

State of Maryland Department of Health and Mental Hygiene

Parris N. Glendening, Governor - Martin P. Wasserman, M.D., J.D., Secretary



State Board of Pharmacy

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Stanley Zvi Felsenberg, P.D.
6310 Greenspring Avenue, Apt. 305
Baltimore, Maryland 21209

Re: Violation of Probation

Dear Mr. Felsenberg:

By the enclosed Violation of Probation, the Board of Pharmacy (the "Board") notifies you in accordance with the Maryland Pharmacy Act (the "Act"), Title 12 of the Health Occupations Article, Annotated Code of Maryland. If the Board finds you have committed the acts as charged, the Board may impose additional conditions on your probation or on the Consent Order, including lifting the Stay of Suspension.

Under §12-315 of the Act, you are entitled to an evidentiary hearing on the charges. The Board has scheduled the hearing on **January 19, 2000 at 3:00 p.m.**, 4201 Patterson Avenue, Baltimore, Maryland 21215. The Administrative Prosecutor who will present the case against you is Roberta Gill, Assistant Attorney General. Please be advised that if you do not appear at the hearing, the Board has the authority to hear and determine the matter despite your absence.

In addition to the hearing, the Board has scheduled a Case Resolution Conference (CRC) on **September 30, 1999 at 11:00 a.m.**, 4201 Patterson Avenue, Baltimore, Maryland 21215. A representative from the Board will conduct the CRC.

The Administrative Prosecutor may be contacted regarding settlement of this matter before the hearing. If a proposed settlement is reached with the Administrative

4201 Patterson Avenue - Baltimore, Maryland 21215-2299 - (410) 764-4755
Fax (410) 358-6207 - TDD (800) 542-4964 - Maryland Relay Service (800) 735-2258

Healthy People in Healthy Communities

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Prosecutor, the proposed settlement may then be presented to the representative from the Board at a CRC. If the Board representative believes that the agreement reached between you and the prosecutor will be approved by the Board, the representative may choose to present the agreement to the Board. However, the Board may accept or reject the settlement. If the Board rejects the settlement, the parties will then proceed to a hearing. Please notify Norene Pease, Board Executive Director, at 410-764-4755, no later than September 23, 1999, whether or not you intend to participate in the CRC and whether or not you will be represented by counsel.

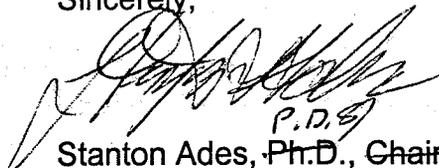
In the event that a settlement is not reached, a Prehearing Conference has been scheduled for **October 14, 1999 at 11:00 a.m.**. The purpose of the prehearing conference is to prepare for the hearing. Accordingly, please be prepared to discuss witness lists and general hearing procedure at the prehearing conference.

In the event of a hearing, the proceedings before the Board will be conducted in accordance with the Administrative Procedure Act, §10-201 et seq. of the State Government Article, Annotated Code of Maryland and regulations adopted by the Board COMAR 10.38.05. You will be required to demonstrate that you have complied with the conditions of probation and of the Consent Order. You will have the burden of proof. The Administrative Procedure Act gives you the right to be represented by counsel, call witnesses, present evidence, cross-examine any witness, present argument and summation, and request that subpoenas be issued, subject to associated costs.

Any decision made by the Board could affect your license to practice pharmacy in the State of Maryland and **you are strongly urged to retain and be represented by an attorney at the prehearing conference and at all other stages before the Board.** To appear on your behalf at the CRC, prehearing conference or hearing before the Board, your attorney must be admitted to the Bar in Maryland or specially admitted under Maryland Rule 14.

If you have or your attorney has any questions about the charges, please contact Ms. Gill at the Office of the Attorney General, 300 West Preston Street, Suite 207, Baltimore, Maryland 21201, (410) 767-6574.

Sincerely,


P.D.S.
Stanton Ades, Ph.D., Chair *PRESIDENT*
Board of Pharmacy

Stanley Zvi Felsenberg, P.D.

Re: Violation of Probation

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SA/rlg/ms

cc: Paul Ballard, Assistant Attorney General, Counsel to the Board
Roberta Gill, Assistant Attorney General, Administrative Prosecutor
Timothy J. Paulus, Deputy Counsel
Michelle Andoll, P.D., J.D., Pharmacist Compliance Officer
Richard Butchok, Esquire
OAG Book Copy

IN THE MATTER OF * BEFORE THE
STANLEY ZVI FELSENBERG, P.D. * STATE BOARD OF PHARMACY
License Number 05326 *
Respondent *

* * * * *

VIOLATION OF PROBATION

Now comes the State Board of Pharmacy (the "Board") and hereby charges Stanley Zvi Felsenberg, P.D. (the Respondent) with a violation of probation, as more specifically set forth below.

1. By notice dated November 20, 1997, the Board issued charges against the Respondent for violating §12-313 (21) (is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside) of Title 12 (the Pharmacy Act or the Act), Health Occupations Article, Md. Ann. Code.

2. The charges were based on the fact that on October 24, 1995, the Respondent, a licensed physician¹, who had medical offices located in Baltimore City and County, was served with a Superseding Indictment by the Grand Jury for the (Federal) District of Maryland, which charged that he provided medical and physical therapy treatment to patients who were injured and had filed personal injury or Workers Compensation claims. The Superseding Indictment further charged that the

¹The Respondent held dual licenses in Maryland as a physician and as a pharmacist. However, even though the Respondent maintained an active pharmacy license, he had not practiced pharmacy in Maryland in over 25 years.

Respondent submitted health insurance claims for payment for physical therapy and medical treatment purportedly rendered to patients who had health care insurance under several named companies, including Maryland Automobile Insurance Fund and the Injured Workers Insurance Fund, which are both state-funded insurers. The Superseding Indictment charged that in submitting these claims, from in or about January 1991 and continuing in or about April 1995, the Respondent knowingly, willfully and unlawfully devised and intended to devise a scheme and artifice to defraud and obtain money and property from the various insurers by means of false and fraudulent pretenses and representations, through which scheme and artifice, the Respondent and others made claims for more than \$170,000 in payment for medical and physical therapy services purportedly provided by the Respondent, when same had never been rendered or had been rendered by unlicensed, untrained third parties.

3. By Plea Agreement with the U.S. Attorney's Office, dated December 26, 1995, the Respondent pled guilty to one count of mail fraud, as per Count 1 of the Superseding Indictment. On December 27, 1995, Judge Smalkin accepted the Respondent's plea of guilty to Count 1 of the Superseding Indictment and not guilty to Counts 2-10 thereof. On July 29, 1996, the Respondent was sentenced to twelve months imprisonment, one year of supervised release, and a special assessment of \$50.

4. As a result of the aforesaid conviction of a felony and a crime involving moral turpitude, and, after a Case Resolution Conference was held on February 10, 1998, the

Respondent agreed to enter into a Consent Order with the Board, attached hereto as Exhibit 1.² The Consent Order became effective February 18, 1998.

5. The Consent Order stated, *inter alia*, that the Respondent was placed on Probation for one year, subject to conditions, one of which was to take and pass with a minimum of 75%, the reinstatement, laboratory and law examinations administered by the Board. The Consent Order further stated that until such time as the Respondent satisfactorily passes all three of the above examinations he may only practice pharmacy under the direct supervision of another pharmacist. The Consent Order further ordered that if the Respondent violates any of the foregoing conditions of probation or the Order, the Board, after notification, a hearing and determination of violation, may impose any lawful disciplinary sanctions it deems appropriate. The Consent Order further ordered that on or after the date that the one year probationary period has ended, i.e., February 18, 1999, the Respondent may petition the Board to remove the conditions of probation and restore his license to practice pharmacy without conditions, only after the Respondent has demonstrated to the Board that he has practiced pharmacy in compliance with the Act, and with the conditions of probation and of the Order.

6. During the one year probationary period, the Respondent took the examinations ordered by the Board on June 22, 1998 and October 13, 1998. The Respondent failed to obtain 75% on each of the examinations, as ordered by the Board.

²Also as a result of said conviction, on March 24, 1999, the Respondent's medical license was revoked by the Board of Physician Quality Assurance.

Therefore, the Respondent's license to practice pharmacy was not reinstated, pursuant to the Consent Order.

7. By failing to pass all three examinations with a 75% or better score within the one year probationary period, as set forth in the Consent Order, the Respondent violated the conditions of probation and of the Order.

NOTICE OF POSSIBLE SANCTIONS

Pursuant to Health-Occupations Article, §§12-313, 12-314 and 12-315, and if, after a hearing, the Board finds the Respondent violated the above listed provisions and the conditions of the Consent Order and of Probation, and if the Board finds the above allegations of fact to be true, the Board may impose additional disciplinary sanctions against Respondent's license or impose additional conditions of Probation or on the Consent Order herein.

NOTICE OF HEARING

A hearing in this matter has been scheduled for **January 19, 2000 at 3:00 p.m.**, at 4201 Patterson Avenue, Baltimore, Maryland 21215. The Board will conduct the hearing in accordance with the Administrative Procedure Act, §10-201 et seq., of the State Government Article, Annotated Code of Maryland, §12-315 of the Act, and the regulations adopted by the Board under COMAR 10.34.01. The burden of proof will be on the Respondent to demonstrate that he has complied with the Consent Order and the conditions of probation.

In addition, the Board has scheduled a case resolution conference for **September 30, 1999 at 11:00 a.m.**, 4201 Patterson Avenue, Baltimore, Maryland 21215. The nature and purpose of the CRC is described in the attached letter to the Respondent. If the parties are unable to reach a settlement at the Case Resolution Conference, a prehearing conference has been scheduled for **October 14, 1999 at 11:00 a.m.** The nature and purpose of the prehearing is described in the attached letter to Respondent.


Stanton Ades, Ph.D., Chair *PRESIDENT*
Board of Pharmacy *P.D.*

IN THE MATTER OF

*

BEFORE THE STATE BOARD

STANLEY ZVI FELSEMBERG, P.D.

*

PHARMACY

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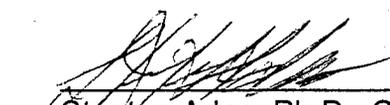
SUMMONS AND NOTICE OF HEARING

YOU ARE HEREBY SUMMONED to appear at a hearing before the Board of Pharmacy (the "Board") to determine whether you have violated the Maryland Pharmacy Act (the "Act") as described in the attached document "Violation of Probation" and what sanctions, if any, are appropriate. The hearing is scheduled for **January 19, 2000 at 3:00 p.m.**, 4201 Patterson Avenue, Baltimore, Maryland 21215.

This hearing is held under the authority of §12-315 of the Health Occupations Article, §10-201 et seq. of the State Government Article, and COMAR 10.34.01.

If you do not appear as required by this summons, the Board may hear and determine this matter in your absence, as provided under §12-315 of the Health Occupations Article.

8/20/99
Date


Stanton Ades, Ph.D., Chair
Board of Pharmacy

IN THE MATTER OF * BEFORE THE
STANLEY ZVI FELSENBERG, P.D. * STATE
LICENSE NO. 05326 * BOARD OF
Respondent * PHARMACY

* * * * *

SUPPLEMENTAL AND SUPERSEDING CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Health Occupations Article, Title 12, Annotated Code of Maryland (the "Act"), on August 20, 1999, the Board charged Stanley Zvi Felsenberg, P.D. (the "Respondent"), with a violation of Probation. Specifically, the Board charged the Respondent with violation of the following provisions of the conditions of Probation imposed upon him, pursuant to the Consent Order of February 18, 1998:

1. The Consent Order of February 18, 1998 attached hereto and made a part hereof as Exhibit 1, stated, *inter alia*, that the Respondent was placed on Probation for one year, subject to conditions, one of which was to take and pass, with a minimum of 75%, the reinstatement, laboratory and law examinations administered by the Board. The Order further stated that until such time as the Respondent satisfactorily passes all three of the above examinations, he may only practice pharmacy under the direct supervision of another pharmacist, who was to submit quarterly reports on the Respondent's status/progress. The Consent Order further ordered that if the Respondent violated any of the foregoing conditions of probation or the Order, the Board, after notification, a hearing and determination of violation, may impose any lawful disciplinary sanctions it deems appropriate. The Consent Order further ordered that on or after the date that the

one year probationary period has ended, i.e., February 18, 1999, the Respondent may petition the Board to remove the conditions of probation and restore his license to practice pharmacy with out conditions, only after the Respondent has demonstrated to the Board that he has practiced pharmacy in compliance with the Act, and with the conditions of probations and of the Order.

2. During the probationary period, the Respondent took the examinations ordered by the Board on June 22, 1998 and October 13, 1998. The Respondent failed to obtain 75% on each of the examinations, as ordered by the Board. Therefore, the Respondent's license to practice pharmacy was not reinstated, pursuant to the Consent Order.

3. In addition, the Respondent failed to ensure that his pharmacy supervisor submitted quarterly reports to the Board.

4. Accordingly, a Violation of Probation petition was issued against the Respondent on August 20, 1999, which is attached hereto and made a part hereof, as Exhibit 2.

5. Subsequently, a Case Resolution Conference was held on October 14, 1999, and was attended by Stanton Ades, Ph.D., Chairman of the Board, Melvin Rubin, P.D. and Donald Yee, P.D., members of the Board, and Paul Ballard, Counsel to the Board. Also in attendance were the Respondent's attorney, Richard Butchok¹, and the Administrative Prosecutor, Roberta L. Gill².

¹ The Respondent could not attend, because he was hospitalized for a disc problem. However, he authorized his attorney to represent him at the conference.

² James Agnagnos, Assistant Attorney General, attended in an observational capacity.

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 extend and amend the Consent Order of February 18, 1998 in the following manner:

CONCLUSIONS OF LAW

Based upon the foregoing, the Board finds that Respondent violated the Consent Order in the manner set forth above.

ORDER

Based on the foregoing Conclusions of Law and agreement of the parties, it is this 15th day of DECEMBER, 1999, by a majority of a quorum of the Board,

ORDERED that the Consent Order of February 18, 1998 be and is extended through July 15, 2000, with the following modifications:

1. The Respondent shall ensure that his pharmacy supervisor submits to the Board a written report on the Respondent's status/progress, within thirty days of this Order;
2. The Respondent ensure that his pharmacy supervisor submits written reports to the Board on his status/progress on a quarterly basis thereafter.
3. The Respondent take and pass the lab examination³ with a score of 75% or better. The Respondent will be provided two opportunities before July 15, 2000 to take the lab examination again, paying associated costs and submitting required forms.

³ The Respondent successfully completed the reinstatement and law examinations administered by the Board, pursuant to the Consent Order of February 18, 1999.

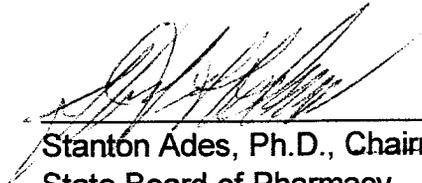
ORDERED, that if the Respondent fails to pass the laboratory examination with a score of 75% or more after those two opportunities, the Board will immediately REVOKE his pharmacy license, unless the Respondent demonstrates that his failure to take and pass the examination was due to extenuating circumstances.

ORDERED, that if the Respondent should achieve a passing grade on the above examination, the Respondent may petition for reinstatement, submitting reports from his supervisor, including a report following the successful passage of the lab examination. If the reports are satisfactory, the Board will consider reinstatement, subject to whatever additional conditions on the Respondent's license or terms it deems necessary to protect the public safety.

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's practice is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent has substantially 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/Suspension shall be on the Respondent to demonstrate compliance with the Order or conditions.

ORDERED that for purposes of public disclosure, as permitted by §10-617(h) State Government Article, Annotated Code of Maryland, this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order.


Stanton Ades, Ph.D., Chairman *PRESIDENT*
State Board of Pharmacy

STATE OF MARYLAND

CITY/COUNTY OF Baltimore:

I HEREBY CERTIFY that on this 29 day of November, 1999, a Notary Public of the State of Maryland and (City/County) Stanley Felsenberg, personally appeared Stanley Zvi Felsenberg, License No. 05326, and made oath in due form of law that signing the foregoing Supplemental and Superseding Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Patricia M. Blair
Notary Public

My Commission Expires: 7-1-2000

CONSENT OF STANLEY ZVI FELSENBERG

I, Stanley Zvi Felsenberg, by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Richard Butchok, and have been advised by him of the legal implication of signing this Consent Order.

2. I am aware that without my consent, my license to practice pharmacy in this State cannot be limited except pursuant to the provisions of §12-313 of the Act and §10-201 et seq. of the Administrative Procedure Act (APA), State Government Article, Annotated Code of Maryland;

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Supplemental and Superseding Consent Order, I hereby consent and admit to the foregoing Conclusions of Law and Order provided the Board adopts the foregoing Supplemental and Superseding Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in §12-315 of the Act and §10-201 et seq. of the APA, and any right to appeal as set forth in §12-316 of the Act and §10-201 et seq. of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice pharmacy in the State of Maryland.

11/25/99
Date

Stanley Zvi Felsenberg, P.D.
Stanley Zvi Felsenberg, P.D.

IN THE MATTER OF
STANLEY ZVI FELSENBERG, P.D.

LICENSE NO. 05326

Respondent

* BEFORE THE
* STATE BOARD
* OF PHARMACY

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ORDER

Upon the foregoing *Petition for Reinstatement*, it is this 15 day of March,
2000, by the Maryland State Board of Pharmacy,

ORDERED that the Pharmacy License of Stanley Zvi Felsenberg, P.D., be and is hereby
fully reinstated with all rights and privileges appertaining thereto.

W. Irving Lattner, Jr.
(Secretary signing for)

Stanton Ades, P.D., Chair
State Board of Pharmacy