

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
ROLAND A. BUCHHOLZ, R.Ph.,	:	LS0704041PHM
RESPONDENT.	:	

[Division of Enforcement Case # 06 PHM 037]

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

Roland A. Buchholz, R.Ph.
P.O. Box 36
Powers Lake, WI 53159

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 & 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. Roland A. Buchholz, R.Ph., (“Respondent”), date of birth June 18, 1950, is duly licensed as a pharmacist in the state of Wisconsin (license #9629). This license was first granted on July 11, 1979.

2. Respondent's address of record with the Wisconsin Pharmacy Examining Board is P.O. Box 36, Powers Lake , WI 53159.

3. At all times relevant to this action, Respondent was working as the managing pharmacist at Aurora Pharmacy, 700 N. Lake Avenue, Twin Lakes, WI 53181.

4. On May 25, 2006, a DRL investigator witnessed multiple transactions at Aurora Pharmacy, during which the pharmacist on duty permitted a clerk to transfer prescriptions to patients without consultation with the licensed pharmacist.

5. The DRL investigator asked the clerk how the clerk typically handled prescription transfers. The clerk explained that she asked the customer’s name, retrieved the bag containing the prescription, had the customer sign for the drug and she, the clerk, conveyed the prescription to the customer. She said that if a prescription is new (not a refill), she would arrange for a consultation with the pharmacist. The clerk said she was unaware that a pharmacist was supposed to do consultations and transfer prescriptions.

6. The DRL investigator discussed the consultation and dispensing issue with the pharmacist on duty. He said that the work flow had changed with the recent sale of the pharmacy and the change had disrupted systems that had been in place.

7. On June 1, 2006, Respondent completed a Notice of Compliance in which he assured the Board that, "The state statute concerning pharmacy consultation has been reviewed with all personel [*sic*] and is being done properly."

8. On October 20, 2006, a second DRL investigator visited Aurora Pharmacy. The investigator observed a pharmacist, who was later identified as Respondent, a clerk and, eventually, one elderly female consumer. The investigator saw the clerk transfer a prescription to the consumer without any acknowledgment, contact or communication from the pharmacist on duty. The investigator noted that the elderly woman was the only customer, and the telephone was not ringing.

9. The DRL investigator approached Respondent and learned that he was the managing pharmacist. The DRL investigator told Respondent she had just witnessed a prescription transfer, by an unlicensed clerk, and without consultation. Respondent asked the clerk the name of the customer involved in the transaction. Upon learning the customer's identity from the clerk, Respondent explained that the customer was picking up a regular prescription for morphine. Respondent admitted that he had not provided a consultation with the customer and that he had not transferred the prescription. However, he said he had been very busy, the incident was "a mishap" and he did not realize what was going on. Respondent stated that he tries his best to complete consultations appropriately. Respondent emphasized that when regular customers come into the pharmacy, he or another pharmacist does consultations.

10. 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 investigators on May 25, 2006 or October 20, 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 paragraphs 8 and 9 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, Roland A. Buchholz, R.Ph., is REPRIMANDED for the conduct set out above.

2. Respondent shall, within 60 days of the date of this Order, pay to the Department of Regulation and Licensing a forfeiture in the amount of \$500.00, pursuant to Wis. Stat. § 450.09(8).

3. Respondent shall, within 60 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$428.48 pursuant to Wis. Stat. § 440.22(2).

4. Respondent shall, within 180 days of the date of this Order, provide the Board with proof of reexamination with a passing score on the Wisconsin Multistate Pharmacy Jurisprudence Examination (MPJE).

5. Proof concerning the MPJE and 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

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and

welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit full payment of the forfeiture and costs as set forth above, or fails to provide timely proof concerning the MPJE, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

WISCONSIN PHARMACY EXAMINING BOARD

By: Gregory C. Weber
A Member of the Board

4/4/07
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
ROLAND A. BUCHHOLZ, R.Ph.,	:	LS _____ PHM
RESPONDENT.	:	

[Division of Enforcement Case # 06 PHM 037]

It is hereby stipulated and agreed, by and between Roland A. Buchholz, R.Ph., Respondent, and Sandra L. Nowack attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent’s licensure by the Division of Enforcement (file 06 PHM 037). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation, he voluntarily and knowingly waives his rights, including the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided an opportunity to obtain advice of legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, 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 the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent’s attorney, if any, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Board adopt this Stipulation, the Board’s Final Decision and Order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

_____ Roland A. Buchholz, R.Ph. Respondent	_____ Date
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P.O. Box 36
Powers Lake, WI 53159

Sandra L. Nowack
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date