

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID M. BOMAN, R.Ph.,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

0002391

Division of Legal Services and Compliance¹ Case No. 12 PHM 068

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

David M. Boman, R.Ph.
5343 Lathrop Avenue
Racine, WI 53403

Wisconsin Pharmacy Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Pharmacy Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent David M. Boman, R.Ph. (dob October 25, 1951) is licensed to practice pharmacy in the state of Wisconsin, having license number 40-9825, first issued on June 10, 1980, and current through May 31, 2014. David M. Boman, R.Ph.'s most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 5343 Lathrop Avenue, Racine, Wisconsin 53403.

2. At all times relevant to this incident, Respondent was working as a relief pharmacist at Wal-Mart Pharmacy in Sturtevant, Wisconsin (store #2668).

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

3. On September 21, 2012, Respondent was working as a relief pharmacist at Wal-Mart Pharmacy from noon until 9 p.m. Respondent has a history of developing aphthous ulcers (i.e. canker sores) in his mouth. During his shift, Respondent experienced severe pain in his mouth caused by an aphthous ulcer due to trauma from dental work done earlier that week.

4. On at least five separate occasions during his shift, Respondent took some viscous lidocaine from an already open bottle from the pharmacy store's stock, put some on his finger, and then swabbed his sore with the viscous lidocaine. Respondent did not have a physician's prescription order for the viscous lidocaine. Respondent did not remove or take anything from the pharmacy after his shift ended.

5. On October 12, 2012, a Wal-Mart Pharmacy District Manager and a Wal-Mart Asset Protection Associate met with Respondent regarding his use of the store's lidocaine during his shift on September 21, 2012. Respondent signed a statement in which he admitted that he had taken and used the viscous lidocaine to relieve the severe pain in his mouth during his shift on September 21, 2012. Respondent was terminated as a relief pharmacist at Wal-Mart Pharmacy.

6. The Village of Mount Pleasant cited Respondent for "County/Mun. Retail Theft – Alter Price," which is a violation of Wis. Stat. § 943.50(1m)(a).

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

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 pursuant to Wis. Stat. § 227.44(5).

2. David M. Boman, R.Ph. violated Wis. Stat. § Phar 10.03(1) by obtaining a drug other than through legitimate practice, and without having a physician's prescription order, as prohibited by law.

3. As a result of the above violation, David M. Boman, R.Ph. is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

1. The attached Stipulation is accepted.

2. Respondent David M. Boman, R.Ph. is REPRIMANDED.

3. Within 90 days from the date of this Order, David M. Boman, R.Ph. shall pay COSTS of this matter in the amount of \$350.00.

4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 costs as ordered, Respondent's license (no. 40-9825) 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.

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

WISCONSIN PHARMACY EXAMINING BOARD

by: 
A Member of the Board

4/15/13
Date