

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
ROBERT A. STEIB, R.PH., :
RESPONDENT. :

0004732

Division of Legal Services and Compliance Case No. 14 PHM 081

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

Robert A. Steib, R.Ph.
2985 South 127th Street
New Berlin, WI 53151

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 Robert A. Steib, R.Ph., (dob August 24, 1963) is licensed in the state of Wisconsin to practice pharmacy, having license number 10938-40, first issued on March 17, 1987 and current through May 31, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2985 South 127th Street, New Berlin, WI 53151.

2. At all times relevant to this matter, Respondent was employed as the managing pharmacist at New Berlin Pharmacy, located in New Berlin, Wisconsin.

Past Discipline

3. On April 11, 2000, the Board, in case number 99 PHM 55, reprimanded Respondent. The Board imposed the discipline because Respondent, in May of 1999, unlawfully substituted one prescription drug for another.

Current Matter

4. New Berlin Pharmacy (the pharmacy) is licensed in the state of Wisconsin as a pharmacy, having license number 8899-42, first issued on November 24, 2008 and current through May 31, 2016. The pharmacy's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 14105 West Greenfield Avenue, New Berlin, Wisconsin 53151.

5. The events set out below occurred in the pharmacy, while Respondent was the managing pharmacist.

6. On January 28, 2014, the U.S. Department of Justice, Drug Enforcement Administration (DEA) inspected the pharmacy pursuant to an Administrative Inspection Warrant.

7. On June 11, 2014, the DEA issued the pharmacy a Letter of Admonition, based on the following:

- a. failure to make and keep a biennial inventory of controlled substances;
- b. failure to retain original linked records for controlled substance orders;
- c. failure to make complete and accurate records;
- d. an accountability audit showed an overage of oxycodone 30 mg and alprazolam 1 mg and 2 mg tablets and shortages of hydrocodone/APAP 10/325 and 7.5/325 tablets; and
- e. the pharmacy accepted returns of schedule II controlled substances that had been dispensed to a patient pursuant to a prescription.

8. At all times relevant to this matter, the pharmacy was owned by Jason Kilvinger (Kilvinger).

9. Kilvinger is not now and has never been licensed to engage in the practice of pharmacy in the state of Wisconsin.

10. Kilvinger is not now and has never been licensed to engage in the practice of pharmacy in any jurisdiction.

11. Between approximately January 2014 and October 2015, on approximately one hundred occasions, Respondent, as managing pharmacist, knowingly permitted Kilvinger to engage in the unlicensed practice of pharmacy, without a licensed pharmacist present.

12. On numerous occasions between approximately January 2014 and October 2015, Respondent, as the managing pharmacist, sold or permitted pharmacy staff to sell controlled substances to individuals without valid prescriptions.

13. On numerous occasions between approximately January 2014 and October 2015, Respondent falsified pharmacy records to cover shortages of controlled substances.

14. On multiple occasions between January 2014 and October 2015, Respondent was aware that:

- a. Kilvinger billed insurance companies for medications that were not actually dispensed;
- b. Kilvinger took controlled substances from the pharmacy for his personal use without having a valid prescription for the controlled substances;
- c. another unlicensed employee took controlled substances from the pharmacy for his personal use without having a valid prescription for the controlled substances; and
- d. Kilvinger falsified pharmacy records to create the appearance that certain drugs were dispensed, when they had not been dispensed.

15. Respondent took no action to address, stop or report to the Board the conduct set out in paragraph 14.

16. As of March 25, 2016, Respondent voluntarily ceased to engage in the practice of pharmacy in the state of Wisconsin.

17. Respondent neither admits nor denies the allegations but has elected to resolve this matter by stipulation.

18. 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), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Pursuant to Wis. Stat. § 450.09(1)(a), the managing pharmacist is responsible for the professional operations of the pharmacy.

3. Pursuant to Wis. Stat. § 450.09(2), no pharmaceutical service may be provided to any person unless a licensed pharmacist is present in the pharmacy to provide or supervise the practice.

4. Respondent, while serving as the managing pharmacist violated Wis. Stat. § 450.09(2), by allowing an unlicensed person to provide pharmaceutical services without a pharmacist present in the pharmacy.

5. By violating Wis. Stat. § 450.09(2), Respondent violated a law substantially related to the practice of pharmacy, which is unprofessional conduct as defined by Wis. Stat. § 450.10(1)(a)2.

6. Respondent, by dispensing, supplying or obtaining a drug other than in legitimate practice, engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(1).

7. Respondent, by practicing pharmacy in a manner which substantially departs from the standard of care ordinarily exercised by a pharmacist, which could have harmed a patient, engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(2).

8. Respondent, by falsifying patient records or knowingly permitting another to falsify patient records while Respondent was the managing pharmacist, engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(5).

9. Respondent, by failing to report to the Board any pharmacy practice which constitutes a danger to the health, safety or welfare of a patient or the public, engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(7).

10. Respondent, by aiding and abetting the unlicensed practice of pharmacy, engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(10).

11. Respondent, by permitting another to falsely bill insurance companies for drugs not actually dispensed while acting as the managing pharmacist, engaged in unprofessional conduct as defined by Wis. Stat. § 450.10(1)(a)7.

12. Respondent is subject to disciplinary action pursuant to Wis. Stat. § 450.10(2).

ORDER

1. The attached Stipulation is accepted.

2. The voluntary SURRENDER of the license to practice pharmacy in the state of Wisconsin issued to Robert A. Steib, R.Ph., (license no. 10938-40) is hereby accepted.

3. In the event Respondent petitions the Board for reinstatement in the future, the Board may enter an order denying such petition without further notice or hearing. Whether to grant a license and whether to impose any limitations or restrictions on any license shall be in the sole discretion of the Board. The Board's decision is not reviewable.

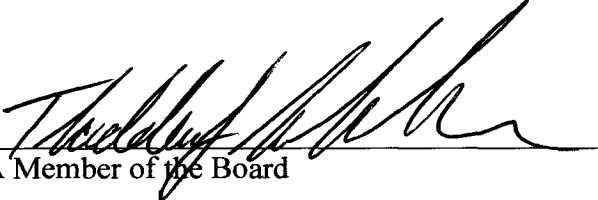
4. Within 180 days of the date of this Order, Respondent shall pay the Division's costs in investigating this matter, in the amount of \$1914.00.

5. Respondent shall send payments of costs (payable to the Wisconsin Department of Safety and Professional Services) and shall immediately return all indicia of Wisconsin licensure 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

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

WISCONSIN PHARMACY EXAMINING BOARD

by: 
A Member of the Board

5/25/16
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ROBERT A. STEIB, R.PH.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004732

Division of Legal Services and Compliance Case No. 14 PHM 081

Respondent Robert A. Steib, R.PH., 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. Respondent is represented by Attorney David Geraghty.

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.

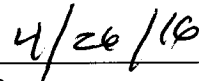
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes 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.

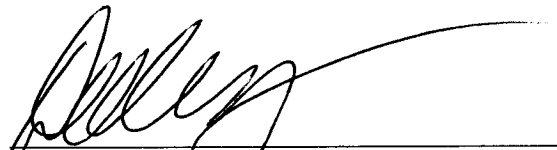
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



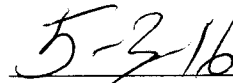
Robert A. Steib, R.P.H., Respondent
2985 South 127th Street
New Berlin, WI 53151
License no. 10938-40



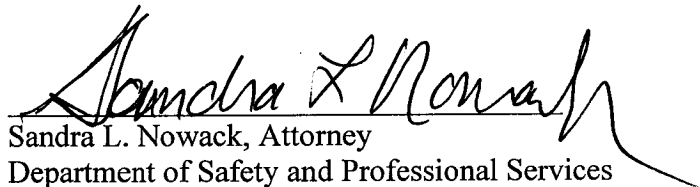
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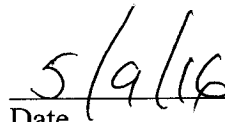
David Geraghty, Attorney for Respondent
Geraghty Law Offices
2300 North Mayfair Road, Suite 470
Milwaukee, WI 53226-1584



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



Date