

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

ALVIN A. KRAUSE, R.PH.,
RESPONDENT.

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FINAL DECISION AND ORDER

0005579

Division of Legal Services and Compliance Case No. 16 PHM 129

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

Alvin A. Krause, R.Ph.
1600 South Hillcrest Drive
Appleton, WI 54914

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 Alvin A. Krause, R.Ph., (dob June 9, 1944) is licensed in the state of Wisconsin to practice pharmacy, having license number 8463-40, first issued on April 12, 1973, and current through May 31, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1600 South Hillcrest Drive, Appleton, Wisconsin 54914.

2. At all times relevant to this proceeding, Respondent was employed as a pharmacist at a pharmacy, located in Appleton, Wisconsin.

3. On June 28, 2016, Pharmacist A, who worked at the same pharmacy as Respondent, noticed a new non-controlled substance prescription received via a “telephoned in” prescription form for benzonatate 200 mg prescribed to Respondent by Dr. B. Clinician C called in the prescription.

4. Pharmacist A believed the handwriting on the prescription belonged to Respondent and recalled multiple “phoned in” prescriptions being filled for Respondent in the few months prior that also appeared to be in Respondent’s handwriting.

5. Pharmacist A contacted Dr. B’s office and was told that Clinician C no longer worked there and there was no record of Respondent being seen and no record that Dr. B authorized the prescription on June 28, 2017.

6. Pharmacist A confronted Respondent who stated that he and Dr. B had discussed the prescription at some point and he thought it was acceptable to write.

7. On July 6, 2016, Investigator D, an internal investigator for the pharmacy, identified three prescriptions for non-controlled substances that were submitted to the pharmacy by Respondent on “phoned in” prescription forms. The prescriptions were for levothyroxine, metformin, and Nitrostat®.

8. On July 7, 2016, Investigator D reviewed the closed-circuit television (CCTV) recordings from the pharmacy for the dates and times of the three “phoned in” prescriptions that were filled. Investigator D observed that Respondent was not on the telephone for several minutes before, during, or after submitting the prescriptions for levothyroxine, metformin, and Nitrostat®.

9. On July 15, 2016, Investigator D reviewed a letter from Dr. B’s office stating that the three prescriptions in question were not authorized by Dr. B.

10. Respondent admitted during the internal investigation that it was outside his authority to write the prescriptions, but he did write the prescriptions for himself without Dr. B’s authorization as a means of expediting refills and has never done this for any other medications or for anyone else.

11. On September 9, 2016, Respondent was charged in Calumet County Circuit Court case number 2016 CM 200 with four (4) counts of obtaining a prescription drug with fraud, a misdemeanor, in violation of Wis. Stat. § 450.11(7)(a).

12. On February 20, 2017, Respondent pled no contest to one (1) count obtaining a prescription drug with fraud and the other three (3) counts obtaining a prescription drug with fraud were dismissed but read-in for the purposes of sentencing. Respondent entered into a deferred prosecution agreement.

13. On August 28, 2017, Respondent successfully completed the deferred prosecution agreement and the one (1) count of obtaining a prescription drug with fraud was dismissed.

14. 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, Alvin A. Krause, R.Ph., engaged in unprofessional conduct as defined by 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.

3. By the conduct described in the Findings of Fact, Alvin A. Krause, R.Ph., engaged in unprofessional conduct as defined by Wis. Stat. § 450.10(1)(a)2 by violating any federal or state statute or rule which substantially relates to the practice of pharmacy.

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

ORDER

1. The attached Stipulation is accepted.

2. Respondent Alvin A. Krause, R.Ph., is REPRIMANDED.

3. Within six (6) months of the date of this Order, Respondent Alvin A. Krause, R.Ph., shall at his own expense take and successfully complete six (6) hours of education on the topic of legal issues and/or ethics as follows:

- a. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Respondent shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the courses from the Board or its designee. Respondent must take and pass any exam offered for the course(s).
- b. No more than three (3) hours of the above education can be completed through online courses.
- c. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
- d. 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.

4. Within six (6) months of the date of this Order, Respondent Alvin A. Krause, R.Ph., at his own expense retake and successfully pass the Multistate Pharmacy Jurisprudence Examination (MPJE). Respondent shall submit his results showing that he has passed the MPJE exam to the Department Monitor at the address below.

5. Within ninety (90) days from the date of this Order, Alvin A. Krause, R.Ph., shall pay COSTS of this matter in the amount of \$694.06.

6. Request for approval of courses, proof of successful course completion, 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:

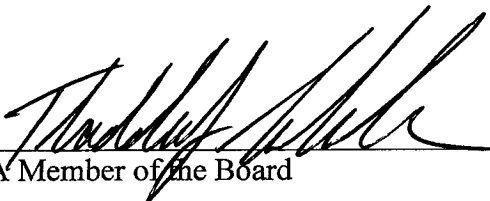
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

7. In the event that Respondent violates any term of this Order, Respondent's license (no. 8463-40) 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.

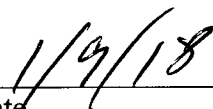
8. This Order is effective on the date of its signing.

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

Date



STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ALVIN A. KRAUSE, R.Ph.,
RESPONDENT.

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:
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STIPULATION

0005579

Division of Legal Services and Compliance Case No. 16 PHM 129

Respondent Alvin A. Krause, 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.

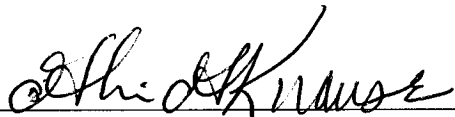
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

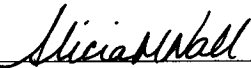
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Alvin A. Krause, R.Ph., Respondent
1600 S. Hillcrest Drive
Appleton, WI 54914
License no. 8463-40

13th October '17
Date



Alicia M. Nall, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

10/17/2017
Date