

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

KENNETH A. BRESSERS, R.PH., :  
RESPONDENT. :

FINAL DECISION AND ORDER  
LS0809103PHM

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Division of Enforcement Case # 04PHM057

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

Kenneth A. Bressers, R.Ph.  
205 East Main St.  
Omro, WI 54963

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 Wisconsin 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. Kenneth A. Bressers, Respondent herein, date of birth 8/3/52, is duly licensed as a pharmacist in the state of Wisconsin, license # 8878-40. This license was first granted on 12/4/75.

2. Respondent's most recent address on file with the Wisconsin Pharmacy Examining Board is 205 East Main Street, Omro, Wisconsin 54963.

3. At all times relevant to this action, Respondent was the owner of the Omro Pharmacy in Omro, Wisconsin and was working as the managing pharmacist at this pharmacy.

4. On 8/25/03, an original prescription for levothyroxine sodium (Levoxyl) 75 mcg tabs #100 with authorization for 3 refills was written by a physician for the patient, S.H. The original prescription was presented to the Morton Pharmacy in Winneconne, Wisconsin for filling and was retained in the records of the Morton Pharmacy as prescription # 46099922 thereafter. The prescription was filled initially at the Morton Pharmacy with 30 tabs dispensed on 8/25/03 and refilled with 30 tabs each on 10/4/03, 10/28/03, 12/1/03, 12/29/03, 1/19/04, 2/25/04, 5/12/04, 6/15/04 and 7/19/04.

5. On 4/14/04 and 5/14/04, the Respondent at the Omro Pharmacy dispensed 30 tablets each of Levoxyl 75 mcg to the patient, S.H., under prescription numbers 222937 and 225142. These Levoxyl dispensed were documented by the Respondent on the patient's profile at the Omro Pharmacy. The dispensing of the Levoxyl on 4/14/04 and 5/14/04 was accomplished through reliance on the label information contained on the prescription container supplied by Morton Pharmacy to the patient and not on the original prescription information. Respondent did not comply with the requirements of Wis. Admin. Code § Phar 7.05(3) for transfer of prescription order information from the Morton Pharmacy to the Omro Pharmacy prior to dispensing the Levoxyl on 4/14/04 and 5/14/04.

6. On 2/3/04, an original prescription for Singulair 10 mg tabs #31 with authorization for 5 refills was written by a physician for the patient, S.H. The original prescription was presented to the Morton Pharmacy in Winneconne, Wisconsin for filling and was retained in the records of the Morton Pharmacy as prescription # 46105859 thereafter. The prescription was filled initially at the Morton Pharmacy with 31 tabs dispensed on 2/3/04 and refilled with 31 tabs each on 3/4/04, 5/12/04, 6/15/04, 7/19/04 and 8/30/04.

7. On 4/9/04, the Respondent at the Omro Pharmacy dispensed 31 tablets of Singulair 10 mg tabs to the patient, S.H., under prescription number 222569. The Singulair dispensed was documented by the Respondent on the patient's profile at the Omro Pharmacy. The dispensing of the Singulair on 4/9/04 was accomplished through reliance on the label information contained on the prescription container supplied by Morton Pharmacy to the patient and not on the original prescription information. Respondent did not comply with the requirements of Wis. Admin. Code § Phar 7.05(3) for transfer of prescription order information from the Morton Pharmacy to the Omro Pharmacy prior to dispensing the Singulair on 4/9/04.

## 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 4 through 7, above, constitutes violations of Wis. Stat. §450.10(1)(a)(2) and Wis. Admin. Code § Phar 7.05(3), thereby subjecting Kenneth A. Bressers, R.Ph. to discipline pursuant to Wis. Stat. § 450.10(1)(b)(1).

3. The Wisconsin Pharmacy Examining Board has the authority pursuant to Wis. Stat. § 440.22 to assess the costs of this proceeding against Kenneth A. Bressers, R.Ph.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Kenneth A. Bressers, R.Ph., license # 8878-40, is hereby REPRIMANDED.

IT IS FURTHER ORDERED that:

2. Kenneth A. Bressers, R.Ph. will, within 30 days from the date of this Order, pay costs of this proceeding in the amount of \$2,276.82. Payment will 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

3. 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 pay costs as ordered the Respondent's license # 8878-40 SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Wisconsin Pharmacy Examining Board

By: Gregory C. Weber  
A Member of the Board

9/10/08  
Date

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 :  
 : STIPULATION  
KENNETH A. BRESSERS, R.PH. : LS# \_\_\_\_\_  
RESPONDENT. :

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Division of Enforcement Case # 04PHM057

It is hereby stipulated between Kenneth A. Bressers, R.Ph.; and Gilbert C. Lubcke, for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Kenneth A. Bressers' licensure by the Division of Enforcement, case # 04PHM057. Kenneth A. Bressers consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Kenneth A. Bressers 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. Kenneth A. Bressers has been provided an opportunity to obtain advice of legal counsel prior to signing this Stipulation.

4. Kenneth A. Bressers agrees to the adoption of the attached Final Decision and Order by the Wisconsin 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. Kenneth A. Bressers 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 Wisconsin Pharmacy Examining Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Kenneth A. Bressers or his 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. Kenneth A. Bressers understands that the attorney or other agent for the Division of Enforcement or the case advisor, in responding to questions asked by the Board, may be required to provide information to the Board which may be construed by the Board as not weighing in favor of accepting this proposed Stipulation and Final Decision and Order. Kenneth A. Bressers will not contend that any responses made by the attorney or other agent for the Division of Enforcement or by the case advisor in response to questions posed by the Board constitute a failure by the attorney or other agent for the Division of Enforcement or by the case advisor to speak in support of this agreement. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Kenneth A. Bressers 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 Kenneth A. Bressers in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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Kenneth A. Bressers, R.Ph.  
205 East Main St.  
Omro, WI 54963

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Date

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Gilbert C. Lubcke, Attorney  
Division of Enforcement  
Wisconsin Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

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Date