

IN THE MATTER OF	*	BEFORE THE MARYLAND
WALTER ALLEN GILLIN, D.D.S.	*	STATE BOARD OF
RESPONDENT	*	DENTAL EXAMINERS
License Number: 7389	*	Case Number: 2011-008

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On February 1, 2012, the Maryland State Board of Dental Examiners (the "Board") charged **WALTER ALLEN GILLIN, D.D.S.** (the "Respondent") (D.O.B. 09/12/1950), License Number 7389, with 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 2011 Supp.).

Specifically, the Board charged the Respondent under 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;
 - (5) Provides professional services while: (ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
 - (6) Practices dentistry in a professionally incompetent manner or in a grossly incompetent manner;

- (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;
- (17) Is mentally or physically incompetent to practice dentistry [and/or]
- (20) Willfully makes or files a false report or record in the practice of dentistry.

On March 21, 2012, a Case Resolution Conference was convened in this matter. Based on negotiations occurring as a result of this Case Resolution Conference, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

The Board finds the following:

BACKGROUND FINDINGS

1. At all times relevant hereto, 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 November 20, 1980, under License Number 7389.
2. At all times relevant hereto, the Respondent maintained a dental practice at the following address: 208 St. Claire Place, Stevensville, Maryland 21666.
3. The Board initiated an investigation of the Respondent after reviewing a report from the Delaware Office of Narcotics and Dangerous Drugs (the "DONDD") that concerned the Respondent's involvement in providing a large number of prescriptions for narcotic medications to an individual (later identified as a close relative of the Respondent) who filled the prescriptions at several Delaware-area pharmacies under questionable circumstances. As part of its investigation, Board representatives

interviewed the Respondent, who admitted that he had a substance abuse problem and entered into a scheme with his relative in which he wrote prescriptions for narcotic medications in the relative's name, who filled the prescriptions and returned the drugs to the Respondent for his own personal use.

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

BOARD INVESTIGATIVE FINDINGS

Investigation by the Delaware Office of Narcotics and Dangerous Drugs

5. On or about March 13, 2010, a pharmacist in Delaware contacted the DONDD to report that an individual had been filling prescriptions for Lorcet 10 mg (hydrocodone, a Schedule III controlled dangerous substance) on a continuous basis for the past six months at the pharmacy. The Respondent wrote all of the prescriptions involved. The pharmacist reported that when he contacted the Respondent's office to verify the prescriptions, he received what he characterized as "shady" answers to his questions about the prescriptions and the Respondent's relationship to this individual.

6. The DONDD conducted an investigation of this matter and found that this individual also obtained similar prescriptions from at least two other pharmacy chains in Delaware. The DONDD determined that the individual filled several of the prescriptions on the same day at each of the pharmacies, some of which were dated the same day. DONDD representatives questioned the Respondent, who acknowledged writing the prescriptions for this individual and acknowledged that he was a close family member. The Respondent stated that he would issue the family member two prescriptions at a time and would leave the date off of one of the prescriptions for the family member. The Respondent stated that he gave the prescriptions to the relative, who he claimed

needed a series of root canals. The Respondent stated that exhibited "bad judgment" in writing the prescriptions and that he "screwed that up badly."

7. The DONDD determined that for a one-year period beginning in or around June 2009, the Respondent's relative filled seventy-three (73) prescriptions for narcotic medications amounting to 1316 tablets, all of which the Respondent prescribed.

8. The DONDD closed its investigation without the issuance of criminal charges but referred the case to the Board for possible investigation.

Subsequent Board investigation

9. The Board issued a subpoena to the Respondent, dated August 11, 2010, in which it requested the Respondent's dental chart for his relative. In response, the Respondent provided an incomplete patient registration form and a one-page treatment record that lists about 23 office visits, beginning on April 10, 2008, and concluding on July 9, 2009. The Respondent did not provide other documentation typically found in a dental record, including a treatment plan, documentation of initial findings or radiographs.

10. On or about July 20, 2011, the Board issued a second subpoena to the Respondent for additional dental records for his relative. In response, the Respondent provided an additional page of dental records, which lists an additional six visits, from May 10, 2010 to June 9, 2010. The Respondent also submitted a letter in which he stated that he only provided emergency services to his relative.

11. The Respondent's dental records consist of brief, one-to-two line entries in which he lists performing extractions, intermittently lists the amount of anesthetic used, some examinations, restorations and prophylaxis, and his prescriptions for narcotic

medications. The Respondent did not document any additional information about the dental services he purportedly provided.

12. Board investigators compared the prescriptions the Respondent wrote for his relative as found in a pharmacy survey and the chart the Respondent maintained for the relative and determined that the Respondent did not document all of the prescriptions that he wrote for him/her.

13. Board representatives interviewed the Respondent under oath on October 24, 2011. In this interview, the Respondent initially stated that he wrote prescriptions for narcotic medications for his relative, who had significant dental pathology but could not afford treatment for it. Upon further questioning, however, the Respondent admitted that he had a long-standing substance abuse problem and that he entered into a scheme with his relative in which he wrote prescriptions for narcotic medications in the relative's name. The Respondent stated that the relative agreed to fill the prescriptions and return the drugs to the Respondent, who used them for illicit purposes. The Respondent stated that he continued to write these prescriptions for narcotic medications for his own use in the name of his relative until as recently as June 2011.

14. Board investigation determined the following:

- (a) the Respondent created a false dental record in the name of a relative and provided this false record to the Board in response to Board investigative subpoenas;
- (b) the Respondent made misrepresentations to the Board regarding dental services/treatment he purportedly provided to his relative during the course of a Board investigation;

- (c) the Respondent intentionally misled the Board when questioned about the dental services/treatment he purportedly provided to his relative in order to conceal his diversion of narcotic medications for his own use;
- (d) the Respondent entered into a scheme in which he wrote a large number of prescriptions for narcotic medications in the name of his relative, who filled the prescriptions and returned the drugs to the Respondent for the Respondent's personal use; and
- (e) the Respondent provided professional services while using a controlled dangerous substance in excess of therapeutic amount and without valid medical indication.

15. 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); provides professional services while: (ii) using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication; in violation of H.O. § 4-315(a)(5)(ii); practices dentistry in a professionally incompetent manner or in a grossly incompetent manner, in violation of H.O. § 4-315(a)(6); 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 mentally or physically incompetent to practice dentistry, in violation of H.O. § 4-315(a)(17); 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 provisions of the Maryland Dentistry Act: fraudulently or deceptively uses a license, in violation of H.O. § 4-315(a)(2); provides professional services while: (ii) using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication; in violation of H.O. § 4-315(a)(5)(ii); practices dentistry in a professionally incompetent manner or in a grossly incompetent manner, in violation of H.O. § 4-315(a)(6); 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 mentally or physically incompetent to practice dentistry, in violation of H.O. § 4-315(a)(17); 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 by a majority of the quorum of the Board considering this case hereby:

ORDERED that the Respondent's license to practice dentistry in the State of Maryland be and is hereby **SUSPENDED** for a period of period of **FIVE (5) YEARS**, with all but **ONE (1) YEAR OF SAID SUSPENSION STAYED**, to commence on June 1, 2012, and continuing until he successfully complies with the following terms and conditions:

1. The Respondent shall immediately enter into a treatment contract and urine/toxicology monitoring contract with the Dentist Well-Being Committee (the "Committee") for a five (5) year period. The Respondent shall fully comply with all of the terms and conditions contained in any treatment and urine/toxicology monitoring contracts. During the period of suspension, the Respondent shall abstain completely from the use of controlled substances, mood altering drugs, narcotic analgesics and alcoholic beverages, in any form, unless he is a bona fide patient of a licensed physician who is aware of his treatment and urine/toxicology contracts and terms of this Consent Order, and such medications are lawfully prescribed by the physician.

2. The Respondent shall immediately surrender his United States Drug Enforcement Administration ("DEA") certificate of registration to the DEA for a period of five (5) years. If, after the conclusion of one (1) year after the date the Board executes this Consent Order, and if the Respondent otherwise complies in full with the above conditions, the Committee recommends that the Respondent's DEA certificate of registration be reinstated, the Respondent may then apply to the DEA for reinstatement of his certification.

3. The Respondent may obtain the services of an associate dentist to take over his practice during the one (1) year active period of suspension imposed above. During the one (1) year active period of suspension imposed above, the Respondent shall not be permitted on the premises of his dental practice during normal business hours or at any time in which patients are being treated at the practice. The Respondent shall not provide any dental services or have any contacts with patients in

the practice, and may only perform the duties of a proprietor, such as administrative or ministerial tasks that are required to keep the practice open.

4. Within **thirty (30) days** of the date the Board executes this Consent Order, the Respondent shall be evaluated by a Board-approved psychologist or psychiatrist or other provider with expertise in substance abuse (hereinafter the "Evaluator"). The Evaluator shall receive a copy of this Consent Order, all previous substance abuse treatment records, any physician treatment records germane to substance abuse, employment records and any other materials the Board determines is relevant to the evaluation. The Respondent shall promptly inform the Board's case manager of the date and time of his appointment with the Evaluator. The Respondent shall arrange for the Evaluator to submit a written report to the Board regarding the evaluation, to include recommendations, if any, for substance abuse treatment or other psychological and/or psychiatric treatment. The Evaluator shall also assess the Respondent's fitness to resume the practice of dentistry after the conclusion of the one (1) year period of suspension imposed above, and shall state his/her assessment in his/her report.

5. The Respondent shall undergo random, monitored urinalysis/toxicology screens, as recommended by the Committee and/or substance abuse treatment providers. The Respondent shall be required to submit both hair and urine samples as part of this testing. The Respondent shall use a facility or laboratory that is approved by the Board and the Committee.

6. Within **six (6) months** of the date the Board executes this Consent Order, the Respondent shall successfully complete, at his expense, a Board-approved one-on-

one tutorial in professional ethics. The Respondent shall obtain Board-approval of this course prior to enrolling in it. The Board will approve the course only if it deems the subject matter, curriculum and duration of the course to be adequate to satisfy its concerns. The Board reserves the right to require the Respondent to provide further information regarding the course he proposes and further reserves the right to reject the course the Respondent proposes and require submission of an alternative proposal. The Respondent shall be responsible for submitting timely written documentation to the Board of his successful completion of this course. The Respondent understands and agrees that he may not use this coursework to fulfill any requirements mandated for licensure renewal.

7. Within **six (6) months** of the date the Board executes this Consent Order, the Respondent shall successfully complete, at his expense, a Board-approved course of significant duration in dental recordkeeping. The Respondent shall obtain Board-approval of this course prior to enrolling in it. The Board will approve the course only if it deems the subject matter, curriculum and duration of the course to be adequate to satisfy its concerns. The Board reserves the right to require the Respondent to provide further information regarding the course he proposes and further reserves the right to reject the course The Respondent proposes and require submission of an alternative proposal. The Respondent shall be responsible for submitting written documentation to the Board of his successful completion of this course. The Respondent understands and agrees that he may not use this coursework to fulfill any requirements mandated for licensure renewal. The Respondent shall be solely responsible for furnishing the Board

with adequate written verification that he has completed the course according to the terms set forth herein.

8. Within **six (6) months** of the date the Board executes this Consent Order, the Respondent shall successfully complete, at his expense, a Board-approved course of significant duration in dental diagnosis and the formulation of dental treatment plans. The Respondent shall obtain Board-approval of this course prior to enrolling in it. The Board will approve the course only if it deems the subject matter, curriculum and duration of the course to be adequate to satisfy its concerns. The Board reserves the right to require the Respondent to provide further information regarding the course he proposes and further reserves the right to reject the course the Respondent proposes and require submission of an alternative proposal. The Respondent shall be responsible for submitting timely written documentation to the Board of his successful completion of this course. The Respondent understands and agrees that he may not use this coursework to fulfill any requirements mandated for licensure renewal.

AND IT IS FURTHER ORDERED that after the conclusion of the entire **one (1) year** suspension imposed above, and provided the Respondent has successfully complied with the above terms and conditions, the Respondent may file a written petition to the Board to lift the suspension of his license. If the Board lifts the suspension of the Respondent's license, it shall place him on probation for a minimum period of **FIVE (5) YEARS**, and continuing until he successfully complies in full with the following probationary terms and conditions:

1. The Respondent shall comply with any treatment recommendations of the Evaluator, including but not limited to recommendations for substance abuse treatment

and other psychiatric and/or psychological treatment. If the Evaluator recommends additional treatment, the Respondent shall commence treatment within ten (10) business days of the recommendation with a Board-approved treatment provider/program as recommended by the Evaluator. The Respondent shall arrange for the substance abuse treatment provider(s) and any other treatment providers to submit timely written reports to the Board and the Committee on a monthly basis regarding his attendance and treatment progress. If the treating therapist(s) recommend that the Respondent should be discharged from treatment prior to the termination date of the five (5) year probationary period, the Evaluator shall re-evaluate the Respondent and shall submit a written report to the Board as to what, if any, treatment gains the Respondent has achieved. The Board shall consider any further recommendations for treatment or counseling that the Evaluator or the treating therapist(s) advises and adopt and impose such recommendations at its discretion. If the Board concludes that the Respondent requires further treatment, the Board shall so notify him and offer him an opportunity to address this issue with the Board.

2. The Respondent shall fully comply with all terms and conditions of the Committee treatment and urine/toxicology monitoring contracts. The Respondent shall comply with any and all supplemental contracts he enters into with the Committee and other Board-approved treatment providers. The Board shall review and in its sole discretion modify or change any conditions of the Respondent's contracts with the Committee and other treatment programs. The Board shall have the authority to add further conditions and terms if it deems necessary. The Respondent shall be notified of

all Board-approved changes to his treatment contracts and shall be given the opportunity to address them before the Board or Board-designee.

3. The Respondent shall attend and actively participate in any support group programs the Committee or treatment programs recommend. The Respondent shall provide timely written verification of his attendance at such support group(s).

4. The Respondent shall abstain completely from the use of controlled substances, mood altering drugs, narcotic analgesics and alcoholic beverages, in any form, unless he is a bona fide patient of a licensed physician who is aware of his treatment and urine/toxicology contracts and terms of this Consent Order, and such medications are lawfully prescribed by the physician and approved by his substance abuse treatment providers.

5. The Respondent shall be required to submit to random, monitored urinalysis/toxicology screens, as recommended by the Committee and/or substance abuse treatment providers. The Respondent shall be required to submit both hair and urine samples as part of this testing. The Respondent shall use a facility or laboratory that is approved by the Board and the Committee.

6. Upon Board or substance abuse treatment provider request, the Respondent shall submit to additional monitored, unannounced and observed urinalysis/toxicology testing, within twenty-four (24) hours of such request.

7. If the Respondent tests positive on any urinalysis/toxicology test, such a result shall constitute a violation of his probation and a violation of this Consent Order, unless the result is positive for a lawfully prescribed medication by a physician who is prescribing such medications for a bona fide medical condition. The Respondent

understands and agrees that if the Board or the Committee requests that he undergoes urinalysis/toxicology screening and he fails to provide a specimen, such failure shall constitute a violation of his probation and this Consent Order.

8. The Respondent shall provide the Board and the Committee with a copy of each urinalysis/toxicology report on a monthly basis. Failure to provide such reports shall constitute a violation of probation and of this Consent Order.

9. The Respondent's execution of this Consent Order constitutes a release for any and all medical health-related reports, substance abuse treatment records and mental health records pertaining to him. The Respondent understands and consents to the release to the Board, the Committee, and any and all treatment providers of any information or data produced as a result of this Consent Order.

10. The Respondent shall at all times cooperate with the Board, any of its agents or employees, and with the Committee and other treatment providers, and their agents or employees in the monitoring, supervision and investigation of his compliance with the terms and conditions of this Consent Order.

AND IT IS FURTHER ORDERED that the Respondent shall at all times comply with and practice according to the Maryland Dentistry Act and all laws and regulations pertaining to the practice of dentistry; and it is further

ORDERED that if the Respondent successfully complies with the above probationary conditions, including the conclusion of the entire five (5) year period of probation imposed above, he may file a written petition to the Board requesting termination of his probation. After consideration of his petition, the probation may be

terminated through an order of the Board or designated Board committee. The Respondent may be required to appear before the Board or designated Board committee. The Board, or designated Board committee, will grant the termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions of this Consent Order, and if there are no outstanding complaints about him before the Board; it is further


ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order or the probationary conditions set forth herein, the Board shall provide him with the opportunity to appear for a show cause hearing before the Board. The Respondent understands and agrees that the Board may impose any other disciplinary sanctions it may have imposed under §§ 4-315 and 4-317 of the Dental Practice Act, including an additional probationary term and conditions of probation, reprimand, suspension, revocation and/or a monetary penalty, said violation of probation being proved by a preponderance of the evidence; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

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

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-601 *et seq.* (2009 Repl. Vol. & 2011 Supp.)

Apr. 19, 2012
Date



T. Earl Flanagan, Jr., D.D.S., President
Maryland State Board of Dental Examiners

CONSENT

I, Walter Allen Gillin, D.D.S., License No. 7389, by affixing my signature hereto, acknowledge that I have consulted with counsel, Christopher F. Drummond, Esquire, and knowingly and voluntarily elected to enter into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

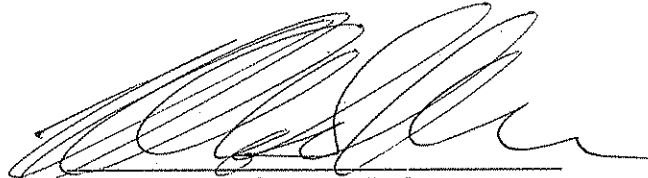
I am aware that I am entitled to a formal evidentiary hearing, pursuant to Md. Health Occ. Code Ann. § 4-318 (2009 Repl. Vol. and 2011 Supp.) and Md. State Gov't Code Ann §§ 10-201 *et seq.* (2009 Repl. Vol. and 2011 Supp.).

I accept the validity and enforceability of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have 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 as provided by law. I am waiving those procedural and substantive protections.

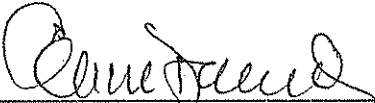
I voluntarily enter into and agree to abide by the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

4/6/12
Date


Walter Allen Gillin, D.D.S.
Respondent

Read and approved:

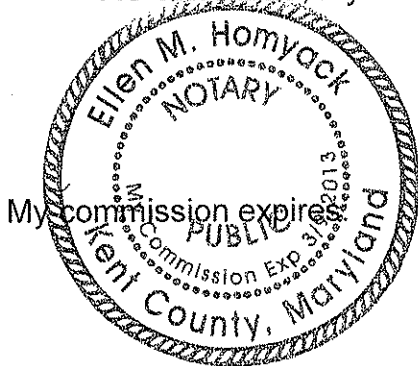

Christopher F. Drummond, Esquire
Attorney for the Respondent


NOTARY

STATE OF Maryland
CITY/COUNTY OF Kent

I HEREBY CERTIFY that on this 6th day of April, 2012 before me, a Notary Public of the State and County aforesaid, personally appeared Walter Allen Gillin, D.D.S., and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.




Notary Public