

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 :
: FINAL DECISION AND ORDER
MORTON LTC., :
RESPONDENT. :

0004464

Division of Legal Services and Compliance Case No. 14 PHM 056

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

Morton LTC
201 East Bell Street
Neenah, WI 54956

Wisconsin Pharmacy Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 Pharmacy Examining Board (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 Morton LTC., is licensed in the state of Wisconsin to practice as a pharmacy, having license number 9299-42, first issued on March 2, 2015 and current through May 31, 2016. At the time of the conduct, Morton LTC., was operating under license number 8679-42 which was first issued on August 8, 2006 and became inactive on August 17, 2015 due to a location change. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 201 East Bell Street, Neenah, Wisconsin 54956.

2. At all times relevant to this proceeding, Respondent was operating as a pharmacy located in Menasha, Wisconsin.

3. Between approximately April 2013 and May 2014, a pharmacy technician diverted more than 20,000 tablets of Vicodin®, a schedule III controlled substance at Morton LTC.

4. During the employee pilferage, Respondent failed to implement sufficient auditing to detect the missing controlled substances and sufficient security procedures necessary to prevent theft of a significant amount of controlled substances.

5. Respondent has implemented substantial changes in practice to address the security and auditing weaknesses.

6. Respondent denies all wrong-doing and contends it followed the Wisconsin Administrative Code pertaining to the practice of pharmacy. Respondent was the victim of the intentional, illegal acts of a former employee, who has since been prosecuted. In order to avoid further time and expense in defending this case, Respondent agrees to resolve this matter according to the terms set forth herein and in the accompanying Stipulation.

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 Morton LTC., engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar. 10.03(2).

3. As a result of the above violations, Morton LTC., is subject to discipline pursuant to Wis. Stat. § 449.10(1)(a)(2).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Morton LTC., is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Morton LTC., shall pay a FORFEITURE in this matter in the amount of \$1000.00.

4. Payment of the forfeiture (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. 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 forfeiture as ordered Respondent's license (no. 9299-42) may, in the discretion of the Board or its designee, be **SUSPENDED**, without further notice or hearing, until Respondent has complied with payment of forfeiture.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

1/12/16
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MORTON LTC.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004464

Division of Legal Services and Compliance Case No. 14 PHM 056

Respondent Morton LTC., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.


5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

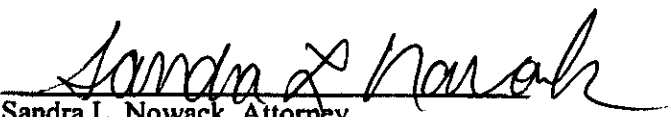
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Steve Morton, Authorized Representative
Morton LTC., Respondent
201 East Bell Street
Neenah, WI 54956
License no. 9299-42

12-21-15
Date


Sandra L. Nowack, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

12/21/15
Date