

## 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  
HASHIM A. ZAIBAK, R.PH. :  
RESPONDENT. :

**0005189**

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Division of Legal Services and Compliance Case No. 16 PHM 104

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

Hashim A. Zaibak, R.Ph.  
1525 Revere Drive  
Brookfield, WI 53045

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 Hashim A. Zaibak, R.Ph., DOB July 15, 1974, is licensed in the state of Wisconsin to practice pharmacy, having license number 13046-40, first issued on July 13, 1999 and current through May 31, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1525 Revere Drive, Brookfield, Wisconsin 53045.

2. At all times relevant to this proceeding, Respondent was employed as a pharmacist and CEO of a pharmacy located in Milwaukee, Wisconsin (the pharmacy).

3. In February 2016, Patient A presented to the pharmacy with a prescription for Toujeo SoloStar®.

4. Patient A was insured by Medicare and his co-pay was \$250.00, which Patient A said he could not afford.

5. The managing pharmacist found an on-line coupon that would have reduced Patient A's co-pay to \$15.00. However, in reviewing the terms of the coupon, the managing pharmacist learned that Patient A did not qualify for the coupon because he had Medicare coverage.

6. The restriction on the on-line coupon stated:

This offer is not valid for prescriptions covered by or submitted for reimbursement under Medicaid, Medicare, VA, DOD, TRICARE, or similar federal or state programs including any state medical pharmaceutical assistance program. By redeeming this coupon, you are certifying that (1) you are not a beneficiary of any government funded programs as noted above; 2) should you begin receiving prescription benefits from any government funded program, you will withdraw from this savings program.

7. Because he could not use the coupon, Patient A did not fill his prescription.

8. Two days later, when the managing pharmacist returned to work, she learned that another pharmacist had applied the coupon to Patient A's prescription. The managing pharmacist left instructions that the coupon was inapplicable to prescriptions covered by Medicare benefits, whether or not Medicare was billed for the prescription.

9. On May 10, 2016, Respondent called the managing pharmacist and directed that the coupon was to be used for Patient A's prescription.

10. The managing pharmacist resigned and Respondent improperly applied the coupon to Patient A's prescription.

11. Respondent denies all wrong-doing. He explains that he did not submit a claim to Medicare when he applied the coupon. Respondent thought that use of the coupon was permissible as long as he did not bill Medicare.

12. 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, Hashim A. Zaibak, R.Ph., engaged in unprofessional conduct as defined by Wis. Stat. § 450.10(1)(a)5, by making a misrepresentation that is relied upon by another person.

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

ORDER

1. The attached Stipulation is accepted.

2. Respondent Hashim A. Zaibak, R.Ph., is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Hashim A. Zaibak, R.Ph., shall pay COSTS of this matter in the amount of \$330.00.

4. 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

5. In the event that Respondent violates any term of this Order, Respondent's license (no. 13046-40) to practice pharmacy in the state of Wisconsin may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:

  
A Member of the Board

2/23/17  
Date

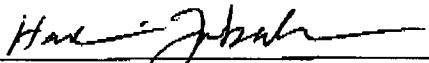


of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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.

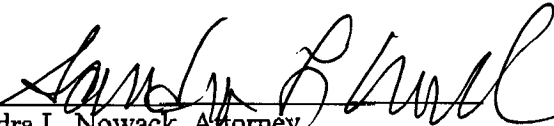
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



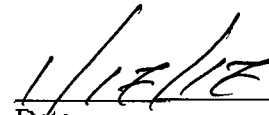
Hashim A. Zaibak, R.Ph., Respondent  
1525 Revere Drive  
Brookfield, WI 53045  
License no. 13046-40

1/16/2017

Date



Sandra L. Nowack, Attorney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190



Date