

IN THE MATTER OF	*	BEFORE THE
IRVIN SILEN, P.D.	*	STATE BOARD
LICENSE NO.: 06184	*	OF PHARMACY
Respondent	*	Case No. 11-040

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Md. Health Occ. Ann. § 12-101, et seq., (2009 Repl. Vol.) (the "Act"), the Board charged Irvin Silen, P.D., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 12-313:

(b) Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (8) Willfully fails to file or record any report that is required by law;
- (25) Violates any rule or regulation adopted by the Board [;].

The Board further charged the Respondent with violating the Code of Md. Regs. tit. 10 § 34.10-Pharmacist Code of Conduct--promulgated by the Board:

01. Patient Safety and Welfare.

A. A pharmacist shall:

- (1) Abide by all federal and State laws relating to the practice of pharmacy . . . including but not limited to:
 - (a) United States Code, Title 21,
 - (b) Health-General Article, Titles 21, and 22,

Annotated Code of Maryland,

- (c) Health Occupations Article, Title 12, Annotated Code of Maryland,
- (d) Article 27, 276-304, Annotated Code of Maryland, and
- (e) COMAR 10.19.03[;].

The Respondent was given notice of the issues underlying the Board's charges by a letter dated April 20, 2011. Accordingly, a Case Resolution Conference was held on June 8, 2011, and was attended by Mirta Gavvani, P.D. and Zeno St. Cyr, Board Members, Linda Bethman, Board Counsel, and YuZon Wu, P.D., Pharmacist Compliance Officer. Also in attendance were the Respondent and his attorney, Stanford Franklin, and Roberta Gill, the Administrative Prosecutor. Also in attendance for observational purposes were Charles Conner, Christine Frazier, and Michael Bachrach, law clerks with the Office of the Attorney General.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant to the charges herein, Respondent was licensed to practice pharmacy in the State of Maryland. The Respondent was first licensed on December 30, 1961. The Respondent's license expires on March 31, 2012.

2. At all times relevant hereto, the Respondent was employed as a pharmacist at a retail pharmacy in Reisterstown, Maryland.

3. On or about October 2010, a Pharm Tech at the pharmacy saw the Respondent take money from the cash drawer and put it in his pocket and then take the tape from the register, tear it, crumple it, and put it in different trash cans. When she confronted the Respondent about it, he denied it. However, when she told the manager about it, the manager retrieved the crumpled receipts and verified that they were, indeed, cash register records.

4. At that point, the Respondent admitted that he had not been charging customers the correct amount and had been pocketing the rest of the money. The Respondent explained that he had paid for some medication and returned the medication unopened and did not know how to credit the return so that he could recoup his money.

5. As a result of the above actions, the Respondent was terminated from employment at the pharmacy.

6. As set forth above, taking money from one's employer in that manner is a violation of the Act.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §12-313 (b) (8) and (25); and Code of Md. Regs tit. 10 §34.10.01 A (1) (a), (b), (c), (d) and (e).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 20th day of July, 2011, by a majority of a quorum of the Board,

ORDERED that the Respondent's license to practice pharmacy is hereby placed on PROBATION for a period of three years, during which the Respondent shall, during the first year of Probation:

1. Complete a pre-approved ethics Continuing Education Unit (CEU);
2. Submit Quarterly employer reports from the employer that he works for the most.

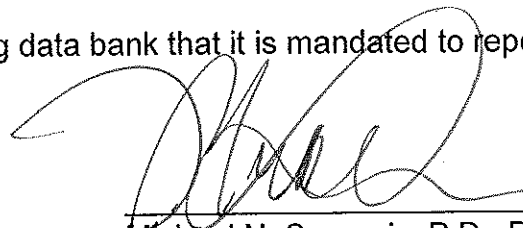
ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that, should the Board receive a report that the Respondent has violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and be it further

ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to practice without any conditions or restrictions on his license, provided that he can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

ORDERED that, for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2009), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.



Michael N. Souranis, P.D., President
State Board of Pharmacy

CONSENT

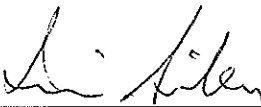
I, Irvin Silen, P.D., acknowledge that I am represented by counsel, Stanford Franklin and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations.

I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, after having an opportunity to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

6/28/2011
Date



Irvin Silen, P.D.

STATE OF Maryland :

CITY/COUNTY OF Baltimore :

I HEREBY CERTIFY that on this 28th day of June, 2011, before me, Pamela J. Cline, a Notary Public of the foregoing State and (City/County),
~~Irvin Silen~~
(Print Name)

personally appeared **Irvin Silen**, License No. **06184**, 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.

Pamela J. Cline
Notary Public

My Commission Expires: 1/22/15

