

IN THE MATTER OF	*	BEFORE THE MARYLAND
KENNETH BRIAN RILEY, D.D.S.	*	STATE BOARD OF
RESPONDENT	*	DENTAL EXAMINERS
License Number: 10295	*	Case Number: 2010-312

* * * * *

FINAL ORDER

The Maryland State Board of Dental Examiners (the "Board") notified **KENNETH BRIAN RILEY, D.D.S.** (the "Respondent") (D.O.B. 04/10/1961), License Number 10295, of its intent to revoke his license to practice dentistry for violating certain provisions of the Maryland Dentistry Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 4-101 *et seq.* (2009 Repl. Vol. and 2010 Supp.).

Specifically, the Board notified the Respondent of its intent to revoke his license for violating the following provisions of the Act under H.O. § 4-315:

- (a) *License to practice dentistry.* – Subject to the hearing provisions of § 4-318 of this subtitle, the Board may . . . reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the . . . licensee:
 - (2) Fraudulently or deceptively uses a license;
 - (4) 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;
 - (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;
 - (19) Is disciplined by a licensing or disciplinary authority of any other 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; [and/or]

- (20) Willfully makes or files a false report or record in the practice of dentistry.

On June 15, 2011, the Board sent the Respondent a Notice of Intent to Revoke along with a copy of this Final Order, unexecuted, to the Respondent. Included with the Notice of Intent to Revoke and the unexecuted Order was a letter from the Board informing the Respondent that he was entitled to contest the Final Order and request a hearing.

A hearing on this matter was held on Wednesday, July 11, 2012. The Respondent appeared at the hearing with counsel before a quorum of the Board. The State's exhibits 1 -13 were admitted into evidence. Dr. Riley's fifteen correspondences were admitted into evidence as one exhibit. The Board issues this order after considering all of the evidence and testimony at the hearing.

FINDINGS OF FACT

After reviewing the record as a whole, the Board makes the following findings of fact:

BACKGROUND FINDINGS

1. At all times relevant to these charges, the Respondent was licensed to practice dentistry in the State of Maryland. The Respondent was initially licensed to practice dentistry in Maryland on or about April 20, 1989, under License Number 10295.

2. At all times relevant to these charges, the Respondent was employed as a dentist at a dental practice located in Catonsville, Maryland.

3. The Board initiated an investigation of the Respondent after reviewing an article about him that was published in the June 5, 2010, edition of the Baltimore Sun, entitled, "Catonsville Dentist Charged With Illegal Drug Distribution." The article reported

that the Respondent had been criminally charged with dealing 500 to 1,000 tablets of hydrocodone per week from his office and home since 2006. Hydrocodone is a narcotic analgesic and a Schedule III controlled dangerous substance.

4. Based on this investigation, the Board issued an Order for Summary Suspension to the Respondent, effective June 16, 2010, in which it summarily suspended his license to practice dentistry in the State of Maryland. The Board took such action pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(2009 Repl. Vol.). After a show cause hearing, the Board continued the summary suspension. The Respondent's license is currently suspended.

5. The findings of the Board's investigation are set forth *infra*.

BOARD INVESTIGATIVE FINDINGS

6. The Respondent was registered with the United States Drug Enforcement Administration ("DEA") since August 14, 1989, and assigned registration number BR1953555. The Respondent's registration number authorized him to order, dispense, and handle controlled dangerous substances ("CDS").

Criminal investigation and arrest on drug charges

7. On or about June 3, 2010, a Baltimore City Police Detective (the "Affiant") who was working in conjunction with the DEA Diversion Drug Task Force Group submitted an Affidavit in Support of a Criminal Complaint (the "Affidavit") in which he reported the results of a criminal investigation by various law enforcement entities into the Respondent's alleged unlawful distribution of CDS.

8. The Affiant reported that law enforcement authorities began investigating the Respondent after a confidential source ("CS") reported that he/she had been purchasing approximately 500 to 1000 hydrocodone tablets from the Respondent on a

weekly basis since 2005. The CS reported that he/she made such purchases from the Respondent at various locations, including the Respondent's home and the parking lot of the Respondent's Catonsville dental practice. The CS reported that the Respondent disclosed to him/her that he obtained these CDS through his dental practice, where he arranged to be responsible for ordering and handling all pharmaceutical drugs for the practice. The CS disclosed the means and manner in which the Respondent arranged with him/her to purchase hydrocodone, which among other things involved coded cell phone and text communications and drug/money transfers in parking lots and other remote locations.

9. The Affiant reported that after receiving this information, law enforcement authorities conducted further surveillance of the Respondent. Law enforcement authorities observed the Respondent engage in a series of controlled purchases with the CS. They witnessed the Respondent sell the CS quantities of hydrocodone on the following four dates:

- (a) April 15, 2010—500 tablets of hydrocodone
- (b) April 22, 2010—1000 tablets of hydrocodone
- (c) May 3, 2010—1000 tablets of hydrocodone
- (d) May 26, 2010—1000 tablets of hydrocodone.

10. Based on the Affidavit, a criminal complaint was issued against the Respondent in the United States District Court for the District of Maryland. The criminal complaint alleged that the Respondent violated various provisions of federal drug laws (*i.e.*, Title 21 U.S.C. §§ 841 and 846). The Respondent was subsequently arrested pursuant to this complaint.

The Indictment

11. On or about June 15, 2010, the Respondent was indicted (the "Indictment") on federal drug charges in the United States District Court for the District of Maryland.

12. Count One (1) of the Indictment alleged that on or about 2005, and continuing through the date of the Indictment, in the District of Maryland, the Respondent did knowingly and willfully combine, conspire, confederate and agree with persons known and unknown to knowingly, intentionally, and unlawfully distribute and possess with intent to distribute a mixture or substance containing hydrocodone, a Schedule III controlled substance, in violation of Title 21 United States Code, Section 846.

13. Count Two (2) of the Indictment alleged that on or about April 15, 2010, in the District of Maryland, the Respondent did knowingly, intentionally and unlawfully distribute and possess with intent to distribute a quantity of a mixture or substance containing hydrocodone, a Schedule III controlled substance, in violation of Title 21 United States Code, Section 841.

14. Count Three (3) of the Indictment alleged that on or about April 22, 2010, in the District of Maryland, the Respondent did knowingly, intentionally and unlawfully distribute and possess with intent to distribute a quantity of a mixture or substance containing hydrocodone, a Schedule III controlled substance, in violation of Title 21 United States Code, Section 841.

15. Count Four (4) of the Indictment alleged that on or about May 3, 2010, in the District of Maryland, the Respondent did knowingly, intentionally and unlawfully distribute and possess with intent to distribute a quantity of a mixture or substance

containing hydrocodone, a Schedule III controlled substance, in violation of Title 21 United States Code, Section 841.

16. Count Five (5) of the Indictment alleged that on or about May 26, 2010, in the District of Maryland, the Respondent did knowingly, intentionally and unlawfully distribute and possess with intent to distribute a quantity of a mixture or substance containing hydrocodone, a Schedule III controlled substance, in violation of Title 21 United States Code, Section 841.

17. Board investigation determined additional information about the Respondent's acquisition of opioid medications through his dental practice. According to data compiled by the DEA, from 2007 through 2009, the Respondent was the top purchaser of hydrocodone among dentists in the State of Maryland. For example, in 2007, the Respondent ordered/purchased 43,500 tablets of hydrocodone. In 2008, the Respondent ordered/purchased 36,200 tablets of hydrocodone. In 2009, the Respondent ordered/purchased 23,200 tablets of hydrocodone.

Summary suspension of licensure

18. Based on the above investigative facts, the Board issued an Order for Summary Suspension against the Respondent, in which it summarily suspended his license to practice dentistry, effective June 16, 2010. The Board took such action after concluding that the Respondent constituted a danger to the public and that the public health, safety and welfare imperatively required emergency action. The Respondent subsequently appeared at a show cause hearing before the Board and did not contest the Board's summary suspension of his dental license. The Respondent's license to practice dentistry remains suspended.

Guilty plea, conviction and sentencing

19. On or about January 24, 2011, the Respondent appeared in the United States District Court for the District of Maryland and pursuant to a plea agreement, pleaded guilty to Count One (1) of the Indictment, did knowingly and willfully combine, conspire, confederate and agree with persons known and unknown to knowingly, intentionally, and unlawfully distribute and possess with intent to distribute a mixture or substance containing hydrocodone, a Schedule III controlled substance, in violation of Title 21 United States Code, Section 846, a felony. Pursuant to the terms of the plea agreement, Counts Two (2) through Five (5) of the Indictment were dismissed on the motion of the United States.

20. The Respondent was sentenced to the following: incarceration for thirty (30) months; a fine of twenty-five (\$25,000.00) dollars; forfeiture of one hundred fifty-seven thousand, three hundred fifty (\$157,350.00) dollars; upon release from imprisonment, supervised release for a term of three (3) years; imposition of four hundred (400) hours of community service; and home detention for a period of ten (10) months, with location monitoring.

21. The Respondent's actions, as described above, constitute the following violations of the Act under H.O. § 4-315: fraudulently or deceptively uses a license, in violation of H.O. § 4-315(a)(2); 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, in violation of H.O. § 4-315(a)(4); behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession, in violation of H.O. § 4-315(a)(16); is

disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by any court of any state or country for an act that would be grounds for action under the Board's disciplinary statutes, in violation of H.O. § 4-315(a)(19); and willfully makes or files a false report or record in the practice of dentistry, in violation of H.O. § 4-315(a)(20).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following violations of the Act under H.O. § 4-315: fraudulently or deceptively uses a license, in violation of H.O. § 4-315(a)(2); 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, in violation of H.O. § 4-315(a)(4); behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession, in violation of H.O. § 4-315(a)(16); is disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by any court of any state or country for an act that would be grounds for action under the Board's disciplinary statutes, in violation of H.O. § 4-315(a)(19); and willfully makes or files a false report or record in the practice of dentistry, in violation of H.O. § 4-315(a)(20).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED this 13th day of December, 2012, that the Respondent's license to practice dentistry is hereby **REVOKED** until January 1, 2018; and it is further

ORDERED that the Respondent's DEA permit is permanently revoked; further

ORDERED that the Respondent shall not file a petition for licensure until after the conclusion of the entire period of **REVOCATION**. In order to petition for licensure, the Respondent must demonstrate to the satisfaction of the Board, or any successor regulatory body, that he possesses good moral character and is otherwise professionally competent to practice dentistry in this State; and be it further

ORDERED that if the Board, or any successor regulatory body, entertains the Respondent's petition for licensure, it may, in its discretion, set any conditions it deems appropriate for licensure, including, but not limited to, retraining and practice supervision; and be it further

ORDERED that this Final Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't. Code Ann. § 10-611 *et seq.* (2009 Repl. Vol. and 2010 Supp.).



Ngoc Quang Chu, D.D.S., President
Maryland State Board of Dental Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 4-319 (2009 Repl. Vol. and 2010 Supp.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of your receipt of this Order and shall be made as provided for judicial review of a final decision in the Md. State Govt. Code Ann. §§ 10-201 *et seq.* (2009 Repl. Vol. and 2010 Supp.), and Title 7, Chapter 200 of the Maryland Rules.