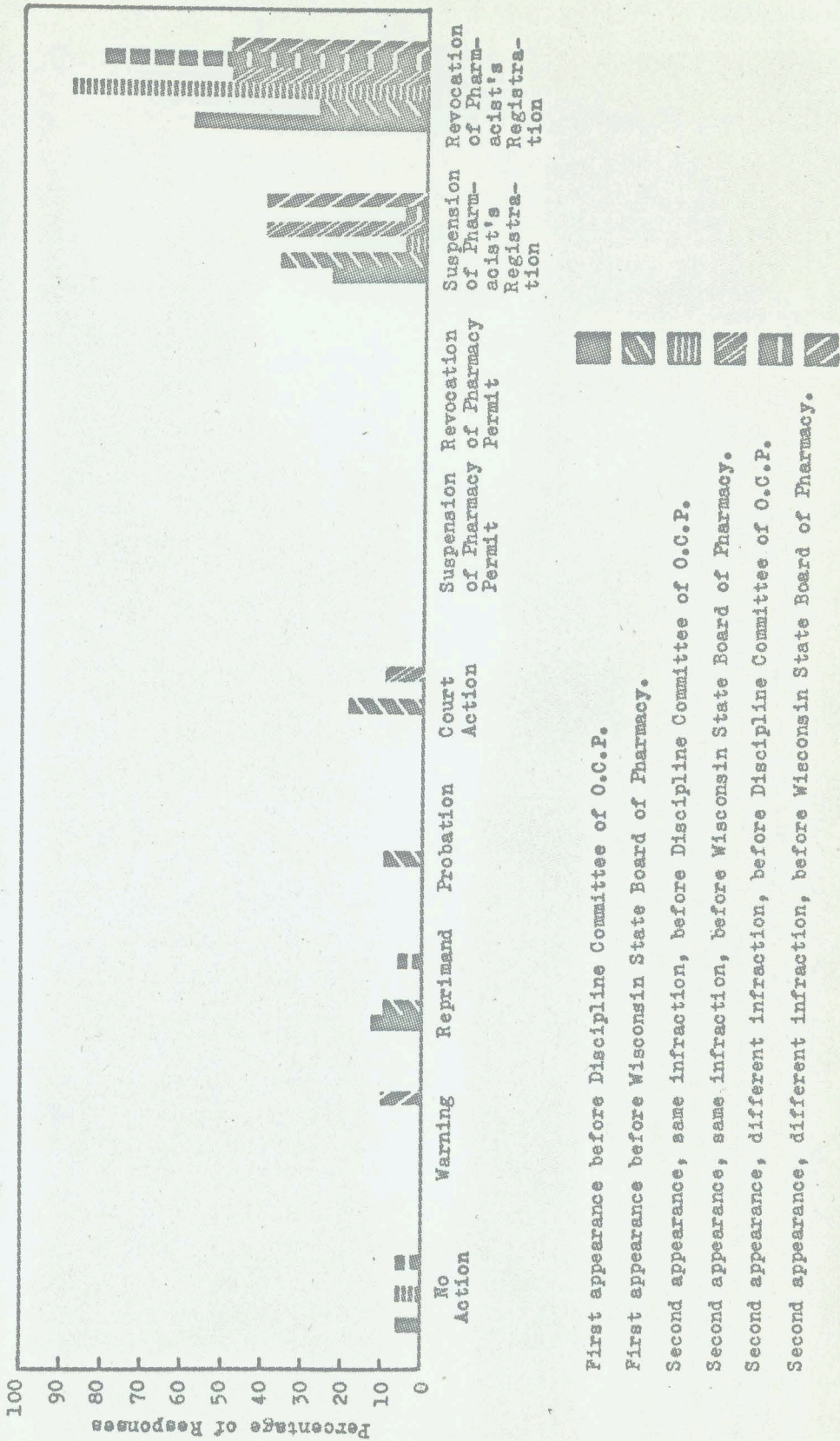
A pharmacist permitted an unregistered employee in his pharmacy to dispense a prescription for Periactin tablets for an 8-year-old child that contained an overdose, but was not recognized as such by the employee. The child died as the result. Just one day prior to the incident the pharmacist had been warned by an inspector of the board of pharmacy about permitting the employee to dispense drugs and take charge of the pharmacy during the pharmacist's absence. The pharmacist was found guilty in a county court and was fined \$200.

TABLE 12  
RECOMMENDED DISCIPLINARY ACTIONS—CASE 10

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 0         | 1                                 | 0         | 1                                      | 0         | 1         | 0         |
| Warning                                 | 0                | 0         | 0                                 | 0         | 1                                      | 0         | 1         | 0         |
| Reprimand                               | 1                | 2         | 0                                 | 0         | 0                                      | 1         | 1         | 3         |
| Probation                               | 1                | 0         | 0                                 | 0         | 0                                      | 0         | 1         | 0         |
| Court Action                            | 2                | 0         | 1                                 | 0         | 0                                      | 0         | 3         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Suspension of Pharmacist's Registration | 4                | 4         | 4                                 | 1         | 4                                      | 1         | 12        | 6         |
| Revocation of Pharmacist's Registration | 3                | 10        | 5                                 | 15        | 5                                      | 14        | 13        | 39        |
| <b>Total</b>                            | <b>11</b>        | <b>17</b> | <b>10</b>                         | <b>17</b> | <b>10</b>                              | <b>17</b> | <b>31</b> | <b>51</b> |

FIGURE 10

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 10



First appearance before Discipline Committee of O.C.P.

First appearance before Wisconsin State Board of Pharmacy.

Second appearance, same infraction, before Discipline Committee of O.C.P.

Second appearance, same infraction, before Wisconsin State Board of Pharmacy.

Second appearance, different infraction, before Discipline Committee of O.C.P.

Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

On the pharmacist's first appearance for the stated infraction in Case 11, 5 out of 11 (45.4%) of the Wisconsin responses recommended suspension, for varying periods of 60 days to 1 year; 1 out of 11 (9.1%) advised a revocation; 1 out of 11 (9.1%) called for a revocation of the pharmacy permit; and 1 out of 11 (9.1%) suggested court action. The following statements represent some of their views:

This pharmacist obviously cannot control his personnel. Worst of all, he paid no heed to the inspector's warning.

The pharmacist was warned by an inspector but evaded admonition showing that he had been in the practice of this misdemeanor.

Of the Ontario responses, 7 out of 17 (41.1%) called for a suspension, for periods of 30 days to 1 year; 5 out of 17 (29.4%) recommended a revocation. Some representative statements are:

This is a case where the pharmacist did not appreciate the seriousness of what might occur.

He did not heed the warning of the inspector and a child died as a result. Publicity of this case would force a revocation of registration.

A pharmacist must be in charge of a pharmacy at all times and must not permit any unregistered help to dispense drugs or poisons.

For the same infraction on the offender's second appearance, 4 out of 10 (40.0%) of the Wisconsin responses suggested a suspension, for periods of 120 days to 2 years; 5 out of 10 (50.0%) advocated a revocation; and 1 out of 10 (10.0%) advised court action. Some reasons for the recommended actions are reflected in the following:

If we are to safeguard the public, then we have no other choice but to revoke his registration.

Due to the lack of cooperation on the part of this pharmacist in failing to correct the situation, a severe penalty is in order.

On the other hand, in Ontario, 5 out of 17 (29.4%) of the responses called for suspension, for periods ranging from 30 days to 1 year; 11 out of 17 (64.7%) advocated a revocation. Some of those recommending the maximum penalty, revocation, explained their decisions in these words:

He should not be allowed to remain in the profession with so little regard for the public health.

He should have been more cautious and not permitted unregistered help in his dispensary, especially after receiving a warning from the inspector.

On the defendant's second appearance for a "different" infraction, 3 out of 10 (30.0%) of the Wisconsin responses advised a suspension, for varying periods of 1 to 2 years; 3 out of 10 (30.0%) recommended a revocation. One out of 10 (10.0%) called for court action, whereas no action was designated by 2 out of 10 (20.0%) as they felt more information regarding the "different" infraction was required.

In Ontario, 5 out of 17 (29.4%) of the responses recommended suspension, for periods of 30 days to 1 year; 9 out of 17 (52.9%) advised a revocation; and 2 out of 17 (11.8%) called for no action since they wished more information about the "different" infraction.

\*

Paul Pumpian, secretary of the board, suggested a 90-day suspension, as well as the revocation of the pharmacy permit on the offender's first appearance, stating:

A death resulted from a permitted violation of the pharmacy law by the pharmacist who had been previously warned.

For the same infraction on the offender's second appearance, he recommended a revocation of registration; however on the pharmacist's second appearance for a "different" infraction, he advised a 90-day suspension.

Of the Ontario College of Pharmacy administrative staff, 3 members, as well as the solicitor, recommended suspension, for varying periods of 2 weeks to 6 months, on the

defendant's first appearance. For the same infraction on the pharmacist's second appearance, 1 member called for a 1-year suspension; 2 members and the solicitor suggested revocation. With regard to the offender's second appearance for a "different" infraction, 1 member recommended a 6-month suspension; another called for a reprimand; whereas the third member and the solicitor designated no action.

\*

Both agencies regarded this case gravely; however, a greater percentage of Ontario than Wisconsin respondents recommended a revocation of registration on the pharmacist's first appearance (see Table 13 and Figure 11). Greater emphasis was placed by both agencies on more stringent recommendations on the pharmacist's second appearance for the same infraction.

#### CASE 12

When a state board of pharmacy inspector on a routine pharmacy inspection asked for the pharmacist, a man working in the prescription department identified himself as the pharmacist. However, after the inspector introduced himself and began his inspection, the man informed the inspector that he was only a trainee and that the pharmacist was not on the premises, nor available.

\*

For the defendant's first appearance for the stated infraction in Case 12, 2 out of 11 (18.2%) of the Wisconsin responses suggested court action; 5 out of 11 (45.4%)

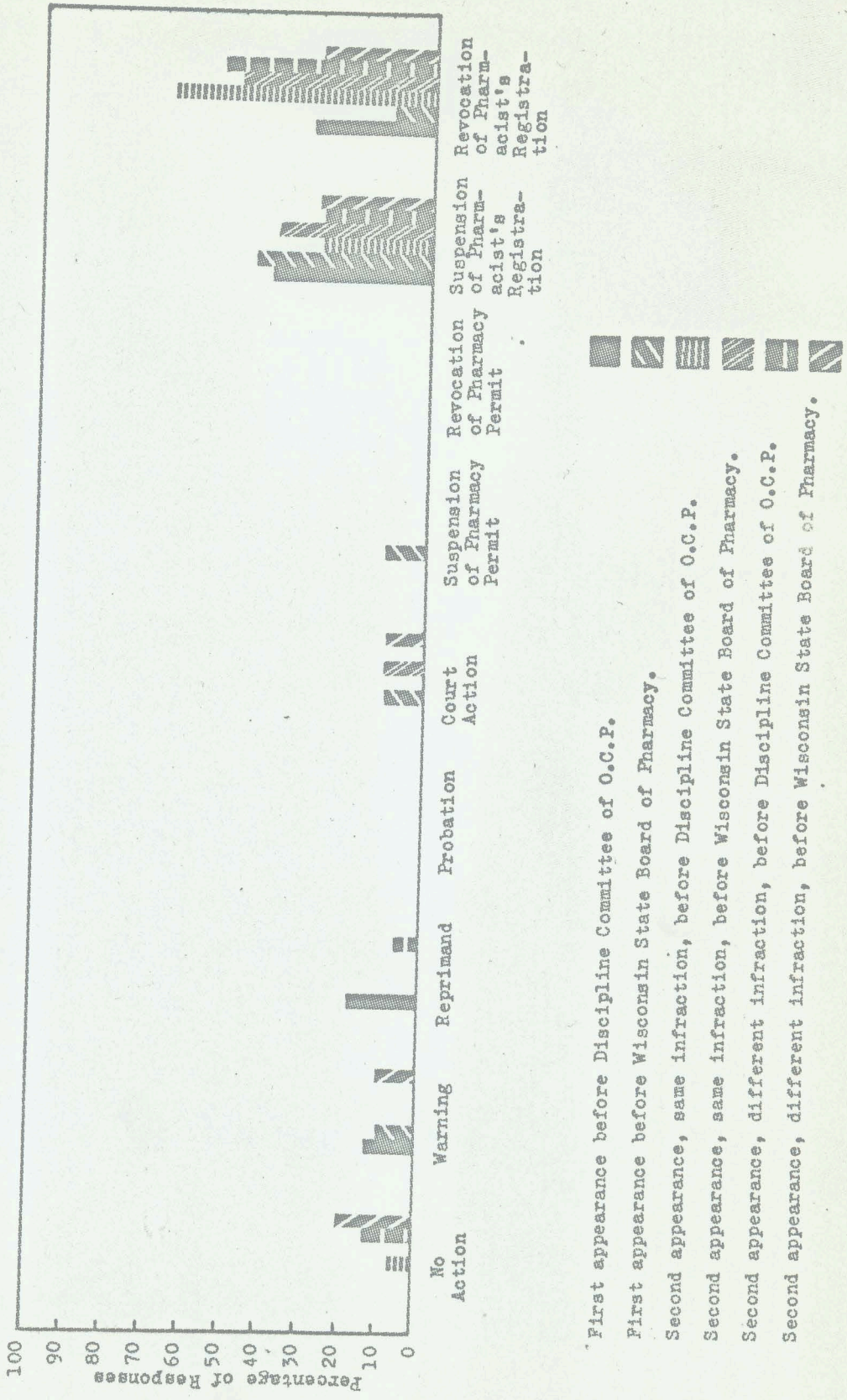
TABLE 13

## RECOMMENDED DISCIPLINARY ACTIONS--CASE 11

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 0         | 0                                 | 0         | 1                                      | 2         | 2         | 2         |
| Warning                                 | 1                | 2         | 0                                 | 0         | 1                                      | 0         | 2         | 2         |
| Reprimand                               | 2                | 3         | 0                                 | 0         | 0                                      | 1         | 2         | 4         |
| Probation                               | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Court Action                            | 1                | 0         | 1                                 | 0         | 1                                      | 0         | 3         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation Of Pharmacy Permit           | 1                | 0         | 0                                 | 0         | 0                                      | 0         | 1         | 0         |
| Suspension of Pharmacist's Registration | 5                | 7         | 4                                 | 5         | 3                                      | 5         | 12        | 17        |
| Revocation of Pharmacist's Registration | 1                | 5         | 5                                 | 11        | 3                                      | 9         | 9         | 25        |
| <b>Total</b>                            | <b>11</b>        | <b>17</b> | <b>10</b>                         | <b>17</b> | <b>10</b>                              | <b>17</b> | <b>31</b> | <b>51</b> |

FIGURE 11

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 11



- First appearance before Discipline Committee of O.C.P.
- ▨ First appearance before Wisconsin State Board of Pharmacy.
- ▧ Second appearance, same infraction, before Discipline Committee of O.C.P.
- ▩ Second appearance, same infraction, before Wisconsin State Board of Pharmacy.
- Second appearance, different infraction, before Discipline Committee of O.C.P.
- Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

called for a reprimand. Various views were expressed as follows:

He is not fit to be a preceptor to teach the trainee how to properly conduct himself.

This was probably pre-arranged between the pharmacist and the trainee and therefore premeditated.

Perhaps his grandmother died.

Of the Ontario responses, 1 out of 17 (5.9%) advised a 1-month suspension; whereas 12 out of 17 (70.5%) advocated a reprimand. The following represent some reactions:

Perhaps it was ignorance which led him to believe that an apprentice was legally entitled to be left in charge of the pharmacy.

The only offense here is non-supervision of his pharmacy.

This is a borderline case; I can remember the time when, as an apprentice, I was left in charge of a pharmacy when the owner was on a long trip.

The pharmacist should never have been hauled up before the committee. The inspector should have privately admonished the pharmacist.

On the pharmacist's second appearance for the same infraction, 3 out of 8 (37.5%) of the Wisconsin responses recommended a suspension, for periods of 30 days to 1 year; 1 out of 8 (12.5%) called for suspension of the pharmacy permit; and 2 out of 8 (25.0%) designated court action. One respondent issued a fairly representative statement saying "We want teachers, not violators."

On the other hand, 10 out of 17 (58.8%) of the Ontario responses designated a suspension, for periods of 15 days to 6 months; 2 out of 17 (11.8%) suggested a revocation. Those who recommended revocation said:

He has flaunted the law and is no credit to his profession or fellow-pharmacists.

This man is incorrigible and should be forced to relinquish his status in pharmacy.

For a "different" infraction on the offender's second appearance, 2 out of 8 (25.0%) of the Wisconsin responses called for a suspension, for periods of 30 days to 1 year; 1 out of 8 (12.5%) suggested a suspension of the pharmacy permit; 2 out of 8 (25.0%) advocated court action; and no action was recommended by 1 out of 8 (12.5%).

In comparison, 8 out of 17 (47.0%) of the Ontario responses recommended a suspension, for periods ranging from 7 days to 3 months; 1 out of 17 (5.9%) called for a

revocation; whereas 3 out of 17 (17.6%) advised no action.

Paul Pumpian, the board secretary, called for a warning on the first appearance by the accused. For the same infraction on the pharmacist's second appearance, he recommended that the pharmacist's Preceptor Certificate<sup>1</sup> be revoked. For a "different" infraction on the offender's second appearance, he suggested a warning.

In comparison, 2 members of the administrative staff of the Ontario College of Pharmacy advocated a reprimand on the offender's first appearance; the solicitor recommended a 1-month suspension; the third member advised no action. For the same infraction on the defendant's second appearance, 1 member called for a suspension; the solicitor a revocation; and the 2 remaining members, a reprimand. On the pharmacist's second appearance for a "different" infraction, 2 members advocated a reprimand; however the third and the solicitor designated no action. Some pertinent remarks follow:

The preceptor has a responsibility to the apprentice as well as to the public.

---

1. Wisconsin Administrative Code (March, 1964), Phar. 3.06(7), p. 15: "A certificate attesting to the certification of the preceptor, issued by the board of pharmacy."

\*

This preceptor should never again  
be permitted to have an apprentice.

\*

The risk of harm to the public is so  
great as to justify a revocation.

\*

On the whole, both agencies failed to view this matter as a serious violation of the law, particularly on the first appearance of the accused (see Table 14 and Figure 12). Here, a majority of both college and board respondents recommended actions other than suspension or revocation of registration. However, on the pharmacist's second appearance for the same infraction, Ontario decidedly suggested more stringent action with the majority of respondents advocating suspension or revocation of registration.

### CASE 13

\*

A pharmacist permitted an employee in his  
pharmacy to sell contraceptive devices.

\*

(This case was not included in the Ontario questionnaire because there are no Ontario laws pertaining to this type of violation.)

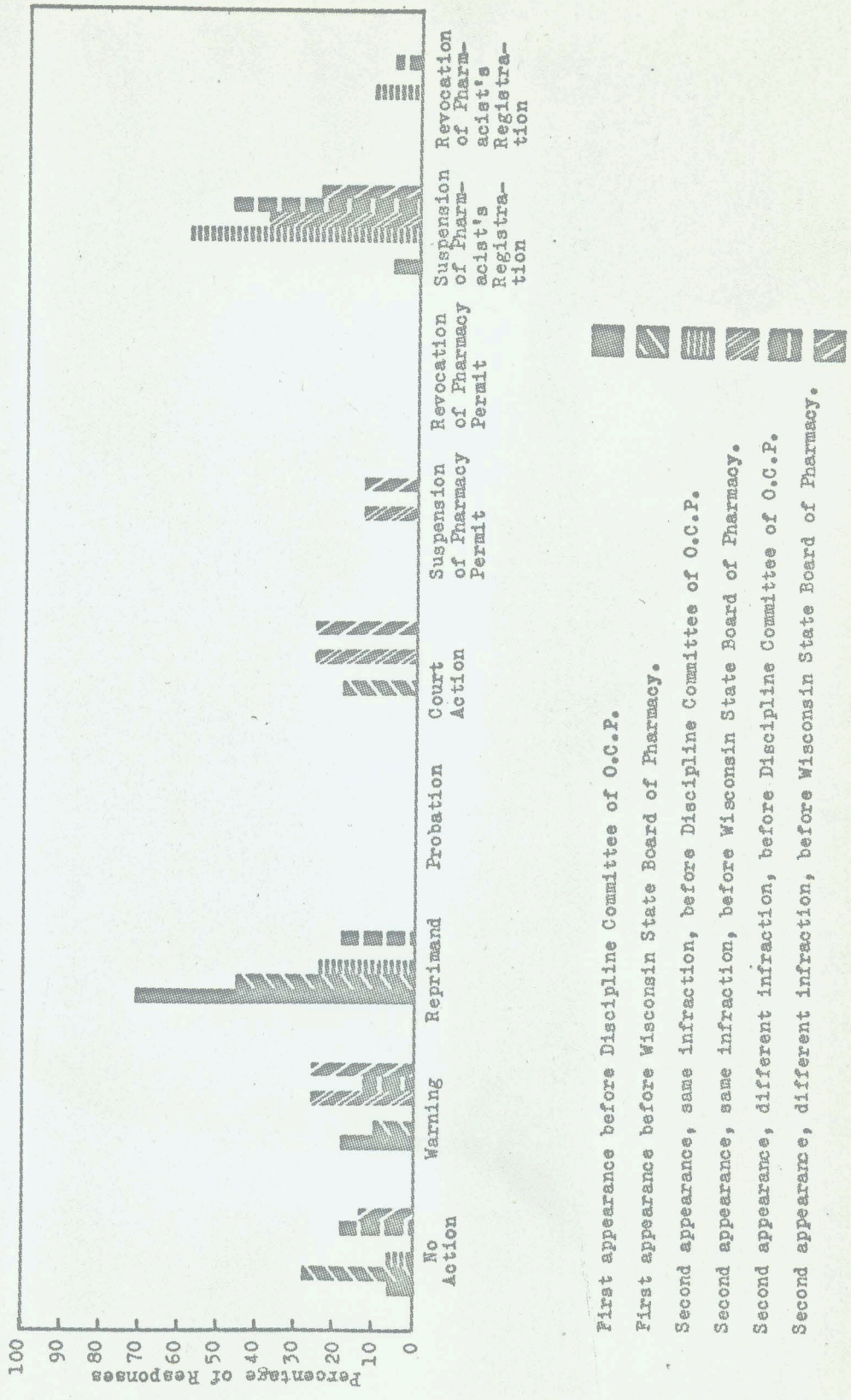
Of the Wisconsin responses for the offender's first appearance for the stated infraction in Case 13, 1 out of 12 (8.3%) suggested court action; 2 out of 12 (16.7%)

TABLE 14  
RECOMMENDED DISCIPLINARY ACTIONS—CASE 12

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 3         | 1                                 | 0         | 1                                      | 1         | 3         | 4         |
| Warning                                 | 1                | 3         | 2                                 | 0         | 2                                      | 2         | 5         | 5         |
| Reprimand                               | 5                | 12        | 0                                 | 4         | 0                                      | 3         | 5         | 19        |
| Probation                               | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Court Action                            | 2                | 0         | 2                                 | 0         | 2                                      | 0         | 6         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 1                                 | 0         | 1                                      | 0         | 2         | 0         |
| Revocation Of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Suspension of Pharmacist's Registration | 0                | 1         | 3                                 | 10        | 2                                      | 8         | 5         | 19        |
| Revocation of Pharmacist's Registration | 0                | 0         | 0                                 | 2         | 0                                      | 1         | 0         | 3         |
| <b>Total</b>                            | <b>11</b>        | <b>17</b> | <b>8</b>                          | <b>17</b> | <b>8</b>                               | <b>17</b> | <b>27</b> | <b>51</b> |

FIGURE 12

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 12



First appearance before Discipline Committee of O.C.P.

First appearance before Wisconsin State Board of Pharmacy.

Second appearance, same infraction, before Discipline Committee of O.C.P.

Second appearance, same infraction, before Wisconsin State Board of Pharmacy.

Second appearance, different infraction, before Discipline Committee of O.C.P.

Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

advocated a 6-month probation; and 7 out of 12 (58.3%) called for a warning. Some reasons for these recommended actions are expressed in the following:

I wouldn't even call the man before the board. There are too many important rules and laws to enforce ahead of this one.

The clerk may have taken this responsibility upon himself unbeknown to the pharmacist.

Outlets other than pharmacies handle these devices and nothing is being done to correct the situation.

For the same infraction on the pharmacist's second appearance, 1 out of 9 (11.1%) responses suggested a 30-day suspension; 1 out of 9 (11.1%) called for a revocation of the pharmacy permit; and 2 out of 9 (22.2%) advocated court action. The respondent recommending the suspension of registration stated:

Pharmacy is an idealistic profession and when it falls into the hands of one with unscrupulous character, it ceases to be idealistic.

On the violator's second appearance for a "different" infraction, 1 out of 9 (11.1%) responses designated a suspension; 1 out of 9 (11.1%) called for court action; whereas 5 out of 9 (55.6%) recommended no action.

The board secretary, Paul Pumpsian, on the offender's first appearance, recommended a warning suggesting that the violation was not a serious one. For the same infraction on the pharmacist's second appearance, he again advised a warning; and a similar disposition of this matter on the offender's second appearance for a "different" infraction.

Wisconsin did not perceive this to be an infraction of any great consequence (see Table 15 and Figure 13).

#### CASE 14

A pharmacist refilled an original prescription for 30 Dexedrine Spangules on 9 different occasions for the same patron without the prescriber's authorization. The pharmacist claimed he did not call the prescribing physician because the pharmacy's business was not good and he, the pharmacist, had 6 children to support. He further stated that he should have vacated his pharmacy when his lease expired, but unfortunately he had renewed the lease and was now stuck there.

Of the Wisconsin responses for the offender's first appearance for the stated infractions in Case 14, 2 out of 10 (20.0%) recommended a suspension, for periods of 60 to 120 days; 1 out of 10 (10.0%) advocated court action; and 1 out of 10 (10.0%) called for a probation. Some respondents claimed:

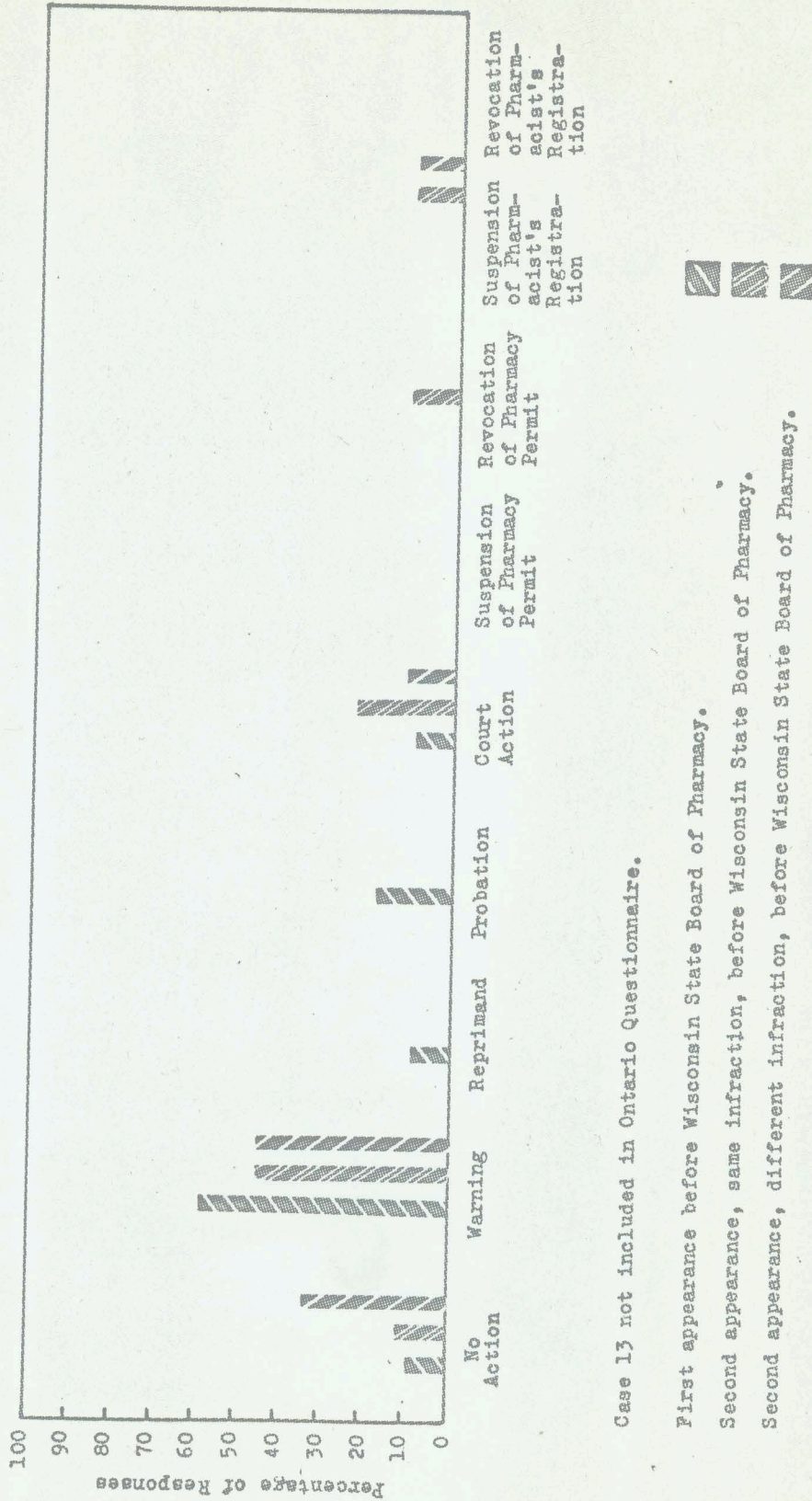
TABLE 15  
RECOMMENDED DISCIPLINARY ACTIONS—CASE 13\*

| Action Recommended                      | First Appearance | Second Appearance Same Infraction | Second Appearance Different Infraction | Total     |
|---|------------------|-----------------------------------|--|-----------|
| No Action                               | 1                | 1                                 | 3                                      | 5         |
| Warning                                 | 7                | 4                                 | 4                                      | 15        |
| Reprimand                               | 1                | 0                                 | 0                                      | 1         |
| Probation                               | 2                | 0                                 | 0                                      | 2         |
| Court Action                            | 1                | 2                                 | 1                                      | 4         |
| Suspension of Pharmacy Permit           | 0                | 0                                 | 0                                      | 0         |
| Revocation of Pharmacy Permit           | 0                | 1                                 | 0                                      | 1         |
| Suspension of Pharmacist's Registration | 0                | 1                                 | 1                                      | 2         |
| Revocation of Pharmacist's Registration | 0                | 0                                 | 0                                      | 0         |
| <b>Total</b>                            | <b>12</b>        | <b>9</b>                          | <b>9</b>                               | <b>30</b> |

\*Case 13 not included in Ontario questionnaire.

FIGURE 13

EVALUATION OF RECOMMENDED DISCIPLINARY ACTION: WISCONSIN - CASE 13



Case 13 not included in Ontario Questionnaire.

First appearance before Wisconsin State Board of Pharmacy.

Second appearance, same infraction, before Wisconsin State Board of Pharmacy.

Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

This is obviously an established practice in this pharmacy.

Support of his family is no excuse.

The man may be telling the truth and really needs guidance.

In comparison, 6 out of 17 (35.3%) of the Ontario responses suggested a suspension, for designated periods of 15 days to 6 months; 4 out of 17 (23.5%) advised revocation. Some of the reactions were:

This is a compassionate case and should be handled as such.

Leniency should be shown in consideration of his children only.

This sort of thing cannot be condoned by the college.

For the same infraction on the pharmacist's second appearance, 5 out of 10 (50.0%) of the Wisconsin responses advocated a suspension, for periods of 60 days to 1 year; 1 out of 10 (10.0%) called for revocation of the pharmacy permit; and 2 out of 10 (20.0%) recommended court action. Some respondents claimed reasons for their suggestions as follows:

The pharmacist still needs help and would be better off working for another pharmacist.

A serious offense demands severe action, but because of his family, he deserves leniency.

He has shown a lack of cooperation after admonition.

Of the Ontario responses, 4 out of 17 (23.5%) recommended a suspension, for varying periods of 15 to 90 days; 11 out of 17 (64.7%) advocated revocation. Some respondents stated:

Anyone who has to stoop to such practice to make a living in pharmacy should try some other form of work for his own good.

The registrant need be impressed with the fact that financial need should not be fulfilled by breaking laws and injuring health.

For a "different" infraction for the defendant's second appearance; 5 out of 10 (50.0%) of the Wisconsin responses suggested a suspension, for periods of 30 to 90 days; 1 out of 10 (10.0%) advised court action; and 3 out of 10 (30.0%) called for no action, stating that they wished more information about the "different" infraction.

In contrast, 5 out of 17 (29.4%) of the Ontario responses recommended a suspension, for periods varying from 15 to 90 days; 9 out of 17 (52.9%) suggested a revocation; whereas 2 out of 17 (11.8%) advised no action wanting more information about the "different" infraction.

\*

Paul Pumpian, the board secretary, for the offender's first appearance, recommended a 60-day suspension, stating that this was a "flagrant violation of the refill law." For the same infraction on the pharmacist's second appearance, he advised a revocation; whereas on the second appearance by the accused for a "different" infraction, he suggested a 60-day suspension.

Of the administrative staff of the Ontario College of Pharmacy, 1 member and the solicitor advised a suspension, for periods ranging from 6 months to 1 year; 2 members advocated a reprimand, on the pharmacist's first appearance. For the same infraction on the violator's second appearance, 3 members advised a suspension, for designated periods of 1 month to 5 years; however, the solicitor called for a revocation. On a second appearance by the accused for a "different" infraction, 1 member advocated a 3-year suspension; another recommended a reprimand; and the third, as well as the solicitor, advised no action. The following representative opinion was expressed:

The motive, no doubt, was monetary gain. The customer was probably habituated to Dexedrine, of which the registrant should have been aware.

There was a noticeable difference in the recommended disposition of this matter by both agencies with Ontario taking the more stern attitude as to the nature of the offense (see Table 16 and Figure 14). A majority of Ontario respondents suggested suspension or revocation of registration as opposed to a minority of Wisconsin respondents advocating suspension only, on the offender's first appearance. For the same infraction, on the pharmacist's second appearance the majority of Ontario respondents advised revocation, as compared with none from Wisconsin.

#### CASE 15

Upon receiving a prescription order a pharmacist properly prepared the medication, but because of a similarity in the name of this patient and that on another prescription a clerk in the pharmacy handed the wrong prescription to the patron. A child died as the result of taking this medication intended for an adult. The coroner's jury brought in a finding of death from the drug through the ordinary negligence of the pharmacist.

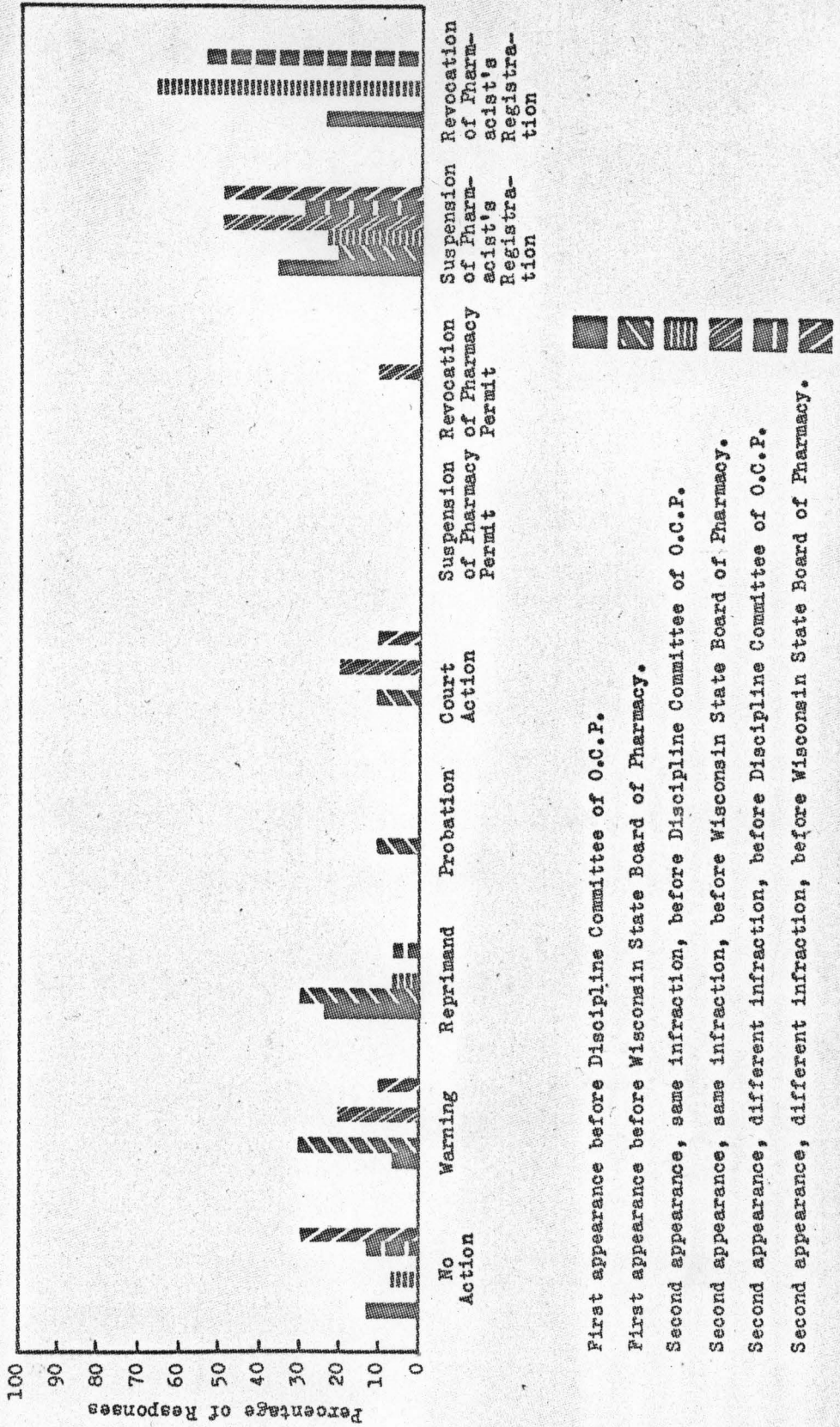
Of the Wisconsin responses for the pharmacist's first appearance for the stated infraction in Case 15, 1 out of 8 (12.5%) recommended court action; 4 out of 8 (50.0%)

TABLE 16  
RECOMMENDED DISCIPLINARY ACTIONS—CASE 14

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 0         | 2                                 | 0         | 1                                      | 3         | 2         | 3         |
| Warning                                 | 3                | 1         | 2                                 | 0         | 1                                      | 0         | 6         | 1         |
| Reprimand                               | 3                | 4         | 0                                 | 1         | 0                                      | 1         | 3         | 6         |
| Probation                               | 1                | 0         | 0                                 | 0         | 0                                      | 0         | 1         | 0         |
| Court Action                            | 1                | 0         | 2                                 | 0         | 1                                      | 0         | 4         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 1                                 | 0         | 0                                      | 0         | 1         | 0         |
| Suspension of Pharmacist's Registration | 2                | 6         | 5                                 | 4         | 5                                      | 5         | 12        | 15        |
| Revocation of Pharmacist's Registration | 0                | 4         | 0                                 | 11        | 0                                      | 9         | 0         | 24        |
| <b>Total</b>                            | <b>10</b>        | <b>17</b> | <b>10</b>                         | <b>17</b> | <b>10</b>                              | <b>17</b> | <b>30</b> | <b>51</b> |

FIGURE 14

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 14



First appearance before Discipline Committee of O.C.P.

First appearance before Wisconsin State Board of Pharmacy.

Second appearance, same infraction, before Discipline Committee of O.C.P.

Second appearance, same infraction, before Wisconsin State Board of Pharmacy.

Second appearance, different infraction, before Discipline Committee of O.C.P.

Second appearance, different infraction, before Wisconsin State Board of Pharmacy.

called for a warning. The following are some of the views reflected in the recommendations:

This was an unfortunate error. It should be explained to the pharmacist that he is responsible for delivering the prescription to the customer and reading the directions to him.

This involves negligence as stated, but does not involve a law infraction.

The store methods are obviously lax, showing lack of prescription integrity. This would never have happened had the pharmacist given special attention to getting the medication into the proper hands.

In comparison, 3 out of 17 (17.6%) of the Ontario responses suggested a suspension, for periods of 1 month to 90 days; 10 out of 17 (58.8%) called for a reprimand. Opinions given with the recommendations included:

A pharmacist must be held responsible for the actions of his employees.

In a pharmacy, prescriptions should be handed to the patients by the dispensing pharmacist.

The pharmacist has already paid dearly for his clerk's mistake in remorse and sorrowful regret.

For the same infraction on the violator's second appearance, 3 out of 8 (37.5%) of the Wisconsin responses suggested a 1-year suspension; 2 out of 8 (25.0%), a revocation; and 1 out of 8 (12.5%) designated a 1-year probation. One respondent suggesting revocation observed that "life is too precious to waste on a careless pharmacist."

Of the Ontario responses, 5 out of 17 (29.4%) called for a suspension, for periods of 10 days to 1 year; 6 out of 17 (35.3%) advocated a revocation. The following are some reactions:

Public opinion would demand that a pharmacist who was instrumental in the death of two people no longer be allowed to practice.

All necessary steps must be taken to insure the safety of the patient. This was not done here.

On a second appearance by the accused for a "different" infraction, 1 out of 9 (11.1%) of the Wisconsin responses advised a 1-year suspension; 1 out of 9 (11.1%), court action; 1 out of 9 (11.1%), a 1-year probation; whereas no action was recommended by 4 out of 9 (44.4%) for lack of sufficient information with respect to the "different" infraction.

By comparison, 5 out of 17 (29.4%) of the Ontario responses suggested a suspension, for periods of 30 days to

1 year; 1 out of 17 (5.9%), a revocation; whereas 3 out of 17 (17.6%) advocated no action as they wished more information regarding this "different" infraction.

\*

The board secretary, Paul Pumpian, on a first appearance by the accused, advised a warning, claiming that negligence was not wilful. He made a similar recommendation for the pharmacist's second appearance for the same as well as a "different" infraction.

Of the Ontario College of Pharmacy administrative staff, 1 member as well as the solicitor suggested a suspension, for periods of 1 to 6 months; the remaining 2 members called for a reprimand, on the offender's first appearance. For the same infraction on the second appearance of the accused, 3 members and the solicitor unanimously recommended a suspension, for varying periods of 1 month to 1 year. For the violator's second appearance for a "different" infraction, 1 member called for a 9-month suspension; one, a reprimand; whereas the third member and the solicitor designated no action. Some comments to support their decisions are:

There was definitely negligence on the part of the dispensing pharmacist.

\*

The child's family might have or should have read the label on the

container and so must share some of the blame. This was an honest and perhaps understandable error.

This matter was regarded more serious by Ontario respondents on the pharmacist's first appearance, as evidenced by the recommendations for suspension of registration (see Table 17 and Figure 15). No Wisconsin respondent suggested this. This is attributable to the difference previously cited in the Wisconsin Statutes and the Ontario Pharmacy Act respecting this type of infraction. However, on the offender's second appearance for the same infraction, we see the majority of respondents of each agency recommending suspension or revocation.

## 2) Question 2--Advisory Guidance

After hearing all the facts in cases involving pharmacists appearing before the board, do you seek guidance from others before rendering a decision?

(Check one)

- a)  usually
- b)  occasionally
- c)  never

If a or b from whom do you seek guidance?

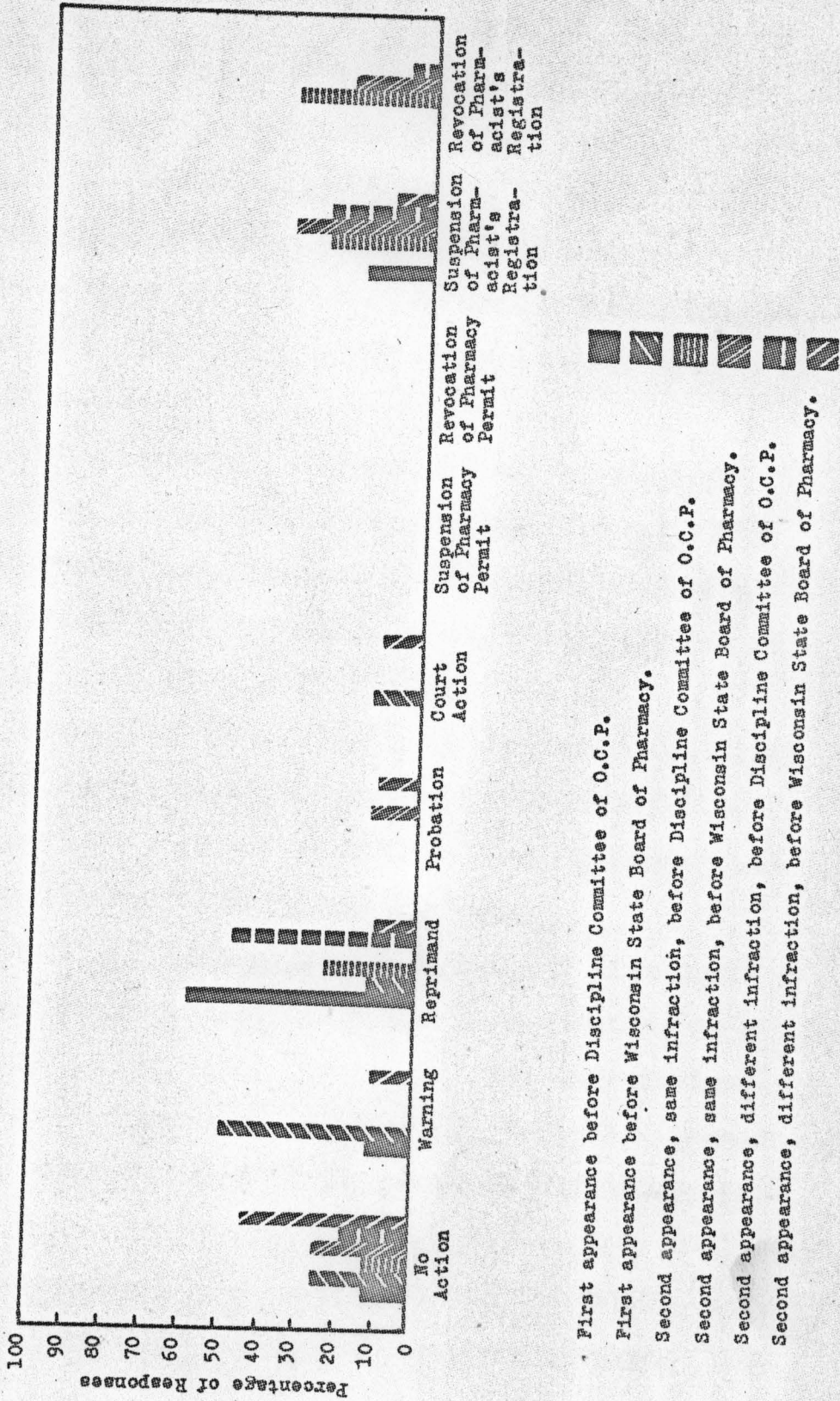
This question was not intended to be answered by the administrative staffs of either agency but was specifically directed toward their members.

TABLE 17  
RECOMMENDED DISCIPLINARY ACTIONS--CASE 15

| Action Recommended                      | First Appearance |           | Second Appearance Same Infraction |           | Second Appearance Different Infraction |           | Total     |           |
|---|------------------|-----------|-----------------------------------|-----------|--|-----------|-----------|-----------|
|   | Wis.             | Ont.      | Wis.                              | Ont.      | Wis.                                   | Ont.      | Wis.      | Ont.      |
|   | No Action        | 2         | 2                                 | 2         | 2                                      | 4         | 3         | 8         |
| Warning                                 | 4                | 2         | 0                                 | 0         | 1                                      | 0         | 5         | 2         |
| Reprimand                               | 1                | 10        | 0                                 | 4         | 1                                      | 8         | 2         | 22        |
| Probation                               | 0                | 0         | 1                                 | 0         | 1                                      | 0         | 2         | 0         |
| Court Action                            | 1                | 0         | 0                                 | 0         | 1                                      | 0         | 2         | 0         |
| Suspension of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Revocation of Pharmacy Permit           | 0                | 0         | 0                                 | 0         | 0                                      | 0         | 0         | 0         |
| Suspension of Pharmacist's Registration | 0                | 3         | 3                                 | 5         | 1                                      | 5         | 4         | 13        |
| Revocation of Pharmacist's Registration | 0                | 0         | 2                                 | 6         | 0                                      | 1         | 2         | 7         |
| <b>Total</b>                            | <b>8</b>         | <b>17</b> | <b>8</b>                          | <b>17</b> | <b>9</b>                               | <b>17</b> | <b>25</b> | <b>51</b> |

FIGURE 15

COMPARATIVE EVALUATION OF RECOMMENDED DISCIPLINARY ACTION - CASE 15



In Wisconsin, 3 out of 9 (33.3%) of the respondents claimed that they usually sought guidance from others before rendering their decisions in cases before the board, as opposed to 4 out of 16 (25.0%) of the Ontario respondents. Occasionally, 6 out of 9 (66.7%) from Wisconsin asked for such assistance, as compared to 9 out of 16 (56.3%) respondents from Ontario. Out of the 16 Ontario respondents, 3 (18.7%) claimed never to have asked advice of others.

Of these Wisconsin respondents who usually, or occasionally, sought guidance, the majority said they looked to other board members as well as the Attorney General or his assistant, whereas only 1 respondent mentioned the state board secretary.

By comparison, the majority of Ontario respondents sought guidance from other members of the Discipline Committee as well as the solicitor. Only 1 respondent mentioned the registrar of the college.

It would seem then, that the majority of members of both agencies seek some assistance before rendering a decision in a case before them, and that they look mainly to other members as well as the legal counsel representing their respective bodies. This seems logical since some members, like most registered pharmacists, lack a comprehensive understanding of laws affecting pharmacy, even though they may have a general knowledge of them. The

effect that new requirements in the University of Wisconsin School of Pharmacy curriculum, for the study of pharmaceutical jurisprudence, may have on practicing pharmacists in the future can only be surmised.<sup>2</sup>

### 3) Question 3--Other Agencies

Do you believe the enforcement of Wisconsin [Ontario] pharmacy laws and regulations should be entrusted to an agency other than the Wisconsin State Board of Pharmacy [Ontario College of Pharmacy]?

Why?

In response to this question, Wisconsin and Ontario respondents gave an emphatic and unanimous (100%) "No," stating (in part):

Pharmacists who serve on the board are dedicated, want better pharmacy, and are interested in its up-grading for the sake of the public and the pride of pharmacy.

The board is composed of practicing pharmacists who are familiar with the everyday problems, in pharmacy, that would have no meaning to the laity.

- 
2. Pharmaceutical jurisprudence first became a required course in the University of Wisconsin School of Pharmacy curriculum with the initiation of the five-year program in 1960, with the class of 1964 being the first to be affected; Ontario first made this requirement of its B.Sc. graduates beginning in 1948.

The State Board of Pharmacy was created to enforce the pharmacy laws and to examine candidates for licensure. We are not overworked in either field.

The enforcement of the state pharmacy laws and regulations are entrusted to the board -- the board of pharmacy has done its work well.

The College has been charged with the responsibility of enforcing the Pharmacy Act and this is where it belongs.

In accordance with British Justice, a man should be tried by a jury of his peers, that is, a pharmacist should be tried by other pharmacists.

The College understands the difficulties of pharmacists better than would an agency of laymen.

Similarly, Paul Puspian, the board secretary, replied in the negative, as did the administrative staff members of the Ontario College of Pharmacy and its solicitor. Their collective opinions may be appreciated in such representative statements as:

Members of the board are equipped by training and experience to equitably enforce the pharmacy laws and regulations.

Every pharmacist should be tried by a jury of his peers. None other than a pharmacist is capable of appreciating the effect of drugs and the many regulations governing the practice of pharmacy.

The unanimous response to this question by the members of both agencies offers evidence of the unqualified belief that Anglo-American pharmacy should hold fast to its time-honored tradition of self-regulation, coupled with the judicial tradition of trial by ones peers. The suggestion, albeit unstated, of tight government control and regulation in the pattern of Continental Europe appears as unacceptable (even though more present) than it did to their professional forefathers, spawned in the philosophical, political, and economic milieu of laissez-faire and free enterprise. The responses also make clear that some members of both agencies sincerely believe they function quite adequately in discharging their responsibilities for the enforcement of the pharmacy laws.

#### 4) Question 4--Changes in Procedures

Do you believe any change in procedures is desirable for suspending, or revoking, a pharmacist's registration to practice pharmacy?

If so, what change(s) would you recommend?

To this question, 9 out of 10 (90.0%) of the Wisconsin respondents, yet only 11 of 16 (68.8%) of their Ontario counterparts, gave a clear "No"; one Wisconsin member dissented, on the grounds that:

Our statutes and regulations should be more specific in defining the cause and stating the time of duration of suspension. At the present time, this action is left entirely to the discretion of the board of pharmacy.

The 5 out of 16 (31.2%) Ontario respondents who concurred with the lone Wisconsin dissenter, recommended various changes:

The Discipline Committee should have more flexible authority, such as power to impose fines where a suspension is too severe and a reprimand means nothing.

All Committee members should receive instructions from the College solicitor previous to sitting on any case.

This Committee should study the possibility of suspending sentences and placing offenders on probation.

Each member of the Committee as well as the Council at large should be supplied with a confidential, detailed report, pertaining to the registrant's character and any past record of misdemeanors.

Registrants are tried according to legal procedure, and only evidence pertinent to a particular charge is presented to the Committee. If a complete history on the defendant was made available, the Committee's decisions could then be made more lenient or severe.

The state board secretary, Paul Pumpian, also answered in the negative, as did 2 administrative staff members of the Ontario College of Pharmacy. The third college member and solicitor replied "Yes" and recommended changes in the present procedures for suspending or revoking a pharmacist's registration as follows:

The College should have the power to subpoena witnesses.

The time for an appeal from a decision of the Discipline Committee, regarding suspension or revocation of registration, should be shortened to 30 days from the present 90-day period.

Thus in general members of the Wisconsin board appeared somewhat more satisfied than did those of the college with the present procedures for the suspension and revocation of a pharmacist's registration. Yet a minority clearly felt the need for changes, and if either body remains true to its democratic conventions, the minority may at least be heard.

Summary Interpretation:

There appear to be certain marked differences in the philosophies of the members of the Wisconsin State Board of Pharmacy and the Discipline Committee of the Ontario College of Pharmacy as reflected in their respective recommended actions in most of the questionnaire cases (summarized graphically in the tables and figures accompanying Chapter IV). Thus the various levels of malfunction seem to be viewed somewhat differently by each group of respondents, each with different perspectives as to the gravity of the offenses involved. Ostensibly, Ontario respondents regarded the majority of the sample cases in a more serious light than did their Wisconsin counterparts. This was evidenced by the majority of the Ontario responses recommending suspension or revocation of registration on a pharmacist's first appearance, in more of the illustrated cases than did Wisconsin.

Reluctance to suggest suspension, or revocation, particularly on the offender's first appearance predominated in Wisconsin with respect to the lack of professional coverage of pharmacies resulting in permitted dispensing of prescriptions by non-registered personnel.

On a second appearance by an offender, for the "same" as well as a "different" infraction, the tendency in all cases was to advocate more stringent measures of discipline. However, on a violator's second appearance for a

"different" infraction, some members of both agencies felt the need for concrete information regarding the nature of that "different" infraction.

It seems, if the respondents' general outlook is any gauge, that neither agency utilizes fully its powers of suspension and revocation of a pharmacist's registration. The tendency to show compassion for their fellow-pharmacist becomes manifest in the evident relaxation of these powers on the pharmacist's first appearance. Now while in the instance of a second appearance by a defendant we see an increase in the number of suspensions, or revocations, some respondents still recommended a warning, reprimand, probation, or no action.

In spite of the questions this raises concerning the relative, actual enforcement of the pharmacy laws of their respective territories by both agencies, the respondents apparently believed they executed their responsibilities in a satisfactory manner and held strongly to traditional Anglo-American views of professional self-regulation as opposed to further outside, government control along patterns of some European countries.

The majority of Wisconsin and Ontario respondents were satisfied with the present procedures for suspending, or revoking, a pharmacist's registration.

Based upon the information available to us, we conclude in general that apparently neither the Wisconsin

State Board of Pharmacy nor the Ontario College of Pharmacy has during the period 1953 to 1964 used to the fullest its powers for the suspension, or revocation, of a pharmacist's registration, nor do some of its members appear philosophically prepared to exercise these prerogatives. In general, however, Ontario seems to have met its responsibilities somewhat more resolutely and consistently; and while some of the questions we raised in Chapter III (pages 53-54) remain unanswered, it appears from the analysis of our survey-questionnaire in Chapter IV that the members of Ontario's disciplinary body are also more prepared in their thinking to exercise their powers.

As we have seen, there remains a somewhat conflicting personal factor that causes those responsible for meting out punishment to shrink from inflicting too harsh a judgment upon their fellows, their democratic "peers." Whether or not this conflict has been a significant deciding factor, there have been, as we have found, certain differences in the manner in which members of both agencies view the same infractions.

From our own experience and the recommendations of respondents to our survey-questionnaire, we propose that one possible means to increase the efficiency of pharmacy's regulatory and disciplinary bodies would be to establish intensive training-orientation programs, preferably under the supervision of the legal counsel of the agency involved. Through such programs members might gain a better

understanding of the laws directly relating to pharmacy and through required attendance at court, these members might become familiar with court proceedings and rules of evidence -- all useful experience for their own roles as arbiters of pharmaceutical law and justice.

By the study and discussion, in workshop or seminar sessions, of case histories from the files of their own agencies and others, at a state, national, and ideally even international level, they could develop some insight of the workings of the law. Hopefully, they might also become more cognizant of certain weaknesses in the laws or the means (including those of the very body they serve) for enforcing them. By expecting continuing board or college members to participate in future training programs there would be achieved a continual refreshing of older members and hopefully also a stimulation of newer ones.

The advantage of having such training programs sponsored at the national or regional level is obvious, and of course the national and regional meetings of the National Association of Boards of Pharmacy already serve such a function in part. Yet companion programs aimed at intensive study of the participant's own state laws would be essential to maximize the benefit of the learning experience.

We recommend a study be undertaken to determine a more efficacious method of selecting members of regulatory agencies, other than the present methods (in Wisconsin,

appointment by the governor of the state, and in Ontario, election by the members of the college). The structure of such boards might be varied somewhat to include persons other than pharmacists, possibly members of other health professions and/or laymen.

We further suggest that hearings before boards of pharmacy be conducted in a manner similar to that of court-martial. Guide lines would be provided for board members at the commencement of each hearing with such directions stipulating optional punitive measures for the stated offenses.

We propose that disciplinary actions taken against offending pharmacists, by their respective agencies, be released to the public through the medium of the press. It would be hoped that the public could be alerted to the conscientiousness of these bodies as vigilant guardians of their health, safety and welfare. In addition, such public censure may prove effective in curbing further violations by pharmacists. It might also be beneficial to fully inform, in their own publications, all members of the profession within their respective territories, of such cases. An exemplary method of reporting violations, in the case of Wisconsin, was illustrated in Exhibit No. 4, page 104; however, such lengthy reports have been few. Present procedures in Wisconsin and Ontario provide the members of the profession with only limited information. More revealing reporting might serve as a more effective deterrent.

We also see a genuine need for more studies such as our own, state by state and country by country, so that all boards or colleges may see as objectively as possible their own records and those of others. In the process not only may each body begin to realize its own potential, but each may also come to realize how essential is the full discharge of its responsibilities if pharmacy is to dispatch its obligations to the public, no less than to itself, and maintain its right to and privilege of self-government.

## APPENDIX A

FORMAL NOTICE OF HEARING AND STATEMENT OF ISSUES  
BEFORE THE WISCONSIN STATE BOARD OF PHARMACY

IN THE MATTER OF THE

REVOCATION OR SUSPENSION OF THE  
REGISTRATION TO PRACTICE PHARMACY

NOTICE OF HEARING

OF \_\_\_\_\_,

RESPONDENT

To: \_\_\_\_\_ Name  
 \_\_\_\_\_ Street  
 \_\_\_\_\_ Wisconsin  
 Respondent

Please take notice that a hearing will be held on the  
 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the Room No. \_\_\_\_\_ or  
 other proper designated place of the \_\_\_\_\_ Building  
 (or other proper designation), N. \_\_\_\_\_ St., the city  
 of \_\_\_\_\_, Wis., at \_\_\_\_\_ o'clock \_\_M., or as soon  
 thereafter as the matter may be reached, on the question  
 whether the registration to practice pharmacy heretofore  
 issued to the above named Respondent pursuant to sec. \_\_\_\_\_  
 Wis. Stats., should be suspended or revoked.

The issues involved and the charges there to be considered are (as set forth in the attached complaint).

TAKE FURTHER NOTICE that you are required to make answer hereto in writing at least \_\_\_\_\_ days before the time set for said hearing.

Dated at Milwaukee, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

WISCONSIN STATE BOARD OF PHARMACY

By \_\_\_\_\_

Secretary

**ATTENTION IS CALLED TO THE FOLLOWING RULES OF PROCEDURE**

**Wis. Adm. Code Phar. 4.08 Answer.** A written answer shall be required in all cases involving revocation or suspension of licenses. Where required, the answer shall be verified, unless an admission of the allegations might subject the party to prosecution for a felony, and shall be filed with the Secretary in triplicate (original and 2 copies) within at least one-half the time intervening between the notice of hearing and the time set for said hearing, and such time for answer shall be stated in said notice as required by section Phar. 4.07. The answer must contain:

(a) A specific denial of each material allegation of the charges controverted by the respondent.

(b) A statement of any new matter constituting a defense or mitigating the offense charged which the respondent wishes to have considered.

**Wis. Adm. Code Phar. 4.09 Admission by not denying.** Every material allegation of the charges not controverted as prescribed shall be taken as a verity, but new matter in the answer shall be deemed controverted without any reply being served or filed.

**Wis. Adm. Code Phar. 4.10 Default: relief therefrom.** In case the respondent fails to submit an answer as required by section Phar. 4.08, or fails to appear at the hearing at the time fixed therefor, the charges specified may be taken as true and the board may make findings and enter its order on the basis of the facts revealed by its investigation. But the president of the board may, for good cause shown, relieve the respondent from the effect of such default and permit him to answer and defend the proceeding at any time before the board enters its order or within 60 days thereafter.

APPENDIX B

FORMAT OF FORMAL HEARING  
BEFORE THE WISCONSIN STATE BOARD OF PHARMACY

IN THE MATTER OF THE

REVOCATION OR SUSPENSION OF THE  
REGISTRATION TO PRACTICE PHARMACY

HEARING  
FORMAT

OF \_\_\_\_\_,  
RESPONDENT

PRESIDENT: Now, Gentlemen, we have before us the matter of the revocation or suspension of the registration to practice pharmacy of \_\_\_\_\_ of \_\_\_\_\_ for: \_\_\_\_\_ contrary to Sec. \_\_\_\_\_ of the Statutes. For the benefit of the record, let it be noted that this matter came on for hearing at \_\_\_\_\_ o'clock, \_\_\_\_\_ A.M., \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, 19\_\_\_\_, in Room \_\_\_\_\_ of the \_\_\_\_\_ Building, \_\_\_\_\_ Street, in the city of \_\_\_\_\_, \_\_\_\_\_ County, Wisconsin.

I, \_\_\_\_\_, as President of the Board, will preside as hearing officer. It should be noted that the

following members of the Board are also present:

\_\_\_\_\_

\_\_\_\_\_

Mr. \_\_\_\_\_, Secretary of the Board, will present the case on behalf of the Board against the Respondent.

Would the reporter please note that the Respondent, \_\_\_\_\_, is present accompanied by counsel in the person of \_\_\_\_\_ of \_\_\_\_\_.

Mr. (Respondent), did you receive a copy of the NOTICE OF HEARING containing a statement of the issues involved and the charges to be considered at this time and are you familiar with same?

(await reply)

Mr. (Secretary of Board), what are the charges to be considered at this time?

(await reply)

Mr. \_\_\_\_\_, has an answer been filed and if so, what is admitted therein?

(await reply)

Mr. \_\_\_\_\_, would you proceed with your case.

(await conclusion of presentation)

Mr. (attorney's name), do you wish to say anything on behalf of the Respondent?

(await reply)

If Respondent not called by his attorney, ask -

Mr. (Respondent), do you wish to say anything?

(await reply - if he wishes to testify, administer oath)

Mr. (Secretary of Board), do you have any questions to ask of the Respondent?

(await questioning)

Do any of the members of the Board have any questions?

(await questioning)

Are there any further questions or comments?

Mr. (Respondent) -

Counselor -

Mr. (Secretary of Board) -

If there are no further questions this hearing will be closed with the reminder that Respondent may file a brief if he desires and that a copy of the transcript of this hearing is available to the Respondent who must order and pay for same.

There being nothing further to consider at this time in the matter of the revocation or suspension of the registration to practice pharmacy of \_\_\_\_\_, this hearing is now closed. The Respondent will be informed in writing of the decision of the Board in this matter within the next thirty days.

(President should indicate conclusion of hearing by rising at his place.)

## APPENDIX C

SAMPLE OF OPINION, FINDINGS OF FACT, CONCLUSIONS OF LAW,  
ORDER FORMAL HEARING

---

BEFORE THE WISCONSIN STATE BOARD OF PHARMACY

IN THE MATTER OF THE

REVOCATION OR SUSPENSION OF THE  
REGISTRATION TO PRACTICE PHARMACY

OPINION  
FINDINGS OF FACT  
CONCLUSIONS OF LAW  
ORDER

OF \_\_\_\_\_,

RESPONDENT

---

Name

Street

Wisconsin

Respondent

The respondent is charged with having wilfully and unlawfully delivered a dangerous drug, to wit, an amphetamine compound, without the prescription of a practitioner, contrary to sec. 151.07(2), Wis. Stats., on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_ in the City of \_\_\_\_\_, \_\_\_\_\_ County, Wisconsin, which, if true, constitutes grounds for suspension or revocation of respondent's registration to practice pharmacy under sec. 151.02(7), Wis. Stats.

Said complaint came on for hearing before the Board of Pharmacy on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_ at \_\_\_\_\_ Building, \_\_\_\_\_ Street, \_\_\_\_\_, Wisconsin, at \_\_\_\_\_ o'clock in the \_\_\_\_\_. It should be noted that said hearing was held in lieu of the hearing scheduled for the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ pursuant to the Notice of Hearing personally served on the respondent by \_\_\_\_\_, Sheriff of \_\_\_\_\_ County, Wisconsin, by his deputy \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

All members of the Board were present. The Board Secretary, \_\_\_\_\_, participated in the hearing and \_\_\_\_\_, President of the Board presided.

An answer to the \_\_\_\_\_ Notice of Hearing was filed by the respondent. The respondent appeared and testified under oath.

In the answer filed, respondent admitted his guilt of violating sec. 151.07(2), Wis. Stats., by delivering a dangerous drug without the prescription of a practitioner on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

The Board appreciates that the privilege of practicing pharmacy is a very valuable one and that it should not be suspended or revoked except for very persuasive reasons. It is also true that the Board has a definite responsibility to protect the public from the hazards which flow from the sale of dangerous drugs without a physician's prescription.

The Board cannot ignore the seriousness of the situation and accordingly makes the following Findings of Fact, Conclusions of Law and Order constituting its decision herein.

## FINDINGS OF FACT

The Board having heard the evidence presented, having examined the exhibits, having heard the testimony of respondent and being fully advised in the premises finds that:

1. The respondent is a duly registered pharmacist in Wisconsin.
2. The respondent is a pharmacist employed at \_\_\_\_\_ Pharmacy, \_\_\_\_\_ Street, City of \_\_\_\_\_, \_\_\_\_\_ County, Wisconsin.
3. The respondent on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ wilfully and unlawfully dispensed and sold a dangerous drug, to wit, an amphetamine compound, without a prescription signed by a practitioner licensed by law to prescribe dangerous drugs.
4. The respondent was found guilty on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ in County Court, Branch \_\_\_\_\_, \_\_\_\_\_ County, Wisconsin of delivering a dangerous drug without the prescription of a practitioner on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

## CONCLUSIONS OF LAW

1. The said act referred to in paragraph 3 of the Findings of Fact was in violation of sec. 151.07(2), Wis. Stats., and constitutes grounds under sec. 151.02(7), Wis.

Stats., for suspension or revocation of respondent's registration to practice pharmacy.

2. That it is in the public interest as well as that of the profession of pharmacy that some disciplinary action be taken, but that a suspension will be sufficient to impress the respondent with his responsibilities in the matter of selling dangerous drugs without a prescription and should very definitely serve as a warning to him that any further violations of the pharmacy law on his part will result in permanent revocation of his registration to practice pharmacy.

**ORDER**

IT IS ORDERED That the pharmacy registration of the respondent \_\_\_\_\_ be suspended for a period of \_\_\_\_\_ days commencing \_\_\_\_\_, 19\_\_.

Dated at Milwaukee, Wisconsin this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

**WISCONSIN STATE BOARD OF PHARMACY**

BY \_\_\_\_\_  
Secretary

## APPENDIX D

## NOTICE TO SHOW CAUSE - INFORMAL HEARING

To: \_\_\_\_\_ Name  
 \_\_\_\_\_ Street  
 \_\_\_\_\_ Wisconsin  
 Respondent

Dear Mr. \_\_\_\_\_:

You are invited to appear before the Wisconsin State Board of Pharmacy on \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_M., to show cause why action should not be instituted to suspend your right to practice pharmacy in the State of Wisconsin for violation of sec. \_\_\_\_\_, Wis. Stats., to wit, \_\_\_\_\_.

You will be given thirty (30) minutes to present your reasons why the Board should not begin proceedings to suspend your right to practice pharmacy in Wisconsin for violation of the law.

The Board will be meeting in Room \_\_\_\_\_ of the \_\_\_\_\_ Building, \_\_\_\_\_ Street, \_\_\_\_\_.

Enclosed herewith, for your signature, is a statement indicating that you will appear. Failure to appear will be construed as indicating that you can present no reasons why action to suspend your license should not be instituted.

Very truly yours,

WISCONSIN STATE BOARD OF PHARMACY

\_\_\_\_\_, Secretary

Enclosure: Statement of Reply

## APPENDIX E

## REPLY TO THE SHOW CAUSE NOTICE

Wisconsin State Board of Pharmacy  
870 State Office Building  
819 North Sixth Street  
Milwaukee, Wisconsin

Gentlemen:

This is to inform you that I will take advantage of the opportunity to present my reasons why the Board of Pharmacy should not institute proceedings to suspend my right to practice pharmacy in the State of Wisconsin for violation of the Wisconsin Law.

I understand that I am to appear before the Board on \_\_\_\_\_, 19\_\_\_\_, at the State Office Building, 819 North Sixth Street, Milwaukee, at the time indicated in your letter of \_\_\_\_\_.

---

date

---

signature

## APPENDIX F

SAMPLE OF NOTICE OF THE BOARD'S DECISION  
SHOW CAUSE HEARING

To: \_\_\_\_\_ Name  
 \_\_\_\_\_ Street  
 \_\_\_\_\_ Wisconsin  
 Respondent

Dear Mr. \_\_\_\_\_:

Reference is made to your appearance before this Board on \_\_\_\_\_, 19\_\_\_\_ to show cause why action should not be instituted to suspend your right to practice pharmacy in the State of Wisconsin for violation of sec. 151.04(2) of the Wisconsin Statutes.

The Board, however, after considering the matter, agreed that no further action would be taken at this time but, that this is the last warning you are to be given.

You are reminded that it is necessary for you to provide professional coverage in your pharmacy in accordance with the provisions of Section Phar. 1.05, Wisconsin Administrative Code, Rules of the State Board of Pharmacy. Failure to fully comply with the provisions of this section will necessitate the Board's taking action against you and could result in the loss of your pharmacy permit as well as your registration to practice pharmacy.

Very truly yours,

WISCONSIN STATE BOARD OF PHARMACY

BY: \_\_\_\_\_  
 Secretary

## APPENDIX G

## SAMPLE OF NOTICE TO SHOW CAUSE - FORMAL HEARING

## ONTARIO COLLEGE OF PHARMACY

---

 date

To: \_\_\_\_\_ Name  
 \_\_\_\_\_ Street  
 \_\_\_\_\_ Ontario  
 Respondent

TAKE NOTICE THAT you are required to show cause to the Discipline Committee of the Council of the Ontario College of Pharmacy at the Council Room, 483 Huron Street, Toronto, Ontario, on \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, o'clock, \_\_\_\_\_.M., why your registration as a pharmaceutical chemist should not be cancelled or suspended on the grounds that you have been guilty of improper conduct in a professional respect in that you did:

1. On \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, Ontario, being the Manager of a pharmacy at \_\_\_\_\_ Street, \_\_\_\_\_, fail to keep a record of a sale made by you of a drug referred to in Part I of Schedule B to the Pharmacy Act, 1960, to wit, Secobarbital, a derivative of Barbituric Acid, showing

the date of sale, the quantity of the drug sold, the name of the person to whom it was sold and the name of the person upon whose prescription it was sold;

2. On \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, Ontario, being the Manager of a pharmacy at \_\_\_\_\_ Street, \_\_\_\_\_, fail to keep a record of a sale made by you of a drug referred to in Part I of Schedule D to the Pharmacy Act, 1960, to wit, Secobarbital, a derivative of Barbituric Acid, showing the date of sale, the quantity of the drug sold, the name of the person to whom it was sold, and the name of the person upon whose prescription it was sold;

3. On \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, Ontario, being the Manager of a pharmacy at \_\_\_\_\_ Street, \_\_\_\_\_, sell a drug, to wit, Secobarbital, referred to in Part I of Schedule D to the Pharmacy Act, 1960, otherwise than on a written prescription;

4. On \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, Ontario, being the Manager of a pharmacy at \_\_\_\_\_ Street, \_\_\_\_\_, sell a drug, to wit, Secobarbital, referred to in Part I of Schedule D to the Pharmacy Act, 1960, otherwise than on a written prescription;

5. On \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, obstruct an Inspector, namely \_\_\_\_\_, appointed under a by-law passed by the Council in the performance of his duties by assaulting the said \_\_\_\_\_ and stealing from him

a manila envelope and a bottle containing approximately twenty-four orange capsules.

You may be represented by legal counsel should you so desire.

---

Registrar-Treasurer

## APPENDIX H

## REGISTRAR'S CERTIFICATE

## ONTARIO COLLEGE OF PHARMACY

## To Whom It May Concern

This is to state that \_\_\_\_\_, a pharmaceutical chemist under the Pharmacy Act, 1960, is, and was during \_\_\_\_\_ to date, registered as owner and manager of a pharmacy at \_\_\_\_\_ Street, \_\_\_\_\_, Ontario.

\_\_\_\_\_  
Registrar-Treasurer

\_\_\_\_\_  
date

## APPENDIX I

## SAMPLE OF ANALYST'S CERTIFICATE

THE ATTORNEY-GENERAL'S LABORATORY  
PROVINCE OF ONTARIO

Laboratory File No. \_\_\_\_\_

Re: \_\_\_\_\_

I, \_\_\_\_\_, a provincial analyst appointed by Order-in-Council 2950/60 for the purpose of Section 23 of The Pharmacy Act do hereby certify that:

1. On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_ I performed a chemical analysis on the \_\_\_\_\_ sample(s) enclosed herewith in the package in which it was received by me with seals intact.

On \_\_\_\_\_ 19\_\_ about \_\_\_\_ M. I received the following exhibit from \_\_\_\_\_, Inspector of the Ontario College of Pharmacy:

A sealed plastic vial (Seal A.C. \_\_\_\_\_) unlabelled but identified by \_\_\_\_\_ initials and \_\_\_\_\_ date on the seal. This exhibit was marked \_\_\_\_\_ by analyst.

2. The results of my analysis are:

The vial contained twenty-five orange, bullet-shaped hard

gelatin capsules. The contents of the capsules were analyzed and found to contain Secobarbital.

Dated at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Analyst

## APPENDIX J

NOTICE OF DECISION OF THE DISCIPLINE COMMITTEE  
FORMAL HEARING

## ONTARIO COLLEGE OF PHARMACY

---

date

To: \_\_\_\_\_ Name  
 \_\_\_\_\_ Street  
 \_\_\_\_\_ Ontario

Respondent

Dear Sir:

At your appearance before the Discipline Committee of the Council of the Ontario College of Pharmacy on \_\_\_\_\_, 19\_\_\_\_, you were informed verbally by the Chairman of the Committee that your registration as a pharmaceutical chemist was to be suspended for a period of \_\_\_\_\_ days, from \_\_\_\_\_ to \_\_\_\_\_, 19\_\_\_\_, inclusive.

This written notice now confirms that decision.

I would refer you to Section 29(4) of The Pharmacy Act, Revised Statutes of Ontario, 1950 quoted herewith:

"A pharmaceutical chemist whose registration has been cancelled or suspended under this section shall not operate a pharmacy either on his own behalf or as an employee and shall not act as a director or vote or interfere as a shareholder in a corporation operating a pharmacy."

Yours truly,

---

Registrar-Treasurer

## APPENDIX K

## SAMPLE OF NOTICE TO EXPLAIN → INFORMAL HEARING

## ONTARIO COLLEGE OF PHARMACY

---

 date

To: \_\_\_\_\_ Name  
 \_\_\_\_\_ Street  
 \_\_\_\_\_ Ontario

Respondent

Dear Mr. \_\_\_\_\_:

The Infringement Committee of the Council of the Ontario College of Pharmacy request that you appear before them at \_\_\_\_\_ o'clock, \_\_\_\_\_ M. on \_\_\_\_\_, 19\_\_\_\_, in the Council Room of the Ontario College of Pharmacy, 485 Huron Street, Toronto, Ontario to explain the lack of pharmacist coverage of the \_\_\_\_\_ Pharmacy of which you were the registered manager and the lack of Schedule D and other records required by The Pharmacy Act, R.S.O., 1960.

Yours truly,

---

 Registrar-Treasurer

## APPENDIX L

## LETTER OF INTRODUCTION\*

The University of Wisconsin  
Madison 6

School of Pharmacy

January 6, 1965

Dear Mr.                   :

I am presently enrolled in the new program of "Social Studies of Pharmacy" at the University of Wisconsin School of Pharmacy, under the direction of Dr. Ernst W. Stieb. My thesis, to be completed in partial fulfillment for the Master of Science degree, is entitled "The Suspension or Revocation of a Pharmacist's Registration: A Comparative Study of Wisconsin and Ontario, Canada for the Period 1953 to 1964."

To the best of my knowledge, no study of depth has previously been done of this subject although it encompasses important considerations for the profession of pharmacy, for related health services, and most important, for public health and welfare.

The research should have potential importance for every state board of pharmacy in the United States and similar agencies elsewhere, for every practicing pharmacist, and, ultimately, should have some effect upon the level of health services offered to the public.

An important part of this study is the questionnaire which is being sent to all past members of the Discipline Committee of the Ontario College of Pharmacy Council and also to all past members of the Wisconsin State Board of Pharmacy since 1953.

As you can see by the title of this study and the enclosed questionnaire, this is an undertaking of a highly specialised nature. Therefore, the assistance of persons

---

\*A similar letter with appropriate changes was sent to all past members (since 1953) of the Discipline Committee of the Ontario College of Pharmacy Council.

familiar with a specific area of pharmacy, namely, state board officers and members, both past and present, is essential. I am asking you to participate in and contribute to this study by completing and returning the enclosed questionnaire. I realize that this is making a demand on your time; however, it is only with your cooperation that the successful completion of this study will be possible.

I would appreciate your prompt response in the enclosed, self-addressed envelope. Let me assure you that the information that you furnish will be held in strict confidence and will not be associated in any way with your name.

Thank you for your cooperation.

Yours respectfully,

Nicholas G. Leluk, B.Sc.Pharm.  
Research Assistant

This study has been endorsed by the undersigned:

---

Arthur H. Uhl, Dean  
School of Pharmacy  
University of Wisconsin

---

Ernst W. Stieb, Major  
Professor  
School of Pharmacy  
University of Wisconsin

---

Paul A. Puspian, Secretary  
Wisconsin State Board of  
Pharmacy

## APPENDIX M

## FOLLOW - UP LETTER\*

The University of Wisconsin  
Madison 6

School of Pharmacy

January 20, 1965

Dear Mr. :

Recently you received a questionnaire and a request for information with regard to a study now being conducted at the University of Wisconsin School of Pharmacy entitled "The Suspension or Revocation of a Pharmacist's Registration: A Comparative Study of Wisconsin and Ontario, Canada for the Period 1953 to 1964."

I realize your time is valuable, but your cooperation is essential for the meaningful completion of this study.

I should again like to stress the potential importance of this research for pharmacy, for related health services, and most important, for public health and welfare.

Enclosed is a duplicate questionnaire for your convenience. Your promptness in its completion and return in the enclosed, self-addressed envelope would be appreciated.

Again may I assure you that the information provided by you will be held in utmost confidence and will not be associated in any way with your name.

Thank you for your attention in this matter.

Yours very truly,

Nicholas G. Loluk, B.Sc.Fhm.  
Research Assistant

---

\*A similar letter with appropriate changes was sent to those past members (since 1953) of the Discipline Committee of the Ontario College of Pharmacy Council who did not readily respond to the first letter.

This study has been endorsed by the undersigned:

---

Arthur H. Uhl, Dean  
School of Pharmacy  
University of Wisconsin

---

Ernst W. Stieb, Major Professor  
School of Pharmacy  
University of Wisconsin

---

Paul A. Pumpian, Secretary  
Wisconsin State Board of  
Pharmacy

## APPENDIX N

## SURVEY - QUESTIONNAIRE\*

1. Assume that the following examples of cases involve practicing pharmacists who are appearing before the Wisconsin State Board of Pharmacy\*\* for infractions of pharmacy laws. As a member of the board, what action would you recommend in each case,

a) If this was the pharmacist's first appearance before the Board for an infraction.

Why would you recommend this action?

b) If this was the pharmacist's second appearance before the Board for the same infraction.

Why would you recommend this action?

c) If this was the pharmacist's second appearance before the Board for a different infraction.

Why would you recommend this action?

Please proceed to cases beginning on next page.

---

\*A similar questionnaire, with appropriate changes was sent to all past members (since 1955) of the Discipline Committee of the Ontario College of Pharmacy Council and personally administered to all current members.

\*\*The words "Wisconsin" and "Wisconsin State Board of Pharmacy" were replaced by "Ontario" and "Discipline Committee of the Ontario College of Pharmacy" in the Ontario questionnaire here and throughout.

CASE 1:

A pharmacist sold Benzedrine tablets to a student from a nearby university without a prescription from a licensed practitioner. The pharmacist admitted making sales on three separate occasions, but claimed he felt sorry for the student and that the sales were not a profit-making venture.

CASE 2:

A pharmacist sold 60 Dexedrine Spansules for \$14.00 to a patron on 4 separate occasions during a 6-month period, without a prescription from a licensed practitioner. The pharmacist claimed that he helped this patron because the patron had extended many favors to the pharmacist years ago and because he had been a customer for 20 years.

CASE 3:

A pharmacist delivered an original bottle of Butisol Sodium tablets to a patient with a prescription, without affixing a proper label to the immediate container. The patron professed to be leaving on a trip and in a hurry. This patron gave these tablets to a friend who subsequently collapsed and was hospitalized. The police found the bottle of tablets in the friend's hospital room. Following the patient's release from the hospital, the pharmacist sold her an original bottle of Butisol Sodium tablets without receiving a prescription order for them.

CASE 4:

While conducting a routine inspection of a pharmacy, a State Board of Pharmacy inspector found that the proprietor had failed to maintain the premises in a clean and orderly manner. The conditions of the pharmacy were described as filthy and unsanitary.

CASE 5:

Upon receiving a prescription order for 30 c.c. of 1:1000 Adrenalin Hydrochloride with directions  $\times 1$  with each injection, a pharmacist dispensed epinephrine hydrochloride 1:1000 with directions to "Take 1 c.c. injection each time." He further supplied a number of 2½-c.c. disposable plastic syringes. This medication was for a 5-year-old child, who after receiving the third injection appeared pale, clammy, and perspiring. The prescribing physician indicated the maximum dose of epinephrine hydrochloride 1:1000 was 0.5 c.c. and that if the injection had gone into a capillary by accident, heart stoppage would probably have occurred.

CASE 6:

A pharmacist serving as pharmacist-in-charge of a pharmacy permitted the dispensing of drugs without a registered pharmacist being on the premises thereof. Occurring at a time other than during a meal period, the pharmacist claimed he was temporarily absent from the pharmacy and the sale was made by one of his employees, without his knowledge, or consent, and against his specific orders.

CASE 7:

A pharmacist refilled a prescription for Seconal capsules without receiving the prescriber's authorization. The pharmacist claimed he often recommended that the patient see his physician and did not think he had violated the laws very often.

CASE 8:

A number of pharmacists engaged in individual community practice in the same city routinely dispensed generic pentobarbital upon receipt of prescription orders for Nembutal capsules. The manufacturer of Nembutal obtained evidence of these substitutions and issued a formal complaint to the State Board of Pharmacy.

**CASE 9:**

A number of Ergoapril and Savin capsules were sold over the counter by a pharmacist on two separate occasions. The pharmacist was found guilty in the Federal court and was fined \$500 on each of the two counts.

**CASE 10:**

A pharmacist sold Wyamine Sulphate tablets without a prescription from a licensed practitioner to a university student who subsequently died of an overdose of these tablets. Investigation by Food and Drug inspectors resulted in sales of Wyamine Sulphate tablets over the counter to 2 of them on 3 different occasions. The pharmacist was found guilty in the Federal court and was fined \$100.

**CASE 11:**

A pharmacist permitted an unregistered employee in his pharmacy to dispense a prescription for Perisectin tablets for an 8-year-old child that contained an overdose, but was not recognized as such by the employee. The child died as the result. Just one day prior to the incident the pharmacist had been warned by an inspector of the board of pharmacy about permitting the employee to dispense drugs and take charge of the pharmacy during the pharmacist's absence. The pharmacist was found guilty in a county court and was fined \$200.

**CASE 12:**

When a state board of pharmacy inspector on a routine pharmacy inspection asked for the pharmacist, a man working in the prescription department identified himself as the pharmacist. However, after the inspector introduced himself and began his inspection, the man informed the inspector that he was only a trainee and that the pharmacist was not on the premises, nor available.

CASE 13:\*

A pharmacist permitted an employee in his pharmacy to sell contraceptive devices.

CASE 14:

A pharmacist refilled an original prescription for 30 Dexedrine Spansules on 9 different occasions for the same patron without the prescriber's authorization. The pharmacist claimed he did not call the prescribing physician because the pharmacy's business was not good and he, the pharmacist, had 6 children to support. He further stated that he should have vacated his pharmacy when his lease expired, but unfortunately he had renewed the lease and was now stuck there.

CASE 15:

Upon receiving a prescription order a pharmacist properly prepared the medication, but because of a similarity in the name of this patient and that on another prescription a clerk in the pharmacy handed the wrong prescription to the patron. A child died as the result of taking this medication intended for an adult. The coroner's jury brought in a finding of death from the drug through the ordinary negligence of the pharmacist.

2. After hearing all the facts in cases involving pharmacists appearing before the board, do you seek guidance from others before rendering a decision?

(Check one)

- a)  usually  
 b)  occasionally  
 c)  never

If a or b, from whom do you seek guidance?

---

\*Case 13 not included in Ontario questionnaire because no Ontario law or regulation covers this situation.

3. Do you believe the enforcement of Wisconsin pharmacy laws and regulations should be entrusted to an agency other than the Wisconsin State Board of Pharmacy?

Why?

4. Do you believe any change in procedures is desirable for suspending, or revoking, a pharmacist's registration to practice pharmacy?

If so, what change(s) would you recommend?

**NOTE:** Any comments you wish to make about the questionnaire, or the study, would be greatly appreciated. (Please use the back of this page.)

## BIBLIOGRAPHY

1. "An Act to amend chapter 167, of the laws of 1882, as amended by chapter 146, of the laws of 1885, and chapter 460, of the laws of 1887, relating to the practice of pharmacy, the licensing of persons to carry on such practice and the sale of poisons in the state of Wisconsin," in Wisconsin Session Laws (1895), ch. 227, p. 432-440.
2. "An Act to amend section 151.02(7) (introductory paragraph) of the statutes, relating to pharmacy registrations," in Wisconsin Session Laws (1951), ch. 62, p. 38.
3. "An Act to amend 151.02(2) (introductory paragraph) and (a), (7) and (10) and 161.08 (1); and to create 151.04(5) of the statutes, relating to pharmacy; qualifications of a registered pharmacist, grounds for revoking registration and permits, prohibited practices," in Wisconsin Session Laws (1953), ch. 172, p. 164-165.
4. "An Act to amend 151.02(7) (intro. par.) and 151.10(1) (c); to repeal and recreate 151.02(7)(b) and 151.07(1) (intro. par.) and (a); and to create 151.02(7)(c) of the statutes, relating to the classification of various statutes relating to pharmacists, and dangerous drugs," in Wisconsin Session Laws (1959), ch. 545, p. 694-695.
5. "An Act to amend The Pharmacy Act," in Statutes of Ontario, VII George V (1917), c. 35, p. 214-216.
6. "An Act to amend The Pharmacy Act," in Statutes of Ontario, 14 George V (1924), c. 43, p. 115-119.
7. "An Act to amend The Pharmacy Act," in Statutes of Ontario, 3 George VI (1939), c. 34, p. 253-254.
8. "An Act to amend The Pharmacy Act," in Statutes of Ontario, 15 George VI (1951), c. 64, p. 331-333.
9. "An Act to regulate the practice of pharmacy, the licensing of persons to carry on such practice, and the sale of poisons in the State of Wisconsin," in Wisconsin Session Laws (1882), ch. 167, p. 493-499.

10. "An Act to renumber 151.04(5); to amend 151.02(7) (intro. par.); and to create 151.04(5) of the statutes, relating to licensing drug dealers and increasing state revenues \$250 annually," in Wisconsin Session Laws, Vol. 1 (1955), ch. 115, p. 129-130.
11. "An Act to repeal paragraph (b) of subsection (2) of section 151.02; to create paragraph (a) of subsection (5) of section 151.02, subsection (10) of section 151.02, subsection (4) of section 151.04 and section 151.06; to amend subsections (2), (3), and (4) of section 151.01, subsection (1), the introductory paragraph and paragraph (a) of subsection (2) and subsections (4), (7), (8) and (9) of section 151.02 and sections 151.04, 151.05 and 161.19 of the statutes, relating to pharmacy and providing penalties," in Wisconsin Session Laws, (1939), ch. 448, p. 740-747.
12. "Affiliation with the U. of T.," in Canadian Pharmaceutical Journal, 25 (1892): 165.
13. "Annual Report of the State Board of Pharmacy Inspection Department," in Proceedings of the Wisconsin Pharmaceutical Association, 48th annual meeting (1928): 88-89.
14. Black's Law Dictionary, 4th ed., St. Paul, Minn., West Publishing Co., 1951.
15. Boberg, Edwin, "Wisconsin State Board of Pharmacy," in Wisconsin Druggist, 3 (October, 1935): 5-6.
16. By-Laws of the Ontario College of Pharmacy, passed by Council, June, 1955, Toronto, Ontario.
17. Carniff, William, The Medical Profession in Upper Canada 1783-1850, Toronto, Ont., William Briggs, 1894.
18. Dadd, John, "Early Pharmacy and Its Developments in Wisconsin," in Proceedings of the Wisconsin Pharmaceutical Association, 14th annual meeting (1894): 97-104.
19. "Historical Sketch," in Faculty of Pharmacy Calendar (Toronto, Ont., University of Toronto Press, 1964): 10-11.

20. Kaemmerer, William, "Harmful Effects of Our Pharmacy Laws," in Proceedings of the American Pharmaceutical Association, 56th annual meeting (1908): 745-750.
21. Kremers, Edward, "Early Phases of the Development of Pharmaceutical Legislation in Wisconsin," in Pharmaceutical Review, 15 (1897): 201-202.
22. [Kremers, Edward?], "State Board of Pharmacy," in The Badger Pharmacist, No. 14 (February, 1937): 1-15.
23. [Kremers, Edward?], "Wisconsin Pharmaceutical Association," in Badger Pharmacist (Madison, Wisconsin, 1900), 27-57.
24. "Legal Decisions Respecting Members in Arrears" (Editorial), in Canadian Pharmaceutical Journal, 9 (1875): 179.
25. Lynch, James, "Law Enforcement," in Proceedings of the National Association of Boards of Pharmacy, 49th annual convention (August 17-18, 1953): 14-26.
26. "The Manner of Dealing with Infractions of the Act, for the First Few Years Following 1871" (Editorial), in Canadian Pharmaceutical Journal, 12 (1878): 92-98.
27. Mirror to Hospital Pharmacy: A Report of the Audit of Pharmaceutical Service in Hospitals, Easton, Pa., Mack Printing Company, 1964.
28. Ontario College of Pharmacy, Toronto, Ontario, Case files for the period 1953-1964.
29. Ontario College of Pharmacy Newsletter, Toronto, Ontario: I (No. 1, April 25, 1961); I (No. 2, June 30, 1961); I (No. 5, December 15, 1961); II (No. 1, January 25, 1962); II (No. 3, March 26, 1962); II (No. 4, April 26, 1962); II (No. 5, May, 1962); II (No. 6, June, 1962); II (No. 9, September, 1962); II (No. 11, November, 1962); II (No. 12, December, 1962); III (No. 1, January, 1963); III (No. 7, July, 1963); III (No. 10, October, 1963); III (No. 12, December, 1963); IV (No. 1, January, 1964); IV (No. 2, February, 1964); IV (No. 6, June, 1964); IV (No. 11, November, 1964).
30. "Ontario College of Pharmacy Teaching School," in Canadian Pharmaceutical Journal, 15 (1882): 234-235, 292-298.

31. Pettit, William, Manual of Pharmaceutical Law, 3rd ed., New York, N.Y., The Macmillan Company, 1962.
32. "Pharmacy," in Wisconsin Session Laws (1923), ch. 448, p. 965-967.
33. "Pharmacy," in Wisconsin Statutes, Vol. 1 (26th ed., 1961), ch. 151, p. 2336-2342. See: "Wisconsin Dangerous Drug, Pharmacy and Poison Laws."
34. "The Pharmacy Act of 1871," in Statutes of Ontario, 34 Victoria (1871), c. 34, p. 100-110.
35. "The Pharmacy Act," in Revised Statutes of Ontario, Vol. 2 (1927), c. 199, p. 2033-2047.
36. "The Pharmacy Act," in Revised Statutes of Ontario, Vol. 2 (1937), c. 228, p. 2481-2496.
37. "The Pharmacy Act, 1953," in Statutes of Ontario, 2 Elizabeth II (1953), c. 79, p. 535-555.
38. "The Pharmacy Act," in Revised Statutes of Ontario, Vol. 3 (Toronto, Ont., 1960), c. 295, p. 1279-1299.
39. "President's Address," in Proceedings of the Wisconsin Pharmaceutical Association, 48th annual meeting (1928): 51-54.
40. Pumpian, Paul, "Rule and Regulation Making Power of Boards of Pharmacy," in Proceedings of the National Association of Boards of Pharmacy, 59th annual convention (May 12-14, 1963): 155-164.
41. "Report No. 1 of Committee on Discipline," in Ontario College of Pharmacy Minutes (January 14, 15, 16, 1963): 2021-2022; ibid. (June 24, 25, 26, 1963): 2112-2113; ibid. (January 13, 14, 15, 1964): 2225-2226; ibid. (June 22, 23, 24, 1964): 2318-2319; ibid. (January 11, 12, 13, 1965): 2406-2407.
42. "Report of Drug Store Inspector," in Proceedings of the Wisconsin Pharmaceutical Association, 43rd annual meeting (1923): 116-117.

43. "Report of Infringement Committee," in "Ontario College of Pharmacy Minutes," in Canadian Pharmaceutical Journal, 10 (1876): 45; ibid., 13 (1880): 250-251; ibid., 16 (1882): 42-47; ibid., 17 (1884): 173-174, 175; ibid., 19 (1886): 97-98; ibid., 24 (1890): 18-19.
44. "Report of Infringement Committee," in Ontario College of Pharmacy Minutes (August, 1895): 18-19; ibid. (February, 1897): 18-20; ibid. (August 5, 1897): 17-20; ibid. (December 10, 1908): 16-17.
45. "Report No. 1 of Infringement Committee," in Ontario College of Pharmacy Minutes (November 17, 1920): 22-23.
46. "Report of Division and Infringement Committee," in Ontario College of Pharmacy Minutes (November 19, 1924): 4-5; ibid. (June 7, 1926): 5-6, 26-27, 31-32; ibid. (June 9, 1927): 24-26; ibid. (June 4, 1928): 16-17; ibid. (November 22, 1928): 21-23, 25; ibid. (November 17, 1930): 16-17; ibid. (June 1, 1931): 22-24; ibid. (November 18, 1931): 23-24; ibid. (June 7, 1935): 27, 30; ibid. (June 1, 1936): 32-33; ibid. (November 16, 1936): 17, 27; ibid. (November 17, 1937): 29-30, 34; ibid. (November 21, 1938): 31-33; ibid. (November 20, 1939): 37-38, 39; ibid. (November 19, 1940): 15-16, 26, 32; ibid. (June 2, 1941): 15, 19; ibid. (June 1, 1942): 15, 22, 40; ibid. (November 16, 1942): 13-14, 27-28; ibid. (June 7, 1943): 11-12, 24; ibid. (June 4, 1945): 14, 23-24, 28; ibid. (June 3, 1946): 10, 26, 29; ibid. (June 2, 1947): 125-127; ibid. (November 1, 1954): 942-943.
47. "Report No. 2 of Committee on Division and Infringement," in Ontario College of Pharmacy Minutes (June, 1958): 1363.
48. "Report No. 3 of Committee on Division and Infringement," in Ontario College of Pharmacy Minutes (June 6, 1955): 1007-1008.
49. "Report No. 2 of Divisional and Infringement Committee," in Ontario College of Pharmacy Minutes (November 20, 1916): 20.

50. Saunders, William, "Pharmacy in Canada before 1871," in Canadian Pharmaceutical Journal, 75 (No. 12, June 15, 1942): 10-11, 70.
51. Sonnedecker, Glenn A. (ed.), Kreners and Urdang's History of Pharmacy, 3rd ed., Philadelphia, Pa., J. B. Lippincott Company, 1963.
52. "Special Report of Committee on Division and Infringement," in Ontario College of Pharmacy Minutes (November, 1960): 1684-1687.
53. Statistics on Registration, Ontario College of Pharmacy, Toronto, Ontario, November 30, 1964.
54. "The Story of Canadian Pharmacy 1868-1942" (Editorial), in Canadian Pharmaceutical Journal, 75 (No. 12, June 15, 1942): 12-58.
55. Wisconsin Administrative Code, Rules of Wisconsin State Board of Pharmacy (March, 1964), Phar. 3.06(7); 4.08; 4.09; 4.10.
56. "Wisconsin Dangerous Drug, Pharmacy and Poison Laws," in Wisconsin Statutes, Vol. 1 (26th ed., 1961), ch. 151, p. 2336-2342.
57. Wisconsin State Board of Pharmacy, Milwaukee, Wisconsin. Case files for the period 1959-1964. Information for period 1953-1958 was abstracted from the case files by the Secretary-Emeritus, Sylvester H. Dretzka, and transmitted to the author through personal communication.
58. Wisconsin State Board of Pharmacy Annual Reports, 1st-36th (1882-1917); 43rd (1924); 48th (1929). 37th (1918) in Proceedings of the Wisconsin Pharmaceutical Association (1918): 55-56; 38th (1919), ibid. (1919): 58-59; 39th (1920), ibid. (1920): 53-55; 40th (1921), ibid. (1921): 74-76; 41st (1922), ibid. (1922): 101-102; 42nd (1923), ibid. (1923): 114-115; 44th (1925), ibid. (1925): 94-96; 45th (1926), ibid. (1926): 113-114; 46th (1927), ibid. (1927): 96-97; 47th (1928), ibid. (1928): 146-147. For the period 1930-1937, we consulted the original files of the Annual Board Reports of the Wisconsin State Board of Pharmacy at Milwaukee, Wisconsin.

APPROVED: Ernst W. Stieb

Ernst W. Stieb  
Associate Professor of Pharmacy

DATE: 6 August 1965