

IN THE MATTER OF	*	BEFORE THE STATE BOARD
CAROL A. MILLER, P.D.	*	OF PHARMACY
RESPONDENT	*	EXAMINERS
License Number: 10512	*	OAG Case No.: 00-BP-226
* * * * *	*	* * * * *

CONSENT ORDER

The Maryland State Board of Pharmacy Examiners (the "Board") charged **Carol A. Miller, P.D., (the "Respondent"), D.O.B.: 02/19/46, License Number: 10512**, with violating certain provisions of the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann., §§ 12-101 *et seq.* (2000). Specifically, the Board charged the Respondent with violating the following:

H.O. § 12-313:

- (b) *In general.* 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:
 - (5) Submits a false statement to collect a fee;
 - (6) Willfully makes or files a false report of record as part of practicing pharmacy;
 - (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;
 - (23) Is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes.

The Respondent was given notice of the charges and the issues underlying those charges by letter and charging document dated February 22, 2001. A Case Resolution Conference on those charges was held on June 26, 2001. The Case Resolution Conference was attended by: Stanton Ades, Board President, Melvin Rubin, Board Member; Laura Schneider, Board Member; Paul J. Ballard, Assistant Attorney General and Counsel to the Board; Sherrai V. Hamm, Assistant Attorney General and Administrative Prosecutor; Stephen B. Awalt, Esquire, Attorney for the Respondent; and Carol A. Miller, P.D., the Respondent. At that time, the parties agreed to enter into this Consent Order.

FINDINGS OF FACT

The Board finds:

1. At all times relevant to the charges herein, the Respondent was and is licensed to practice pharmacy in the State of Maryland. The Respondent was originally licensed on November 14, 1983.
2. At all times relevant to the charges herein, the Respondent was employed as a pharmacist at Atlantic Pharmacy located in Berlin, Maryland.
3. During the period between 1991 and May 1999 while employed at Atlantic Pharmacy, the Respondent submitted claims to the Maryland Medical Assistance Program ("Medicaid") for prescriptions that were previously submitted by the Respondent and paid to Atlantic Pharmacy by Medicaid. The Respondent selected

certain medications that were returned by Medicaid recipients from the overall returned medications.

4. The Respondent selected the more expensive pills from the overall returned medications, took the medications out of the bubble packs and returned these medications to Atlantic's medication stock. The Respondent did not tell Medicaid that the medications had been returned and did not issue credits for any of the returned medications. The Respondent redistributed the returned medications to patients and billed Medicaid a second time for the same medications.

5. On or about May 26, 2000, a Criminal Information was filed in the Circuit Court for Worcester County in the case of State of Maryland v. Carol A. Miller, Criminal Case No. 22714, in which the Respondent was charged with one count of Medicaid Health Plan Fraud, in violation of Md. Health General Code Ann., § 15-123.1(c). (A copy of the Criminal Information Docket Entries, Plea Agreement, and Statement of Facts in Criminal Case No. 22714 State of Maryland v. Carol A. Miller is attached hereto and incorporated herein as Exhibit A).

6. On August 7, 2000, the Respondent was sentenced to one (1) year, with all but four (4) months suspended, to be served on home detention. Upon release from home detention, the Respondent was ordered to serve three (3) years supervised probation, with the specific conditions that the Respondent make restitution to Atlantic Pharmacy in the amount of \$33,750.¹ (A copy of the Order for Probation and Case

¹ On December 5, 2000, the Respondent was granted probation before judgment pursuant to Art. 27, §

History Entries in Criminal Case No. 22714 State of Maryland v. Carol A. Miller is attached hereto and incorporated herein as Exhibit B).

7. Medicaid Health Plan Fraud is a crime involving moral turpitude.

8. The allegations set forth above would be grounds for discipline under H.O.

§ 12-313(b).

CONCLUSIONS OF LAW

The Board finds that the Respondent violated H.O. §§ 12-313(b)(5), (6), (21), and (23).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15th day of August 2001, the Board, on the affirmative vote of a majority of its member then serving, hereby

ORDERED that the Respondent's license to practice pharmacy is hereby **SUSPENDED INDEFINITELY**; and be it further

ORDERED that the Respondent may petition the Board for reinstatement of her license no earlier than three (3) years from the date that the Board signs this Consent Order; and be it further

ORDERED that the Respondent shall obtain continuing education credits that would be required if her license was not suspended; and be it further

ORDERED that the Respondent shall not be eligible for reinstatement until she has provided the Board verification of her continuing education credits; and be it further

ORDERED that if the Respondent's license to practice pharmacy is reinstated, the

692.

Respondent shall be placed on **PROBATION**. The length and terms of the probationary period shall be determined by the Board, if and when the Respondent is placed on probation; and be it further

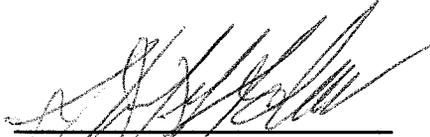
ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order, then the Board, after determination of violation and notice and an opportunity for a hearing, may impose any other disciplinary sanctions it deems appropriate, including revocation, said violation of probation being proved by a preponderance of evidence; and be it further

ORDERED that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Consent Order; and be it further

ORDERED that the Respondent shall be responsible for all costs incurred under this Consent Order; and be it further

ORDERED that this is a **FINAL ORDER** and as such is a public document pursuant to Md. State Gov't. Code Ann. §§ 10-611 et seq. (1999).

August 15, 2001
Date



Stanton G. Ades, P.D.
President
Board of Pharmacy Examiners

CONSENT OF CAROL A. MILLER, P.D.

I, Carol A. Miller, P.D., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Stephen B. Awalt. I have been advised by and have consulted with my attorney in regards to signing this Consent Order.

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to § 12-315 of the Act, Md. State Gov't. Code Ann. §§ 10-201 seq. (1999), and Md. Reg. Code tit. 10, § 10.34.01.

3. I acknowledge the validity of this Consent Order as if entered after 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 law.

4. I waive any right to contest the findings of fact and conclusions of law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or as set forth in § 12-316 of the Act and Md. State Gov't Code Ann. §§ 10-201 et seq. (1999).

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may suffer disciplinary action, which may include revocation of my license to practice pharmacy in the State of Maryland.

6. I sign this Consent Order without reservation as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

8-10-01
Date

Carol A. Miller
Carol A. Miller, P.D.
Respondent

Read and Approved:

8/13/01
Date

Stephen B. Awalt
Stephen B. Awalt
Attorney for the Respondent

NOTARY

STATE OF Maryland
CITY/COUNTY OF Worcester

I HEREBY CERTIFY THAT on this 10th day of August, 2001, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Carol A. Miller, P.D., and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

Marlene E. Ott
Notary Public

My Commission Expires: July 1, 2002