

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

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST:

KMART #3740,
RESPONDENT

FINAL DECISION AND ORDER
LS0012121 PHM

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

Kmart Corporation
3100 W. Big Beaver Rd.
Troy, MI 48084-3163

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 Kmart #3740 is and was at all times relevant to the facts set forth herein a community pharmacy licensed in the State of Wisconsin pursuant to license #6947, originally granted on 3/3/89, and located at 421 S. Wright St., Delavan, Wisconsin. It is wholly owned and operated by Kmart Corporation, real party in interest, which is responsible for its management and operations.
2. Respondent's pharmacy staff did, on 3/9/95, receive a telephone order for warfarin for a geriatric patient who was a regular customer. The order was understood by the pharmacist on duty to be for 2 ½ tablets of the 5 mg tablets per day, and he attempted to verify this with the staff person who telephoned the order; the staff person stated that respondent's understanding was correct. The patient's profile revealed that 30 days before, she had received #30 of 2mg and #30 of 1mg warfarin. However, the pharmacist did not check the patient's profile and dispensed #30 of 5mg warfarin tablets, labeled for the patient to take 2 ½ tablets each day.
3. In fact, the prescriber intended that the order be for 2 ½ mg per day. The patient suffered harm as a result of this error.
4. At the time, respondent had implemented a company-wide "dispensing procedure" which provided for the various steps to be taken in receiving, processing, and dispensing a prescription. This procedure did not easily permit the pharmacist to personally view and review the patient's profile. Instead, the procedure relied upon the

pharmacy's computer system to check for drug interactions or other problems with the prescription to be dispensed.

5. Respondent has some 50 licensed pharmacies in Wisconsin, and the procedure was implemented at all of them.

6. Respondent has since assured the Board that its procedures do now provide for pharmacists to personally view and review the profiles of all patients before prescriptions are transferred to them. A department investigator has visited a K-Mart pharmacy and observed that such a policy had been distributed in writing, and that the staff pharmacist on duty was aware of it.

CONCLUSIONS OF LAW

A. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to §450.10, Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

B. The conduct described in paragraphs 2-5, above, violated § Phar 7.07(4), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes. At the time a prescription order is dispensed, the pharmacist must review the medication history and determine whether the prescription order presented should be dispensed. A computer check may be used only as an aid, and not as a replacement for a pharmacist reviewing a patient's prescription profile.

ORDER

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

IT IS FURTHER ORDERED, that Kmart #3740 is REPRIMANDED for its unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that Kmart Corporation, d/b/a Kmart #3740, shall FORFEIT \$25,000 within 30 days of this order.

IT IS FURTHER ORDERED, that Kmart Corporation shall pay COSTS in this matter in the amount of \$500, within 30 days of this order.

IT IS FURTHER ORDERED, that pursuant to §227.51(3), Wis. Stats., and ch. RL 6, Wis. Adm. Code, if the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, the Board may order that the license of respondent be summarily suspended pending investigation of the alleged violation.

Dated this December 12, 2000.

WISCONSIN PHARMACY EXAMINING BOARD, by:

John P. Bohlman

A member of the board