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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
MOUNT HOREB PHARMACY, : LS0604121PHM
RESPONDENT. :

04 PHM 22

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

Mount Horeb Pharmacy
203 W. Main St.
Mount Horeb, WI 53572

Wisconsin Pharmacy Examining Board
1400 E. Washington Ave.
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, Mount Horeb Pharmacy, Respondent, and Pamela M. Stach, attorney for the Department of Regulation and Licensing, agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Pharmacy Examining 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. Mount Horeb Pharmacy, 203 W. Main Street, Mount Horeb, Wisconsin, 53572 is duly licensed in the state of Wisconsin as a community pharmacy (license # 8354). This license was first granted on January 2, 2004.
2. An investigation, entitled 04 PHM 22 is pending before the Wisconsin Pharmacy Examining Board.
3. On March 12, 2004 a change in ownership pharmacy inspection revealed several violations. There was only six linear feet of counter space available for the compounding and dispensing of prescriptions. There was no sink in the professional services area. The pharmacy did not have a hard rubber spatula. Controlled substances were unsecured, in alphabetical order, in the same stock as the legend drugs.
4. On March 12, 2004 an investigator for the Board observed, on multiple occasions, an unlicensed person transfer prescriptions to patients without a consultation from a licensed pharmacist. At the time, there was one pharmacist on duty but she did not have any interaction with the patients.
5. On April 11, 2004 Respondent sent the Board a letter complete with photographs showing that they had addressed all of the violations from the March 12, 2004 pharmacy inspection. This included: increasing the counter space for compounding and dispensing prescriptions, installing a sink in the professional services area, obtaining a hard rubber spatula, and storing all controlled substances in locked cabinets anchored to the wall to prevent theft. The letter also stated that all employees had received in-service training and were now aware that only pharmacists can transfer prescriptions to patients and that a pharmacist needs to provide a consultation to all patients.
6. On July 15, 2004 an investigator for the Board returned for a follow-up inspection and observed, on multiple occasions, an unlicensed person transfer prescriptions to patients, without a consultation from a licensed pharmacist. At the time, there was one pharmacist on duty but she did not have any interaction with the patients.

CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction in this proceeding pursuant to §450.10 Wis. Stats. and is authorized to resolve this proceeding by Stipulation without an evidentiary hearing pursuant to §227.44 (5) Wis. Stats.
2. Respondent's conduct of failing to ensure that the professional services area had a free working surface of 18 or more inches in width and at least 12 sq feet in area for the compounding and dispensing prescriptions constituted a violation of § Phar 6.04(2) Wis. Adm. Code.
3. Respondent's conduct of failing to ensure that the pharmacy had a sink in the professional services area constituted a violation of § Phar 6.05 Wis. Adm. Code.
4. Respondent's conduct of failing to ensure that the pharmacy had at least one hard rubber spatula constituted a violation of § Phar 6.06(1)(f) Wis. Adm. Code.
5. Respondent's conduct of storing controlled substances unsecured, in alphabetical order, in the same stock as the legend drugs constituted a violation of § Phar 6.07(3) Wis. Adm. Code.
6. Respondent's conduct of failing to have a policy in place to ensure that only pharmacists transferred prescriptions to patients and failing to have a policy in place to ensure that pharmacists provide consultations to all patients constituted a violation of §§ Phar 7.01(1)(e) and (em) Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED, that Mount Horeb Pharmacy is REPRIMANDED.

IT IS FURTHER ORDERED that Respondent shall FORFEIT FIVE HUNDRED DOLLARS (\$500), to be paid within sixty (60) days from the date of this order.

IT IS FURTHER ORDERED that Respondent shall pay COSTS in the amount of THREE HUNDRED FIFTY DOLLARS (\$350.00), to be paid within sixty (60) days from the date of this order.

All payments shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to: Department Monitor, Division of Enforcement, Dept. of Regulation & Licensing, P. O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that pursuant to §227.51(3), Wis. Stats., and 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.

This Order shall become effective upon the date of its signing.

Dated at Madison, Wisconsin, this 12th day of April, 2006.

By: Michael Bettiga
A Member of the Board