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IN THE MATTER OF DISCIPLINARY

PROCEEDINGS AGAINST:

PURITAN MEDICAL PRODUCTS, INC.,

FINAL DECISION AND ORDER

RESPONDENT

LS0105154PHM

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

Puritan Medical Products, Inc.

203 S. Curtis

West Allis WI 53214

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 Puritan Medical Products, Inc., is a drug manufacturer licensed in the State of Wisconsin pursuant to license #279. Respondent is similarly licensed as a drug distributor in the State of Wisconsin, pursuant to license #1203, as "Puritan-Bennett Medical Gases."
2. Respondent was previously the Gas Products Division of Puritan Bennett Corporation, which was sold to Airgas, Inc. on 1/21/00. At that time, Airgas, Inc., organized that business as respondent Puritan Medical Products, Inc., and retained all staff and institutional memory of the former Gas Products Division.
3. Respondent did, between 1/21/00 and 9/27/00, sell over 291 containers of medical grade nitrous oxide gas, all labeled as prescription drugs, to AA Welding of Franksville WI. AA Welding was not an entity listed in §450.07(3), Wis. Stats. Respondent's gross receipts from these sales were \$*.
4. On or about 7/24/99, respondent's predecessor paid an administrative fine to the Florida counterpart of the Wisconsin Department of Regulation & Licensing for selling a medical gas (oxygen) which was a prescription drug to an unauthorized person, all from respondent's predecessor's Florida location. On 7/24/99, a Quality Engineer of respondent's predecessor who is now employed by respondent wrote to the Florida agency, stating that the company had adopted an administrative policy to prevent recurrence, and "We are incorporating this policy into our order entry system so that current licensing information is displayed and printed for review with each transaction."
5. On or about August 6, 1998, respondent's predecessor's Illinois location management staff had contact with

special agents of the US Food & Drug Administration's office of criminal investigation, and were informed by the special agents that respondent had, for at least three years, been improperly selling nitrous oxide labeled as a prescription drug to an entity in Michigan, Tri-State Gases Company, which was not a licensed drug distributor or otherwise authorized to possess a prescription drug. Those staff are now employed by respondent, one of them as head of regulatory affairs.

6. The Board infers from pars. 4 and 5, above, that respondent had knowledge of the importance of verifying the credentials of its customers, but the system used in Wisconsin was not effective.

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 paragraph 3 above, violated § 450.07(3), Wis. Stats. 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 respondent, Puritan Medical Products, Inc. is REPRIMANDED for its unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that respondent shall FORFEIT \$8,000.00, to be paid within 30 days of this order.

IT IS FURTHER ORDERED, that respondent shall pay COSTS in this matter in the amount of \$1200.00, 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 the 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 May 15, 2001.

WISCONSIN PHARMACY EXAMINING BOARD, by:

John Bohlman

A member of the board