

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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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  
DAVID A. OBERMEYER, R.PH., :  
RESPONDENT. :  
 :  
 : **0004461**

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Division of Legal Services and Compliance Case No. 14 PHM 055

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

David A. Obermeyer, R.Ph.  
28613 Martha Ct.  
Waterford, WI 53185

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. Respondent David A. Obermeyer, R.Ph., (dob September 15, 1967) is licensed in the state of Wisconsin to practice pharmacy, having license number 11730-40, first issued on January 14, 1992 and current through May 31, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 28613 Martha Court, Waterford, Wisconsin 53185.

2. At all times relevant to this proceeding, Respondent was employed as a managing pharmacist at Walgreens #2927, located in Racine, Wisconsin.

3. Between January 31, 2012 and March 4, 2013, Respondent dispensed 3,388 oxycodone 30-mg immediate tablets to Patient A for pain.

4. On one subsequent occasion, Respondent dispensed 900 30-mg tablets of oxycodone to Patient A.

5. Between March 9, 2012 and May 28, 2014, Respondent dispensed to Patient B 6,720 15 mg tablets of oxycodone, 9,846 30-mg tablets of oxycodone, and 300 oxycodone 20-mg/ml solution.

6. Respondent dispensed 420 15-mg tablets of oxycodone and 540 30-mg tablets of oxycodone 30 mg to Patient B on multiple occasions.

7. Respondent was aware that the same psychiatrist prescribed the pain medications for Patients A and B.

8. Respondent stated that any prescription of 180 or more 30-mg oxycodone would be a "red flag" for potential danger to the patient, and prescriptions of this size would prompt him to contact the prescriber.

9. Respondent contacted the psychiatrist who prescribed Patient A and B's medications. Respondent knew that Patient A was diagnosed with chronic pain syndrome and temporomandibular joint disorder (TMJ), and Patient B was diagnosed with a sleep disorder and restless leg syndrome.

10. Respondent had concerns about the volume of medication prescribed partly because the prescriber was a psychiatrist.

11. Respondent never declined to fill the prescriptions issued to Patient B by the psychiatrist.

12. Respondent knew that other pharmacists who worked with Respondent had declined to fill the psychiatrist's prescription orders.

13. Respondent described himself as "empathetic" towards patients and acknowledges that he has a different comfort level for filling prescriptions than other pharmacists.

14. Respondent created an unacceptable risk of harm to Patients A and B by continuing to dispense large amounts of controlled medication from a questionable source, for reasons other than legitimate medical purposes.

15. Respondent was aware that doing so contributed or may have contributed to the patients' dependency on pain medications.

16. Respondent denies intentional wrong-doing. 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).

2. By the conduct described in the Findings of Fact, David A. Obermeyer, R.Ph., violated Wis. Stat. § 450.10(1)(a)6., by engaging in conduct in the practice of pharmacy that evidences a lack of knowledge or ability to apply professional principles or skills.

3. By the conduct described in the Findings of Fact, David A. Obermeyer, R.Ph., engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(2), by engaging in any pharmacy practice which constitutes a danger to the health, welfare, or safety of patient or public, including but not limited to, practicing in a manner which substantially departs from the standard of care ordinarily exercised by a pharmacist which harmed or could have harmed a patient.

4. By the conduct described in the Findings of Fact, David A. Obermeyer, R.Ph., engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(3), by dispensing a drug which the pharmacist should have known would harm the patient for whom the medication was prescribed.

5. As a result of the above violations, David A. Obermeyer, R.Ph., is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

## ORDER

1. The attached Stipulation is accepted.

2. The license to practice pharmacy in the state of Wisconsin of Respondent David A. Obermeyer, R.Ph., (license number 11730-40) is **SUSPENDED** for a period of 14 days from the effective date of this Order.

3. The license to practice pharmacy issued to David A. Obermeyer, R.Ph., (license number 11730-40) is **LIMITED** as follows:

- a. Within six (6) months of the date of this Order, Respondent shall successfully complete four (4) hours of education on the subject of opiate prescribing, including risk of dependency or addition; four (4) hours of education on legal issues in the practice of pharmacy; and four (4) hours of education addressing the assessment and reduction of risk of harm to pharmacy patients. The course(s) must be pre-approved by the Board's designee. Successful course completion requires that Respondent take and pass any exam offered for the course(s). Courses taken without preapproval may **NOT** be used to satisfy the education requirements of this Order.

- b. Within thirty (30) days of completion of preapproved education, Respondent shall submit proof of successful completion in the form of verification from the institution or organization that provided the education.
  - c. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department.
  - d. The Department shall remove this limitation from Respondent's license when Respondent has satisfied the Board's designee that Respondent has successfully completed the preapproved education.
4. The license to practice pharmacy issued to David A. Obermeyer, R.Ph., (license number 11730-40) is further LIMITED as follows:
- a. Respondent shall not serve as a managing pharmacist for a period of one (1) year, commencing on October 1, 2015.
  - b. The Department shall remove this limitation effective September 30, 2016.
5. Within six months from the date of this Order, David A. Obermeyer, R.Ph., shall pay a FORFEITURE of \$1,000.00.
6. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,146.00.
7. Requests for preapproval of courses, proof of successful course completion, payment of forfeiture and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be 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 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

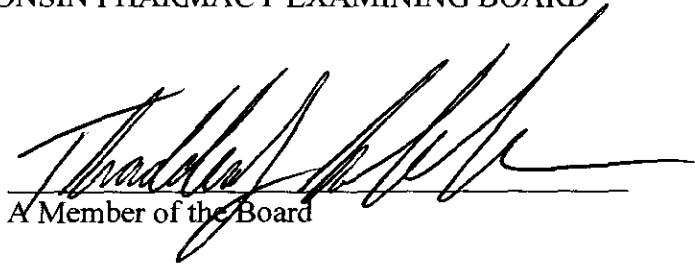
8. Violation of any of the terms of this Order, including engaging in the practice of pharmacy during the time of suspension, may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the 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 engages in the practice of pharmacy during the time of suspension, fails to timely submit payment of costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 11730-40) 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 submitted proof of successful completion of the ordered education.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:

  
A Member of the Board

1/12/14  
Date

**STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD**

**IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST**

**DAVID A. OBERMEYER, R.PH.,  
RESPONDENT.**

**STIPULATION**

**0004461**

**Division of Legal Services and Compliance Case No. 14 PHM 055**

**Respondent David A. Obermeyer, 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.**

**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.



David A. Obermeyer, R.Ph., Respondent  
28613 Martha Ct.  
Waterford, WI 53185  
License no. 11730-40

23 Nov 15  
Date



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11/23/15  
Date