

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
HSHS PHARMACY #102,	:	
RESPONDENT.	:	0006198

Division of Legal Services and Compliance Case No. 16 PHM 190

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

HSHS Pharmacy #102
117 N McKenzie Street
P.O. Box 558
Gillett, WI 54124

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 HSHS Pharmacy #102 is licensed in the state of Wisconsin as a pharmacy, having license number 9179-42, first issued on December 26, 2012, and current through May 31, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 117 North McKenzie Street, Post Office Box 558, Gillett, Wisconsin 54124.

2. At all times relevant to this proceeding, Respondent was a pharmacy operated in Gillett, Wisconsin and Managing Pharmacist A was an employee of the Respondent.

3. Managing Pharmacist A's duties included ordering controlled substances, receiving orders, and updating the perpetual inventory logbook.

4. Between June 24, 2015, and January 19, 2017, Managing Pharmacist A diverted the following controlled substances:

a. Hydrocodone-acetaminophen, 7.5 mg-325 mg/15 ml	12,298 ml
b. Hydrocodone-acetaminophen, 10-325 Tablets	26,800 ea
c. Dextroamphetamine-amphetamine, 10 mg Tablets	1,600 ea
d. Dextroamphetamine-amphetamine, 20 mg Tablets	5,200 ea
e. Dextroamphetamine-amphetamine, 30 mg Tablets	100 ea

5. Managing Pharmacist A did not have valid prescriptions for the controlled substances identified in paragraph 4.

6. Managing Pharmacist A failed to perform a biennial inventory, failed to properly complete DEA Form 222 (order forms), failed to archive controlled substances order forms, and otherwise failed to complete accurate records.

7. Respondent failed to have policies and procedures in place that would have prevented Managing Pharmacist A from diverting the controlled substances, from failing to perform the biennial inventory, from failing to properly complete DEA Form 222s, from failing to archive controlled substance order forms, from otherwise failing to complete accurate records, and from avoiding detection of the aforementioned conduct.

8. Respondent has cooperated fully with the Board's investigation.

9. Respondent neither admits nor denies the allegations. However, to avoid the uncertainty and costs of litigation, 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, HSHS Pharmacy #102 violated Wis. Admin. Code § Phar 8.02(1), by not maintaining complete and accurate records of each controlled substance received, manufactured, distributed, dispensed, or disposed of in any other matter.

3. By the conduct described in the Findings of Fact, HSHS Pharmacy #102 violated Wis. Admin. Code § Phar 8.02(2), by not maintaining records required by the Federal Controlled Substances Act and Wis. Stat. Ch. 961 at the location where the drug is received, manufactured, distributed, or dispensed, and having those records available for inspection by authorized persons for at least 5 years from the date of such record.

4. By the conduct described in the Findings of Fact, HSHS Pharmacy #102 violated Wis. Stat. § 450.10(1)(a)2, by violating this chapter or, subject to s. 961.38(4r), ch. 961 or any federal or state statute or rule which substantially relates to the practice of the licensee.

5. As a result of the above violations, HSHS Pharmacy #102 is subject to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

1. The attached Stipulation is accepted.

2. Respondent HSHS Pharmacy #102 is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, HSHS Pharmacy #102 shall pay a FORFEITURE in the amount of \$1000.00.

4. Within ninety (90) days from the date of this Order, HSHS Pharmacy #102 shall pay COSTS of this matter in the amount of \$1,386.70.

5. Payment of the forfeiture and 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, here:

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

6. In the event that Respondent violates any term of this Order, Respondent's license (no. 9179-42) as a 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.

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

WISCONSIN PHARMACY EXAMINING BOARD

by: 
A Member of the Board

5/22/2019
Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

HSHS PHARMACY # 102,
RESPONDENT.

STIPULATION

0006178

Division of Legal Services and Compliance Case No. 16 PHM 190

Respondent HSHS Pharmacy #102 and the Division of Legal Services and Compliance,
Department of Safety and Professional Services stipulate as follows:

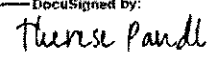
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives 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 Patrick J. Knight.
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.

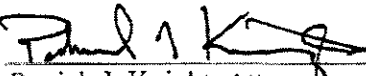
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.

DocuSigned by:

C5E6204B374404EA
Authorized Representative of
HSHS Pharmacy #102
117 North McKenzie Street
P.O. Box 558
Gillett, WI 54124
License no. 9179-42

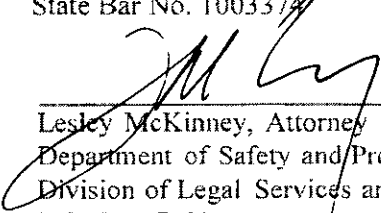
4/9/2019

Date


Patrick J. Knight, Attorney
Gimbel, Reilly, Guerin & Brown LLP
330 E. Kilbourn Avenue, Suite 1170
Milwaukee, WI 53202
State Bar No. 1003374

4/9/19

Date


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

4/9/19

Date