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STATE OF WISCONSIN
BEFORE THE
PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION
JOHN M. STOFFEL, R.PH.	:	AND ORDER
RESPONDENT	:	

The State of Wisconsin, Pharmacy Examining Board, having considered the above entitled matter and having reviewed the record and the proposed decision of the Examiner, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, In the Matter of the Disciplinary Proceedings Against John M. Stoffel, R.Ph., Respondent. Let a copy of this order be served on the Respondent by certified mail.

Dated this 10th day of December, 1980.



pc862-456

BEFORE THE
STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: PROPOSED DECISION
JOHN M. STOFFEL, R.P.H., :
RESPONDENT :

A prehearing conference was held in the above-entitled matter on January 10, 1980. At the conference the respondent, John M. Stoffel, appeared in person and by his attorney, James Grant, 514 East Main Street, Waupun, Wisconsin 53963. Attorney Wayne R. Austin, appeared on behalf of the Division of Enforcement. During the prehearing conference the parties discussed the possibility of resolving this matter informally by way of stipulation.

On May 22, 1980 a stipulation was filed with the examiner, a copy of which is attached hereto. In the stipulation the respondent waives his right to a formal hearing.

Based upon the stipulation of the parties and the complaint on file, the examiner recommends that the Pharmacy Examining Board adopt as its final decision in this matter the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. John M. Stoffel (Stoffel) is and was at all times relevant hereto licensed under the provisions of Chapter 450, Wis. Stats., to practice as a pharmacist in the State of Wisconsin (License No. R6894, issued September 12, 1959).

2. Stoffel's address is Stoffel Pharmacy, Inc., Marshland Mart, P. O. Box 52, Horicon, Wisconsin 53032.

3. Stoffel was, at all times relevant hereto, President and part owner of a pharmacy in Waupun, Wisconsin known as Stoffel Pharmacy, Inc., 401 East Main Street, Waupun, Wisconsin 53963, hereinafter referred to as the Waupun Pharmacy, and/or President and part owner of a pharmacy in Horicon, Wisconsin known as Stoffel Pharmacy, Inc., Marshland Mart, Horicon, Wisconsin 53032, hereinafter referred to as the Horicon Pharmacy. Stoffel practiced as a registered pharmacist at said pharmacies.

4. On or about June 10, 1977, and on or about March 20, 1979, inventories were conducted at the Waupun Pharmacy of certain controlled substances, as defined by s. 161.01(4), Wis. Stats. A comparison of those inventories revealed unaccountable shortages of said controlled substances, as detailed below:

a. Dextroamphetamine Sulphate 10 mg. capsules (a/k/a Dexedrine);
262 capsules.

b. Methylphenidate hydrochloride 10 mg. (a/k/a Ritalin);
1,600 tablets.

c. Phendimetrazine tartrate 35 mg. (a/k/a Bacarate); 3,940 tablets.

d. Phendimetrazine tartrate 35 mg. (a/k/a Plegine); 1,139 tablets.

5. Stoffel was pharmacist in charge of the Waupun Pharmacy. Stoffel was aware of the unaccountable shortages of controlled substances, as described in paragraph 4, above, but failed in his duty to report such shortages to the regional office of the U. S. Department of Justice Drug Enforcement Administration and the State of Wisconsin Pharmacy Examining Board.

6. At various times during the period between approximately November, 1968, and March, 1979, Stoffel dispensed and possessed for his own consumption and use the schedule II controlled substance described as methylphenidate hydrochloride, a/k/a Ritalin. This controlled substance was not dispensed or possessed pursuant to a valid prescription or order of a practitioner.

7. At various times during the period between approximately November, 1968, and March, 1979, Stoffel dispensed and possessed for his own consumption and use the schedule III controlled substances described as phendimetrazine tartrate, a/k/a Bacarate or Plegine. This controlled substance was not dispensed or possessed pursuant to a valid prescription or order of a practitioner.

8. At various times during the period between approximately January 1, 1975, and March 1, 1979, Stoffel dispensed for his own use from the Waupun Pharmacy certain schedule IV controlled substances and prescription drugs described as diazepam, a/k/a Valium; propoxyphene napsylate with aspirin, a/k/a Darvocet-N; chlordiazepoxide, a/k/a Librium; and chlordiazepoxide plus clidinium, a/k/a Librax. Stoffel falsified the prescription records of the Waupun Pharmacy in order to reflect that said controlled substances and prescription drugs were dispensed pursuant to the prescription of a practitioner.

9. On or about April 29, 1979, Stoffel possessed controlled substances, other than controlled substances classified in schedule I or II which are narcotic drugs, described as phendimetrazine, a/k/a Bacarate; methamphetamine, a/k/a Desoxyn; amphetamine, a/k/a Benzedrine; and Phentermine, a/k/a Fastin. These controlled substances were not obtained directly from, or pursuant to a valid prescription or order of, a practitioner.

CONCLUSIONS OF LAW

1. That the state of Wisconsin Pharmacy Examining Board has jurisdiction to take disciplinary action in this proceeding pursuant to Sec. 227.07(5), Wis. Stats.

2. That Stoffel's failure, as pharmacist in charge, to report the unexplained shortages of controlled substances, as described in paragraphs 4 and 5 of the Findings of Fact, above, constitutes a violation of s. Phar 6.02(3)(f), Wis. Adm. Code.

3. That the dispensing and possession of controlled substances and prescription drugs without the valid prescription of a practitioner, and the falsification of pharmacy prescription records, as found in paragraphs 6 through 9, above, constitute violations of ss. 161.38(1), 161.38(5), 161.41(3), 450.07(7), 161.38(3), 450.04(6), 450.07(2), and 450.07(9)(c), Wis. Stats., and s. Phar 6.05(2), Wis. Adm. Code.

4. That pursuant to s. 450.02(7)(a), Wis. Stats., the violations by Stoffel of Chapter 450, Wis. Stats., Chapter 161, Wis. Stats., and of the rules of the examining board, constitute grounds for reprimand or for limitation, suspension or revocation of Stoffel's registration as a pharmacist.

ORDER

NOW, THEREFORE, IT IS ORDERED:

1. That the license to practice pharmacy in Wisconsin of the respondent, JOHN M. STOFFEL, R.Ph., shall be and hereby is LIMITED for a period of 24 months from the effective date of this order. Such limitations shall comprise a program of evaluation of Stoffel's present ability to practice as a pharmacist, periodic monitoring of his continuing ability to practice as a pharmacist, and periodic auditing of controlled substance inventories at the pharmacy or pharmacies where he is employed. The mechanics for implementation of said program shall be arranged by Stoffel and shall be satisfactory to the board. At a minimum, the required elements of the program shall include the following:

a. Within 30 days from the effective date of this order, Stoffel shall submit to the board an updated medical report stating that he has no health problems, including drug or alcohol dependency, which would prevent him from practicing safely and competently as a pharmacist.

b. From time to time during the 24-month period, Stoffel must, upon notice from the board or from its authorized agent, provide to the board reasonable medical evidence, based in part upon blood and urine analysis, that he is not physically or psychologically drug dependent and that at the time of examination, he was not under the influence of any prescription drug or controlled substance not dispensed or consumed pursuant to the valid prescription of a practitioner.

c. During the 24-month period, and at 3-month intervals, Stoffel or his employer(s) shall provide to the board accountability audits of Schedule II controlled substances taken at the pharmacy or pharmacies where Stoffel is employed, said audits to be signed by Stoffel and either co-signed or verified by his employer(s).

2. That the effective date of this order shall be the date upon which the Pharmacy Examining Board approves the arrangements submitted to them by Stoffel for implementation of the program of evaluation described in paragraph 1 of this section.

3. That for a period of 24 months following the effective date of this order, Stoffel shall practice as a pharmacist exclusively at pharmacies in which he has no ownership or management interest.

4. That if, during the period of 24 months following the effective date of this order it is alleged that Stoffel has knowingly violated any term of the order, or is physically or psychologically drug dependent, or has been found to have used or been under the influence of any prescription drug or controlled substance not dispensed and consumed pursuant to the valid prescription of a practitioner, then the board, may after hearing and finding that such allegations are founded in fact, rescind this order, and issue a new order based upon its findings of fact and conclusions of law in the present matter and upon its findings of fact and conclusions of law in the matter arising from the alleged violation(s) of this order.

Dated this 11th day of November, 1980.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David R. Beld", is written over a horizontal line.

David R. Beld, Examiner