

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOHN R. LEMBERGER, R.PH.,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

0002396

Division of Legal Services and Compliance¹ Case No. 11 PHM 065

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

John R. Lemberger, R.Ph.
7020 N. 98th Street
Milwaukee, WI 53224-4506

Wisconsin Pharmacy Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Division of Legal Services and Compliance
Department of Safety and Professional Services
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 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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent John R. Lemberger, R.Ph., (dob December 24, 1953) is licensed in the State of Wisconsin as a pharmacist, having license number 40-9338, first granted on March 8, 1978, and current through May 31, 2014. Respondent John R. Lemberger's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 7020 N. 98th Street, Milwaukee, WI 53224-4506.

2. Respondent John R. Lemberger, R.Ph., was employed as a pharmacist at Laabs, Inc., in Milwaukee, WI, as pharmacist in charge on Fridays, when the managing pharmacist had

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

his day off. Respondent John R. Lemberger followed the protocols established and required by the non-pharmacist owners of Laabs, Inc., in the operation of the pharmacy.

3. The owners of Laabs, Inc., hired a pharmacy technician who had a felony criminal conviction for possession of cocaine with intent to deliver, and additional criminal arrests for other drug offenses. Respondent John R. Lemberger was not aware of the pharmacy technician's criminal record.

4. The pharmacy technician had full access to legitimate prescriptions for controlled substances, and the pharmacy computer; he was responsible for entering the legitimate prescriptions into the computer and for creating the documents that Respondent John R. Lemberger relied upon in filling prescriptions for controlled substances.

5. The protocols established by the owners of Laabs, Inc., included the use of photocopies of prescriptions for controlled substances, where the original paper scrip included two separate prescriptions. Respondent Lemberger relied upon photocopies of legitimate scrips in his checks of the pharmacy technician's work.

6. When the United States Drug Enforcement Administration investigated suspected diversion of controlled substances from Laabs, Inc., it found that Respondent John R. Lemberger appeared to be routinely filling and dispensing prescriptions for hundreds of tablets of oxycodone to imposter customers, based on the photocopies of the second prescription on the legitimate original scrip, and then reversing the charges in the pharmacy's computer so that the legitimate customer would not be denied the refill when the legitimate customer requested it.

7. Dimitris Joyner, the pharmacy technician, is serving a federal criminal sentence for his role in obtaining controlled substances in furtherance of a conspiracy with multiple other individuals for the illegal distribution of controlled substances.

8. Respondent John R. Lemberger is disabled and has retired from the practice of pharmacy. He tenders the surrender of his license as a pharmacist.

9. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 450.10(1)(b) and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

ORDER

1. The attached Stipulation is accepted.
2. Respondent John R. Lemberger's SURRENDER of his license is accepted.

3. This Order is effective on the date of its signing.

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

4/15/13
Date