

# 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 THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
SCHNUCKS PHARMACY #758,	:	LS0406248PHM
RESPONDENT	:	

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Division of Enforcement  
02 PHM 072

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

Schnucks Pharmacy #758  
1501 Creston Park Road  
Janesvill, WI 53545

Wisconsin Pharmacy Examining Board  
1400 E. Washington Ave.  
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 Wisconsin Pharmacy Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Curtis Hartin, Director of Pharmacy for Schnuck Markets Inc.; and by Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Pharmacy Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Schnucks Pharmacy #758, 1501 Creston Park Road, Janesvill, Wisconsin 53545, is licensed and currently registered as a pharmacy in the State of Wisconsin, license #8186, the license having been granted on April 29, 2002. Schucks Pharmacy #758 is owned by Schuck Markets Inc., 11420 Lackland Road, St. Louis, Missouri 63146.
2. An investigation, 02 PHM 072, is pending before the Wisconsin Pharmacy Examining Board.
3. Schnuck's Pharmacy #758 maintained bound controlled substance schedule V registers for schedule V drugs dispensed other than pursuant to a prescription order.
4. The controlled substance schedule V registers maintained for the period from May 20, 2002 through March 11, 2003 contained columns for entry of the date of purchase, the name of the purchaser, the address of the purchaser, the name of the product dispensed, the quantity of the product dispensed and the signature of the pharmacist who dispensed the product.
5. The name of the purchaser was recorded by the purchaser by signing his or her name in the register. The address of the purchaser was also entered in the register by the purchaser. The date of the purchase, the product dispensed, the quantity of the product dispensed and the signature of the pharmacist who dispensed the product were entered in the register by the pharmacist.

6. The registers for the period from May 20, 2002 through March 11, 2003 were deficient in the following respects:

- a. Two entries for schedule V products dispensed between May 21, 2002 and June 4, 2002 did not record a date on which the schedule V products were dispensed.
- b. On entry for a schedule V product dispensed between June 7, 2002 and June 12, 2002 did not record the date on which the schedule V product was dispensed, the address of the purchaser, the name of the schedule V product dispensed, the quantity of the schedule V product dispensed and the signature of the pharmacist.
- c. One entry for a schedule V product dispensed between June 12, 2002 and July 1, 2002 did not record the date on which the schedule V product was dispensed.
- d. Three entries for schedule V products dispensed between June 12, 2002 and July 1, 2002 did not record the names of the schedule V products dispensed.

### CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. sec. 450.10.
2. The Wisconsin Pharmacy Examining Board has the authority to resolve this proceeding by Stipulation without an evidentiary hearing pursuant to Wis. Stats. sec. 227.44(5).
3. Respondent's conduct in failing to maintain the controlled substance schedule V registers for schedule V drugs dispensed other than pursuant to the prescription order as required by Wis. Admin. Code secs. Phar 8.02(3)(d)(5) and Phar 8.02(3)(e)(2) and Wis. Stats. sec. 961.23(4), violated Wis. Stats. secs. 450.10(1)(a)(2), 450.10(1)(b)(1) and 961.23(4) and Wis. Admin. Code secs. Phar 8.02(3)(d)(5) and Phar 8.02(3)(e)(2).
4. The Wisconsin Pharmacy Examining Board has the authority pursuant to Wis. Stats. sec. 440.22 to assess the costs of this proceeding against Respondent.

### ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Schnucks Pharmacy #758 is REPRIMANDED.

IT IS FURTHER ORDERED that Schnucks Pharmacy #758 shall pay a forfeiture in the amount of \$250.00 within thirty (30) days of the date of this Final Decision and Order.

IT IS FURTHER ORDERED that Schnucks Pharmacy #758 shall pay costs in the amount of \$630.80 within 30 days of the date of this Final Decision and Order.

Payment of the forfeiture and of the costs shall be made by certified checks or money orders, payable to the Wisconsin Department of Regulation and Licensing and mailed to: Department Monitor, Division of Enforcement, Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED that violation of any term or condition of this Final Decision and Order may constitute grounds for further disciplinary action. If the Pharmacy Examining Board determines that there is probable cause to believe that Schnucks Pharmacy #758 has violated the terms of this Final Decision and Order and that the public health safety or welfare imperatively requires emergency action, the Pharmacy Examining Board may summarily suspend the pharmacy license of Schnucks Pharmacy #758 in the state of Wisconsin pending proceedings for revocation or other disciplinary action.

The rights of a party aggrieved by this Final Decision and Order to petition the Wisconsin Pharmacy Examining Board for rehearing and to petition for judicial review are set forth in the attached “Notice of Appeal Information”.

Dated at Madison, Wisconsin, this 24<sup>th</sup> day of June, 2004.

WISCONSIN PHARMACY EXAMINING BOARD

Michael Bettiga  
Member of the Board