

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 :
 :
MICHAEL H. CAIN, R.PH., : FINAL DECISION AND ORDER
RESPONDENT. : ORDER 0000332

[Division of Enforcement Case # 07 PHM 076]

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

Michael H. Cain, R.Ph.
17558 142nd Avenue
Jim Falls, WI 54748

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 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. Michael H. Cain, R.Ph., (D.O.B.: June 3, 1953) is duly licensed as a pharmacist in the state of Wisconsin (license # 9195-40). This license was first granted on June 29, 1977.

2. Respondent's most recent address on file with the Wisconsin Pharmacy Examining Board is 17558 142nd Avenue, Jim Falls, Wisconsin 54748.

3. At all times relevant to this action, Respondent was working as a pharmacist at the K-Mart Pharmacy in Chippewa Falls, Wisconsin.

4. On April 2, 2007, Respondent made a dispensing error while filling a refill prescription of Tegretol. A pharmacy technician accidentally put Toprol-XL 100, a high blood pressure medication, into the bottle that had been labeled for Tegretol 100 mg, an anti-convulsant. Respondent checked the prescription, but failed to discover the error. Patient J.G., a 16 year-old child, was taking Tegretol to prevent seizures.

5. After taking the Toprol for two days, Patient J.G. fell unconscious at school and was taken to the emergency room where the medication error was discovered. Patient J.G. fully recovered from the incident.

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 and 5, above, constitutes a violation of Wis. Stat. § 450.10(1)(b)(1) and Wis. Admin. Code § PHAR 10.03(2) and subjects Respondent to discipline pursuant to Wis. Stat. §§ 450.10(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Michael H. Cain, R.Ph. is hereby REPRIMANDED.
2. Respondent shall, within sixty (60) days from the date of this Order, pay COSTS of this proceeding in the amount of SIX HUNDRED (\$ 600.00) DOLLARS. Payment 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

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 submit payment of the costs as ordered, the Respondent's license (# 9195-40) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

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

Wisconsin Pharmacy Examining Board

By: James Jura
A Member of the Board

7/28/10
Date