

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 :
: FINAL DECISION AND ORDER
CHILDREN'S HOSPITAL OF WISCONSIN, :
RESPONDENT. : **0004941**

Division of Legal Services and Compliance Case No. 15 PHM 035

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

Children's Hospital of Wisconsin
999 North 92nd Street
Milwaukee, WI 53226

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 Children's Hospital of Wisconsin is licensed in the state of Wisconsin to practice pharmacy, having license number 9244-42, first granted on January 22, 2014 and current through May 31, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 999 North 92nd Street, Milwaukee, Wisconsin 53226.

2. In November of 2014, Employee A was employed by the Respondent as a lead pharmacist.

3. On November 12, 2014, Employee A was placed on a three day suspension for violating a work place policy.

4. On November 14, 2014, Employee A called in a prescription for his wife to be delivered.

5. When the prescription did not arrive two days later, Employee A's wife called the Respondent inquiring where her prescription was.

6. A technician, employed by the Respondent, indicated that the prescription was on her desk and that it had been filled but not sent out because she was told to "set it aside".

7. When Employee A's wife asked who was responsible for this occurring the technician indicated upper management.

8. Employee A's wife had the prescription transferred and filled at another pharmacy. Due to the delay by Respondent, Employee A's wife missed two days of medication.

9. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order. Respondent denies wrong-doing but agrees to enter into this stipulation due to the uncertainties and expense of litigation.

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, Children's Hospital of Wisconsin 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

3. As a result of the above violations, Children's Hospital of Wisconsin is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

1. The attached Stipulation is accepted.

2. Respondent Children's Hospital of Wisconsin is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Children's Hospital of Wisconsin shall pay a FORFEITURE in the amount of \$1,000.00 and COSTS of this matter in the amount of \$460.08.

4. Payment of forfeiture and 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:

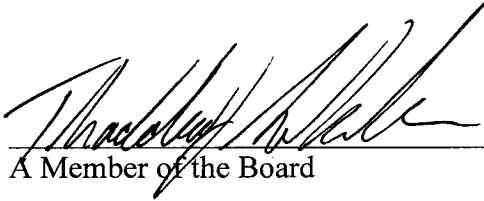
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 forfeiture and costs as ordered, Respondent's license (no. 9244-42) 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.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

9/22/16
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

| | | |
|-----------------------------------|---|----------------|
| IN THE MATTER OF DISCIPLINARY | : | |
| PROCEEDINGS AGAINST | : | |
| | : | STIPULATION |
| CHILDREN'S HOSPITAL OF WISCONSIN, | : | 0004941 |
| RESPONDENT. | : | |

Division of Legal Services and Compliance Case No. 15 PHM 035

Respondent Children's Hospital of Wisconsin 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 Michael Johnson.

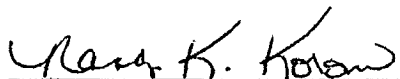
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining Board (Board). Respondent denies any and all wrong-doing and has chosen to resolve this matter by Stipulation to avoid the uncertain nature and expense of litigation. The parties to the Stipulation 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 or Respondent's attorney, 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.



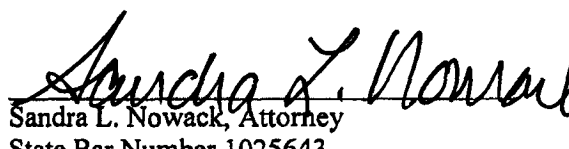
Authorized Representative
Children's Hospital of Wisconsin, Respondent
999 North 92nd Street
Milwaukee, WI 53226
Pharmacy License no. 9244-42

8-10-16
Date



Michael Johnson, Attorney for Respondent
Otjen, Gendelman, Zitzer, Johnson and Weir, S.C.
20935 Swenson Drive, Suite 310
Waukesha, WI 53186

8-10-16
Date



Sandra L. Nowack, Attorney
State Bar Number 1025643
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190
Tel. (608) 266-8098
sandra.nowack@wisconsin.gov

8/11/16
Date