

# 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 :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 :  
 : FINAL DECISION AND ORDER  
MARCIE M. FOX, R.Ph., :  
 : LS0809104PHM  
RESPONDENT. :

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Division of Enforcement Case # 07 PHM 072

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

Marcie M. Fox, R.Ph.  
4678 Partridge Court  
Colgate, WI 53017

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-89 35

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. Marcie M. Fox, R.Ph., (DOB 7/29/1976) is duly licensed as a pharmacist in the State of Wisconsin (license # 40 14146). This license was first granted on July 1, 2004.
2. Respondent's most recent address on file with the Wisconsin Pharmacy Examining Board is 4678 Partridge Court, Colgate, Wisconsin, 53017.
3. At all relevant times, Respondent was the managing pharmacist at Walgreen's Pharmacy # 10496 at 192 N. Main Street, Fond du Lac, Wisconsin.
4. On or about November 5, 2007, a Division of Enforcement investigator conducted an unannounced inspection of Walgreen's Pharmacy # 10496 at 192 N. Main Street, Fond du Lac, Wisconsin, 54935. She observed that Respondent was the only pharmacist on duty, with five technicians. The rules of the Pharmacy Examining Board provide that a pharmacist

may supervise no more than four pharmacy technicians.

5. The investigator observed that Respondent was not conducting consultations on refills, as required by the rules of the Pharmacy Examining Board.

### 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 paragraph 4 above constitutes a violation of Wisconsin Administrative Code §§ Phar 7.01(3) and Phar 10.03(2), and subjects Respondent to discipline pursuant to Wis. Stat. §450.10(1)(a)2.

2. The conduct described in paragraph 5 above constitutes a violation of Wisconsin Administrative Code §§ Phar 7.01(1)(e), Phar 7.01(1)(em), and Phar 10.03(2), and subjects Respondent to discipline pursuant to Wis. Stat. §450.10(1)(a)2.

### ORDER

IT IS ORDERED:

1. Marcie M. Fox, R.Ph. is REPRIMANDED.
2. Within ninety (90) days of the date of this Order, Respondent shall pay a forfeiture of One Thousand Dollars (\$1,000.00).
3. Within ninety (90) days from the date of this Order, Respondent shall pay costs of this proceeding in the amount of Eight Hundred Dollars (\$800.00).
4. Payments of forfeitures 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

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, the Respondent's license (# 40-14146) 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.

Dated this 10<sup>th</sup> day of September, 2008.

PHARMACY EXAMINING BOARD

By: Gregory C. Weber



STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 : STIPULATION  
MARCIE M. FOX, R.Ph., : LS# \_\_\_\_\_  
RESPONDENT. :

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Division of Enforcement Case # 07 PHM 072

Respondent Marcie M. Fox, R.Ph., 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 # 07 PHM 072). 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.

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Marcie M. Fox, R.Ph.  
4678 Partridge Court  
Colgate, WI 53017

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Date

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

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Date