

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

ERIK N. OVERBY R.PH.,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0001009

[Division of Enforcement Case #10 PHM 067]

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

Erik N. Overby, R. Ph.
416 2nd Avenue East
Washburn, WI 54891

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. Erik N. Overby, R.Ph., ("Respondent"), date of birth November 13, 1967 is licensed and currently registered by the Wisconsin Pharmacy Examining Board to practice as a registered pharmacist in the state of Wisconsin, pursuant to license number 12084-40. This license was first granted on April 6, 1994.

2. Respondent's most recent address on file with the Wisconsin Pharmacy Examining Board is 416 2nd Avenue East, Washburn, WI 54891.

3. At all times relevant to this case, Respondent worked as a pharmacist at the Walgreens Pharmacy in Ashland, Wisconsin.

4. On September 15, 2010, Respondent confessed to his store manager that on two different occasions he falsified prescriptions for his son without receiving authorization from a doctor. Respondent created the prescriptions on January 22, 2010 for Albuterol for nebulization, and on June 25, 2010 for Azithromycin suspension, without a valid prescription or being seen by a doctor. Both prescriptions were submitted through CRW insurance.

5. On September 17, 2010, respondent obtained valid prescriptions for both medications for his son, from the prescriber, to be used to treat future illnesses if needed.

6. On October 4, 2010, Respondent was terminated for violation of "Walgreens Pharmacy Code of Conduct." Respondent is currently working as a pharmacist at White Cross Pharmacy in Hurley, Wisconsin. His current employer is aware he was terminated from Walgreens.

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 the stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct described in paragraphs 4 above, was unprofessional conduct in violation of Wis. Admin. Code § Phar. 10.03(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Erik N. Overby, R. Ph. (License No.12084-40), is **REPRIMANDED** for the conduct set out above.

2. Respondent shall, within ninety (90) days from the date of this Order, pay to the Department of Regulation and Licensing a forfeiture in the amount of **ONE THOUSAND FIVE HUNDRED DOLLARS** (\$1,500.00), pursuant to Wis. Stat. § 450.09(8).

3. Respondent shall, within ninety (90) days from the date of this Order, provide the Board with proof of examination with a passing score on the Multi-State Pharmacy Jurisprudence Examination (MPJE).

4. Respondent shall, within ninety (90) days from the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of **SIX HUNDRED FIFTY DOLLARS** (\$650.00), pursuant to Wis. Stat. § 440.22(2).

5. Proof concerning the MPJE and all payments required by this Order shall be mailed or delivered to:

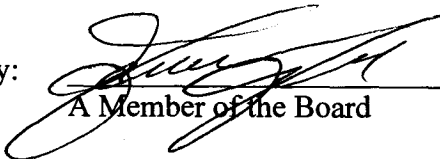
Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

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 any payment of the forfeiture as set forth above, or fails to pay costs as ordered, Respondent's license to practice as a pharmacy in Wisconsin, license #12084-40, SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

Wisconsin Pharmacy Examining Board

By:


A Member of the Board

7/27/11
Date