

## 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
KATHRYN M. LINDEMANN, R.Ph.,	:	
RESPONDENT.	:	0006078

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Division of Legal Services and Compliance Case No. 17 PHM 083

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

Kathryn M. Lindemann, R.Ph.,  
9508 S. Washington Avenue  
Marshfield, WI 54449

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 Kathryn M. Lindemann, R.Ph., (DOB June 8, 1967) is licensed in the state of Wisconsin to practice pharmacy, having license number 11521-40, first issued on January 9, 1991, and current through May 31, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 9508 S. Washington Avenue, Marshfield, Wisconsin 54449.

2. At all times relevant to this proceeding, Respondent was employed as a managing pharmacist at a pharmacy (Pharmacy) located in Burlington, Wisconsin. Pharmacy terminated Respondent's employment on May 31, 2017.

3. On May 28, 2017, the Burlington Police Department opened an investigation of alleged theft by Respondent from Pharmacy.

4. The Burlington Police Department provided surveillance video to the Division of Legal Services and Compliance (Division) from Pharmacy.

5. Surveillance video dated May 17, 2017, depicts Respondent entering Pharmacy at 11:04 p.m. Upon entering, Respondent shut off the alarm, walked behind the pharmacy counter, and filled an empty prescription bottle with zolpidem. Respondent then reactivated the alarm and left the store without paying for the medication. Respondent was unable to present a prescription for zolpidem. The owner of Pharmacy did not give Respondent permission to take this item.

6. Surveillance video dated May 19, 2017, depicts Respondent taking four (4) aerosol cans of sunscreen and five (5) shirts from the sales floor of Pharmacy between 8:40 a.m. and 9:41 a.m. At 6:09 p.m., Respondent placed the items in a brown paper bag and left the store without appearing to have paid for the items or documenting them as employee purchases. The owner of Pharmacy did not give Respondent permission to take these items.

7. Surveillance video dated May 21, 2017, depicts Respondent entering Pharmacy at 8:51 p.m. Respondent proceeded to take two (2) medication bottles off the pharmacy shelf and one (1) bottle of Florajen from the pharmacy refrigerator and placed the items in a bag. Respondent left Pharmacy without appearing to have paid for the items or documenting them as employee purchases. The owner of Pharmacy did not give Respondent permission to take these items.

8. Surveillance video dated May 25, 2017, depicts Respondent at the Pharmacy's cash register placing a personal check into the cash drawer. Respondent's check was written to Pharmacy for \$40.00. Respondent then removed an unknown amount of \$20.00 bills from the cash drawer. The cash drawer was off by approximately \$100.00 on May 25, 2017. The owner of Pharmacy did not give Respondent permission to take any money.

9. On June 14, 2017, Respondent admitted during a police interview that she took zolpidem from Pharmacy on May 17, 2017, without permission.

10. On December 19, 2017, Respondent, in Racine County Circuit Court case number 2017CM002518, was charged with four (4) counts of Theft of Movable Property in violation of Wisconsin Statute Section 943.20(1)(a), a Class A Misdemeanor.

11. On May 16, 2018, Respondent renewed her pharmacist license online with the Department of Safety and Professional Services. Respondent asserted that she had no pending charges or convictions since her last renewal on May 24, 2016.

12. On July 10, 2018, Respondent was found guilty due to a no contest plea in Racine County Circuit Court case number 2017CM002518 of two counts of Theft of Movable Property <=\$2,500.00, in violation of Wisconsin Statute Section 943.20(1)(a), a Class A Misdemeanor.

13. On July 25, 2018, Respondent was interviewed by Division personnel. Respondent admitted to diverting zolpidem on May 20, 2017. Respondent estimated that she diverted ten (10)

zolpidem tablets on that date. Respondent further admitted to taking items from Pharmacy in May 2017 without paying for the items.

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. Pursuant to Wis. Stat. § 961.20(2)(p), zolpidem is a schedule IV controlled substance for which, under the circumstances at issue, a prescription is required pursuant to Wis. Stat. § 961.38(3).

3. By the conduct described in the Findings of Fact, Kathryn M. Lindemann, 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.

4. By the conduct described in the Findings of Fact, Kathryn M. Lindemann, R.Ph., engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(8), by providing false information to the Board.

5. By the conduct described in the Findings of Fact, Kathryn M. Lindemann, R.Ph., engaged in unprofessional conduct as defined by Wis. Stat. § 450.10(1)(a)1., by making a materially false statement or giving materially false information in connection with an application for a license or for renewal or reinstatement of a license.

6. By the conduct described in the Findings of Fact, Kathryn M. Lindemann, R.Ph., engaged in unprofessional conduct as defined by Wis. Stat. § 450.10(1)(a)2., by violating this chapter or any federal or state statute or rule which substantially relates to the practice of the licensee.

7. As a result of the above violations, Kathryn M. Lindemann, R.Ph., is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1. and 3.

#### ORDER

1. The attached Stipulation is accepted.

2. The license to practice pharmacy issued to Kathryn M. Lindemann, R.Ph., (license number 11521-40) is SUSPENDED as follows:

#### SUSPENSION

- A.1. The license of Kathryn M. Lindemann, R.Ph., to practice pharmacy in the state of Wisconsin is SUSPENDED for a period of three (3) years following this order. The Board in its discretion may restore Respondent's license to full, unlimited status only upon petition by Respondent after completion of three (3) years of practice of pharmacy in compliance with all terms and conditions of this Order, and a demonstration that Respondent may practice pharmacy without condition or limitation with skill and safety to patient and public.

#### STAY OF SUSPENSION

- B.1. The suspension is immediately stayed. The stay of the suspension shall be lifted for one (1) month (thirty (30) consecutive days) within the first six (6) months following this order. Respondent shall notify the Department Monitor in advance of the proposed one (1) month (thirty (30) consecutive days). The Department Monitor shall approve of the proposed one (1) month (thirty (30) consecutive days). At the conclusion of the approved one (1) month (thirty (30) consecutive days), the suspension shall, again, be stayed.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in violation of any of the terms of this Order. The Board or its designee may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.3. The Board may reinstate the stay upon Respondent returning to full compliance with this order.
- B.3. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

#### CONDITIONS OF STAY AND LIMITATIONS

- C.1. Within forty-five (45) days of the date of this Order, Respondent shall, at her own expense, undergo a fitness for practice evaluation with a pre-approved psychiatrist or psychologist (Evaluator) who has not provided treatment to Respondent and is experienced in evaluating whether a health care professional is fit for practice:
- a. Prior to evaluation, Respondent shall provide a copy of this Final Decision and Order to the Evaluator.
  - b. Respondent shall identify and provide the Evaluator with authorizations to communicate with all physicians, mental health professionals, and facilities at which Respondent has been treated or evaluated.
  - c. Within fifteen (15) days of the completion of the evaluation, a written report regarding the results of the assessment shall be submitted to the Department Monitor at the address below. The report shall address whether Respondent suffers from any condition(s) that may interfere with her ability to practice safely and

competently and, if so, shall provide any recommended limitations for safe and competent practice.

- d. Respondent shall execute necessary documents authorizing the Division to obtain records of the evaluation, and to discuss Respondent and her case with the Evaluator. Respondent shall execute all releases necessary to permit disclosure of the final evaluation report to the Board or its designee. Certified copies of the final evaluation report shall be admissible in any future proceeding before the Board.
  - e. If the Evaluator determines that Respondent is not fit for practice or is fit for practice with limitations, the Board or its designee may remove the stay on the suspension of Respondent's license until Respondent provides proof sufficient to convince the Board or its designee that Respondent is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Respondent from practicing in that manner.
  - f. If the Evaluator determines that Respondent is fit for practice or is fit for practice with limitations, the Board or its designee may limit Respondent's license in a manner to address any concerns the Board or its designee has as a result of the conduct set out in the Findings of Fact and to address any recommendations resulting from the evaluation, including, but not limited to:
    - i. Psychotherapy, at Respondent's expense, by a therapist approved by the Board or its designee, to address specific treatment goals, with quarterly reports to the Board by the therapist.
    - ii. Additional professional education in any identified areas of deficiency.
    - iii. Restrictions on the nature of practice, practice setting, or requirements for supervision of practice by a professional approved by the Board, with periodic reports to the Board by the supervisor.
- C.2. Respondent shall not be employed as or work in the capacity of a "managing pharmacist" as defined in Wis. Admin. Code § Phar 1.02(6), without preapproval by the Board. Respondent may still be employed as or work in the capacity of a "Pharmacist-in-charge" as defined in Wis. Admin. Code § 1.02(9).
- C.3. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel (including the managing pharmacist) at all pharmacies where Respondent is engaged in the practice of pharmacy as defined in Wis. Stat. § 450.01(16). Respondent shall also provide a copy of this Final Decision and Order to all future prospective employers during the period of time that this Order remains in effect.
- C.4. Respondent shall obtain from her supervising pharmacist an agreement to conduct a full and exact (not estimated) count of all controlled substances in inventory immediately, and accountability audits of all controlled substances every six (6) months for the duration of this Order. The audit shall be conducted by, and certified by, a licensed pharmacist other

than Respondent, who shall be approved by the Board. A summary of all audits required under this subparagraph shall be included in a quarterly report to the Board following the audit. However, any discrepancy or missing drugs indicated by the audits shall be immediately reported in writing to the Board.

- C.5. Respondent shall arrange for agreement by her managing pharmacist to immediately report to the Board any conduct or condition of Respondent that may constitute a violation of this Order to a danger to the public.
- C.6. Respondent shall not own in whole or in part any interest in a pharmacy during the period of time this Order remains in effect.
- C.7. Respondent shall report to the Board any change of employment status, residence, address, or telephone number within five (5) days of the date of change.
- C.8. Respondent shall comply with the terms and conditions ordered in Racine County Circuit Court Case No. 2017CM2518.

#### MISCELLANEOUS

- D.1. Any payments, requests, petitions, reports and other information required by this Order may be mailed, faxed, or emailed to:

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)

You may also submit this information online via DSPS' Monitoring Case Management System, here:

<https://app.wi.gov/DSPSMonitoring>

- D.2. Respondent is responsible for compliance with all the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of a provider, employer, managing pharmacist, or any other individual or entity to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent.
- D.3. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision, and any other expenses associated with compliance with the terms of this Order.
- D.4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$2,363.64.

D.5. In addition to the terms contained in paragraph B.2., the Board may refer any violation of this Order to the Division for further investigation and action.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:   
A Member of the Board

2/27/2019  
Date



STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

KATHRYN M. LINDEMANN, R.Ph.,  
RESPONDENT.

STIPULATION

0006073

Division of Legal Services and Compliance Case No. 17 PHM 083

Respondent Kathryn M. Lindemann, R.Ph., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

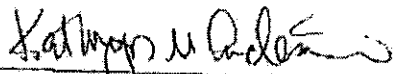
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives 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. Respondent is represented by Attorney Kristen Nelson.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining Board (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.

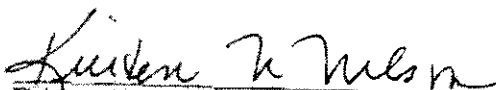
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Kathryn M. Lindemann, R.Ph., Respondent  
9508 S. Washington Ave.  
Marshfield, WI 54449  
License no. 11521-40

2/21/19

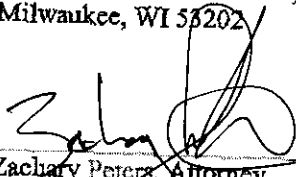
Date



Kristen Nelson, Attorney for Respondent  
Gimbel, Reilly, Guerin & Brown LLP  
330 East Kilbourn Avenue, Suite 1170  
Milwaukee, WI 53202

2/25/19

Date



Zachary Peters, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

2/26/19

Date