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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

| | | |
|-------------------------------|---|---------------------------------|
| IN THE MATTER OF DISCIPLINARY | : | |
| PROCEEDINGS AGAINST | : | FINAL DECISION AND ORDER |
| | : | |
| SNITEMAN PHARMACY, INC., | : | |
| DAVID C. KLIEFORTH, R.PH, AND | : | LS0210084PHM |
| WILLIAM C. WEILER, R.PH. | : | |
| RESPONDENTS. | : | |

99 PHM 063

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

Sniteman Pharmacy, Inc.
528 Hewett Street
Neillsville, WI 54456

David C. Klieforth, R.Ph.
P.O. Box 3
Neillsville, WI 54456

William C. Weiler, R.Ph.
1703 Grand Avenue
Neillsville, WI 54456

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 Sniteman Pharmacy, Inc., Neillsville, Wisconsin, is licensed as a pharmacy in the state of Wisconsin, # 7029 originally granted January 17, 1990.
2. Respondent David C. Klieforth, R.Ph. (d.o.b. 02/11/59) is and was at all times relevant to the facts set forth herein a registered pharmacist licensed in the state of Wisconsin pursuant to license # 10525, originally granted May 30, 1984. Mr. Klieforth is the managing pharmacist of Sniteman Pharmacy, Inc.
3. Respondent William C. Weiler, R.Ph. (d.o.b. 05/09/48) is and was at all times relevant to the facts set forth herein a registered pharmacist licensed in the state of Wisconsin pursuant to license # 8304, originally granted April 6, 1972. At all times relevant hereto Mr. Weiler was a pharmacist at Sniteman Pharmacy, Inc.
4. The Respondent pharmacy did not install an alarm system as required by Phar sec. 6.08 until April 20, 2000 (110 days without a fully compliant alarm system). Each day of non-compliance constitutes a separate violation.
5. A DEA inspection revealed that the Respondent pharmacy had failed to conduct and maintain a biennial inventory of controlled substances for 1997 and 1999, in violation of 21 CFR 1304.11(c) and Phar sec. 8.02(2).
6. A DEA inspection revealed that on four DEA form 222's the Respondent pharmacy had failed to record the number of containers furnished and the dates of receipt, in violation of 21 CFR 1305.09(e) and Phar sec. 8.02(1).
7. A DEA audit of controlled substances conducted September 20, 1999, revealed a shortage of 330 Dilaudid® 8 mg. tablets (a 2.3% variance). Respondents could not account for the shortage in violation of Phar sec. 8.02(1).
8. A Division review of the Respondent pharmacy hard copy C II prescriptions revealed a lack of specific patient addresses in violation of Phar sec. 8.05(1).
9. Between March, 1998, and April, 2000, Respondents dispensed 26 bottles of the C-V drug , Guaiatuss AC (4 oz.) to patient TS and 23 bottles of the drug to patient SB without a prescription order. The patients' physicians had not been consulted concerning the repeated dispensings and were not aware of any condition of the patients that would justify the medication. Both patients were receiving prescription orders for other controlled substances during the period (hydrocodone and Tylenol # 3) which they had filled at the Respondent pharmacy. The continued dispensing described in this paragraph is outside the minimum standard of practice and is in violation of Phar sec. 10.03(2).
10. The pharmacy practice of Respondent Klieforth was observed March 28, 2000. On five occasions medications were dispensed to patients without consultation in violation of Phar sec. 7.01(1)(e).

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 4 through 10, above, violated § 450.10(1)(a)(2) and (6) Stats., and Phar. 6.08, 7.01(1)(e), 8.02(1), 8.02(2), 8.05(1) and 10.03(2) Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, as follows:

1. The attached Stipulation is accepted.
2. Sniteman Pharmacy, Inc., is REPRIMANDED.
3. David C. Klieforth, R.Ph. is Reprimanded for his unprofessional conduct in this matter.
4. William C. Weiler, R.Ph. is Reprimanded for his unprofessional conduct in this matter.
5. The license of Respondents is LIMITED in that Respondents shall not dispense any C-V substance without a prescription order from an authorized practitioner.
6. Sniteman Pharmacy, Inc. shall pay a FORFEITURE of \$ 2,600 and COSTS of \$1,000 to the Department of Regulation and Licensing within thirty days of the date of this Order.
7. David C. Klieforth, R.Ph. shall pay a FORFEITURE of \$ 500 and COSTS of \$ 500 to the Department of Regulation and Licensing within thirty days of the date of this Order.
8. William C. Weiler, R.Ph. shall pay a FORFEITURE of \$ 250 and COSTS of \$ 500 to the Department of Regulation and Licensing within thirty days of the date of this Order.

IT IS FURTHER ORDERED, that an investigator of the department shall observe the practice of pharmacy at Respondents' practice location, without advance notice to Respondents, at a time convenient to the department, but no less than six nor more than twelve months from the date of this Order. Respondents shall cooperate by furnishing Respondents' 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 Respondents have violated any term of this Final Decision and Order, the Board may order that the license of any of the Respondents be summarily suspended pending investigation of the alleged violation.

Dated this October 8th, 2002.

Susan Sutter

A Member of the board