

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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2. Respondent's most recent address on file with the Wisconsin Department of Regulation and Licensing is N23040 County Road F, Weyauwega, WI 54983.

3. At all times relevant to this proceeding, Respondent was working as a pharmacist at Kmart Pharmacy #3750, 830 West Fulton Street, Waupaca, Wisconsin.

4. On December 10, 2007, and during a particularly busy period for the pharmacy, patient CG went to the Kmart Pharmacy to pick up her prescription of Gabapentin 100mg tablets. A pharmacist had just filled a prescription order for patient BF, so Respondent asked patient CG if she was picking up BF's prescription. Patient CG answered yes. Patient BF's prescription of Concerta, 36 mg. tablets, was dispensed to Patient CG instead of Patient CG's prescription of Gabapentin 100 mg. tablets. Patient CG left the pharmacy thinking that she had picked up her refill prescription of Gabapentin 100mg tablets. Patient CG then went home and took two Concerta 36mg tablets thinking that she was taking her own medication.

5. Respondent later discovered the dispensing error and contacted patient CG to inform her of the mistake. Respondent went to Patient CG's home, delivered the correct medication to her, and recovered the Concerta intended for Patient BF.

#### 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(s) 4 - 5, above, constitutes a violation of 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. David R. Kempfert, R.Ph. is hereby REPRIMANDED.

2. Respondent shall, within sixty (60) days from the date of this Order, pay to the Department of Regulation and Licensing a FORFEITURE in the amount of TWO HUNDRED FIFTY DOLLARS (\$250.00), pursuant to Wis. Stat. § 450.09(8).

3. Respondent shall, within sixty (60) days from the date of this Order, pay COSTS of this proceeding in the amount of FOUR HUNDRED DOLLARS (\$400). 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

4. 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 pay costs as ordered the Respondent's license (# 9293-40) MAY BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Wisconsin Pharmacy Examining Board

By:

James Dur  
A Member of the Board

10/28/10  
Date