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STATE OF WISCONSIN

BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF

DISCIPLINARY PROCEEDINGS AGAINST:

HENRY M. GOLDBERG, M.D.,

FINAL DECISION AND ORDER

RESPONDENT

LS0105164MED

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

Henry M. Goldberg, M.D.

500 N. 19th St

Milwaukee, WI 53233

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 Henry M. Goldberg (dob 7/7/36) 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 #14912, first granted on 3/10/64. Respondent practiced as a family physician, military physician, and occupational health physician from 1964-89, but has not maintained a clinical medical practice since 1989. He is the owner of a medical services company. Respondent is or has been licensed in Missouri, California, Florida, Hawaii, and Texas.
2. Respondent has numerous medical conditions for which his own physicians have prescribed a number of medications, including controlled substances. Respondent did, during the years 1996-1999, write and issue a number of prescriptions for these medications, in the names of company employees. The employees then had these prescriptions filled at pharmacies, and returned the medications to respondent, who took them as they would have been taken, had his own physicians actually issued those prescriptions. These medications included benzodiazepines and propoxyphene, all Schedule IV controlled substances, and a number of non-controlled prescription products.
3. On or about June 7, 1999, respondent was interviewed by a DEA diversion investigator, who questioned respondent about his prescribing practices. At that time, respondent acknowledged that this prescriptive practice was inappropriate, and agreed to cease obtaining any personal use prescription medication by prescribing it in the name of another. Respondent subsequently surrendered his DEA registration on September 3, 1999.

4. On multiple occasions between 1996 and at least 10/31/99, respondent has prescribed medications including at least two controlled substances for certain of his employees, for their own use. Respondent has not retained any charts or records on any of these employees during this time (although he had previously treated some of them when he was in clinical practice and had charts at that time for them), currently has no records of ever conducting appropriate physical examinations or taking appropriate histories, and has no record of diagnoses or treatment plans; nor has he consulted with their regular physicians.

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 2, above, violated §§450.11(7)(a) and (h), and 961.38(5), Wis. Stats., and § Med 10.02(2)(p) and (z), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

C. The conduct described in paragraph 4, above, violated § Med 10.02(2)(p) and (za), Wis. Adm. Code. 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 Henry M. Goldberg, MD, is REPRIMANDED.

IT IS FURTHER ORDERED, that respondent shall pay the costs of investigating and prosecuting this matter in the amount of \$1,000, within 30 days of this order.

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 of respondent be summarily suspended pending investigation of the alleged violation.

Dated this May 16, 2001.

WISCONSIN MEDICAL EXAMINING BOARD, by:

By: Sidney E. Johnson

A member of the Board