

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

BRENDA L. WELLNER, R.Ph.,
RESPONDENT.

FINAL DECISION AND ORDER

ORDER 0006587

Division of Legal Services and Compliance Case No. 18 PHM 041

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

Brenda L. Wellner, R.Ph.
1916 Lexington Drive
Manitowoc, WI 54220

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 Brenda L. Wellner, R.Ph., (DOB October 13, 1976) is licensed in the state of Wisconsin to practice pharmacy, having license number 13657-40, first issued on July 2, 2002, and current through May 31, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1916 Lexington Drive, Manitowoc, Wisconsin 54220.

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

3. In November of 2017, the Pharmacy began an investigation into Respondent's conduct regarding counseling patients who are picking up initial and refill prescriptions.

4. The Pharmacy investigation included statements from Respondent's co-workers that indicate Respondent does not always counsel patients when they are picking up prescriptions.

5. On November 29, 2017, Respondent gave a written statement to the Pharmacy in which she stated she is aware of the state law requiring consultation on all prescriptions and she considered asking the patient from a distance, such as from behind the pharmacy counter, if they have any questions to be considered a consultation.

6. Respondent admitted to the Pharmacy that she has left the pharmacy area when she is the sole pharmacist to show customers where product is and also to look at general merchandise for herself and did not have the pharmacy counter in view.

7. Respondent admitted to picking up her brother's prescriptions for several years, one of which was for a controlled substance, and having a technician make the transaction requiring her to provide an ID.

8. On February 2, 2018, the Pharmacy terminated Respondent for gross misconduct when she violated the Pharmacy's consultation policy by failing to counsel patients on new and refill prescriptions.

9. Respondent believed the Pharmacy did not coach or warn her regarding any violation of company policies or changes to consultation policies.

10. 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, Brenda L. Wellner, R.Ph., engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 7.01(1)(e), by failing to give the patient or agent appropriate consultation relative to the prescription.

3. By the conduct described in the Findings of Fact, Brenda L. Wellner, R.Ph., 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. As a result of the above violations, Brenda L. Wellner, R.Ph., is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

1. The attached Stipulation is accepted.
2. Respondent Brenda L. Wellner, R.Ph., is REPRIMANDED.
3. Respondent Brenda L. Wellner, R.Ph., shall, within ninety (90) days from the date of this Order, pay to the Department of Safety and Professional Services a forfeiture in the amount of TWO HUNDRED AND FIFTY DOLLARS (\$250.00), pursuant to Wis. Stat. § 450.10(2).
4. Within ninety (90) days from the date of this Order, Brenda L. Wellner, R.Ph., shall pay COSTS of this matter in the amount of \$372.00.
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

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

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

6. In the event that Respondent violates any term of this Order, Respondent's license (no. 13657-40) 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.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

Date

12/17/2014

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

BRENDA L. WELLNER, R.Ph.,
RESPONDENT.

STIPULATION

ORDER 0006587

Division of Legal Services and Compliance Case No. 18 PHM 041

Respondent Brenda L. Wellner, 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 John Mayer.
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.

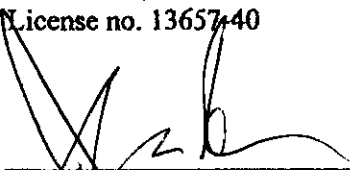
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's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

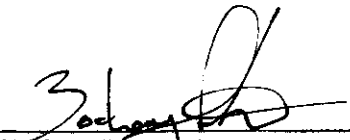
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Brenda L. Wellner, R.Ph., Respondent
1916 Lexington Drive
Manitowoc, WI 54220
License no. 1365740

10/16/2019
Date


John Mayer, Attorney for Respondent
Nash, Spindler, Grimstad & McCracken LLP
1425 Memorial Drive
Manitowoc, WI 54220

10/17/19
Date


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

10/22/19
Date