

## 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

BENTLEY PHARMACIES, INC.,  
RESPONDENT.

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FINAL DECISION AND ORDER

**000569 1**

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Division of Legal Services and Compliance Case No. 17 PHM 015

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

Bentley Pharmacies, Inc.  
25 West Montello Street  
P.O. Box 159  
Montello, WI 53949

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 Bentley Pharmacies, Inc., is licensed in the state of Wisconsin as a pharmacy, having license number 4820-20, first issued on May 3, 1967, and current through May 31, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 25 West Montello Street, P.O. Box 159, Montello, Wisconsin 53949.

2. At all times relevant to this proceeding, Respondent was a pharmacy located in Montello, Wisconsin.

3. For approximately two (2) years an employee of Respondent, Managing Pharmacist A, diverted large quantities of oxycodone, OxyContin®, hydromorphone, morphine, hydrocodone, and diazepam, which are all controlled substances for which prescriptions are required.

4. Managing Pharmacist A provided the controlled substances to a single individual in exchange for sex and cash. At times he handed the controlled substances to the individual, at other times he placed the controlled substances for the individual to retrieve from a stairwell behind the pharmacy or in a vehicle. At times the controlled substances were in the bottles the pharmacy received from the manufacturer.

5. On September 29, 2016, Drug Enforcement Administration (DEA) diversion investigators conducted an inspection/inventory of the pharmacy.

6. During the investigation, it was discovered that the following controlled substances were missing:

- a. 9,019 tablets of morphine 15 mg;
- b. 1,841 tablets of oxycodone 10 mg;
- c. 3,324 tablets of oxycodone 15 mg;
- d. 200 tablets of oxycodone 20 mg; and
- e. 1,078 tablets of oxycodone 30 mg.

7. A review of the controlled substance logs and corresponding prescriptions revealed that, on the oxycodone immediate release (IR) 5 mg inventory log, Managing Pharmacist A documented as follows:

- a. On September 18, 2016, Managing Pharmacist A documented that he dispensed 180 tablets pursuant to prescription number 522473. This prescription was for 80 tablets.
- b. On September 22, 2016, Managing Pharmacist A documented that he dispensed 120 tablets pursuant to prescription number 522842. This prescription was for a Ventolin® albuterol inhaler.
- c. On October 7, 2016, Managing Pharmacist A documented that he dispensed 130 tablets pursuant to prescription number 523621. This prescription was for 30 tablets.

8. The Respondent failed to have policies and procedures in place that would have detected the diversion.

9. 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, Bentley Pharmacies, Inc., 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, Bentley Pharmacies, Inc., is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)(1).

### ORDER

1. The attached Stipulation is accepted.

2. Respondent Bentley Pharmacies, Inc., is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Bentley Pharmacies, Inc. shall pay COSTS of this matter in the amount of \$204.34.

4. Within ninety (90) days from the date of this Order, Bentley Pharmacies, Inc., shall pay a FORFEITURE in the amount of \$1000.00.

5. 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:

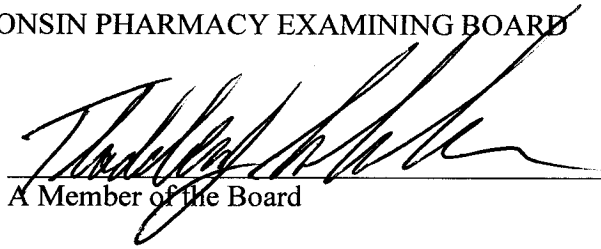
Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
[DSPSMonitoring@wisconsin.gov](mailto:DSPSMonitoring@wisconsin.gov)

6. In the event that Respondent violates any term of this Order, Respondent's license (no. 4820-42) as a 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.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:

  
A Member of the Board

4/11/18  
Date

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

BENTLEY PHARMACIES, INC.,  
RESPONDENT.

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STIPULATION

000569 1

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Division of Legal Services and Compliance Case No. 17 PHM 015

Respondent Bentley Pharmacies, Inc., 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.

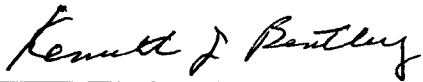
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

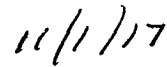
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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

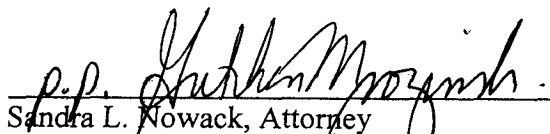
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



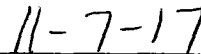
Bentley Pharmacies, Inc., Respondent  
Authorized Representative  
25 Montello Street  
P.O. Box 159  
Montello, WI 53949  
License no. 4820-42



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

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# Bentley Pharmacies

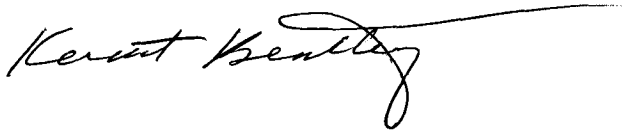
October 27 2017

25 W Montello St  
Box 159  
Montello Wi 53949

Wisconsin Pharmacy Examining Board

I am responding to the notice of disciplinary proceeding against us. This action has occurred because of the criminal action of our pharmacist employee. He alone misappropriated the controlled substances. We have procedures in place to detect diversions. We always have 2 people looking over controlled substances, inventory, and scripts. In Montello, unknown to us he told the techs that he alone was responsible for anything to do with controlled substances. He intimidated them to the extent that they were afraid to intervene or question him. We have been in business for 50 years and we are respected in the community we serve. This reprimand will be always be on our record as a pharmacy. To me, this is a slap in the face and would have never occurred except for the criminal actions of the employee. I don't feel that we should be punished for his behavior as we are the victim of this crime. I would ask the board to reconsider this matter as I feel we could not have done anything to prevent this.

Sincerely, Kenneth Bentley

A handwritten signature in black ink, appearing to read "Kenneth Bentley", with a long horizontal flourish extending to the right.