

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

---

IN THE MATTER OF A PETITION FOR AN :  
ADMINISTRATIVE INJUNCTION INVOLVING :  
 : INJUNCTION  
 :  
 :  
DERRICK DEWAYNE AUSTIN, : LS07101711UNL  
RESPONDENT. :

---

Division of Enforcement Case # 06 UNL 005

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

Derrick Dewayne Austin  
2555 N. Dr. Martin Luther King Jr. Drive  
Milwaukee, WI 53212

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

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 Secretary. The Secretary has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Secretary adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Derrick D. Austin is licensed as a pharmacist in the State of Alabama. Respondent holds no valid license in the state of Wisconsin.
2. Respondent is employed at Milwaukee Health Services, Inc., at 2555 N. Dr. Martin Luther King Jr. Drive, Milwaukee, Wisconsin, 53212. His home address is unknown.
3. Respondent's title at Milwaukee Health Services, Inc. is VP of Development/Pharmacy Director. However, he refers to himself both verbally and in writing as the "pharmacy manager." Pharmacy staff members recognize him as the pharmacy manager.
4. Respondent's business cards identify him as Derrick Austin, R.Ph. and list a Wisconsin address.

5. Respondent hires all pharmacy personnel (with assistance from the human resources staff of Milwaukee Health Services, Inc.). He reviews all pharmacy personnel. He determines all pharmacy personnel merit raises. He signs weekly time sheets for pharmacy personnel. He authorizes overtime for pharmacy personnel. He directs scheduling of pharmacy personnel. He is responsible for payroll for pharmacy personnel.

6. Respondent chairs staff meetings with technicians and pharmacists present, and dictates roles and determines workflow. He makes all decisions regarding the operations of the pharmacy.

7. Respondent is responsible for the financial aspects of the pharmacy. He designs the formularies. He determines what fees the pharmacy will charge. He signs contracts with third party insurers.

8. Respondent has kept an office in the pharmacy.

9. Although other Wisconsin-licensed pharmacists have been named the managing pharmacist on pharmacy applications and addendums, those pharmacists do not perform the duties described above.

10. Under the direction of the respondent, Milwaukee Health Services, Inc. operated an unlicensed pharmacy at 2555 N. Martin Luther King Jr. Drive, Milwaukee, Wisconsin, for approximately three years.

11. On or about March 22, 2005, Respondent was disciplined in the State of Alabama for allowing a pharmacy to operate without a current license.

12. On or about April 15, 2005, Respondent was disciplined in the State of Alabama for practicing pharmacy with an expired license.

#### CONCLUSIONS OF LAW

1. The “practice of pharmacy” is defined by Wis. Stat. §450.01(16) to include any act necessary to manage a pharmacy, including the supervision of pharmacist supportive personnel. No person may engage in the practice of pharmacy in Wisconsin unless the person is licensed as a pharmacist by the Wisconsin Pharmacy Examining Board. Wis. Stat. § 450.0(1).

2. “Managing Pharmacist” means a pharmacist designated by the pharmacy owner to have responsibility for and direct control of pharmaceutical operations in a pharmacy. Wis. Admin. Code § Phar 1.02(6). Every pharmacy must be under the control of the managing pharmacist who signed the pharmacy license application, the most recent license renewal application or the most recent amended schedule of operations. Wis. Stat. § 450.09(1).

3. No one without a current renewal certificate may engage in the practice of pharmacy, nor use the letters “R.Ph.” Wis. Admin. Code § Phar 5.01(2).

4. The Department of Regulation and Licensing has authority to issue this Administrative Injunction as a special order under Wis. Stat. § 440.21 and Wis. Admin. Code Ch. RL 3.

#### ORDER

IT IS ORDERED, that the attached stipulation is accepted.

IT IS FURTHER ORDERED, that Respondent Derrick Dewayne Austin is enjoined and prohibited from engaging in the practice of pharmacy in Wisconsin, including but not limited to the management of any pharmacy and the supervision of any pharmacy personnel, unless and until he is duly licensed as a pharmacist in Wisconsin.

Respondent Derrick Dewayne Austin is further enjoined and prohibited from using the title “R.Ph.” in Wisconsin.

Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation per Wis. Stat. § 440.21(4)(a).

IT IS FURTHER ORDERED, that if the Secretary determines that there is probable cause to believe that respondent has violated any terms of this final decision and order, the Secretary may order that the violations covered by this decision and order referred to any appropriate prosecutorial unit for review for possible criminal charges.

Issued at Madison, Wisconsin this 17 day of October, 2007.

Celia Jackson, Secretary  
Department of Regulation and Licensing

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

---

IN THE MATTER OF A PETITION FOR AN ADMINISTRATIVE INJUNCTION INVOLVING :  
: STIPULATION  
: :  
: :  
DERRICK DEWAYNE AUSTIN, : LS# \_\_\_\_\_  
RESPONDENT. :

---

Division of Enforcement Case # 06 UNL 005

Derrick Dewayne Austin, personally on his 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 an investigation by the State of Wisconsin Department of Regulation and Licensing (“the Department”). Respondent consents to the resolution of this investigation by agreement and without public hearing on, or the filing of, a petition for an administrative injunction.

2. Respondent understands that by signing this Stipulation, he waives the following rights with respect to formal proceedings: the right to a statement of the allegations against him; the right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel attendance of witnesses by subpoena; the right to testify personally; the right to file objections to any proposed decision and to present briefs and 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, Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent has been provided an opportunity to obtain the advice of legal counsel prior to signing this stipulation.

4. Respondent admits the allegations in the findings of fact and conclusions of law and agrees to the adoption of an administrative injunction by the Secretary of the Department of Regulation and Licensing, and to its entry without further notice, pleadings, appearance or consent of the parties. Personal service of the Administrative Injunction is waived, and Respondent will accept service by mail.

5. Respondent waives all rights to any appeal of the Secretary’s order, if adopted in the form as attached.

6. The parties agree that an attorney for the Division of Enforcement may appear before the Secretary without the presence of Respondent or his attorney for the purposes of speaking in support of this agreement and answering questions that the Secretary and her staff may have in connection with their deliberations on this case.

7. The Division of Enforcement joins the respondent in recommending that the Secretary adopt this Stipulation and issue the attached Administrative Injunction.

8. If the terms of this Stipulation are not acceptable to the Secretary, the parties shall not be bound by the content of this Stipulation or the proposed Administrative Injunction, 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 Secretary, the parties agree not to contend that the Secretary has been prejudiced or biased in any manner by the consideration of this attempted resolution.

9. Respondent is informed that should the Secretary adopt this stipulation, the administrative injunction is a public document and may be subject to publication, according to standard Department procedures.

---

Derrick Austin  
2555 N. Dr. Martin Luther King Jr. Drive  
Milwaukee, WI 53212

---

Date

---

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

---

Date