

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF
THE LICENSE OF

WILLIAM C. WEILER, R.PH.,
DAVID C. KLIEFORTH, R.PH., AND
SNITEMAN PHARMACY, INC.,
PETITIONERS

:
:
:
ORDER DENYING
REMOVAL OF LIMITATION

:
:
:
LS0210084PHM
:
:
:

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

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

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

Department Monitor
Division of Enforcement
1400 East Washington Avenue
Madison, WI 53703

The Pharmacy Examining Board considered this matter at its meeting on May 30, 2012.

BACKGROUND

On October 8, 2002, for the reasons stated in the Final Decision and Order of the same date, the Pharmacy Examining Board reprimanded William C. Weiler, R.Ph.; David C. Klieforth, R.Ph.; and Sniteman Pharmacy, Inc., license numbers 8304-40, 10525-40, and 7029-42, respectively. The Board further limited each license, ordering each licensee to not sell any class V controlled substances without a prescription from an authorized practitioner. Each licensee was ordered to pay a forfeiture and costs within 30 days of the date of the Order. Finally, the Board ordered that investigators from the Department of Regulation and Licensing (currently Safety and Professional Services), Division of Enforcement, were to observe the practice of pharmacy at Sniteman Pharmacy without advance notice.

On March 23, 2012, a Department investigator performed an unnoticed inspection at Sniteman Pharmacy. The investigator noted two issues of concern: (1) the pharmacy's professional service area did not have a heating device and (2) a nominally hidden, but publicly accessible area near the pharmacy's customer corner contained needles and syringes.

On March 26, 2012, the Department received a Notice of Compliance from Sniteman Pharmacy indicating that the licensees had corrected the two issues noted by the investigator on March 23, 2012. The licensees submitted an undated petition to terminate the limitation prohibiting them from dispensing any class V controlled substance without a prescription order

from an authorized practitioner, as imposed by the Board's October 8, 2002 Final Decision and Order.

On May 30, 2012, the Board considered the licensees' petition to remove the limitation from their respective licenses. Based upon the information of record, the Board now finds and makes the following:

FINDINGS OF FACT

1. During the unnoticed inspection on March 23, 2012, the Department investigator observed that Sniteman Pharmacy lacked a heating device in the pharmacy's professional service area. The investigator observed that Sniteman Pharmacy had a microwave oven in its employee break room available for use as the required heating device when necessary. The investigator requested that the pharmacy place a heating device in the professional service area for compliance with the administrative rules.

2. During the unnoticed inspection on March 23, 2012, the Department investigator observed that Sniteman Pharmacy had needles and syringes located in a publicly accessible area. Mr. Weiler indicated that the pharmacy sold such items by prescription only. The investigator requested that the pharmacy move the needles and syringes to a different area of the pharmacy that was not accessible to the public.

3. Mr. Weiler, Mr. Klieforth, and Sniteman Pharmacy returned a Notice of Compliance to the Department dated March 26, 2012, indicating that a hot plate was purchased for the pharmacy and that the needles and syringes were moved behind the prescription counter, out of the reach of customers.

4. Mr. Weiler, Mr. Klieforth, and Sniteman Pharmacy have not ceased the practice of dispensing class V controlled substances without a prescription from an authorized practitioner. The pharmacy's class II-V drug inventories for June 1, 2011 and January 4, 2012 indicated that the pharmacy was dispensing over-the-counter class V controlled substances, such as pseudoephedrine products.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 450.10.

2. Sniteman Pharmacy did not have a heating device in the professional service area as required by Wis. Admin. Code § Phar 6.06(1)(h).

3. Sniteman Pharmacy had needles and syringes in a publicly accessible area. These items were located outside of the professional service area contrary to Wis. Admin. Code § Phar 1.02(14).

4. Based on the record of this case and the findings outlined above, the Board concludes that by dispensing class V controlled substances, Mr. Weiler, Mr. Klieforth, and Sniteman Pharmacy violated the Board's Order dated October 8, 2002.

ORDER

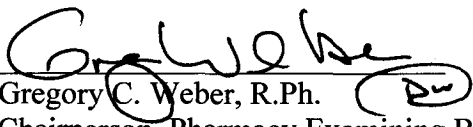
NOW, THEREFORE, IT IS ORDERED that Mr. Weiler, Mr. Klieforth, and Sniteman Pharmacy's request for removal of the limitation placed on their three respective licenses is **DENIED**.

IT IS FURTHER ORDERED that Mr. Weiler, Mr. Klieforth, and Sniteman Pharmacy may re-petition for removal of the limitation on their licenses following three (3) months of demonstrated compliance with the prohibition on dispensing class V controlled substances without a prescription from an authorized practitioner. As a condition of the Board's review of any such petition, Mr. Weiler, Mr. Klieforth, and Sniteman Pharmacy shall submit a notarized affidavit stating that they have not dispensed a class V controlled substance without a prescription from an authorized practitioner.

IT IS FURTHER ORDERED that Mr. Weiler, Mr. Klieforth, and Sniteman Pharmacy shall comply with all terms and conditions of the Board's October 8, 2002 Order, not modified herein.

This order is effective on the date signed below.

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD


Gregory C. Weber, R.Ph.
Chairperson, Pharmacy Examining Board

6/22/12
Date