

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE APPLICATION FOR :
REINSTATEMENT OF A PHARMACIST :
LICENSE : ORDER GRANTING
: LIMITED LICENSE
ROBERT STEVENS, :
APPLICANT. :

0005100

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

ROBERT STEVENS
4551 NORTH 42ND STREET
MILWAUKEE, WI 53209

WISCONSIN PHARMACY EXAMINING BOARD
P.O. BOX 8366
MADISON, WI 53708-8366

FINDINGS OF FACT

1. ROBERT STEVENS (Applicant) has filed an application (#481163) for reinstatement of his Pharmacist license (# 11291-40).
2. Information received in the application process reflects the following:
 - A. Applicant was issued his initial Pharmacist license on June 13, 1989.
 - B. Applicant's license expired on May 31, 2006.
 - C. After Applicant's license expired, Applicant was issued Final Decision and Order number LS0609132PHM (Order) on or around September 13, 2006.
 - a. The terms of the Order were set to become effective if Applicant renewed his license. Upon renewal, the Order specified that the Applicant's license would be immediately suspended for an indefinite period.
 - b. The Order had conditions and limitations that included drug and alcohol treatment, attendance at Narcotics Anonymous and/or Alcoholic Anonymous meetings, abstention from alcohol, abstention from controlled substances and over-the-counter medication, and submission to random drug and alcohol screens.
 - c. Upon successful completion with the Order, including continuous, successful compliance for a period for at least five (5) years, including at least 600 hours of active pharmacist practice for every year the suspension is stayed, Applicant was given the opportunity to petition the Board to return to full licensure.

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- D. Applicant did not renew his pharmacist license within the five (5) year period following the expiration of the license and the Applicant never worked under the terms imposed by the Order.
 - E. On or about September 9, 2013, Applicant applied to reinstate his pharmacist license.
 - F. Applicant was convicted on or about January 26, 2007 of Obtaining Controlled Substances by Fraud, a Felony conviction.
 - a. On or around March 15, 2006, Applicant was seen on a video surveillance tape putting controlled substances in his pockets. When the Applicant was confronted, he produced the drugs from his pockets and admitted to diverting controlled substances from the pharmacy at which the Applicant was employed over a period of approximately three months.
3. Limitations upon Applicant's license to practice Pharmacy are necessary to ensure the Applicant is able to practice pharmacy in a manner which protects the public health, safety, or welfare of patients or the public.

CONCLUSIONS OF LAW

- 1. The Wisconsin Pharmacy Examining Board has jurisdiction over this matter pursuant to Wis. Stat. §§ 440.08(4) and 450.03, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. §§ 15.08(5)(c) and 227.44(5).
- 2. The facts and circumstances outlined in Final Decision and Order LS0609132PHM demonstrates the Applicant engaged in unprofessional conduct by administering, dispensing, supplying or obtaining a drug other than in legitimate practice, or as prohibited by law, pursuant to Wis. Stat. § 450.10(1)(b)1. and Wis. Admin. Code § Phar 10.03(1).
- 3. Applicant has an arrest or conviction record which relates substantially to the practice of pharmacy and is grounds for denying Applicant's application for reinstatement pursuant to Wis. Stat. § 450.10(1)(b)3.
- 4. By the conduct described in the Findings of Fact, Applicant violated Wis. Stat. § 450.10(1)(a)2, by violating this chapter, or subject to Wis. Stat. § 961.38 (4r), Wis. Stat. ch 961 or any federal or state statute or rule which substantially relates to the practice of the licensee.

ORDER

NOW, THEREFORE, IT IS ORDERED that ROBERT STEVENS is GRANTED a PHARMACIST LICENSE subject to the following LIMITATIONS, TERMS, AND CONDITIONS:

SUSPENSION

- A.1. The license of ROBERT STEVENS, to practice pharmacy in the state of Wisconsin is SUSPENDED for an indefinite period.

- A.2. Upon a showing by Applicant of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active pharmacy practice for every year the suspension is stayed, the Board may grant a petition by the Applicant under paragraph D.6. for return of full Wisconsin licensure. The Board may, on its own motion or at the request of the Department of Safety and Professional Services Monitor (Department Monitor), grant full Wisconsin licensure at any time.

STAY OF SUSPENSION

- B.1. The suspension of Applicant's Wisconsin pharmacist license may be stayed upon Applicant petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Applicant is in compliance with the provisions of Sections C and D of this Order.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Applicant is in substantial or repeated violation of any provision of Sections C or D of this Order. A substantial violation includes, but is not limited to, a positive drug or alcohol screen. A repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board or its designee may, in conjunction with any removal of any stay, prohibit the Applicant for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Applicant either by:
- (a) Mailing to Applicant's last-known address provided to the Department of Safety and Professional Services pursuant to Wis. Stat. § 440.11; or
 - (b) Actual notice to Applicant or Applicant's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Applicant is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.
- B.5. If Applicant requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. SPS 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within sixty (60) days of receipt of Applicant's request, unless waived by Applicant. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITIONS AND LIMITATIONS

Treatment Required

- C.1. Applicant shall enter into, and shall continue, drug and alcohol treatment with a treater acceptable to the Board or its designee (Treater). Applicant shall participate in, cooperate with, and follow all treatment recommended by Treater.

- C.2. Applicant shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Applicant's rehabilitation and treatment as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as required by this Order, Applicant shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the Board or its designee, after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Applicant's progress in drug and alcohol treatment. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Releases

- C.6. Applicant shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Safety and Professional Services, Division of Legal Services and Compliance to:
 - (a) obtain all specimen screen results and patient health care and treatment records and reports, and
 - (b) discuss the progress of Applicant's treatment and rehabilitation with Treater and treatment facilities and personnel, laboratories and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

- C.7. Applicant shall attend Narcotics Anonymous and/or Alcoholics Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Applicant at such meetings shall be verified and reported quarterly to Treater and the Department Monitor.

Sobriety

- C.8. Applicant shall abstain from all personal use of alcohol.

- C.9. Applicant shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Applicant shall disclose Applicant's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Applicant shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Applicant's treatment with, and provide copies of treatment records to, Treater and the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- C.10. Applicant shall abstain from all use of over-the-counter medications or other substances (including but not limited to natural substances such as poppy seeds) which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Applicant's treatment and rehabilitation. It is Applicant's responsibility to educate himself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.
- C.11. Applicant shall report to Treater and the Department Monitor all prescription medications and drugs taken by Applicant. Reports must be received within twenty-four (24) hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Applicant shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- C.12. Applicant shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Applicant's treatment and rehabilitation, shall not be taken unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph C.11.

Drug and Alcohol Screens

- C.13. Applicant shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department (Approved Program).
- C.14. At the time Applicant enrolls in the Approved Program, Applicant shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
- (a) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.

- (b) Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.15. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year, one (1) of which must be a hair test, for the first year of this Order. After the first year, Applicant may petition the Board on an annual basis for a modification of the frequency of tests. The board may adjust the frequency of testing on its own initiative at any time.
- C.16. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Applicant shall promptly submit to additional tests or examinations as the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.17. In addition to any requirement of the Approved Program, the Board or its designee may require Applicant to do any or all of the following:
- (a) submit additional specimens;
 - (b) furnish any specimen in a directly witnessed manner; or
 - (c) submit specimens on a more frequent basis.
- C.18. All confirmed positive test results shall be presumed to be valid. Applicant must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- C.19. The Approved Program shall submit information and reports to the Department Monitor as directed.

Practice Limitations

- C.20. Applicant shall not practice as a pharmacist in any capacity unless Applicant is in full compliance with the rehabilitation and treatment programs as specified and approved under this Order. Applicant shall not practice as a pharmacist in any capacity other than in the presence of another pharmacist without approval of the Board.
- C.21. Applicant shall not be employed as or work in the capacity of a “managing pharmacist” as defined in Wis. Admin. Code § Phar 1.02(6), without approval of the Board.
- C.22. Applicant shall not be employed as or work in the capacity of a “pharmacy technician” as defined in Wis. Admin. Code § Phar 7.015(1), without approval of the Board.
- C.23. Applicant shall not be employed or work in the capacity of a “pharmacist in charge” as defined in Wis. Admin. Code § Phar 1.02(9), while under the terms of this Order, except as otherwise allowed herein. Applicant may petition the Board for modification of this

prohibition against practice as a pharmacist in charge pursuant to the terms of paragraph D.5. In addition to complying with the conditions of paragraph D.5., any such petition shall be accompanied by written request of the managing pharmacist, which shall include a complete work schedule of all pharmacists employed in the pharmacy indicating the proposed work schedule and supervision pattern for Applicant. The Board in its discretion may at any time modify any of the terms regarding practice by Applicant as a pharmacist in charge, as the Board deems appropriate in the circumstances. Grounds for modification or removal of the authorization to practice as a pharmacist in charge may include, but shall not be limited to, change in employer, managing pharmacist or residence address of the Applicant.

- C.24. Applicant shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel (including the managing pharmacist) at all pharmacies where Applicant is engaged in the practice of pharmacy as defined in Wis. Stat. § 450.01(16). Applicant shall provide the Department Monitor with written acknowledgement from each employer that a copy of this Order has been received. Such acknowledgement shall be provided to the Department Monitoring within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.
- C.25. The Board or the Department in its discretion may conduct unannounced inspections and/or audits, and make copies, of pharmacy records and inventory where Applicant is employed as a pharmacist. EMPLOYERS WHO ARE DEA REGISTRANTS ARE INFORMED THAT IF Applicant HAS BEEN CONVICTED OF ANY FELONY RELATING TO CONTROLLED SUBSTANCES, THE EMPLOYER MUST RECEIVE A WAIVER OF 21 CFR § 1301.76 UNDER 21 CFR § 1307.03 BEFORE EMPLOYING Applicant.
- C.26. It is Applicant's responsibility to arrange for written reports from supervisors to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Applicant's work performance, and shall include the number of hours of active pharmacist practice worked during that quarter.
- C.27. Applicant shall obtain an agreement from his managing pharmacist to monitor Applicant's access to and accountability for handling of controlled substances and other abuseable prescription drugs in order to reasonably detect loss, diversion, tampering, or discrepancy relating to controlled substances and other abuseable prescription drugs. Applicant's supervisor shall include in the quarterly reports a description of Applicant's access to controlled substances and other abuseable drugs and the monitoring thereof. Any loss, diversion, tampering, or discrepancy shall be immediately reported to the Board.
- C.28. In addition to the foregoing subparagraph, Applicant shall obtain from his supervising pharmacist agreement to conduct a full and exact (not estimated) count of all controlled substances in inventory immediately, and accountability audits of all controlled substances every six (6) months for the duration of this Order. The audit shall be

conducted by and certified by a licensed pharmacist other than Applicant, who shall be approved by the Board. A summary of all audits required under this subparagraph shall be included in the quarterly report following the audit, However, any discrepancy or missing drugs indicated by the audits shall be immediately reported in writing to the Board.

- C.29. Applicant shall arrange for agreement by his managing pharmacist to immediately report to the Board and to the Treater any conduct or condition of Applicant that may constitute a violation of this Order or a danger to the public.
- C.30. Applicant shall not own in whole or in part any interest in a pharmacy during the period of time this Order remains in effect.
- C.31. Applicant shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of change.

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Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

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

Required Reporting by Applicant

- D.2. Applicant is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Applicant shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Applicant shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Applicant.
- D.3. Every three (3) months the Applicant shall notify the Department Monitor of the Applicant's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

Change of Treater or Approved Program by the Board

- D.4. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Applicant continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

- D.5. Applicant may petition the Board on an annual basis for modification of the terms of this Order, however no such petition for modification shall occur earlier than one (1) year from the date of the initial stay of the suspension. Any petition for modification shall be accompanied by a written recommendation from Applicant's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Applicant shall not have a right to any further hearings or proceedings on the denial.
- D.6. Applicant may petition the Board for termination of this Order anytime after five (5) years from the date of the initial stay of the suspension. However, no petition for termination shall be considered without a showing of continuous, successful compliance with the terms of the Order, for at least five (5) years.

Costs of Compliance

- D.7. Applicant shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Suspension/Additional Discipline

- D.8. In the event that Applicant violates any term of this Order, Applicant's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Applicant has complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

Dated this 3 day of January, 2017

By:

THU Schmack (Dr)
Member of the Pharmacy Examining Board

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF APPLICATION FOR :
REINSTATEMENT OF A PHARMACIST :
LICENSE :
: **STIPULATION**
ROBERT STEVENS :
APPLICANT : **0005100**

It is hereby stipulated between the above-referenced Applicant and the State of Wisconsin Pharmacy Examining Board as follows:

The Applicant has filed an application to reinstate his pharmacist license. Information received by the Board reflects a basis for denial of the application for a credential. Based upon the information of record herein, the Board agrees to issue and the Applicant agrees to accept an Order Granting a Limited License as a Pharmacist subject to the terms and conditions set forth in the attached Order Adopting Stipulation.

Dated this 29th day of December, 2016

By: Robert D. Stevens
Robert Stevens, Applicant

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

Dated this 3rd day of January, 2017

By: TH Schenach (DS)
Member of the Pharmacy Examining Board