

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

PRN RX LLC,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: **0005763**

Division of Legal Services and Compliance Case No. 16 PHM 142

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

PRN Rx LLC
17755 W. Liberty Lane
New Berlin, WI 53146

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 PRN Rx LLC, is licensed in the state of Wisconsin to practice pharmacy, having license number 9298-42, first issued on March 2, 2015, and current through May 31, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 17755 West Liberty Lane, New Berlin, Wisconsin 53146.

2. Respondent pharmacy is owned by Fountain Park Healthcare Group (FPH). J.M. is the Chief Executive Officer of FPH and the President of Respondent pharmacy.

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3. In April 2016, FPH entered into a contract with Forward Science, the manufacturer of SalivaMax (a saline/salt water solution), a prescription product. As part of the contractual agreement, Forward Science provided FPH with samples of the prescription product. These samples were to be distributed by Respondent pharmacy to patients who had a valid prescription, but whose insurance would not cover the product.

4. In July 2016, the Pharmacist-in-charge at Respondent pharmacy decided to stop sending the samples to patients after reviewing the Texas Board of Pharmacy rules and believing such action to be in violation of those rules by sending out the samples to individuals whose insurance did not cover the product.

5. FPH was in breach of contract and mutually agreed with Forward Science to terminate the contract, after the July commitments were fulfilled.

6. On August 11, 2016, Respondent pharmacy's Operations Director, K.H., requested fifty (50) boxes of the prescription product from a pharmacy technician so that he could mail the samples to J.M. in Texas.

7. K.H. actually mailed the boxes to patients as samples from the post office in New Berlin, Wisconsin. All patients that received samples had a prescription for SalivaMax.

8. K.H. mailed the samples at the instructions of J.M.

9. K.H. is not licensed as a pharmacist in the State of Wisconsin.

10. Various patients called Respondent pharmacy to find out why they were mailed the sample. It was at this time that Complainant discovered that the disbursement and mailing of the samples was not recorded in Respondent pharmacy's tracking software.

11. 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, PRN Rx LLC, 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, PRN Rx LLC, 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, PRN Rx LLC, engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(10), by aiding or abetting the unlicensed practice of pharmacy.

5. As a result of the above violations, PRN Rx LLC, is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

1. The attached Stipulation is accepted.

2. Respondent PRN Rx LLC, is REPRIMANDED.

3. The license to practice pharmacy issued to PRN Rx LLC, license number 9298-42, is LIMITED as follows:

- a. Within ninety (90) days from the date of this Order, Respondent PRN Rx LLC, must provide two (2) hours of education to all of its employees, including pharmacists, pharmacy technicians, the pharmacy operations director, and the pharmacy president, on the topic of the requirements for dispensing a prescription per Wisconsin laws and Wisconsin Administrative Code. This education must be pre-approved by the Board or its designee.
- b. Respondent shall submit proof of successful completion of the ordered education to the Department Monitor at the address stated below.
- c. The Department shall remove this limitation from Respondent's license when Respondent has petitioned the Board and has satisfied the Board's monitoring liaison that Respondent has successfully completed the education requirement.

4. Within ninety (90) days from the date of this Order, Respondent PRN Rx LLC, shall pay a FORFEITURE of \$10,000.00 and COSTS of this matter in the amount of \$887.00.

5. Payment of costs and forfeiture (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

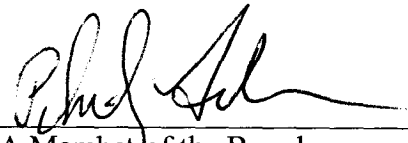
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. In the event that Respondent violates any term of this Order, Respondent's license (no. 9298-42) 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.

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

WISCONSIN PHARMACY EXAMINING BOARD

by: 
A Member of the Board

5/24/2018
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

PRN RX LLC,
RESPONDENT.

STIPULATION

0005763

Division of Legal Services and Compliance Case No. 16 PHM 142

Respondent PRN Rx LLC, and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

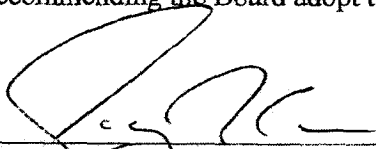
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives 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.



PRN RA LLC, Respondent
17755 W. Liberty Lane
New Berlin, WI 53146
License no. 9298-42

4/16/18
Date



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

4/16/18
Date