

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

STACY M. BROWNELL, R.Ph.,
RESPONDENT.

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FINAL DECISION AND ORDER

0003252

Division of Legal Services and Compliance Case No. 12 PHM 070

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

Stacy M. Brownell, R.Ph.
630 Deresch St.
Antigo, WI 54409

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 7190
Madison, WI 53707-7190

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 Stacy M. Brownell, R.Ph., (dob November 3, 1975) is licensed in the State of Wisconsin to practice pharmacy, having license number 14294-40, first issued on October 19, 2004, and current through May 31, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 630 Deresch Street, Antigo, Wisconsin 54409.
2. At all times relevant to this proceeding, Respondent was the managing pharmacist for the Langlade Hospital Pharmacy Department and was in charge of purchasing medications.

3. Between August 26, 2010 and January 9, 2012, Respondent ordered and obtained approximately 46 doses of Aclasta® from the United Kingdom based foreign drug distributor A+ Healthcare.

4. According to Respondent, A+ Healthcare had approached Respondent and represented itself to Respondent as a company authorized to distribute medications in the United States. A+ Healthcare also represented to Respondent that it could supply Reclast®.

5. Novartis Pharmaceuticals manufacturers both Aclasta® and Reclast®, which contain the same drug product and are both used to treat osteoporosis. The FDA has approved Reclast® for use in the United States. However, the FDA has not approved Aclasta® for use in the United States.

6. Respondent dispensed the 46 doses of Aclasta® provided by A+ Healthcare, as a substitution for Reclast®.

7. The FDA has not designated Aclasta® as the therapeutic equivalent of any FDA approved drug.

8. There is no evidence of patient harm as a result of the unauthorized substitutions.

9. In resolution of this matter, Respondent neither admits nor denies but 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. Pursuant to Wis. Stat. § 450.09(1)(a), the managing pharmacist shall be responsible for the professional operations of the pharmacy.

3. Pursuant to Wis. Stat. § 450.13(1) a pharmacist must fill a prescription with the prescribed drug or a drug that is the “drug product equivalent” of the prescribed drug.

4. Pursuant to Wis. Stat. § 450.13(1), “drug product equivalent” means a drug product that is designated the therapeutic equivalent of another drug product by the federal food and drug administration.

5. Aclasta® is not a drug product equivalent approved by the FDA.

6. By the conduct described in the Findings of Fact, Stacy M. Brownell, R.Ph., violated Wis. Stat. § 450.13(1) by dispensing prescriptions using a drug that was neither the drug product prescribed nor its drug product equivalent as designated by the FDA.

7. By the conduct described in the Findings of Fact, Stacy M. Brownell, R.Ph., violated Wis. Admin. Code § Phar 10.03(1) by administering, dispensing, supplying or obtaining a drug other than in legitimate practice, or as prohibited by law.

8. As a result of the above violations, Stacy M. Brownell, R.Ph., is subject to discipline pursuant to Wis. Stat. § 450.10(1)(a)2.

ORDER

1. The attached Stipulation is accepted.
2. Respondent Stacy M. Brownell, R.Ph., is REPRIMANDED.
3. The pharmacist license issued to Stacy M. Brownell, R.Ph., (license number 14294-40) is LIMITED as follows:
 - a. Within 90 days of the date of this Order, Respondent must take and pass the Multistate Pharmacy Jurisprudence Examination (MPJE).
 - b. Respondent shall be responsible for all costs associated with fulfilling the requirements of this limitation.
 - c. Within 30 days of receiving a passing score on the MPJE, Respondent shall submit to the Department Monitor proof that Respondent has taken and received a passing score on the MPJE.
 - d. This limitation shall be removed upon proof satisfactory to the Board or its designee that the terms of the limitation have been satisfied. This determination is not reviewable.
4. Within 90 days from the date of this Order, Stacy M. Brownell, R.Ph., shall pay COSTS of this matter in the amount of \$1,484.00.
5. Proof of successful completion of the examination and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent 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 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. Violation of any of the terms of this Order, including failure to take the MPJE as ordered above, 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 or fails to submit proof that Respondent has taken and received a passing score on the MPJE as set forth above, Respondent's license (no. 14294-40) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs and has taken and received a passing score on the MPJE.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

6/4/14
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

STACY M. BROWNELL, R.PH.,
RESPONDENT.

STIPULATION

0003252

Division of Legal Services and Compliance¹ Case No. 12 PHM 070

Respondent Stacy M. Brownell, R.Ph. and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Mark T. Budzinski.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or

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


consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

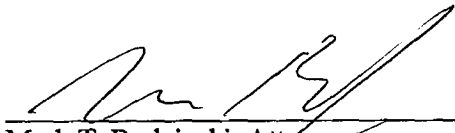
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

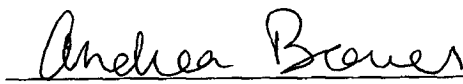
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Stacy M. Brownell, R.Ph., Respondent
630 Deresch St.
Antigo, WI 54409
License no. 14294-40

4-15-14
Date


Mark T. Budzinski, Attorney
Corneille Law Group, LLC
325 S. Jefferson St. Suite 3
Green Bay, WI 54301

4/16/14
Date


Andrea E. Brauer, Attorney
Division of Legal Services and Compliance
P.O. Box 8935
Madison, WI 53708-8935

4/18/14
Date