

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

KEVIN O'BRIEN, R.PH.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

ORDER 0007013

Division of Legal Services and Compliance Case No. 19 PHM 035

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

Kevin O'Brien, R.Ph.
Brooklyn, WI 53521

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 Kevin O'Brien, R.Ph. (DOB: XX/XX/1950) is licensed in the state of Wisconsin to practice pharmacy, having license number 8733-40, first issued on January 9, 1975, and current through August 30, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Brooklyn, Wisconsin 53521.

2. Respondent has previously been disciplined by the Board in Order Number LS0107101PHM for substituting a drug without physician approval and failing to provide consultation on prescriptions.

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

4. The Department received a complaint regarding a patient admitted to the hospital after receiving an incorrect prescription. The patient was supposed to receive Warfarin 10mg but instead received zolpidem 10 mg.

5. Respondent was the dispensing pharmacist for the prescription at issue.

6. In Respondent's response to the complaint, he admitted that he must not have checked the prescription close enough and apologized to the patient.

7. As of August 30, 2020, Respondent is retiring from pharmacy practice.

8. 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).

ORDER

1. The attached Stipulation is accepted.

2. The voluntary SURRENDER of the license to practice pharmacy in the state of Wisconsin issued to Respondent (license no. 8733-40), and any appurtenant right to renew, are hereby accepted.

3. In the event Respondent petitions the Board for reinstatement of his license to practice pharmacy in the state of Wisconsin, the Board may enter an order denying such petition without further notice or hearing. Whether to grant a license and whether to impose any limitations or restrictions on any license shall be in the discretion of the Board.

4. In the event Respondent petitions the Board for reinstatement of his license to practice pharmacy in the state of Wisconsin or applies for another credential with this Department, Respondent shall pay the costs of this matter in the amount of \$413.00.

5. Respondent shall immediately return all indicia of Wisconsin licensure 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 the Department's Monitoring Case Management System at:

<http://dspsmonitoring.wi.gov>

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

WISCONSIN PHARMACY EXAMINING BOARD

by: Philip Trapstein c.p.
A Member of the Board

9/24/2020
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KEVIN O'BRIEN, R.PH.,
RESPONDENT,

STIPULATION

ORDER 0007013

Division of Legal Services and Compliance Case No. 19 PHM 035

Respondent Kevin O'Brien, R.Ph, and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

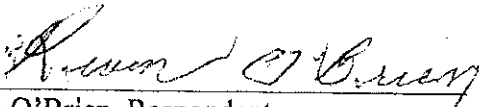
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives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

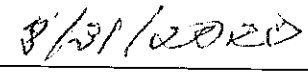
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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



Kevin O'Brien, Respondent
Brooklyn, WI 53521
License no. 8733-40



Date



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

9/10/2020

Date