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STATE OF WISCONSIN

BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE

DISCIPLINARY PROCEEDINGS AGAINST:

DOUGLAS K. STUCKY, R.Ph.,

FINAL DECISION AND ORDER

RESPONDENT

LS0108091PHM

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

Douglas K. Stucky, R.Ph.

N40W6634 W. Jackson St.

Cedarburg, WI 53012

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 is Douglas Kent Stucky (dob 9/26/46), and was at all times relevant to the facts set forth herein a registered pharmacist licensed in the State of Wisconsin pursuant to license # 8989, originally granted on 5/6/76. Respondent was previously disciplined in file 88 PHM 22 (1991), which resulted from his being disciplined in Michigan for committing insurance fraud and being criminally convicted of insurance fraud, and for C-II recordkeeping violations and inventory shortages. Respondent is presently under a limited license resulting from discipline in file 99 PHM 60 (2000), in which the Board found that he incompetently checked a prescription for nifedipine. His address of record is N40W6634 W. Jackson St., Cedarburg, WI 53012.

2. On 3/8/95, respondent was disciplined by the California Board of Pharmacy for diverting controlled substances, products containing hydrocodone, from his employing pharmacy, self-administering these substances without prescription, being addicted to such substances, and stealing general merchandise from his employing pharmacy. Respondent's license was revoked, but the revocation was stayed on a number of conditions, including that respondent continue in treatment and that he report his status to all employers and practice only under supervision. The Board did not learn of this discipline until the current investigation was conducted.

3. On or about 5/1/95, respondent was adjudged convicted by the Superior Court in Tulare County, California, of felony embezzlement from his employing pharmacy in California, and was, among other things, ordered to make some \$4,000 in restitution; the loss to the employer was in the form of medications and general merchandise

such as candy bars and beverages.

4. On 4/6/98, respondent was further disciplined by the California Board of Pharmacy for violating a number of conditions of the stay of revocation, including by failing to report his status to employing pharmacies, practicing without supervision, failing to cause his employers to submit required reports to the Board, failing to comply with treatment requirements, and failing to submit body fluid samples upon request. Respondent admitted the truth of the allegations, and surrendered his California license. The Board did not learn of this discipline until the current investigation was conducted.

5. Respondent was detected by his Wisconsin employing pharmacy diverting Schedule III controlled substance products containing hydrocodone, on 3/8/01. On 8/2/01, respondent was adjudged convicted by the Circuit Court for Ozaukee County, Wisconsin, of violating §450.11 (dispensing a prescription drug without prescription) and §943.20(1)(a) (misdemeanor theft), Wis. Stats., in connection with this matter. His employing pharmacy chain has submitted a report to the Board to the effect that approximately 3865 tablets of hydrocodone products and 12,600ml of hydrocodone syrup products are missing from the three pharmacies at which he was employed. The Board infers that respondent is responsible for substantially all of these losses, although respondent denies being responsible for more than a small amount of them.

6. Respondent admitted to his employer that he had been self-medicating with hydrocodone products since November, 2000, on 3/8/01. He admitted to Board staff that he had been using hydrocodone products on a daily or near-daily basis since the beginning of December, 2000, and that he had not continued in treatment since leaving California.

CONCLUSIONS OF LAW

A. The Wisconsin Pharmacy Examining Board has jurisdiction over this matter and authority to take disciplinary action against the Respondent pursuant to §450.10(1), Wis. Stats. and ch. Phar 10, Wis. Adm. Code.

B. The Wisconsin Pharmacy Examining Board is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

C. The facts set forth in ¶¶2 and 4, above, constitute unprofessional conduct pursuant to § Phar 10.03(17), Wis. Adm. Code. The facts set forth in ¶3, above, constitute unprofessional conduct under §450.10(1)(a)2. and (b)3., Wis. Stats. The facts set forth in ¶5, above, constitute unprofessional conduct pursuant to §§450.10(1)(a)2. and (b)3., and 961.43(3g), Wis. Stats. The facts set forth in ¶6, above, constitute unprofessional conduct §450.10(1)(a)3., Wis. Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

That the STIPULATION of the parties, attached hereto, is ACCEPTED.

IT IS FURTHER ORDERED that effective on the date of this Order, the SURRENDER of the license to practice pharmacy of Douglas K. Stucky, R.Ph., is ACCEPTED.

IT IS FURTHER ORDERED that respondent shall pay partial COSTS in the amount of \$300, within 30 days of this Order.

Dated this November 14, 2001.

PHARMACY EXAMINING BOARD

By: John Bohlman

A Member of the Board