

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
RICHARD J. ZIEMANN, R.Ph., : LS09062410PHM
RESPONDENT. :

[Division of Enforcement Case # 06 PHM 075]

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

Richard J. Ziemann, R.Ph.
543 S. State Street
Fall Creek, WI 54742

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 Pharmacy Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Richard J. Ziemann, R.Ph., Respondent, date of birth August 25, 1943, is licensed by the Wisconsin Pharmacy Examining Board as a pharmacist in the state of Wisconsin pursuant to license number 7624, which was first granted April 10, 1967.

2. Respondent's address of record with the Department of Regulation and Licensing (DRL) is 543 S. State Street, Fall Creek, WI 54742.

3. At all times relevant to this action, Respondent was working as a fill-in pharmacist at Econofoods Pharmacy #344, 2351 Coulee Road, Hudson, WI 54016.

4. On February 24, 2006, a family member went to Econofoods Pharmacy #344 to retrieve prescriptions for MP1. MP1's prescriptions were to have been for Ibuprofen (800mg) and Cyclobenzaprine (10 mg). MP1 took the prescriptions for several days and became ill. When he examined the medicine bottles, he discovered that the pharmacy had given him someone else's prescriptions, which were for Synthroid (.1 mg) and Lisinopril (10 mg).

5. On February 25, 2006, another consumer, MP2, whose last name was similar to MP1's, called the pharmacy to report that she had called in a refill prescription but was told it had been dispensed. After checking with her husband, MP2 became aware that no one had picked up the prescription on her behalf. In response, the pharmacists then on duty began an

investigation to determine what had happened to MP2's prescription. Review of a surveillance tape revealed that on February 24, 2006, a male technician had dispensed the medication to a female customer.

6. On March 1, 2007, the consumer protection investigator learned that Respondent was the pharmacist on duty when MP2's prescription was erroneously given to MP1.

7. On April 28, 2007, Respondent confirmed that he worked on the relevant date, but said he was unaware of the error until the Division contacted him. Respondent maintains that he offers and attempts to provide consultations to new prescriptions and refills, and that "obviously greater effort would be made on new prescriptions."

8. Respondent permitted a technician to dispense medication to MP1's relative without consultation with a pharmacist. This behavior constituted violations of Wis. Admin. Code § PHAR 7.01(e) and 7.015(4), and constituted a danger to the safety of the patients.

9. Had Respondent properly consulted with MP1's relative, the dispensing error described above could have been avoided.

CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 450.10 and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. The conduct described above constitutes a violation of Wis. Admin. Code § Phar 7.01(e) and 7.015(4), and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Richard J. Ziemann, R.Ph., is REPRIMANDED for the conduct set out above.

2. Respondent shall, within 60 days of the date of this Order, pay to the Department of Regulation and Licensing costs in the amount of SIX HUNDRED DOLLARS (\$600.00), pursuant to Wis. Stat. § 450.09(8). Payment shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

3. In the event Respondent fails to timely submit any payment of the costs as set forth above, Respondent's license 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

6/24/09
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : STIPULATION
RICHARD J. ZIEMANN, R.Ph., : LS _____ PHM
RESPONDENT. :

[Division of Enforcement Case # 06 PHM 075]

It is hereby stipulated and agreed, by and between Richard J. Ziemann, R.Ph., Respondent, and Sandra L. Nowack attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of pending investigations of Respondent’s licensure by the Division of Enforcement (file 06 PHM 075). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
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 been provided an opportunity to obtain advice of legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the 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 the 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 Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent’s attorney, if any, 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 case 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 that the Board adopt this Stipulation and issue the attached Final Decision and Order.

Respondent
543 S. State Street
Fall Creek, WI 54742

Sandra L. Nowack
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date

