

IN THE MATTER OF * BEFORE THE MARYLAND STATE
Simon R. Saller, P.D. * BOARD OF PHARMACY
LICENSE NO.: 12700 *

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Health Occupations Article, §12-315 of the Act, the Board sent certified mail, return receipt requested a proposed Order of Emergency Suspension to the Respondent dated April 6, 1993.

Respondent was provided an opportunity to present reasons why the Maryland Board of Pharmacy should not execute and issue this Order. On April 15, 1993 the Respondent appeared before representatives of the Board for a predeprivation hearing. At that time Respondent agreed to voluntarily surrender his license to practice pharmacy in Maryland until after criminal charges pending in Cecil County District Court were resolved and after the Maryland Board of Pharmacy was able to resolve any administrative charges filed against him. He also agreed to submit to an observed urine screen, to undergo a complete substance abuse evaluation and that the results of the urine screen and the evaluation were to be sent to the Maryland Board of Pharmacy.

On June 4, 1993, in accordance with Maryland Rule 4-248, the District Court of Maryland for Cecil County, on the motion of the State's Attorney, indefinitely postponed trial of the Respondent

by marking the case stet on the docket. The statted case may be rescheduled for trial at the request of either the State or the Defendant within one year and thereafter only by Court Order for good cause shown. At its meeting of December 15, 1993, the Board of Pharmacy considered a request dated December 3, 1993 from the Respondent to resolve the voluntary surrender by proceeding upon an agreed statement of facts under which the Board would discipline the Respondent. As a result of the Board's approval of that request, the Respondent and the Board have agreed to enter into the Consent Order that follows.

FINDINGS OF FACT

1. Respondent was licensed to practice pharmacy in the State of Maryland at all times relevant to the facts stated herein.
2. Respondent was employed by K-Mart Pharmacy in Elkton, Maryland.
3. In reviewing prescriptions on file at the K-Mart Pharmacy, Pharmacy Manager Donald Steele discovered that the following prescriptions had been filled pursuant to phone orders allegedly made by various doctor's offices located in Pennsylvania for the Respondent and his family members:

<u>Patient</u>	<u>Date</u>	<u>Prescription Number, Drug and Doctor</u>
Joan Saller	8/1/92	6602539/ Triphasil/ Goldfine
same	8/30/92	same (refill)
same	9/26/92	same (refill)
same	10/25/92	same (refill)
same	6/2/92	6601848/ Nulytely/ Myers
same	7/5/92	same (refill)
same	8/1/92	same (refill)
same	9/8/92	same (refill)
same	10/19/92	same (refill)
same	7/14/92	6602324/ Tagamet/ Myers
S.R. Saller	5/5/92	6601540/ Triamcinolono/ Much
S.R. Saller	5/5/92	6601541/ Lotrisone/ Much
S.R. Saller	5/15/92	6601646/ Triamcinolono/ Much
Joan Saller	7/27/92	4400400/ Temazepam/ Much
Joan Saller	8/11/92	6602638/ Tetracycline/ Much
Joan Saller	5/9/92	6601590/ Fioricet/ Much
same	7/5/92	same (refill)
same	8/28/92	same (refill)
Dino Saller	10/23/92	6603736/ Hydroxyz/ Much

It should be noted that Dino is the name of the Saller family dog. All of the prescriptions called in above were in the Respondent's handwriting. After being confronted by Berkley Gamble, K-Mart's District Manager, the Respondent admitted that he had written the prescriptions.

4. Drs. Goldfine, Myers and Much reported that they had not phoned in the above-described prescriptions and that the DEA numbers used to authorize the prescriptions were incorrect. In addition, none of the Saller family were ever patients of Dr. Much. Dr. Meyers had treated Joan Saller at one time but has not treated her since March 1992.
5. Section 12-313(b)(14) of Title 12, Health Occupations Article, Annotated Code of Maryland, prohibits a pharmacist from dispensing any drug for which a prescription is required without first having received a written or oral

prescription for the drug from an authorized prescriber.

6. Section 12-313(b)(15) of Title 12, Health Occupations Article, prohibits a pharmacist from dispensing a refill without proper authorization.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes as a matter of law, that the Respondent violated §12-313(b) (14), and (15).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 15th day of Feb, 199~~7~~⁴, by a majority of a quorum of the Board, it is hereby

ORDERED that the license of Respondent to practice Pharmacy be **REINSTATED**; and be it further ordered that the license of Respondent to practice pharmacy be **SUSPENDED**; and be it further ordered that said suspension shall be immediately **STAYED** and the Respondent be placed on **PROBATION** under the following conditions:

1. The Respondent shall participate in one psychotherapy session every two weeks with a therapist approved by the Board. Respondent shall comply with all recommendations made to him and in the time limit suggested by his therapist(s), until such time as he is discharged from treatment by the therapist(s). If such discharge occurs, Respondent shall arrange for prompt submission by the therapist(s) of a written discharge report to the Board.

2. If, in violation, of paragraph 1, Respondent fails to continue with his therapist without having been discharged or ordered by the Board to change or cease therapy, Respondent shall immediately notify the Board in writing and have his therapist(s) notify the aforementioned entity.

3. Respondent shall be responsible for arranging for random observed urine screens at least once a week, in a manner acceptable to the Board. Respondent shall arrange for the results of all screening to be reported directly to his therapist. His therapist shall advise the Board of the results of all negative screenings by incorporating the results into the quarterly reports. His therapist shall report the results of all positive screenings immediately to the Board.

4. In the event that the Respondent's therapist(s) reports to the Board that the Respondent is incapable of practicing pharmacy safely, or that his problems are impacting his ability to practice pharmacy, the Respondent shall, within 24 hours of being informed by the Board of that report, voluntarily discontinue the practice of pharmacy. The Respondent shall not resume the practice of pharmacy until the Board determines that Respondent is capable of resuming the practice of pharmacy or gives him permission to resume the practice of pharmacy.

5. The Respondent will agree to and follow through with any charges in his treatment program determined to be necessary by the Board, based upon the recommendations of his therapists.

6. Within the number of continuing education hours needed

for license renewal set by the Board for the renewal period of 1994, Respondent shall obtain 10 hours in pharmacy law and provide proof of the completion of these courses to the Board;

7. When Respondent obtains employment after signing this Order, he must provide a copy of this Order to any and all pharmacy employers prior to beginning employment. Within 30 days of Respondent's first day of employment, he must arrange for his employer to acknowledge in writing to the Board that the employer has received a copy of the Order prior to Respondent beginning employment and that the employer has agreed to comply with the conditions pertaining to the employer. With regard to any pharmacy employment outside the State of Maryland that Respondent may have obtained prior to signing this Order, the Respondent shall arrange for his employer(s) to acknowledge in writing to the Board within thirty days of the date of the Order that the employer has received a copy of the Order and that the employer has agreed to comply with the conditions pertaining to the employer.

8. Respondent shall not work as a floater.

9. Respondent shall submit written quarterly reports and shall arrange for his therapist and any and all pharmacy employers to submit written quarterly reports to the Board that report on Respondent's progress and compliance with this Order. His therapist shall advise the Board of the results of all the urine screenings by incorporating the results into his quarterly reports. All quarterly reports shall be due on June 1, September

1, December 1, and March 1 of each year until the Respondent has been terminated from probation.

10. Respondent shall take and complete a college-level ethics course that has been approved by the Board and document that he has received a passing grade; and be it further

ORDERED, that in the event the Maryland Board of Pharmacy receives an unsatisfactory report which it believes in good faith to be accurate, or in the event that the Maryland Board of Pharmacy finds for any reason in good faith that Respondent has violated any conditions of probation or any provision of Title 12 of the Health Occupations Article or regulations thereunder, the Board may take immediate action, including, but not limited to revocation or suspension of the Respondent's license to practice pharmacy prior to giving the Respondent an opportunity for a hearing. However, Respondent shall have a right to a hearing, in accordance with the Administrative Procedure Act, State Government Article, Section 10-201 et seq., within thirty (30) days after Respondent notifies the Board in writing of his desire for such a hearing regarding the Board's action. The Board may, in its discretion, fail to entertain such notice if received more than ninety (90) days after its action; and be it further

ORDERED, that in the event Respondent moves, he shall promptly notify the Board in writing of the change of address and of any change in his home and work telephone number; and be it further

ORDERED, that the Respondent shall refrain from engaging in

the conduct which led to his suspension from the practice of pharmacy and shall practice in accordance with the Maryland Pharmacy Act and in a competent manner; and be it further

ORDERED, that the Respondent will agree to follow through with any change in his program determined to be necessary by the Board, based upon the recommendations of his therapist; and be it further

ORDERED, that the Conditions of this Consent Order be effective as of the date of this Order; and be it further

ORDERED, that after six months from the date that Respondent signs the Order, the Board shall entertain a petition for modification of the terms of this Order. At that time the Board will consider recommendations as to the appropriateness or inappropriateness of any change in the conditions of Respondent's probation status from those monitoring the Respondent's probation. The Board may modify one or more of the conditions upon which Respondent was placed on probation. However, if the Board determines that modification of the conditions of probation would be inappropriate at the time, the Board may maintain the Order as previously written. If the Respondent fails to make any such petition, then his probationary status shall continue indefinitely, subject to the conditions set forth in this Order.

ORDERED, that after two years from the date that Respondent signs the Order, the Board shall entertain a petition for reinstatement of his license to practice pharmacy without any conditions or restrictions. At that time the Board will consider

recommendations from those monitoring the Respondent's probation as to the appropriateness or inappropriateness of any change in the conditions of Respondent's probationary status or full reinstatement of his license. The Board may reinstate his license without conditions or restrictions. However, if the Board determines that full reinstatement of his license without conditions is inappropriate, the Board may modify one or more of the conditions upon which Respondent was placed on probation or maintain the Order as previously written. If the Respondent fails to make any such petition, then his probationary status shall continue indefinitely, subject to the conditions set forth in this Order;

ORDERED, that for the purposes of public disclosure as permitted by Maryland Annotated Code, State Government Article section 10-617(h), this document constitutes the Board's Findings of Fact, Conclusions of Law, and Order in this case.



Steven S. Cohen, P.D.
President

CONSENT OF Simon R. Saller, P.D.

I, Simon R. Saller, by affixing my signature hereto, acknowledge that:

1. I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law and Order.

2. I acknowledge that by failure to abide by the conditions set forth in this Order, I may suffer disciplinary action, possibly including revocation, against my license to practice Pharmacy in the State of Maryland.

1/20/94
Date

Simon R. Saller P.D.
Simon R. Saller, P.D.

STATE OF MARYLAND
CITY/COUNTY OF:

I HEREBY CERTIFY that on this 20th day of January, 1994, a Notary Public of the State of Maryland and (City/County), Cecil County, personally appeared Simon R. Saller, License #12700, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Catherine E. Deaver
Notary Public

My commission expires: 7/1/96