

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	<b>FINAL DECISION AND ORDER</b>
	:	LS0410132PHM
JANE M. MARTY, R.Ph.,	:	
RESPONDENT.	:	

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

Jane M. Marty, R. Ph.  
236 S. Main St.  
Lake Mills, WI 53551

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**

- Respondent Jane M. Marty (DOB 11/16/1952), is and at all relevant times was a registered pharmacist licensed in the State of Wisconsin pursuant to license #11761, originally granted on March 12, 1992. At all times relevant to this case, respondent was the managing pharmacist of Heimstreet Pharmacy, Lake Mills, Wisconsin, where the incident described below took place.
- On May 30, 2003, Respondent received a prescription for an eleven month old baby for Phenobarbital Elixir, 30 mg/5 ml., Sig: 15 mg po bid.
- Respondent's pharmacy did not have any Phenobarbital Elixir. Respondent called a competitor, but the competitor did not have any Phenobarbital Elixir either.
- Respondent dispensed 4 tablets of Phenobarbital, 97.2 mg., and instructed the patient's mother to crush one tablet and feed it to the baby in applesauce, two times per day.
- The patient's mother did as instructed, and the baby was hospitalized for an overdose. The baby recovered with no apparent long term effects.
- Respondent consents to issuance of the following Conclusions of Law and Order.

**CONCLUSIONS OF LAW**

- 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.
- The conduct described in paragraphs 2-5, above, violated §450.10(1)(a)6., Wis. Stats., and § Phar 10.03(2), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

**ORDER**

NOW, THEREFORE, IT IS ORDERED:

- The attached Stipulation is accepted.
- Respondent is hereby REPRIMANDED.
- For a period of one year commencing upon the signing of this Order, for each pediatric prescription for which Respondent is responsible for any of the steps listed in § Phar 7.01(1), Wis. Adm. Code, Respondent shall record the following computation on the back of the hardcopy: age and weight of patient, dosage in mg/kg for the patient, and the maximum safe dosage for the patient. Respondent shall consult a standard pediatric dosing reference for each such prescription. For the purpose of this Order, a pediatric patient is a patient 12 year of age or younger. If Respondent handles a refill but did not handle an earlier fill, the computation shall be performed and recorded. If Respondent has recorded the computation for a prescription, she need not re-do the computation for subsequent refills. Respondent shall make those prescription hardcopies with computations available on file at her place of employment, to be presented upon request to the Pharmacy Examining Board, the Department Monitor, any investigator for the Division of Enforcement, or any other delegate of the board.
- Respondent shall pay COSTS in this matter in the amount of Five Hundred Twenty-Five dollars (\$525.00), within 30 days of the signing of this order.
- Failure to timely comply with the provisions of this Order shall result in the immediate suspension of Respondent's license to practice as a pharmacist in the State of Wisconsin, without further notice or hearing.

WISCONSIN PHARMACY EXAMINING BOARD

Michael Bettiga  
A Member of the board

10-13-2004  
Date