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IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

GERALD D. HANCOCK, R.Ph., and **FINAL DECISION AND ORDER**
HAUPER PHARMACY,
RESPONDENTS. 98 PHM 48
 LS9906163PHM

The parties to this action for the purposes of §227.53, Wis. Stats., are:

Mr. Gerald D. Hancock,
R.Ph. P.O. Box 65
Union Grove, WI 53182

Hauer Pharmacy, Inc.
1014 Vine St.
Union Grove, WI 53182

Wisconsin Pharmacy Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the 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

1. Respondent Gerald D. Hancock, R.Ph. (dob 7/25/1949) is and was at all times relevant to the facts set forth herein a registered pharmacist licensed in the State of Wisconsin pursuant to license #8642, originally granted on 6/14/1974. At all times relevant to the matters set forth below, respondent was the managing pharmacist and owner of co-respondent Hauper Pharmacy, Union Grove, Wisconsin, where the conduct set forth below took place, and was responsible for all policies and procedures at the pharmacy.
2. Respondent Hauper Pharmacy, Inc., is and was at all times relevant to the facts set forth herein a community pharmacy licensed in the State of Wisconsin pursuant to license #7461, originally granted for its current location on 5/9/95.
2. On 10/27/1998, a DOE investigator observed an unlicensed person transfer a prescription to a patient without consultation from a pharmacist. The respondent was the pharmacist on duty and allowed the unlicensed person to handle the entire transaction. The respondent had no interaction with this patient.
3. Also on 10/27/1998, the same DOE investigator observed respondent Hancock transfer a prescription to a patient without a consultation.
4. Respondent Hancock later informed the DOE investigator that it is the pharmacy's routine practice for unlicensed pharmacy staff to transfer prescriptions to patients without a consultation from the pharmacist, and that he was aware that the Board's rules require such consultations.
5. On 6/10/1998, respondents dispensed to patient C.A. her son's prescription of Hytrin® instead of her own prescription of nortriptyline, without a consultation. The son was, at the time, an adult and living at an address different from that of patient C.A.
- 6, Respondent Hancock informed the investigator assigned to this matter that no records are kept by the pharmacy of dispensing errors such as those set forth in par. 5, above.

CONCLUSIONS OF LAW

- A. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to §450. 10, Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.
- B. The conduct described in paragraphs 2-6, above, violated § Phar 7.01(l)(e) Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes. Each and every patient (or patient's agent) must receive a face-to-face consultation from a registered pharmacist (or supervised intern) at the time a prescribed drug or device is transferred to the patient in the pharmacy, whether the prescription is new or a refilled or renewed prescription. This duty is non-delegable and is not satisfied by having auxiliary staff ask if the patient has questions.
- C. The conduct described in paragraph 5, above, violated § Phar 10.03(2) and (3) Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Gerald D. Hancock, R.Ph., is REPRIMANDED for his unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that the license to practice pharmacy of Gerald D. Hancock, R.Ph., is LIMITED in the following respect:

Respondent shall not be the managing pharmacist of any pharmacy until he has taken and passed the consultation portion of the examination given to applicants for pharmacist licensure. This limitation is STAYED until September 1, 1999. If respondent passes the examination before this state, the limitation shall not go into effect. |

IT IS FURTHER ORDERED, that respondent Hauper Pharmacy shall FORFEIT \$1,000, to be paid within 60 days, for the unprofessional conduct in this matter.

IT IS **FURTHER ORDERED**, that respondents shall jointly and severally pay COSTS in this matter in the amount of \$300, within 30 days of this order.

IT IS FURTHER ORDERED, that pursuant to §227.51(3), Wis. Stats., and ch. RL 6, Wis. Adm. Code, if the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, the Board may order that the license of respondent be summarily suspended pending investigation of the alleged violation.

Dated this June 16, 1999.

WISCONSIN PHARMACY EXAMINING BOARD, by:

Daniel F. Luce, R.Ph.

a member of the board