

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
DALTON L. HOLMEN, R.Ph., : FINAL DECISION AND ORDER  
RESPONDENT. : LS0712052PHM

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Division of Enforcement Case # 07 PHM 053

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

Dalton L. Holmen  
85A Grand Canyon Drive # 206  
Baraboo, WI 53913

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Pharmacy Examining Board  
Department of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 Pharmacy Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Dalton L. Holmen, R.Ph., (DOB 01/26/1966) is duly licensed as a pharmacist in the state of Wisconsin (license #40-11890). This license was first granted on January 12, 1993. It was suspended on August 2, 2007, for failure to comply with a previous board order and remains suspended as of the date of this Order

2. Respondent's most recent address on file with the Wisconsin Pharmacy Examining Board is 85A Grand Canyon Drive # 206, Baraboo, Wisconsin, 53913.

3. On or about August 28, 2007, the Division of Enforcement received a letter from Respondent dated May 30, 2007, in which he self-reported that he had a history of bipolar disorder and depression, and that he had attempted suicide via overdose in November of 2006. Further, he self-reported that in January of 2007, he had attempted suicide via alcohol and an overdose of his prescribed Coumadin. He was in inpatient treatment for 2 ½ months.

4. Further investigation revealed that on January 10, 2007, Respondent was arrested for driving while intoxicated. It was his fifth such offense.

5. On or about July 12, 2007, Respondent pled guilty/no contest to Operating While Under Influence (5<sup>th</sup> +) in relation to his January 10, 2007 arrest. On or about September 26, 2007, Respondent was sentenced to three years probation, including 10 months of jail time beginning on November 9, 2007.

6. Further investigation revealed that on August 7, 2007, Respondent was admitted to the hospital after a suicide attempt via an overdose of benzodiazepines and anticoagulants. In addition to medical issues relating to the suicide attempt, he was diagnosed with bipolar disorder, alcohol dependence, and cluster B personality traits.

7. Records from Respondent's August, 2007 hospitalization indicate that Respondent has had at least twelve suicide attempts in the past. Records from a therapist seen in August of 2007 confirm bipolar disorder, history of suicide attempts, alcohol -dependence and history of cocaine use.

### CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. §450.10, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct in misusing his prescription medications as described in paragraphs 3, 6 and 7 above, and his use of a Schedule I controlled substance as described in paragraph 7 above, constitutes a violation of Wis. Stat. § 450.10(1)(a)2 and 450.10(1)(a)6 and is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

### ORDER

#### IT IS ORDERED:

1. The license of Dalton L. Holmen, R.Ph., Respondent, to practice as a pharmacist in the State of Wisconsin shall remain **SUSPENDED** for an indefinite period of time.

2. Respondent may petition the Board to have the suspension ended, as follows:

a. Respondent shall have, at Respondent's own expense, undergone a mental health and alcohol and drug assessment by an experienced mental health care and substance abuse practitioner.

i. The assessor must not have treated Respondent at any time and shall have been approved by the Board, with an opportunity for the Division to make its recommendation, prior to the evaluation being performed.

ii. The Division shall provide the assessor and Respondent with those portions of the investigative file which the Division believes may be of assistance in performing the assessment, including Respondent's treatment records or evaluations in the possession of the Division. Respondent may provide the assessor with any information Respondent believes will be of assistance in performing the assessment and shall immediately provide copies of that information to the Division.

iii. Respondent shall authorize the assessor to provide the Board, or its designee, and the Division with the assessment report and all materials used in performing the assessment and shall provide the Board, or its designee, and the Division with the opportunity to discuss the assessment and findings with the assessor.

iv. The assessor shall have provided an opinion to a reasonable degree of professional certainty that

Respondent is able to practice with reasonable skill and safety of patients and public and does not suffer from any condition which prevents him from practicing in that manner.

b. If the assessor has rendered the opinion required by subparagraph a.iv., the Board shall end the suspension. The Board may limit Respondent's license in a manner to address any concerns the Board has as a result of the conduct set out in the findings of fact or the period of time Respondent has not practiced pharmacy and to address any recommendations resulting from the assessment, including, but not limited to:

i. Psychotherapy, alcohol and drug treatment and testing, or other treatment, at Respondent's expense, by a practitioner approved by the Board, to address specific treatment goals, with periodic reports to the Board by the therapist.

ii. Additional professional education in any identified areas of deficiency.

iii. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Board, with periodic reports to the Board by the supervisor.

iv. Requiring Respondent to appear before the Board on an annual basis, if requested by the Board, to review the progress of any treatment and rehabilitation.

c. The suspension shall not end until Respondent has paid to the Department of Regulation and Licensing costs of this proceeding in the amount of Five Hundred Dollars (\$500.00) pursuant to Wis. Stat. § 440.22(2).

3. If following the suspension, limitations are placed on Respondent's license, Respondent may petition the Board to modify or end the limitations.

4. If Respondent believes that the Board's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Board under paragraphs 2b or 3 is inappropriate, Respondent may seek a class 1 hearing pursuant to Wis. Stat. § 227.01(3)(a) in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious or inconsistent with this Order. The suspension or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

5. All requests, notifications and payment shall be mailed, faxed or delivered to:

**Department Monitor**

Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264  
Telephone (608) 267-3817

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

Wisconsin Pharmacy Examining Board

By: Michael Bettiga  
A Member of the Board

12/5/07  
Date

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 : STIPULATION  
DALTON L. HOLMEN, R.Ph., : LS# \_\_\_\_\_  
RESPONDENT. :

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Division of Enforcement Case # 07 PHM 053

Respondent Dalton L. Holmen, R.Ph., personally on his own behalf, and Jeanette Lytle, attorney for the Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (case # 07 PHM 053). Respondent consents to the resolution of this investigation by stipulation.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, 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 him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided an opportunity to obtain the advice of legal counsel prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the 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 be returned to the Division of Enforcement for further proceedings. In the event that this 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 consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Pharmacy Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board 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 Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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Dalton L. Holmen, R.Ph.  
85A Grand Canyon Drive # 206  
Baraboo. WI 53913

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Date

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

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Date