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IN THE MATTER OF DISCIPLINARY

PROCEEDINGS AGAINST:

DAN FITZGERALD PHARMACY, INC., **FINAL DECISION AND ORDER**
RESPONDENT LS0110103PHM

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

Dan Fitzgerald Pharmacy, Inc.
424 E. Silver Spring Dr.
Milwaukee, WI 53217

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 Dan Fitzgerald Pharmacy, Inc., is and was at all times relevant to the facts set forth herein a community pharmacy licensed in the State of Wisconsin pursuant to license #7161. On 10/13/99, respondent was disciplined in 99 PHM 43 for permitting unlicensed staff to transfer prescriptions to patients, and failing to provide consultations; it was ordered to forfeit \$1,000 plus costs.
2. On 8/1/01, an investigator for the Board observed two patients receive prescriptions which were transferred by unlicensed persons, without a consultation from a licensed pharmacist. At the time, one of the individual owners of respondent was the pharmacist in charge.
3. In view of all the facts, the Board infers that respondent has permitted a climate of non-compliance with the Board's consultation rule, and has a *de facto* corporate policy of not providing consultations.

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 2, above, violated § Phar 7.01(1)(e) and (em), 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 respondent, Dan Fitzgerald Pharmacy, Inc., is REPRIMANDED for its unprofessional conduct in this matter.
IT IS FURTHER ORDERED, that respondent shall FORFEIT \$4,000, to be paid within 60 days.
IT IS FURTHER ORDERED, that respondent shall pay COSTS in this matter in the amount of \$350, within 60 days of this order.
IT IS FURTHER ORDERED, that an investigator of the department shall observe the practice of pharmacy at respondent's practice location, without advance notice to respondent, at a time convenient to the department, but no less than six nor more than twelve months from the date of this Order. Respondent shall cooperate by furnishing respondent's staff work schedule upon request.
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 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 October 10, 2001.

WISCONSIN PHARMACY EXAMINING BOARD, by:

John Bohlman
A Member of the board