

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
DARREL L. BROWN, R.PH.	:	<u>ORDER 0000500</u>
RESPONDENT.	:	

[Division of Enforcement Case # 08 PHM 002]

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

Darrel L. Brown, R.Ph.
6124 Overlook Drive
McFarland, WI 53558

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. Darrel L. Brown, R.Ph. ("Respondent") was born on August 11, 1948, and is licensed to practice as a pharmacist in the state of Wisconsin pursuant to license number 8331-40. This license was first granted on June 22, 1972.

2. Respondent's most recent address on file with the Wisconsin Department of Regulation and Licensing is 6124 Overlook Drive, McFarland, WI 53558

3. At all times relevant to this proceeding, Respondent was working as a pharmacist at the Bergmann Pharmacy in Madison, Wisconsin.

4. On November 27, 2007, a patient had Walgreens transfer a prescription order to Bergmann Pharmacy. Respondent received a faxed copy of an electronic prescription order for hydrocodone-acetamophen 10/325mg. This faxed prescription order had an electronic signature; however, it did not have the required written practitioner's signature. Respondent dispensed a prescription pursuant to this invalid prescription order on December 20, 2007, refilled it on January 11, 2008, and refilled it again on February 1, 2008.

5. A faxed copy of an electronic prescription order is the same as a faxed written **prescription order** under Wis. Admin Code Phar § 7.08(2). A faxed written prescription order requires a written practitioner's signature in order to be a valid prescription order under Wis. Admin Code Phar § 8.12. A pharmacist can only dispense a prescription pursuant to a valid prescription order under Wis. Stats. § 450.11(1).

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. Respondent's conduct of accepting and dispensing a prescription based upon an invalid prescription order as described in paragraph(s) 4, and 5, above, constitutes a violation of Wis. Admin. Code § Phar 10.03(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Darrel L. Brown, R.Ph. is hereby REPRIMANDED.

2. Respondent shall, within ninety (90) days from the date of this Order, pay a FORFEITURE in the amount of TWO HUNDRED-FIFTY DOLLARS (\$250.00), pursuant to Wis. Stat. § 450.10(2).

3. Respondent shall, within ninety (90) days from the date of this Order, pay COSTS of this proceeding in the amount of EIGHT HUNDRED DOLLARS (\$800.00).

4. All requests, notice, payments required by this Order shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed, faxed, or delivered 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. 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 or payment of the **forfeiture as ordered**, the Respondent's license (# 8331-40) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the payment of the costs or forfeiture.

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

Wisconsin Pharmacy Examining Board

By:


A Member of the Board

10/27/10
Date