

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
THOMAS J. BUENING, R.Ph.,	:	LS0612061PHM
RESPONDENT.	:	

[Division of Enforcement Case # 06 PHM 048]

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

Thomas J. Buening, R.Ph.
1154 Cormier Road
Green Bay, WI 54304

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Pharmacy Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 Pharmacy Examining 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. Thomas J. Buening, R.Ph., (Respondent), date of birth February 8, 1943, is licensed by the Wisconsin Pharmacy Examining Board as a pharmacist in the state of Wisconsin pursuant to license number 9073, which was first granted November 11, 1976.
2. Respondent’s address of record with the Department of Regulation and Licensing (DRL) is 1154 Cormier Road, Green Bay, WI 54304.
3. On all dates relevant to the facts set forth here, Respondent was employed as the pharmacist at Pamida Pharmacy #220, 291 S. Main Street, Clintonville, WI 54929.
4. On August 2, 2006, a DRL investigator witnessed multiple transactions during which Respondent permitted transfer of prescriptions to patients by pharmacy technicians, and without consultation with Respondent or another licensed pharmacist. The DRL investigator repeatedly saw relay of prescriptions to patients without any interaction between Respondent and the patients.
5. The Pharmacy Examining Board requires pharmacists to transfer prescriptions to patients or the patients’ agents.

6. The Pharmacy Examining Board requires pharmacists to provide consultation with every prescription, regardless of whether the prescription is new or a refill. The duty to consult is not satisfied by an offer to consult. The only exception to the consultation requirement for community pharmacies concerns prescriptions that are delivered to residences. None of the transactions witnessed by the DRL investigator on August 2, 2006 involved home-deliveries.

CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 450.10 and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. The conduct described in paragraph 4, above, constitutes a violation of Wis. Admin. Code §§ Phar 7.01(1)(e) and (em), and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Thomas J. Buening, R.Ph., is REPRIMANDED for the conduct set out above.
2. Respondent shall, within 60 days from the date of this Order, pay to the Department of Regulation and Licensing a forfeiture in the amount of \$250.00, pursuant to Wis. Stat. § 450.09(8).
3. Respondent shall, within 60 days from the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$219.12, pursuant to Wis. Stat. § 440.22(2).

4. All payments required by this Order shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

5. In the event Respondent fails to timely submit any payment of the forfeiture as set forth above or fails to pay costs as ordered, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

Wisconsin Pharmacy Examining Board

By: Michael Bettiga
A Member of the Board

12/06/06
Date