

# 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 THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	
SHELDON A. BERNSTEIN R.Ph.,	:	ORDER 0000589
RESPONDENT.	:	

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Division of Enforcement Case No. 07 PHM 066

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

Sheldon A. Bernstein, R.Ph.  
5256 N. Shoreland Avenue  
Whitefish Bay, WI 53217

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 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 this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Sheldon A. Bernstein, R.Ph., Respondent, date of birth October 14, 1948, is licensed by the Wisconsin Pharmacy Examining Board as a pharmacist in the state of Wisconsin pursuant to license number 8627-40, which was first granted June 14, 1974.

2. Respondent's address of record with the Department of Regulation and Licensing is 5256 N. Shoreland Avenue, Whitefish Bay, Wisconsin 53217.

3. On all dates relevant to the facts set out below, Respondent was employed as the managing pharmacist at Aurora Pharmacy (Pharmacy), No. 204, 3701 South 27<sup>th</sup> Street, Milwaukee, Wisconsin.

4. On September 14, 2007, Respondent acknowledged that he had accepted return of a narcotic in its original labeled prescription bottle, from a consumer. The consumer took some of the medication and did not like the way the medication made him feel. Respondent explained that he kept the narcotic in an unlocked drawer and subsequently used the returned medication to reconcile inventory shortages. Respondent states that the stock bottle at issue was in his drawer only because he was working with it that day. He says he normally keeps "stock bottles" on shelves among the inventory. He indicates that his objectives in doing so were to round out inventory shortages, and fill prescriptions that would otherwise be delayed until delivered by a supplier.

5. With a few exceptions that are inapplicable to the instant case, standards for the profession of pharmacy and Wis. Admin. Code § Phar 7.04(3) requires that any medication conveyed to a consumer and then returned may not be administered to another consumer. There is no way to assure safety of a medication that has been dispensed and returned.

6. Respondent's practice was further improper because: he failed to destroy unused narcotics with a witness, and the destruction documented; and resolving inventory discrepancies in this manner required falsification of records.

7. As a result of his misconduct, Respondent's employment was terminated.

8. Respondent states that he is contrite for his actions and solemnly assures the Board that he will not allow events of this nature to occur again.

#### 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. Respondent's conduct, as set out above, constitutes a violation of Wis. Admin. Code § Phar 10.03(1), and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1)(b).

3. Respondent's conduct, as set out above, constitutes a violation of Wis. Admin. Code § Phar 10.03(2), and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1)(b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

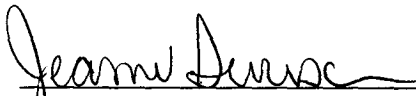
1. Respondent, Sheldon A. Bernstein, R.Ph., is REPRIMANDED for the conduct set out above.
2. Respondent shall, within 180 days from the date of this Order, provide proof that he has taken and successfully completed the Multi-state Pharmacy Jurisprudence Examination.
3. Respondent shall, within 30 days from the date of this Order, pay to the Department of Regulation and Licensing a forfeiture in the amount of \$500.00, pursuant to Wis. Stat. § 450.09(8).
4. Respondent shall, within 30 days from the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$700.00, pursuant to Wis. Stat. § 440.22(2).
5. All payments and documentation required by this Order 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

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'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 (No. 8627-40) 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 or forfeiture.

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

Wisconsin Pharmacy Examining Board

By:  12/15/10  
A Member of the Board Date