

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

LUKE T. MITTELSTAEDT, R.PH.,
RESPONDENT.

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FINAL DECISION AND ORDER

0005934

Division of Legal Services and Compliance Case No. 17 PHM 180

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

Luke T. Mittelstaedt
2380 Golden Avenue
Oshkosh, WI 54904

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 Luke T. Mittelstaedt, R.Ph., (DOB: October 22, 1958) is licensed in the state of Wisconsin to practice pharmacy, having license number 10427-40, first issued on August 9, 1983, and current through May 31, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2380 Golden Avenue, Oshkosh, Wisconsin 54904.

2. At all times relevant to this proceeding, Respondent was employed as a pharmacist at a pharmacy (the Pharmacy), located in Oshkosh, Wisconsin.

3. On November 4, 2017, Respondent received an electronic prescription that he was unable to print due to printer issues; as such, he wrote what he assumed was the prescription on a prescription blank.

4. Respondent did not read the electronic prescription clearly and instead of transcribing guaifenesin-dextromethorphan cough syrup (the correct prescription), Respondent assumed the prescription was for guaifenesin-codeine cough syrup and transcribed this on the prescription blank.

5. Respondent filled and dispensed guaifenesin-codeine (wrong prescription) instead of guaifenesin-dextromethorphan (correct prescription) to the patient.

6. The Pharmacy has in place a clear policy concerning the processing of prescriptions that had Respondent followed such policy, the error would not have occurred. Respondent was reeducated by the managing pharmacist.

7. 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, Luke T. Mittelstaedt, R.Ph., violated Wis. Admin. Code § Phar 7.01(1)(a), by failing to receive electronic or oral prescription orders of a prescriber, review all original and renewal prescription orders, whether electronic, written or oral, and determine therapeutic compatibility and legality of the prescription order. The review shall include, when indicated or appropriate, consultation with the prescriber.

3. By violating Wis. Admin. Code § Phar 7.01(1)(a), Respondent engaged in unprofessional conduct per Wis. Stat. § 450.10(1)(a)2.

4. By the conduct described in the Findings of Fact, Luke T. Mittelstaedt, R.Ph., engaged in unprofessional conduct as defined by Wis. Admin. Code § Phar 10.03(2), by engaging in any pharmacy practice which constitutes a danger to the health, welfare, or safety of patient or public, including but not limited to, practicing in a manner which substantially departs from the standard of care ordinarily exercised by a pharmacist which harmed or could have harmed a patient

5. As a result of the above violations, Luke T. Mittelstaedt, R.Ph., is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

1. The attached Stipulation is accepted.

2. Respondent Luke T. Mittelstaedt, R.Ph., is REPRIMANDED.
3. Within ninety (90) days from the date of this Order, Luke T. Mittelstaedt, R.Ph., shall pay COSTS of this matter in the amount of \$293.00.
4. 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

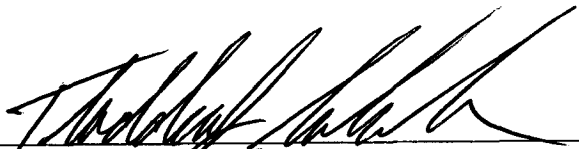
You may also submit this information online via DSPS' Monitoring Case Management System:

<https://app.wi.gov/DSPSMonitoring>

5. In the event that Respondent violates any term of this Order, Respondent's license (no. 10427-40) to practice pharmacy in the state of Wisconsin may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent 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.
6. This Order is effective on the date of its signing.

WISCONSIN PHARMACY EXAMINING BOARD

by:


A Member of the Board

Date

10/25/18

JUL 8 2018

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LUKE T. MITTELSTAEDT, R.PH.,
RESPONDENT.

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STIPULATION

0005934

Division of Legal Services and Compliance Case No. 17 PHM 180

Respondent Luke T. Mittelstaedt, 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.

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.

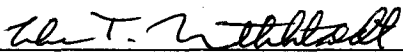
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

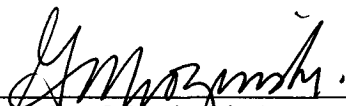
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Luke T. Mittelstaedt, Respondent
2380 Golden Avenue
Oshkosh, WI 54904
License no. 10427-40

10-4-18

Date



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

10-8-18

Date