

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

FILE COPY

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

GEORGE WALKER, R.PH.
RESPONDENT.

88 PHM 11

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

George Walker, R.Ph.
7433 Clover Hill Drive
Waunakee, WI 53597

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 George Walker (dob 8/11/36) 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 #6983. At all times relevant to the matters set forth herein, respondent was the owner of Bergmann's Pharmacy on Fish Hatchery Road, Fitchburg, Wisconsin, where all of the activity set forth herein took place.

2. The Respondent did, beginning on a day before January 29, 1988, fail to maintain records of all prescriptions written up to September 25, 1984.

3. The following prescription records of prescriptions filled after September 25, 1987 have been discarded on or before 9/9/92 and thereby not kept for five years: 63522, 63510, 63472, 63424, 62882, 62793, 62495, 62361, 62153, 61510, 61012.

4. On 4/30/87, respondent transcribed a telephoned prescription for patient James H. for ERYC as Ergotrate, and prepared to dispense the Ergotrate for the patient.

5. On 9/21/87, respondent transcribed a telephoned prescription for Cleocin-T as being for Colestid, and prepared to dispense Colestid for patient Anita O.

6. On or about 12/1/87, respondent prepared two prescriptions for different patients, both for Monistat-7. He then dispensed one of them to patient Bobbie G., when in fact the prescription dispensed to Bobbie G. was labeled for the other patient.

7. On the following dates, respondent dispensed temazepam, a controlled substance, to a patient who is a relative, and on the prescription of a physician who is also a relative, in amounts exceeding a 34-day supply:

5/2/90	100 Temazepam 30 mg, one hs. pm.
5/5/91	100 Temazepam 30 mg, one hs. pm.
8/23/91	100 Temazepam 30 mg, refill of 5/5, although there is no indication on the hard copy of the script that it was refilled..
3/17/92	300 Temazepam 30 mg, two hs pm. Script reads "# desired" in the same ink and handwriting as the rest of the prescription and practitioner's signature, and "#300 is written upon it with a different pen. The same pen appears to have altered the dosage instructions from one to two hs. Profile shows 200 dispensed.
9/10/92	200 Temazepam 30 mg, one hs. pm. Script has a note on it reading: "49.54/200," although profile reads 34 dispensed with script refilled 10/14/92 (another 34). There is no indication on the hard copy of the script that the prescription was refilled.

For the same patient, respondent filled a prescription dated 2/22/92 which read "Valium 5 mg, # desired, one tid pm, refill 6 mo."

8. On 1/25/88, respondent filled a prescripion for diazepam 2 mg with diazepam 5 mg for patient Catherine F.

9. On 2/14/88, respondent filled a prescription for patient Julia G. for Fioricet, with oxycodone APAP, and labeled the medication as oxycodone/APAP.

10. On and between March 14, 1987 and the present, respondent failed to store his Schedule II controlled substances in a locked substantial container or otherwise in a manner that obstructs theft.

11. On 1/24/91, respondent made the following false statement to the pharmacy examining board's investigator: "The Schedule II drugs are kept in a drawer with a broken lock. This particular lock has been replaced three times because of past break-ins during which the lock has been either pried open with a small screwdriver or destroyed with a larger pry device. The pharmacy department is seldom, if ever, let unattended. In addition, the Schedule II drugs are locked in the store's safe or hidden in a secure manner when closing the store each evening." In fact, the pharmacy has not had a reported burglary since 1982, and Schedule II drugs were, on occasion, kept in the drawer overnight when the store was closed and unattended.

12. On 3/12/92, respondent failed to have his controlled substance inventories for the period between 5/1/85 and 6/20/89 on hand and available for inspection.

13. No later than July 25, 1989, respondent was diagnosed by his physician as having severe high tone neurosensory hearing loss in both ears. A 1993 examination at the Board's request revealed bilateral high-frequency sensory hearing loss, but with 82% speech discrimination over the telephone (considered to be within normal limits).

14. On February 13, 1993, respondent submitted a statement to the Board, under oath, that a pharmacy owned by him (and for which he is the managing pharmacist) at 529 S. Midvale Blvd, Madison, had a refrigerator and a heating device in the professional service area. In fact, the professional area did not contain either a refrigerator or heating device, and the only such devices were in the employee break room. Respondent's statement also represented to the Board that he had a secure barrier, when in fact there was no lock for the barrier and no design for any locking device for the barrier. These statements were known by respondent to be false when made, and were made for the purpose of inducing the Board or its staff to grant a license to premises which did not comply with the rules. Respondent was informed of the barrier noncompliance by Division of Enforcement staff on March 4, 1993, but as of May 7, 1993, had not installed any kind of locking device on the barrier.

15. On May 10, 1993, an inspection of another pharmacy owned by respondent, at 3038 Fish Hatchery Road, revealed that there was no refrigerator in the professional service area, that respondent was selling liquor without a license, and that respondent had put into effect a system of disposing of expired Schedule III, IV, and V drugs for his three pharmacies which did not meet DEA or Board standards.

CONCLUSIONS OF LAW

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

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

18. The conduct described in paragraphs 2-15, above, violated one or more of the following: §450.10(1)(a)2., Wis. Stats., §§ Phar 6.06(1)(h), 6.07(1) and (3), 7.01(1)(e), 7.05(1), 8.02(1) and (2), 8.05(1), and 10.03(2) and (8), Wis. Adm. Code, and 21 CFR §1307.21. 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 George Walker, R.Ph., is REPRIMANDED for his unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that respondent shall FORFEIT \$2,500, to be paid within 90 days of this order.

IT IS FURTHER ORDERED, that the license to practice pharmacy of respondent is LIMITED in the following respects:

Respondent shall not personally receive or transcribe any telephoned prescriptions without repeating the entire prescription back to the prescriber, verbatim and in English words (that is, without using any Latin abbreviations such as "q.i.d." and the like) and receiving positive verification that his understanding of the prescription is correct.

Respondent shall have his hearing tested annually, including a complete audiogram, and shall release such test results directly to the board. Upon request, respondent shall undergo such other hearing tests as the board may require.

Respondent shall not be a managing pharmacist, effective July 15, 1993.

Respondent shall not personally dispense any prescription for any controlled substance to his relatives. Relatives are defined as his parents, children and grandchildren, siblings, children and grandchildren of siblings, and his former wife and her parents, siblings, and children and grandchildren of siblings. Should respondent marry, the prohibition will extend to that spouse, and her parents, siblings, children and grandchildren, and children and grandchildren of her siblings.

IT IS FURTHER ORDERED, that the license of George Walker, 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. The state examination may, at respondent's option, be taken through the PLATO professional development center. This suspension is STAYED until October 1, 1993 on the condition that respondent takes and passes the state jurisprudence examination within 30 days of this order, and if respondent has passed both tests before that date, the suspension shall not take effect. 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, respondent's license (if suspended) shall be forthwith reissued and restored by the staff of the department, with no further action by the board

IT IS FURTHER ORDERED, that respondent shall pay COSTS in this matter in the amount of \$2,100, within 30 days of this order

Dated this 11 day of May, 1993.

WISCONSIN PHARMACY EXAMINING BOARD

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

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST :

GEORGE WALKER, R.PH.,
RESPONDENT.

STIPULATION
88 PHM 11

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 consulted his attorney 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.

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.

George Walker
Respondent

5-10-93
Date

P. Jeffrey Archibald
P. Jeffrey Archibald, Attorney for Respondent Date

5-10-93

Arthur Thexton
Prosecuting Attorney
Division of Enforcement

5/10/93
Date

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 MAY 14, 1993.