

THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

**Department of Commerce, Community,
and Economic Development**

DIVISION OF CORPORATIONS, BUSINESS AND
PROFESSIONAL LICENSING

550 West Seventh Avenue, Suite 1500
Anchorage, Alaska 99501-3567
Main: 907.269.8160
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**CERTIFIED 7012 2920 0001 8308 0793
RETURN RECEIPT REQUESTED**

August 30, 2013

Ronald J. Miller
Carrs Safeway Pharmacy Administrator
5600 Debarr Road Suite 100
Anchorage, AK 99504

RE: Case No. 2013-000089

Dear Mr. Miller:

This letter shall serve as formal notice to you that the Alaska Board of Pharmacy, during its August 23rd, 2013 meeting, adopted the Consent Agreement presented to the Board by members of the staff from the Division of Corporations, Business and Professional Licensing. A copy of the adopted agreement is enclosed.

Should you have any questions regarding this matter, please do not hesitate to contact me at the address and telephone number listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Quinten D. Warren".

Quinten D. Warren,
Chief Investigator

Enclosure

cc: All PHA Board Members
Sara Chambers, Operations Manager (Original)
Donna Burns, Licensing Examiner
Office of Administrative Hearings
CBPL, Paralegal
Alvin Kennedy, Investigator
Cynthia Ducey, Attorney
Probation Monitor
Litigation File: 2013-000089
QDW:kbm

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
3 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
4 BEFORE THE BOARD OF PHARMACY

5
6 In the Matter of:)
7)
8 Ronald J. Miller)
9)
10 Respondent)
11 Case No. 2013-000089

12 CONSENT AGREEMENT

13
14 IT IS HEREBY AGREED by the Department of Commerce, Community and Economic
15 Development, Division of Corporations, Business and Professional Licensing (Division) and
16 Ronald J. Miller (Respondent) as follows:

- 17 1) **Licensure.** Respondent is currently licensed as a Pharmacist in the State of Alaska and holds
18 License number #580. This license was first issued on September 28, 1976 and will lapse
19 unless renewed by June 30, 2014.
20 2) **Admission/Jurisdiction.** Respondent admits and agrees that the Board of Pharmacy (Board)
21 has jurisdiction over the subject matter of his license in Alaska and over this Consent
22 Agreement.

23 **Admission/Facts.**

- 24 a) Respondent is Ronald J. Miller who is the Regional Pharmacy Manager for
25 Carr's/Safeway Alaska.
26 b) On February 28, 2012, the Division received a complaint against the Pharmacist-In-
27 Charge (PIC) for Carr's/Safeway (Abbott).
28 c) An initial investigation was conducted on March 8, 2012. Senior Investigator Winton
29 and Investigator Kennedy interviewed the PIC, and after learning that the PIC was
30 fraudulently filling prescriptions for himself, Investigator's Winton and Kennedy
31 responded to Respondent's office where he and his assistant was briefed on the
32 investigation for Diversion of Scheduled narcotics. Respondent acknowledged the
33 information provided to him at that time with no response.

- 1 d) On March 13, 2012 interviews were conducted with the complainants. The
2 complainants advised that, on four occasions starting back in December 2011 they had
3 reported the PIC's drug diversion to the Respondent and his assistant.
- 4 e) On March 15, 2012, subsequent investigation revealed that the PIC had fraudulently
5 written and filled ninety-one prescriptions; twenty-one of said prescriptions were for
6 controlled substances.
- 7 f) On March 21, 2012, Investigator Kennedy conducted a follow-up interview.
8 Respondent was asked why at the original meeting on March 8, he did not provide
9 information concerning the reports made to him concerning his PIC diverting drugs for
10 his own use. Respondent initially had no response but then stated he said nothing
11 because the PIC had rights and because of HIPAA laws.
- 12 g) 45 CFR 164.512(f)(1)(C)(1)(2) and (3) are the HIPAA exception for providing
13 information for investigative purposes and Respondent has previously cooperated with
14 investigations conducted by this Division.
- 15 h) AS 08.80.261.(a)(12) states:
16 Failed to report relevant information to the board about a pharmacist or pharmacy intern
17 that the applicant or licensee knew or suspected was incapable of engaging in the
18 practice of pharmacy with reasonable skill, competence, and safety to the public.
19 12 AAC 52.920.(a) states:
20 In addition to acts specified in AS 08.80 or elsewhere in this chapter, each of the
21 following constitutes engaging in unprofessional conduct and is a basis for the
22 imposition of disciplinary sanctions under AS 08.01.075:
23 (14) For the following licensees, failing to establish or maintain effective controls
24 against the diversion or loss of prescription drugs or prescription drug records, or
25 failing to ensure that prescription drugs are dispensed in compliance with state and
26 federal laws and regulations:
27 (D) A managing officer of a corporation, association, or joint-stock company
28 owning a pharmacy;
- 29 Respondent admits that as a result of the above facts, grounds exist for possible denial of his
30 license pursuant to AS 08.01.075 and AS 08.80.261 (a)(6) and AS 08.80.261 (a)(7) and
31 8.80.261 (b) and 12 AAC 52.920 (15).

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- 1) **Formal Hearing Process.** It is the intent of the parties to this Consent Agreement to provide for the compromise and settlement of all issues that could be raised by an Accusation to revoke, suspend, or impose disciplinary sanctions against Respondent's license through a formal hearing process.
- 2) **Waiver of Rights.** Respondent understands he has the right to consult with an attorney of his own choosing and has a right to an administrative hearing on the facts in this case. Respondent understands and agrees that by signing this Consent Agreement, Respondent is waiving his rights to counsel and to a hearing. Further, Respondent understands and agrees that he is relieving the Division of any burden it has of proving the facts admitted above. Respondent further understands and agrees that by signing this Consent Agreement he is voluntarily and knowingly giving up his right to present oral and documentary evidence, to present rebuttal evidence, to cross-examine witnesses against Respondent, and to appeal the Board's decision to Superior Court.
- 3) **Effect of Nonacceptance of Consent Agreement.** Respondent and the Division agree that this Consent Agreement is subject to the approval of the Board. They agree that, if the Board rejects this Consent Agreement, it will be void, and an Accusation may be filed. If this Consent Agreement is rejected by the Board, it will not constitute a waiver of Respondent's right to a hearing on the matters alleged in an Accusation and the admissions contained herein will have no effect. Respondent agrees that, if the Board rejects this Consent Agreement, the Board may decide the matter after a hearing, and its consideration of this Consent Agreement shall not alone be grounds for claiming that the Board is biased against Respondent, that it cannot fairly decide the case, or that it has received ex parte communication.
- 4) **Consent Agreement, Decision, and Order.** Respondent agrees that the Board has the authority to enter into this Consent Agreement and to issue the following Decision and Order.

PROPOSED DECISION AND ORDER

IT IS HEREBY ORDERED that the license issued to Respondent is under probation. This license shall be subject to the following terms and conditions of license probation.

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A. Violation of Agreement

If Respondent fails to comply with any term or condition of this Consent Agreement, the Division may enforce this agreement by immediately suspending Respondent’s license, without an additional order from the Board or without a prior hearing, for a violation of this agreement.

If Respondent’s license is suspended under this paragraph, as provided above, he will be entitled to a hearing, on an expedited basis, regarding the issue of the suspension. If Respondent’s license is suspended, he will continue to be responsible for all certification requirements pursuant to AS 08.80.

B. Good Faith

All parties agree to act in good faith in carrying out the stated intentions of this Consent Agreement.

C. Civil Fine

Respondent shall pay a fine of **one thousand dollars (\$1000.00)** in cash, certified check, or money order payable to the “**State of Alaska**” within 120 days.

All payments required by this Consent Agreement shall be addressed to:

Quinten Warren, Chief Investigator
Division of Corporations, Business and Professional Licensing
550 West 7th Avenue, Suite 1500
Anchorage, Alaska 99501-3567

D. Compliance with Laws

Respondent shall obey all federal, state and local laws, all statutes and regulations governing his license, and remain in full compliance with any conditions ordered by another licensing jurisdiction.

E. Duration of Probation (Conditional)

Respondent is currently retired. Should the Respondent accept employment he will be required to report this to the Pharmacy Board and will be subject to a one year probationary period. If Respondent fully complies with all of the terms and conditions of this license probation, the probationary period will end as conditioned under this Order. The one year probationary period would not be reduced by following periods:

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(1) Any period during which Respondent is not a resident of the State of Alaska.

(2) Any period in which Respondent does not hold an active license in Alaska.

It will be Respondent's duty to inform the Department's agent in writing in advance of any move from Alaska to another licensing jurisdiction.

F. Address of the Board

All required reports or other communication concerning compliance with this Consent Agreement shall be addressed to:

Attn: Probation Monitor
Division of Corporations, Business and Professional Licensing
550 West 7th Avenue, Suite 1500
Anchorage, Alaska 99501-3567
907-269-8026 Fax (907) 269-8195

It is the responsibility of Respondent to keep the Board agent advised in writing at all times of his current mailing address, physical address, telephone number, current employment, and any change in employment.

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IT IS HEREBY FURTHER ORDERED that this Adopted Decision and Order shall take effect immediately upon its adoption by the Board and is a public record of the Board and the State of Alaska. The state may provide a copy of it to any person or entity.

DATED this 23rd day of August, 20 13 at ANCHORAGE, Alaska.

SUSAN BELL, COMMISSIONER

QW

By: [Signature]
Quinten Warren, Chief Investigator for
Don Habeger, Director
Division of Corporations, Business and
Professional Licensing

I, Ronald J. Miller, have read the Consent Agreement, understand it, and agree to be bound by its terms and conditions.

DATED: 8-5-2013 [Signature]

SUBSCRIBED AND SWORN TO before me this 5th day of August, 20 13, at Anchorage, Alaska.

SEAL

[Signature]
Notary Public in and for Alaska.

Donna K. Daniels
Notary Printed Name
My commission expires: 3/15/14

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STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BEFORE THE BOARD OF PHARMACY

In the Matter of:)
)
Ronald J. Miller)
)
Respondent)
Case No. 2013-000089

ORDER

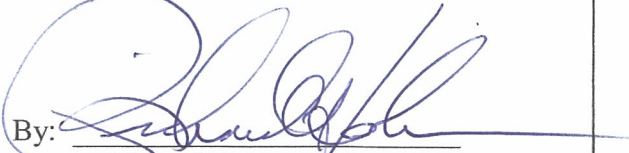
The BOARD OF PHARMACY for the State of Alaska, having examined the Consent Agreement and Proposed Decision and Order, Case No. 2013-000089, Ronald J. Miller, Pharmacist, License #580, adopted the Consent Agreement and Decision and Order in this matter.

This Consent Agreement takes effect immediately upon signature of this Order in accordance with the approval of the BOARD OF PHARMACY.

The Division may enforce the Consent Agreement by immediately suspending Respondent's license, without an additional order from the BOARD OF PHARMACY or without a prior hearing, for a violation of the Consent Agreement.

DATED this 23rd day of August, 2013, at
Anchorage, Alaska.

BOARD OF PHARMACY

By: 
Richard Holm, Chairperson