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STATE OF WISCONSIN

BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF

DISCIPLINARY PROCEEDINGS AGAINST

BENJAMIN W. LYNE, MD,
RESPONDENT.

FINAL DECISION AND ORDER

LS0005176MED
99 MED 286

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

*Benjamin W. Lyne, MD
655 Autumn Crest Cir. #E
Colorado Springs, CO 80919*

*Wisconsin Medical 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 Benjamin W. Lyne (dob 4/17/26) is and was at all times relevant to the facts set forth herein a physician and surgeon licensed in the State of Wisconsin pursuant to license #11844, first granted on 7/29/54. Respondent is a pathologist. Respondent is licensed only in Wisconsin, and not in any other state.
2. Respondent did, on 7/30/98, order 500 hydrocodone APAP tablets, a Schedule III controlled substance, to be delivered to his address of record in Chippewa Falls, Wisconsin, from a licensed distributor. On 8/15/98, respondent ordered an additional 500 such tablets. On 9/15/98, respondent ordered an additional 500 such tablets. On 12/17/98, respondent ordered an additional 100 such tablets. On 3/24/99, respondent ordered an additional 200 such tablets.
3. In fact, respondent moved to Colorado in the fall of 1998. Respondent's Chippewa Falls address was the private residence of respondent's sister and brother-in-law, who received the drugs after respondent moved, and forwarded them to respondent's actual residence in Colorado.

4. Respondent ordered the hydrocodone for his personal use because of chronic pain in his knee joints, and consumed the hydrocodone himself, without a prescription from another practitioner. Respondent has since had knee joint replacement surgery. Respondent did not keep any records of the receipt or dispensing of the controlled substances, and did not make or keep any biennial inventories.

5. Respondent is retired from the practice of medicine, although he continues to work occasionally giving physical examinations to department of defense personnel. He has surrendered his DEA registration effective 8/2/99, as a result of a DEA investigation of the above conduct.

CONCLUSIONS OF LAW

A. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to §448.02(3), Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

B. The conduct described in paragraph 4, above, violated § Med 10.02(2)(g), (p), and (z), Wis. Adm. Code, §§961.38(5) and 961.41(3g), Wis. Stats., and 21 CFR §§1304.03, 1304.04, 1304.11, and 1304.21(a). 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 the SURRENDER of the registration of Benjamin W. Lyne, MD, to practice medicine and surgery in Wisconsin, is ACCEPTED. Respondent shall not practice, or attempt to practice, medicine or surgery without being currently registered.

IT IS FURTHER ORDERED, that pursuant to §448.02(4), Wis. Stats., 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 and registration of respondent be summarily suspended pending investigation of the alleged violation.

Dated this May 17, 2000.

WISCONSIN MEDICAL EXAMINING BOARD

by: : Glenn Hoberg, M.D.

a member of the Board