

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

DALTON L. HOLMEN, R.PH.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:

0002398

Division of Legal Services and Compliance¹ Case No. 11 PHM 064

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

Dalton L. Holmen, R.Ph.
614 Fifth Street
Waunakee, WI 53597

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 Division of Legal Services and Compliance filed the complaint that became DHA case #SPS-12-0034 on April 23, 2012. Administrative Law Judge Jennifer E. Nashold was assigned to the case. Respondent Dalton L. Holmen timely filed an Answer. The parties reached a resolution and presented it to the Pharmacy Examining Board (Board) for its consideration.

Accordingly, the Board in this matter considers the resolution acceptable, and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Dalton L. Holmen, R.Ph., (dob: January 26, 1966) is licensed in the State of Wisconsin as a pharmacist, having license number 11890-40, first issued on January 12, 1993 and current through May 31, 2014. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 614 Fifth Street, Waunakee, Wisconsin 53597.

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

2. Respondent was previously disciplined by the Board on December 5, 2007, under case no. 07 PHM 053, which resulted in Respondent entering into a Board Order that imposed a suspension until Respondent was able to establish his fitness for duty.

3. On November 26, 2008, Respondent was issued a limited license allowing him to practice under certain conditions, including but not limited to submission of quarterly clinical treatment reports and quarterly substance abuse treatment reports.

4. During an audit of the Board's monitored cases, the Department Monitor observed that Respondent failed to comply with his Board Order, specifically, that:

- a. Respondent has not submitted a substance abuse treatment report since March 3, 2010; and
- b. Respondent has never submitted a clinical treatment report.

5. On September 9, 2010, Respondent was convicted for Operating While Intoxicated (6th) for an incident that occurred on April 24, 2010. Respondent failed to report his conviction to the Board within a time period satisfactory to the Board.

6. On September 13, 2012 Respondent provided the Department with an affidavit attesting he has not practiced pharmacy or used his license since April 20, 2010, and that he does not intend on practicing until resolution of this matter.

7. On December 17, 2012, Respondent completed an assessment by a clinical treatment provider experienced in evaluating healthcare practitioners' fitness for duty. On January 28, 2013, Respondent completed an AODA assessment by a licensed substance abuse counselor.

CONCLUSIONS OF LAW

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

2. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(18) and Wis. Stat. § 450.10(1)(a)8.

3. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § SPS 4.09(2) which constitutes unprofessional conduct as defined by Wis. Stat. § 450.10(1)(a)2.

4. As a result of the above unprofessional conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b).

ORDER

1. The attached Stipulation is accepted.
2. The Pharmacy license issued to Respondent Dalton L. Holmen, R.Ph., (license no. 11890-40) is **SUSPENDED** for four (4) weeks, during which Respondent is prohibited from practicing pharmacy. This period of suspension shall start retroactively from September 13, 2012 and deemed completed.
3. For at least five (5) years from the date of this Order, Respondent's license shall be **LIMITED** as follows:
 - a. Respondent shall remain active in clinical treatment.
 - b. Respondent shall provide this Order to his treatment provider(s).
 - c. Respondent shall arrange for his treatment provider(s) to provide formal written reports on a quarterly basis to the Board on Respondent's treatment progress, as directed by the Department Monitor. The treatment provider(s) shall immediately report to the Board any conduct of the Respondent that may constitute unprofessional conduct, a violation of this Order or a danger to the public or client. Respondent shall be responsible for the timely submission of reports.
 - d. Respondent shall authorize his treatment provider to release health care records to the Department.
 - e. Respondent shall notify the Department Monitor of any change of employment during the time in which the Order is in effect. Notification shall occur within fifteen (15) days of a change of employment and shall include an explanation of the reasons for the change.
 - f. Respondent shall provide this Order to his employer.
 - g. Respondent shall arrange for his employer to provide formal written reports on a quarterly basis to the Board on Respondent's job performance, as directed by the Department Monitor. Respondent shall be responsible for the timely submission of reports.
 - h. Respondent shall appear before the Board on an annual basis, if requested by the Board, to review the progress of treatment and rehabilitation.
 - i. The limitation shall only be lifted upon a successful petition to the Board.
4. Within ninety (90) days from the date of this Order, Respondent shall pay **COSTS** of this matter in the amount of \$2,500.00.

5. All notices, requests, petitions, reports and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent to the Department Monitor at:

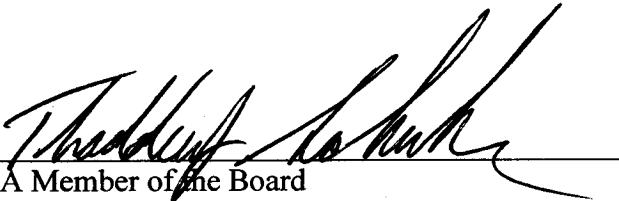
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of the costs, quarterly reports, or notification of change of employment as set forth above, Respondent's license (no. 11890-40) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has paid costs and timely submitted quarterly reports and notification of change of employment.

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

WISCONSIN PHARMACY EXAMINING BOARD

By:


A Member of the Board

4/15/13
Date