

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

WILLIAM R. CLUSSMAN, R.PH.
RESPONDENT.

91 PHM 20

The parties to this action for the purposes of §227.53, Wis. Stats., are:

William R. Clussman, R.Ph.
7425 Dewberry Lane
Wisconsin Rapids, WI 54494

Wisconsin Pharmacy Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent William R. Clussman (dob 1/25/27) is and was at all times relevant to the facts set forth herein a registered pharmacist licensed in the State of Wisconsin pursuant to license #6464.
2. Respondent was reprimanded by the board on 2/12/91 in case 87 PHM 36 for leaving his pharmacy unattended by a pharmacist while open for business and without a physical barrier to the professional area, and for falsely representing to the board that all outdated drugs had been removed from the pharmacy, when in fact they had not.
3. On or about 2/6/91, respondent dispensed a prescription to patient Marla M., without a valid prescription from an authorized practitioner.
4. On or about 10/19/89, respondent filled a prescription for patient Jeff B. for tenormin 50 mg, 100 tablets, no refills, by Dr. W. The prescription from Dr. W. for tenormin for this patient was dated 7/27/88, and has not been preserved in respondent's files. Respondent dispensed purported refills of this prescription on 11/24/89, 12/27/89, 3/1/90, 6/11/90, 7/13/90, and 8/10/90, all without a recorded authorization from a prescriber to do so.

5. On 3/18/91, respondent filled a prescription dated 2/25/91 for patient Sue B. for Naproxyn 500 mg, 30 tablets, with instructions to take one, twice per day and a refill authorization for "six months." Respondent dispensed 60 tablets, and on the same day dispensed 45 tablets purportedly as a refill of the same prescription. Respondent then dispensed 45 tablets on 5/7/91 and again on 6/27/91, each as refills of the original prescription.

6. On or about 8/25/90, respondent dispensed 60 lorazepam (Ativan) 0.5 mg, a Schedule IV controlled substance, to patient Sue B. The prescription stated that 30 should be dispensed, that the patient should take the medication one each day as needed and that the prescription was renewable for "6 months." Respondent altered the prescription to read quantity "60" without knowledge or authorization of the prescriber. Respondent dispensed 60 lorazepam 0.5 mg to this patient, purportedly as refills of the original prescription, on 9/28/90, 11/5/90, 12/14/90, 1/18/91, and 2/1/91.

7. On or about 3/18/91, respondent dispensed 60 lorazepam (Ativan) 0.5 mg, a Schedule IV controlled substance, to patient Sue B., with instructions to take one each day. The prescription stated that 30 should be dispensed and was dated 2/25/91, renewable for "6 months." Respondent dispensed 60 tablets purportedly as refills of this prescription on 4/13/91, 5/20/91, and 6/8/91.

8. On each of the following dates, respondent dispensed estrogen patches to the same Sue B., purportedly as refills of a prescription dated 9/9/89 by Dr. V.: 9/9/89, 10/7/89, 11/1/89, 12/27/89, 3/1/90, 4/27/90, 5/3/90, 6/30/90, 7/18/90, 8/25/90. In fact, Dr. V. prescribed this medication for this patient only once, on 10/6/87.

9. On each of the following dates, respondent dispensed estrogen patches to the same Sue B., purportedly on the telephoned prescription of Dr. V. of 9/28/90: 9/28/90, 10/15/90, 11/15/90, 12/14/90, 2/2/91. In fact, Dr. V. never authorized such a prescription.

10. Respondent failed to file and preserve a prescription for tenormin dated 6/30/89 for the same Sue B. This prescription, and those of 7/27/90 and 7/31/91, were for 50 tablets each, to be refilled PRN, one year. Respondent dispensed 100 or more tablets to the patient on each of the following dates: 9/22/89, 1/19/90, 4/4/90, 5/3/90, 9/17/90, 10/15/90, 12/14/90, 3/18/91, 6/8/91, 8/28/91, 10/3/91, and 11/1/91. Respondent also recorded prescription #6624781 for tenormin as telephoned to him on or about 3/18/91, and refilled on 6/8/91 and 7/15/91 as being by a Dr. C. (who practices in the same clinic as Dr. V.). In fact, Dr. C. has never prescribed tenormin for this patient, and there is no record of Dr. V. or any other physician prescribing tenormin for this patient at this time.

11. On 10/11/91, respondent permitted an unlicensed clerk to transfer prescription medications to two different patients without any consultation by a pharmacist.

CONCLUSIONS OF LAW

12. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to §450.10, Wis. Stats.

13. The Board is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

14. The conduct described in paragraphs 3-11, above, violated one or more of the following: §§450.10(1)(a)6. and 450.11(1), (2), and (5), and §§ 7.01(1)(f) and (e), 8.05(2) and (5), 8.06(2), and 10.03(4) and (8), Wis. Adm. Code (1990). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that respondent shall forfeit \$1000, to be paid within 60 days of this order.

IT IS FURTHER ORDERED, that the license of William R. Clussman, R.Ph., to practice pharmacy is hereby SUSPENDED until respondent takes and passes both the Federal Drug Law Examination and the Wisconsin Pharmacy Jurisprudence Examination, and until all costs and forfeiture are paid. This suspension is STAYED until June 1, 1993. The state examination may, at respondent's option, be taken through the PLATO professional development center. Respondent shall not take either examination more than twice without express permission of the board, which shall determine in its discretion under what terms and conditions the respondent may attempt an exam after two attempts. Upon proof of passing the examinations and payment of the forfeiture and all costs imposed herein, respondent's license shall be forthwith reissued and restored by the staff of the department, with no further action by the board.

IT IS FURTHER ORDERED, that effective immediately, respondent's license to practice pharmacy is LIMITED in the following respect: respondent shall not be a managing pharmacist of any pharmacy until he has taken and passed both the exams referred to in the preceding paragraph.

IT IS FURTHER ORDERED, that respondent shall pay the costs of the investigation and prosecution of this matter, in the amount of \$900, within 30 days of this order.

Dated this 9 day of FEBRUARY, 1993.

WISCONSIN PHARMACY EXAMINING BOARD

by: Charles H. Dunkel, R.Ph.
a member of the board

ATY2-3264
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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :

WILLIAM R. CLUSSMAN, R.PH., :
RESPONDENT. :

STIPULATION
91 PHM 20

It is hereby stipulated between the above Respondent, personally on his own behalf, and the Department of Regulation and Licensing, Division of Enforcement by its undersigned attorney as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.
2. Respondent is aware of and understands his rights with respect to disciplinary proceedings, including the right to a statement of the allegations against him; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel attendance of witnesses by subpoena; the right to testify personally; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. By entering into this Stipulation, Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.
4. Respondent is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to execution of this Stipulation.
5. With respect to the attached Final Decision and Order, Respondent admits the facts set forth in the Findings of Fact, and further agrees that the Board may reach the conclusions set forth in the Conclusions of Law, and may enter the Order.
6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that either the Board or the Respondent has been prejudiced or biased in any manner by the consideration of this attempted resolution.
7. If the Board accepts the terms of this Stipulation, the parties to this Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

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Stipulation
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8. Respondent agrees that an attorney for the Division of Enforcement may appear at any deliberative meeting of the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, with respect to this Stipulation but that appearance is limited to statements solely in support of this Stipulation, and to answering questions asked by the Board and its staff, and for no other purpose.

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

10. Respondent is informed that should the board adopt this stipulation, the board's final decision and order adopting the terms of the stipulation will be published in the Monthly Disciplinary Report issued by the department, and a summary of the order adopting the terms of the stipulation shall be published in the Wisconsin Regulatory Digest issued semiannually by the department, all of which is standard Department policy and in no way specially directed at Respondent.

William L. Clauson 1/26/93
Respondent Date

Michael R. Davis JAN. 28, 1993
Michael R. Davis, Attorney for Respondent Date

Arthur Thexton 1/29/93
Arthur Thexton, Prosecuting Attorney Date
Division of Enforcement

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Pharmacy Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Pharmacy Examining Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Pharmacy Examining Board.

The date of mailing of this decision is February 11, 1993.