

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

DARRIN D. WIRKES, R.PH.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0007579

Division of Legal Services and Compliance Case No. 20 PHM 118

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

Darrin D. Wirkes, R.Ph.
Green Bay, WI 54302

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. Darrin D. Wirkes, R.Ph. (Respondent), (Year of Birth 1968) is licensed in the state of Wisconsin as a pharmacist, having license number 11915-40, first issued on January 12, 1993, and current through May 31, 2022. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Green Bay, Wisconsin 54302.
2. At all times relevant to the proceedings, Respondent was employed as a pharmacist at a medical center in Two Rivers, Wisconsin (Center).
3. On July 10, 2020, Respondent was interviewed by the Center regarding unusual activity captured on video surveillance. Respondent admitted to diverting alprazolam over the

prior six (6) to nine (9) months for his personal use. Respondent submitted to a urine drug screen (UDS) and a breathalyzer. The results of the breathalyzer were negative.

4. On July 13, 2020, the UDS results were confirmed positive for alprazolam. Respondent could not provide a prescription for alprazolam.

5. On July 13, 2020, during a telephone call with the Center, Respondent also admitted to diverting hydrocodone and chlorthalidone. Respondent's employment was terminated.

6. Respondent also admits to being an alcoholic.

7. Respondent was accepted into an impairment program, separate from this Order, and signed the impairment program contract on December 1, 2020, and the contract was fully executed on December 8, 2020. Respondent is in compliance with the terms of that contract.

8. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The 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, Respondent engaged in unprofessional conduct as defined by 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.

3. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Stat. § 450.10(1)(a)3., by practicing pharmacy while the person's ability to practice is impaired by alcohol or other drugs or physical or mental disability or disease.

4. By the conduct described in the Findings of Fact, Respondent 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.

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

ORDER

1. The attached Stipulation is accepted.

2. Respondent is REPRIMANDED.

3. The license to practice pharmacy issued to Respondent (license no. 11915-40) is LIMITED as follows:

- a. Respondent must comply with the impairment program contract dated December 8, 2020.
- b. Any violation of the terms of the impairment program contract dated December 8, 2020, is a violation of this Order.
- c. Respondent may petition for termination of the limitation upon successful completion of the impairment program.

4. In the event Respondent is discharged from the impairment program prior to successful completion, Respondent's license may, in the discretion of the Board or its designee, be immediately SUSPENDED. In addition to, or instead of, the suspension, the Board may impose additional limitations to address any concerns with the conduct contained in the Findings of Fact and involved in Respondent's discharge from the impairment program.

5. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$365.00.

6. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted 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) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmonitoring.wi.gov>

7. In the event Respondent violates any term of this Order, Respondent's license (license 11915-40), or Respondent's right to renew his license, 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.

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

WISCONSIN PHARMACY EXAMINING BOARD

By:



A Member of the Board

9/2/2021

Date

STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DARRIN D. WIRKES, R.Ph.,
RESPONDENT.

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STIPULATION

ORDER 0007579

Division of Legal Services and Compliance Case No. 20 PHM 118

Darrin D. Wirkes, R.Ph. (Respondent), 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 (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.

Darrin D. Wirkes
Darrin D. Wirkes, R.Ph., Respondent
Green Bay, WI 54302
License No. 11915-40

06/16/2021
Date

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

6/18/21
Date