

IN RE: ALAN M. SELTZER, M.D.) Case Nos.: 38-03-10
38-09-10
Controlled Substances Reg.: MD1678)

A written Complaint was filed with the Delaware Secretary of State (“Secretary”) alleging that Alan M. Seltzer, M.D. (“Dr. Seltzer”) engaged in conduct that constituted grounds for discipline pursuant to Delaware’s *Uniform Controlled Substances Act*. (16 Del.C. Ch. 47)

The State of Delaware and Dr. Seltzer submit this Consent Agreement for approval by the Secretary as a means of resolving the pending administrative prosecution against Dr. Seltzer. The parties submit the following for the consideration of the Secretary:

- 1

who no longer wanted them so that he could give them to other patients.

8. Dr. Seltzer has kept blank prescription pads unsecured in his office.

9. Dr. Seltzer wrote to the Board of Medical Practice on March 26, 2010 that, "Since I am not a neurologist, I should not be treating sciatica even for a brief period. Thus, I will no longer prescribe for pain."

10. Despite his representation that he would not prescribe pain medication after March 26, 2010, Dr. Seltzer continued to prescribe pain medications including Vicodin, a schedule III narcotic, and Oxycodone, a schedule II narcotic.

11. Dr. Seltzer has not referred patients for whom he prescribed controlled substances to other physicians, therapists, counselors or other professionals including but not limited to pain specialists or addiction counselors to evaluate and/or treat their medical, psychological, and/or addiction conditions or problems.

12. Dr. Seltzer lacks the training and expertise to effectively or safely engage in pain management care and treatment.

13. Dr. Seltzer admits that the facts set forth in paragraphs 1 through 12 above are true and accurate.

14. Dr. Seltzer and State respectfully submit to the Secretary that the appropriate disciplinary sanctions for Dr. Seltzer's conduct should be as follows:

a. The suspension of Dr. Seltzer's controlled substances registration shall end on April 18, 2011 or sooner if ordered by the Secretary;

b. Dr. Seltzer's controlled substances registration shall be ~~be~~ immediately restricted such that he is permanently prohibited from prescribing, administering, dispensing and/or distributing all controlled substances unless given written express permission by the

AS 3/13/14

Secretary or his successor with the exception of the following ~~benzodiazepine Schedule IV~~

controlled substances under their generic or brand names:

1. Adderall
2. Alprazolam
3. Clonazepam
4. Diazepam
5. Flurazepam
6. Lorazepam
7. Methylphenidate
8. Tempazepam
9. Triazolam
10. Zolpidem

15. In addition, Dr. Seltzer agrees to immediately and permanently:

- a. keep all patient records properly secured and maintained;
- b. restrict his patients' access to properly secured and supervised areas of his office;
- c. permanently refrain from storing any controlled substances in his office;
- d. keep all prescription pads appropriately secured;
- e. permanently refrain from providing any pain management care or treatment;
- f. permanently restrict his medical practice to psychiatry; and
- g. provide copies of all prescriptions he writes during each month to David W.

Dryden, R.Ph., J.D., Director of the Office of Controlled Substances on or before the tenth day of the next month for two years from the date of the Secretary's Order.

16. Dr. Seltzer understands and agrees that any violation of this Consent Agreement if it is accepted by the Secretary and entered as an Order may lead to additional discipline.

17. Dr. Seltzer understands and agrees that this Consent Agreement is being executed in conjunction with a Consent Agreement to be presented to the Board of Medical Licensure and Discipline, a copy of which is attached, and that the terms and conditions of the attached Consent

Agreement are incorporated herein.

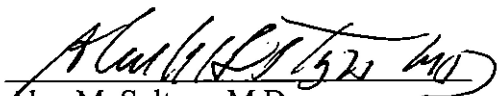
18. Dr. Seltzer acknowledges that he is waiving his right to a hearing prior to the imposition of disciplinary sanctions.

19. Dr. Seltzer acknowledges that he has carefully read and understands this Consent Agreement, that he is entering into this Consent Agreement freely, knowingly, voluntarily, and after having received or having been afforded the opportunity to receive advice of counsel, and that if the Secretary accepts this Consent Agreement it will become a public document.

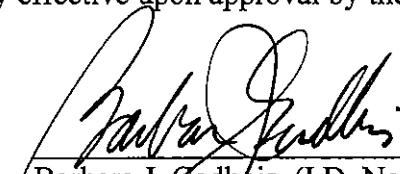
20. Dr. Seltzer further agrees that in the event the Secretary determines not to accept this Consent Agreement, neither he nor anyone on his behalf will in any way or in any forum challenge the ability of the Secretary or his designee to conduct an evidentiary hearing relating to the allegations in the subject Complaint on the basis of the Secretary's prior consideration of this proposed Consent Agreement. If the Secretary does not accept the Consent Agreement, the Agreement and its provisions will not be referred to at the hearing, admitted into evidence, or constitute an admission as to any of the facts alleged in the Complaint.

21. Dr. Seltzer further agrees that upon signing this Consent Agreement, he will immediately adhere to its terms and conditions and will continue to do so until the Secretary renders a decision accepting or rejecting this Consent Agreement.

22. This Consent Agreement shall be fully effective upon approval by the Secretary.


Alan M. Seltzer, M.D.
Respondent

Dated: 3/23/11


Barbara J. Gadbois (I.D. No. 2544)
Deputy Attorney General

Dated: 3-23-11

23. Dr. Seltzer further agrees to immediately implement a serial numbering system on his prescription pads.

COMMITTEE ON CONTROLLED SUBSTANCES

Controlled Substances Reg.: MD1678)


WHEREAS the parties have presented the attached Consent Agreement, and the Committee on Controlled Substances or a Hearing Panel of the Committee, has reviewed it and concluded that it provides an appropriate resolution of the above-captioned matter;

My mother
John
M. H.

IN RE: ALAN M. SELTZER, M.D.) **Case Nos.: 38-03-10**
) **38-09-10**
Controlled Substances Reg.: MD1678)

WHEREAS the parties have presented the attached Consent Agreement, and;

WHEREAS the Committee on Controlled Substances or a Hearing Panel of the Committee, has reviewed the Consent Agreement, concluded that it provides an appropriate resolution of the above-captioned matter, and recommended that the Consent Agreement be approved;


JEFFREY W. BULLOCK
SECRETARY
DEPARTMENT OF STATE
STATE OF DELAWARE

DELAWARE BOARD OF MEDICAL LICENSURE AND DISCIPLINE

IN RE: ALAN M. SELTZER, M.D.

Medical License No.: C1-0003084

**Case Nos.: 10-48-10
10-82-10**

ORDER

WHEREAS, the Board of Medical Licensure and Discipline Practice has reviewed this matter, the Board hereby approves the Agreement of the parties, and enters it now as an Order of the Board.

IT IS SO ORDERED this 9th day of November, 2010.

Raymond L. Moore

John W. Banks

Anthony M. Pleasants

George E. Braun

Joseph M. Laine

K. R. Rattay

[Signature]

Sharon Jones

[Signature]

[Signature]

[Signature]

DELAWARE BOARD OF MEDICAL LICENSURE AND DISCIPLINE

IN RE: ALAN M. SELTZER, M.D.)	
)	Case Nos.: 10-48-10
LICENSE NO.: C1-0003084)	10-82-10

CONSENT AGREEMENT

A written Complaint was filed with the Delaware Board of Medical Licensure and Discipline ("Board") alleging that Alan M. Seltzer, M.D. ("Dr. Seltzer"), a licensed medical doctor, engaged in conduct that constituted grounds for discipline pursuant to Delaware's *Medical Practice Act*. (24 Del.C. Ch. 17)

On October 5, 2010, the Board considered the Consent Agreement signed by Dr. Seltzer on September 9, 2010 and submitted by Dr. Seltzer and the State. The State of Delaware and Dr. Seltzer submit this new Consent Agreement for approval by the Board as a means of resolving the pending administrative prosecution against Dr. Seltzer pursuant to 24 Del.C. § 1731. The parties submit the following for the Board's consideration:

1. Dr. Seltzer is a licensed medical doctor. His license, number C1-0003084, was first issued on May 10, 1988 and was active until it was suspended by Order of the Board on June 16, 2010.
2. Dr. Seltzer's primary specialty is psychiatry but he has also provided long-term pain management care.
3. Dr. Seltzer's medical office and home are located in the same house.
4. In the past, Dr. Seltzer has not restricted his patients' access to his office and home even though he was unable to supervise waiting patients when consulting with a patient in his office.
5. In the past, Dr. Seltzer has not properly secured the areas of his office where patient

records and medications were stored.

6. In the past, Dr. Seltzer has kept controlled and non-controlled medications in his office in an unsecured manner.

7. In the past, Dr. Seltzer has accepted and stored medications in his office he prescribed to patients who no longer wanted them so that he could give them to other patients.

8. In the past, Dr. Seltzer has kept blank prescription pads unsecured in his office.

9. Dr. Seltzer wrote to the Board on March 26, 2010 that, "Since I am not a neurologist, I should not be treating sciatica even for a brief period. Thus, I will no longer prescribe for pain."

10. Despite his representation that he would not prescribe pain medication after March 26, 2010, Dr. Seltzer continued to prescribe pain medications including Vicodin, a schedule III narcotic, and Oxycodone, a schedule II narcotic.

11. Dr. Seltzer has not referred patients for whom he prescribed controlled substances to other physicians, therapists, counselors or other professionals including but not limited to pain specialists or addiction counselors to evaluate and/or treat their medical, psychological, and/or addiction conditions or problems.

12. Dr. Seltzer lacks the training and expertise to effectively or safely engage in pain management care and treatment.

13. By engaging in the conduct and practices detailed in paragraphs 1 through 12 herein, Dr. Seltzer violated the provisions of 24 *Del.C.* § 1731(b)(11) in that his conduct and practices constituted misconduct and incompetence in the practice of medicine.

14. Dr. Seltzer has prescribed Ambien, a schedule IV controlled substance, for himself on numerous occasions in non-emergency situations.

15. In prescribing controlled substances for himself, Dr. Seltzer violated Opinion 8.19 of

the Medical Ethics Code of the American Medical Association and the provisions of 24 *Del.C.* §1731(b)(1) and is guilty of unprofessional conduct.

16. Dr. Seltzer has admitted that due to physical problems, he has great difficulty writing and understanding his patient progress notes.

17. Dr. Seltzer admits that the facts set forth in paragraphs 1 through 16 above are true and accurate.

18. Attached to this Consent Agreement and incorporated herein is Dr. Seltzer's Affidavit attesting to the following changes he has made to his office, home, and practice in order to comply with medical standards and concerns raised by the State of Delaware:

- a. he has referred all pain management patients to pain management specialists and informed the patients he will no longer treat or manage pain patients;
- b. he will permanently refrain from providing pain management care or treatment to any patient;
- c. he will permanently restrict his medical practice to psychiatry;
- d. he will permanently refrain from prescribing controlled substances to patients for pain;
- e. all patients are restricted to the waiting room and his office;
- f. the private areas of his home are not and will not be accessible to patients;
- g. he has no and will keep no controlled substances in his home or office;
- h. all patient files are and will be kept in a locked file cabinet in his secretary's office;
- i. all prescription pads are and will be kept in a locked cabinet in his office;
- j. he will have a secretary present at all times when he is seeing a patient;

k. he will use a tape recorder to memorialize his patient notes which will then be transcribed by his secretary and kept in the patient file;

l. he will keep full and complete files for each patient;

m. he will keep all outside doors to his premises locked;

n. all patients will be met at the front door which is kept locked by his secretary;

o. whenever a patient is in the waiting room, his secretary will monitor the area and keep the area within sight and sound;

p. he has and uses a security system for his premises;

q. he will permanently refrain from prescribing any medications for himself;

r. he will not permit any patient to return any medication to him for any reason;

s. he will not violate any provision of the *Medical Practice Act* or the *Controlled Substances Act*;

t. he will fully cooperate with random inspections of his office and home by the Executive Director of the Board of Medical Licensure and Discipline, her designee, and/or an investigator of the Division of Professional Regulation.

u. he understands that any future violation of the Medical Practice Act or the Controlled Substances Act could result in additional discipline including revocation of his medical license.

19. Dr. Seltzer and the State agree that the appropriate disciplinary sanctions shall be:

a. Dr. Seltzer's medical license shall be suspended until November 10, 2010 and then placed on probation for a period of at least one year;

b. During the period of probation, Dr. Seltzer shall send quarterly reports to the Executive Director of the Board confirming that he continues to adhere to all conditions

and terms of his probation;

c. After one year of probation, Dr. Seltzer may petition the Board to lift the probation if the Board, in its sole discretion, is satisfied that he has met all conditions and terms of his probation;

d. All of the changes detailed in paragraph 18 made by Dr. Seltzer to his office, home, and practice are to remain in place permanently unless he receives written authorization from the Board; and

e. Dr. Seltzer will fully cooperate with random inspections of his medical office and home by the Executive Director of the Board, her designee, and/or an investigator of the Division of Professional Regulation.

20. Dr. Seltzer understands and agrees that any violation of this Consent Agreement if it is accepted by the Board and entered as an Order may lead to additional discipline including revocation.

21. Dr. Seltzer acknowledges that he is waiving his rights under 24 *Del.C.* Ch. 17 and 29 *Del.C.* Ch. 101 to a hearing before the Board prior to the imposition of disciplinary sanctions.

22. Dr. Seltzer acknowledges that he has carefully read and understands this Consent Agreement, that he is entering into this Consent Agreement freely, knowingly, voluntarily, and after having received or having been afforded the opportunity to receive advice of counsel, and that if the Board accepts this Consent Agreement it will become a public document.

23. Dr. Seltzer further agrees that in the event the Board determines not to accept this Consent Agreement, neither he nor anyone on his behalf will in any way or in any forum challenge the ability of the Board or his designee to conduct an evidentiary hearing relating to the allegations in the subject Complaint on the basis of the Board's prior consideration of this

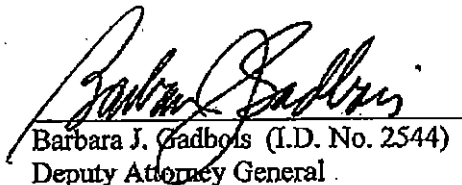
proposed Consent Agreement. If the Board does not accept the Consent Agreement, the Agreement and its provisions will not be referred to at the hearing, admitted into evidence, or constitute an admission as to any of the facts alleged in the Complaint.

24. This Consent Agreement shall be fully effective upon approval by the Board.



Alan M. Seltzer, M.D.
Respondent

Dated: 11/8/10



Barbara J. Gadbois (I.D. No. 2544)
Deputy Attorney General

Dated: 11/8/10

Gayle L. MacAfee, M.S.
Executive Director
Board of Medical Licensure and Discipline

Dated: _____