

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2014-048

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In the Matter of )  
)  
)

STEVEN L. MILLER, M.D. )  
\_\_\_\_\_)

**CONSENT ORDER**

Pursuant to G.L. c. 30A, § 10, Steven L. Miller, M.D. (Respondent) and the Board of Registration in Medicine (Board) (hereinafter referred to jointly as the "Parties") agree that the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket No. 12-291.

**Findings of Fact**

1. The Respondent was born on February 15, 1954. He graduated from the University of California, San Diego School of Medicine in 1980. He is certified by the American Board of Diagnostic Radiology. He has been licensed to practice medicine in Massachusetts under certificate number 54087 since 1985. He is affiliated with Newton-Wellesley Hospital.

2. Henry Schein, Inc. (Schein) is a New York corporation which fulfills orders from licensed physicians, hospitals and other providers of medical services for various medications and medical supplies. Schein maintains an internet-based ordering system which allows physicians and others to place orders for products over the internet.

3. The various products offered by Schein to licensed physicians are intended for use in physicians' medical practices for their respective patients.

4. Beginning in approximately 1995, the Respondent placed an order for controlled and non-controlled substances (medications) from Schein.

5. The Respondent thereafter continued to order medications and medical supplies from Schein on a regular basis through May 2012.

6. In early 2012, Schein mailed documents to the Respondent requesting him to update his account and to provide updated information and credit card data; the Respondent completed certain Schein forms online.

7. In one online form, the Respondent wrote that he ordered medications and supplies from Schein for his own personal use, and for the personal use of his spouse, and that his medication orders were for medications that were originally prescribed to them by their respective physicians.

8. As a result of the Respondent's written representations to Schein in early 2012, on or about March 2012, Schein notified the Respondent that it had closed his online ordering privileges, and closed his account.

9. Since 2005, the Respondent ordered non-controlled substances and supplies from Schein, such as ibuprofen, eye drops, latex gloves, and a wound closure tray.

10. Since 2005, the Respondent ordered controlled substances such as:

- ♦ Oxazepam
- ♦ Carisoprodol
- ♦ Alprazolam
- ♦ Lorazepam
- ♦ Diphenoxylate with atropine
- ♦ Zolpidem Tartrate

11. Between 2005 and 2012, the Respondent ordered and received from Schein tablets of oxazepam by placing orders electronically on Schein's website.

12. The Respondent ordered oxazepam from Schein for his own personal use, and for the personal use of his spouse.

13. Between 2005 and 2012, the Respondent's primary care physician also prescribed oxazepam to the Respondent.

14. Oxazepam is a DEA Schedule IV controlled substance.

15. Between 2005 and 2011, the Respondent ordered and received from Schein 350 mg. tablets of carisoprodol by placing orders electronically on Schein's website. Carisoprodol is also known as Soma.

16. The Respondent ordered carisoprodol from Schein for his own personal use and for the personal use of his spouse.

17. Between 2005 and 2012, the Respondent's primary care physician did not prescribe Carisoprodol to the Respondent.

18. On December 12, 2011, the DEA published its final rule in the Federal Register (76 Fed. Reg. 77,330 (Dec. 12, 2011)), which reclassified carisoprodol from a non-scheduled medication to a DEA Schedule IV controlled substance, effective January 11, 2012.

19. Between 2005 and 2012, the Respondent ordered and received from Schein quantities of alprazolam, lorazepam, diphenoxylate with atropine, and zolpidem tartrate for his own personal use.

20. Alprazolam is a DEA Schedule IV controlled substance.
21. Lorazepam is a DEA Schedule IV controlled substance.
22. Diphenoxylate with atropine is a DEA Schedule V controlled substance.
23. Zolpidem is a DEA Schedule IV controlled substance.
24. The Respondent's spouse has never been a patient of the Respondent; the Respondent kept no medical records relating to his medication orders from Schein which were intended for her personal use.

#### Conclusion of Law

A. The Respondent has violated G.L. c. 112, § 5, ninth par. (b) and 243 CMR 1.03(5)(a)2 by committing an offense against a provision of the laws of the Commonwealth relating to the practice of medicine, or a rule or regulation adopted thereunder—to wit:

1. G.L. c. 94C, § 19(a), which requires that physicians issue prescriptions for controlled substances for legitimate purpose and in the usual course of the physician's medical practice.

B. The Respondent has violated G.L. c. 112, § 5, ninth par. (h) and 243 CMR 1.03(5)(a)11 by violating regulations of the Board—to wit,

1. 243 CMR 2.07(5), which states that a licensee who violates G.L. c. 94C also violates a rule or regulation of the Board;

2. 243 CMR 2.07(19), which prohibits a physician from:
  - a. prescribing controlled substances in Schedules II, III, and IV for his own use; and

3. 243 CMR 2.07(13)(a), which requires a physician to:

a. maintain a medical record for each patient, which is adequate to enable the licensee to provide proper diagnosis and treatment;

b. maintain a patient's medical record in a manner which permits the former patient or a successor physician access to them.

C. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

#### Sanction and Order


The Respondent's license is hereby reprimanded. The Respondent is also fined Five Thousand dollars (\$5,000). The fine is to be paid within sixty (60) days of the date the Board approves this Consent Order.

#### Execution of this Consent Order

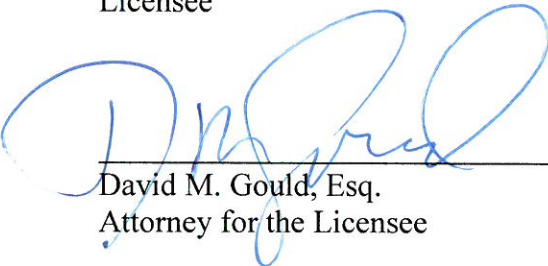
The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which the Respondent practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer, whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health

Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which the Respondent becomes associated in the year following the date of imposition of this reprimand and fine. The Respondent is further directed to certify to the Board within ten (10) days that the Respondent has complied with this directive.


The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

  
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Steven L. Miller, M.D.  
Licensee

10/19/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
David M. Gould, Esq.  
Attorney for the Licensee

10/19/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
John Costello  
Complaint Counsel

10/22/14  
\_\_\_\_\_  
Date

So ORDERED by the Board of Registration in Medicine this 3<sup>rd</sup> day of December,  
20 14.

Candace Lapidus Sloane, MD  
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Candace Lapidus Sloane, M.D.  
Board Chair

SENT CERTIFIED MAIL 12/4/14 