

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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The status of an appeal may be found on court access websites at:

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STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
: FINAL DECISION AND ORDER  
WESTBURY PHARMACY, :  
RESPONDENT. :

0004262

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Division of Legal Services and Compliance Case No. 15 PHM 064

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

Westbury Pharmacy  
8903 Three Chopt Road  
Richmond, VA 23229

Wisconsin Pharmacy Examining Board  
P.O. Box 8366  
Madison, WI 53708-8366

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. Westbury Pharmacy (Respondent) is licensed in the state of Wisconsin to practice as a pharmacy, having license number 848-43, first issued on November 29, 2012 and current through May 31, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 8903 Three Chopt Road, Richmond, Virginia 23229.

2. On April 17, 2015, the Virginia Board of Pharmacy suspended Westbury Pharmacy from operating a pharmacy in the Commonwealth of Virginia on the basis that Respondent was a substantial danger to public health or safety.

3. In unannounced inspections conducted in May 2014 and February 2015, and during a drug audit in May 2014, Virginia state inspectors observed significant deficiencies that raised concerns about Respondent's ability to assure the quality, sterility, integrity, safety and efficacy of drugs dispensed along with its ability to safeguard against the diversion of drugs.

4. These deficiencies included issues with drug storage and security which may have contributed to a loss of over 50,000 tablets of controlled substances; medications in the pharmacy's drug stock that were expired or mislabeled; medications that were unlabeled or without expiration dates; bottles containing medications from two different manufacturers; and bottles with pills in excess of the amount listed on the label.

5. 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(1), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

#### ORDER

1. The attached Stipulation is accepted.

2. The voluntary and permanent SURRENDER of the license to practice pharmacy in the state of Wisconsin issued to Westbury Pharmacy (license no. 848-43) is hereby accepted.

3. In the event Respondent petitions the Board for reinstatement as pharmacy in the future, the Board may enter an order denying such petition without further notice or hearing. Whether to grant a license and whether to impose any limitations or restrictions on any license shall be in the sole discretion of the Board.

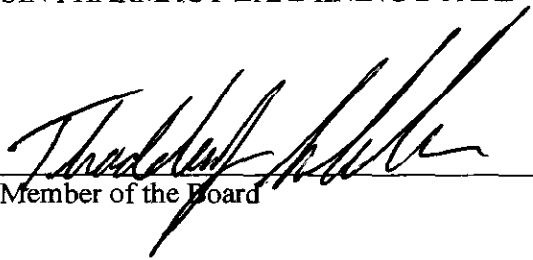
4. Respondent shall immediately return all indicia of Wisconsin licensure to the Department Monitor at the address below:

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](mailto:DSPSMonitoring@wisconsin.gov)

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

WISCONSIN PHARMACY EXAMINING BOARD

by:

  
A Member of the Board

9/23/15  
Date

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

WESTBURY PHARMACY  
RESPONDENT.

:  
:  
:  
:  
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STIPULATION

**0004262**

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Division of Legal Services and Compliance Case No. 15 PHM 064

Respondent Westbury Pharmacy 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.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

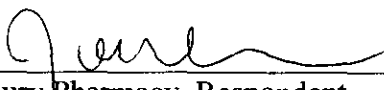
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

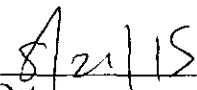
of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

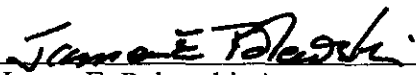
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.

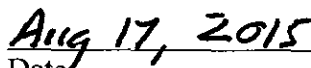
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.

  
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Westbury Pharmacy, Respondent  
8903 Three Chopt Road  
Richmond, VA 23229  
License No. 848-43

  
\_\_\_\_\_  
Date

  
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James E. Polewski, Attorney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

  
\_\_\_\_\_  
Date