

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

CHRISTOPHER M. KACHEL, R.Ph.,
RESPONDENT.

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FINAL DECISION AND ORDER

0005255

Division of Legal Services and Compliance Case No. 16 PHM 078

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

Christopher M. Kachel, R.Ph.
2802 Morning Glory Place
Onalaska, WI 54650

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 Christopher M. Kachel, R.Ph., (dob November 4, 1987) is licensed in the state of Wisconsin to practice pharmacy, having license number 17211-40, first granted on August 5, 2013, and current through May 31, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2802 Morning Glory Place, Onalaska, Wisconsin 54650.

2. At all times relevant to this proceeding, Respondent was employed as a pharmacist at a hospital located in LaCrosse, Wisconsin.

3. On April 19, 2016, co-workers noticed that Respondent was acting strangely and seemed confused. Respondent was unable to answer simple questions.

4. The director of pharmacy and the administrator interviewed the Respondent.

5. Respondent was asked if he had diverted any medications during his shift. Respondent denied any diversion.

6. Respondent was also asked if he had taken any syringes from the pharmacy and placed them in his backpack. Respondent indicated that he had.

7. Respondent was asked if he had removed lorazepam vials from the disposal container that night. Respondent could not recall.

8. Respondent consented to a search of his backpack. During that search, the administrator found 3ml syringes still in their outer protective wrap, a used 10ml syringe that appeared to have blood remaining in the syringe, and a 10ml syringe that had a clear liquid in it with no label.

9. After the search, Respondent admitted that the medication was diverted from overfill in medication vials left after an IV was made for a patient.

10. Respondent was asked to submit to a drug screen. The drug screen was positive for marijuana and Fentanyl. Respondent was terminated on May 1, 2016.

11. Respondent underwent an alcohol and other drug addiction assessment which determined that he did not meet the criteria for a substance use disorder.

12. 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. By the conduct described in the Findings of Fact, Christopher M. Kachel, R.Ph., engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(1), by administering, dispensing, supplying or obtaining a drug other than in legitimate practice, or as prohibited by law.

3. As a result of the above violations, Christopher M. Kachel, R.Ph., is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

1. The attached Stipulation is accepted.

2. The license of Christopher M. Kachel, R.Ph., (license number 17211-40) to practice pharmacy in the State of Wisconsin, is **SUSPENDED** for seven (7) days from the date of this Order.

3. The license issued to Christopher M. Kachel, R.Ph., (license number 17211-40) to practice pharmacy in the State of Wisconsin, is **LIMITED** as follows:

- a. For a period of at least two (2) years from the date of this Order:
 - i. Respondent shall demonstrate continual compliance for at least two (2) years with the terms of this Order including at least six hundred (600) hours of active pharmacy practice for every year the license is limited.
 - ii. Respondent shall not practice as a pharmacist in any capacity unless Respondent is in full compliance with the rehabilitation and treatment programs as specified and approved under this Order.
 - iii. Respondent shall not practice as a pharmacist in any capacity other than in the presence of another pharmacist without approval of the Board.
 - iv. Respondent shall not be employed as or work in the capacity of a "managing pharmacist" as defined in Wis. Admin § Phar 1.02(6), without prior approval of the Board.
 - v. Respondent 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 prior approval of the Board.
 - vi. Respondent 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. Respondent may petition the Board for modification of this prohibition against practice as a pharmacist in charge. 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 Respondent. The Board in its discretion may at any time modify any of the terms regarding practice by Respondent 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 Respondent.

- vii. Respondent shall enroll and participate in a drug and alcohol monitoring program which is approved by the Department (Approved Program). Enrollment shall occur within thirty (30) calendar days from the date of this Order.
- viii. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 - 1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - 2. 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.
 - 3. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year, for at least the first year of this Order. Thereafter, the Board may adjust the frequency of testing on its own initiative at any time.
- ix. Respondent 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. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent 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 Respondent's treatment with, and provide copies of treatment records to, the Board or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- x. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. 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, Respondent shall immediately arrange for the

prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.

- xii. Respondent 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, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician, in which case the drug must be reported as described in the paragraph 3(a)x.
- xiii. All positive test results are presumed valid and may result in automatic suspension of licensure by the Board or the Board's designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- xiv. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances, Respondent 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.
- xv. Respondent shall practice only in a work setting pre-approved by the Board or its designee.
- xvi. Respondent 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 Respondent is engaged in the practice pharmacy as defined in Wis. Stat. § 450.01(16). Respondent shall provide the Department Monitor with written acknowledgment from each pharmacy employer that a copy of this Order has been received. Such acknowledgment shall be provided to the Department Monitor 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. The Board or the Department in its discretion may conduct unannounced inspections and/or audits, and make copies, of pharmacy records and inventory where Respondent is employed as a pharmacist. EMPLOYERS WHO ARE DEA REGISTRANTS ARE INFORMED THAT IF RESPONDENT HAS BEEN CONVICTED OF ANY FELONY RELATING TO CONTROLLED SUBSTANCES, THE EMPLOYER MUST RECEIVE A WAIVER OF 21 CFR §

1301.75 UNDER 21 CFR § 1307.03 BEFORE EMPLOYING
RESPONDENT.

- xvi. It is Respondent'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 Respondent's work performance, and shall include the number of hours of active pharmacist practice worked during that quarter.

4. The Board or its designee may, without hearing, suspend Respondent's pharmacy license upon receipt of information that Respondent is in substantial or repeated violation of any provision of this Order. A substantial violation includes, but is not limited to, a positive drug screen. A repeated violation is defined as the multiple violations of the same provision or violation of more than one provision. The Board or its designee may, in conjunction with the suspension, prohibit Respondent from seeking termination of the suspension for a specified period of time.

5. The Board or its designee may terminate the suspension if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee and is not reviewable.

6. After the first year from the date of this Order, Respondent may petition the Board on an annual basis for a modification of the terms of this Order. After two (2) consecutive years of successful compliance, the Respondent may petition the Board for return of full licensure. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

7. Within 120 days from the date of this Order, Christopher M. Kachel, R.Ph., shall pay COSTS of this matter in the amount of \$325.00

8. Reports and payment of costs (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

9. 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 reports or payment of costs as ordered, Respondent's license (no. 17211-40) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs.

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

WISCONSIN PHARMACY EXAMINING BOARD

by:  (D)
A Member of the Board

4/6/17
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

CHRISTOPHER M. KACHEL, R.Ph.,
RESPONDENT.

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STIPULATION

0005255

Division of Legal Services and Compliance Case No. 16 PHM 078

Respondent Christopher M. Kachel, 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 Eric S. Sanford.


4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Pharmacy Examining Board (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 or Respondent's attorney, 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.

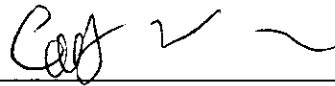
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Christopher M. Kachel, R.Ph., Respondent
2802 Morning Glory Place
Onalaska, WI 54650
License no. 17211-40

3-1-17
Date


Eric S. Sanford, Attorney for Respondent
205 - 5th Avenue South, Suite 200
La Crosse, WI 54601-4059

3/5/17
Date


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

3/8/17
Date