

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
LEIGH A. ZIMMER, R.Ph.,	:	LS07091226PHM
RESPONDENT.	:	

Division of Enforcement Case # 04 PHM 064

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

Leigh A. Zimmer, R.Ph.
N24 W26339 Wilderness Way
Pewaukee, WI 53072

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

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 the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Leigh A. Zimmer, R.Ph., (DOB 07/30/1969) is duly licensed as a pharmacist in the state of Wisconsin (license # 40-12025). This license was first granted on September 8, 1993.
2. Respondent's most recent address on file with the Wisconsin Pharmacy Examining Board is N24 W26339 Wilderness Way, Pewaukee, Wisconsin, 53072.
3. On or about July 20, 2004, one-month-old M.W. was prescribed Zantac, 15 mg/5 ml, 2.5 cc po bid, for reflux symptoms. Her mother took the prescription to Walgreens store # 05281 to be filled. Pharmacist J.W. was the verifying pharmacist for that transaction. The Managing Pharmacist was off that day.
4. The day before, someone had requested a partial refill of Zoloft syrup (approximately 15 ml) for her child. The partial refill was set up, but due to confusion about the patient's current physician, the order was not completed and an

intern put the bottle back on the shelf, in alphabetical order, next to the Zantac syrup.

5. On or about July 21, 2004, Respondent was the pharmacist on duty. The person who requested the Zoloft syrup came to pick it up, but the bottle could not be found. Because the bottle had been placed next to the Zantac syrup, the intern surmised that the Zoloft bottle may have been used to fill M.W.'s Zantac prescription.

6. Respondent had a pharmacy technician call M.W.'s mother. The pharmacy technician told M.W.'s mother that there was a problem with the manufacturer's lot and they needed to recall M.W.'s bottle of Zantac and exchange it for another. The mother asked if her child would be all right, and she was told not to worry.

7. M.W.'s mother brought the bottle in to be exchanged. Respondent was not notified she was there and did not talk to her. Respondent later examined the bottle, and noticed that the liquid was cloudy. Zantac and Zoloft are both clear, but when mixed, the resulting liquid is cloudy.

8. Respondent then read the bottle and saw that it said "give 2.5 ml twice daily." She recognized that the prescription, as mixed, was too high for an infant. She then called the mother and told her that the directions on the bottle were incorrect and resulted in a dose that was too high. Despite having noticed the cloudy liquid, Respondent did not tell the mother that the medication in the bottle likely contained Zoloft as well as Zantac.

9. Respondent called the patient's physician and left a message. Meanwhile M.W.'s mother became concerned and called the physician as well. She was told to take M.W. to the emergency room.

10. The Managing Pharmacist came in and was told what had transpired in her absence. She then called the emergency room and told the mother that her baby had most likely received Zoloft as well as Zantac.

11. The physician's prescription was not correct as written. However, it should have been clear that the physician meant for the patient to get 15 mg per day total in two doses.

12. In the course of this investigation, the Division of Enforcement investigator requested records from Walgreens. The investigator was told that the prescription had been "inadvertently deleted" from the computer.

13. In the course of this investigation, the Division of Enforcement investigator traveled to Walgreens store # 05281 to observe consultations between pharmacists and patients. She observed a pharmacist consulting with a patient from the computer station, rather than going to the window and transferring the medications privately. The investigator requested a policy regarding consultations from Walgreens. No such policy was produced.

CONCLUSIONS OF LAW

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

2. The conduct described in paragraphs 6 - 9 above constitutes a violation of Wisconsin Administrative Code § Phar 10.03(2) and Wis. Stat. § 450.10(1)(a)6 and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

IT IS ORDERED:

1. Leigh A. Zimmer, R.Ph. is REPRIMANDED.

2. The license of Leigh A. Zimmer, R.Ph. to practice as a pharmacist in the State of Wisconsin is LIMITED as follows: For one year from the date of this Order, Respondent may not work as Pharmacist in Charge or Managing Pharmacist.

3. Respondent shall, within ninety (90) days from the date of this Order, pay a forfeiture in the amount of Three Hundred (\$300) dollars.

4. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of Six Hundred Dollars (\$600.00).

5. All payments of forfeiture and costs shall be made 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
Telephone (608) 267-3817
Fax (608) 266-2264

6. In the event Respondent fails to timely submit any payment of the forfeiture as set forth above, or fails to pay costs as ordered, the Respondent's license (# 40-12129) 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.

Pharmacy Examining Board

By: Michael Bettiga
A Member of the Board

9/12/07
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
LEIGH A. ZIMMER, R.Ph.,	:	LS# _____
RESPONDENT.	:	

Division of Enforcement Case # 04 PHM 064

Respondent Leigh A. Zimmer, personally on her own behalf; and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case # 04 PHM 064). Respondent consents to the resolution of this investigation by stipulation.
2. Respondent understands that by signing this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her 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 the advice of legal counsel prior to signing this stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Pharmacy Examining 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 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 Pharmacy Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or her attorney, 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 Board 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 the Board adopt this Stipulation and issue the attached Final Decision and Order.

Leigh A. Zimmer, R.Ph.
N24 W26339 Wilderness Way
Pewaukee, WI 53072

Date

Jeanette Lytle, Attorney
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708

Date