

# 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  
LS# 081029PHM

RUSSELL O. STONE, R.Ph.,  
RESPONDENT

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Division Of Enforcement Case # 08 PHM 041

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

Russell O. Stone, R.Ph.  
13380 Kenmar Court  
Brookfield, WI 53005

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 and 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:

#### FINDING OF FACT

1. Russell O. Stone, R.Ph., (DOB) 05/07/1930) is duly licensed as a pharmacist in the state of Wisconsin (license # 40-6848). This license was first granted on April 10, 1959.
2. Respondent's most recent address on file with the Wisconsin Pharmacy Examining Board is 13380 Kenmar Court, Brookfield, Wisconsin, 53005.
3. At all times relevant to this action, Respondent was the owner and managing pharmacist of Stone Pharmacy in New Berlin, Wisconsin.
4. Respondent is presently charged in Waukesha County Circuit Court with 3 counts of dispensing prescribed drugs without a valid prescription contrary to 450.11 (1) Wis. Stats.
5. Respondent wishes to retire from his career as a licensed pharmacist and does not wish to seek relicensure in the future.

#### 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, if proven, constitutes a violation of Wisconsin Administrative code § Phar 10.03(1) and Wis. Stat § 450.10(1)(a)2 and is subject to discipline pursuant to Wis. Stat. § 450.10.(1)(b)1.

#### ORDER

IT IS ORDERED:

1. The stipulation of the parties is approved.
2. The Pharmacy Examining Board accepts the surrender of Russell O. Stone's license to practice as a pharmacist in the state of Wisconsin (license # 40-6848).

3. In the event that Respondent Stone applies for Wisconsin licensure as a pharmacist in the future, or applies to operate a Wisconsin pharmacy in the future, the Board will enter an order denying any such application without further notice of hearing.

4. Respondent Russell O. Stone must sell or close Stone Pharmacy, with a closing date of no later than January 1, 2009. Prior to the sale of the pharmacy, Respondent Russell O. Stone may continue to own Stone Pharmacy, but must hire other pharmacists to manage and run the pharmacy and may not be present in the professional area of the pharmacy for any reason. In the event that Stone Pharmacy is not sold by January 1, 2009, the license of Stone Pharmacy will be immediately indefinitely suspended, without further notice of hearing.

5. In the event that Respondent Russell O. Stone applies to own or operate a pharmacy in Wisconsin at any time in the future, the Board will enter an order denying such application without further notice or hearing.

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 Stone Pharmacy'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.

7. Respondent shall pay costs of Four Hundred Dollars (\$400.00) to the Department of Regulation and Licensing, within ninety (90) days of this order.

8. All further notice, payments or correspondence shall be forwarded 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

9. This Order shall become effective upon the date of its signing.

Dated at Madison, Wisconsin this <sup>29<sup>th</sup></sup> ~~14<sup>th</sup>~~ day of October, 2008.

Pharmacy Examining Board

By:

  
A Member of the Board

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS AGAINST

Stipulation  
LS# 0810297PHM

RUSSELL O. STONE, R.Ph.,  
RESPONDENT

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Division Of Enforcement Case # 08 PHM 041

Respondent Russell O. Stone, R.Ph., personally and by his attorney Patrick Knight; 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 # 08 PHM 041). Respondent consents to the resolution of this investigation by stipulation.
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 obtained the advice of legal counsel prior to signing this stipulation.
4. Respondent agrees to voluntarily surrender his license to practice as a pharmacist in the state of Wisconsin. Respondent agrees that he will not apply for Wisconsin licensure as a pharmacist at any time in the future. In the event that

Respondent does in fact apply for Wisconsin licensure as a pharmacist, the Board may deny that application based upon this stipulation, without further notice or hearing, and Respondent hereby expressly waives all rights to a hearing on any such denial

5. Respondent further agrees that he will voluntarily sell Stone Pharmacy as soon as practical, but with a closing date no later than January 1, 2009. As of the date of this Order and prior to the sale of Stone Pharmacy, Respondent agrees that he will hire a managing pharmacist to manage Stone Pharmacy, and Respondent will not be present in the practice area of the pharmacy for any reason.

6. 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 any 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.

7. 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.

8. 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 sessions without the presence of the Respondent or his attorney, for the purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept his Stipulation and issue the attached Final Decision and Order.


9. 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.

10. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



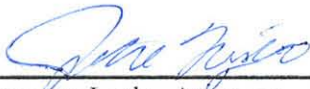
Russell O. Stone, R.Ph.  
13380 Kenmar Court  
Brookfield, WI 53005

10-17-08  
Date



Patrick J. Knight  
Gimbel, Reilly, Guerin & Brown  
Attorneys for Russell O. Stone, R.Ph.  
330 East Kilbourn Avenue, #1170  
Milwaukee, WI 53202-3146

10-17-08  
Date



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

10/20/08  
Date