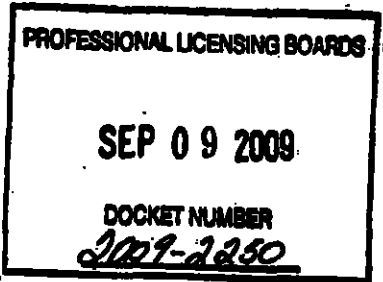


BEFORE THE STATE BOARD OF DENTISTRY  
STATE OF GEORGIA



IN THE MATTER OF:

GORDON TRENT AUSTIN, D.M.D.,  
License No. DN008598  
Respondent.

)  
)  
) BOARD DOCKET NO.  
)  
)  
)

NOTICE OF HEARING

TO: Gordon Trent Austin, D.M.D.  
c/o Matthew S. Coles, Attorney at Law  
Coles Barton, LLP  
9 Lumpkin Street, Suite 200  
Lawrenceville, GA 30045

You are hereby notified that the State Board of Dentistry [hereinafter "Board"] will hold a hearing at the offices of the Board, 237 Coliseum Drive, Macon, Georgia 31217, at 1:00 p.m., on October 9, 2009, for the purposes of determining whether to sanction your license. You are also notified of the following matters:

LEGAL AUTHORITY FOR HEARING

This hearing will be held under the authority and jurisdiction conferred upon the Board by O.C.G.A. T. 43, Ch. 11 and O.C.G.A. § 43-1-19, and in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Ch. 13, T. 50, the rules and regulations of the Board, Ga. Comp. R. and Regs. Ch. 150.

RIGHTS OF RESPONDENT

You have the following rights at the hearing and in connection therewith:

- (1) to respond to the allegations and to present evidence on any relevant issue;
- (2) to be represented by an attorney at your expense;

- (3) to subpoena witnesses and documentary evidence by filing a request with the Board; and
- (4) such other rights as are conferred by the rules of the Board.

**FILING OF ANSWER AND OTHER PLEADINGS**

An answer to the Matters Asserted must be filed within fourteen (14) days after service of the Notice of Hearing. An answer and any subsequent pleading or response should be filed with the Executive Director, State Board of Dentistry, 237 Coliseum Drive, Macon Georgia 31217. A copy of the answer and all other pleadings, notices, motions, briefs, memoranda and other documents filed by any party with the Executive Director shall be served upon all other parties to the proceeding, including counsel for the Board, by personal delivery or by first-class mail. The answer and any subsequent pleading or response shall not be entitled to filing unless it is stamped or otherwise marked in the upper left hand corner on the first page of the document as "original", and a duplicate copy is simultaneously submitted which is stamped or otherwise marked as "duplicate" in the upper left hand corner on the first page.

**MATTERS ASSERTED**

See attached.

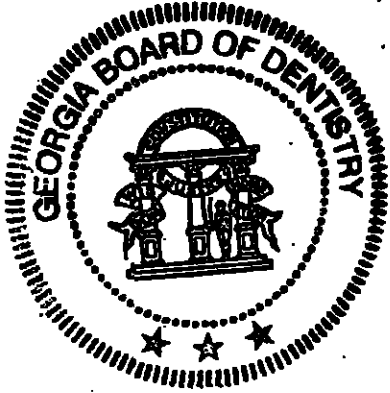
**STATUTES AND RULES INVOLVED**

See attached.

This 31<sup>st</sup> day of August, 2009.

**STATE BOARD OF DENTISTRY**

BY: **STEPHAN F. HOLCOMB, D.M.D.**  
President



ATTEST:

*R. Vaughn*  
**RANDY VAUGHN**  
Division Director  
Professional Licensing Board

Prepared by:

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Assistant Attorney General  
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Atlanta, Georgia 30334-1300  
404-657-3979

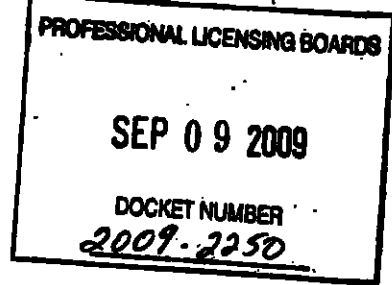
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BEFORE THE GEORGIA BOARD OF DENTISTRY

STATE OF GEORGIA

IN THE MATTER OF: )  
)  
GORDON TRENT AUSTIN, D.M.D., )  
License No. DN008598, )  
Respondent. )

DOCKET NO.



MATTERS ASSERTED AND  
STATUTES AND RULES INVOLVED

Pursuant to O.C.G.A. § 50-13-13, the Georgia Board of Dentistry (hereafter "the Board") hereby provides Respondent with the matters asserted and the statutes and rules for purposes of taking disciplinary action against Respondent's license including the revocation or suspension of Respondent's license to practice dentistry in the State of Georgia. The matters asserted below, if correct, constitute sufficient grounds for disciplinary action against Respondent's license to practice as a dentist.

MATTERS ASSERTED

1.

Respondent is licensed to practice dentistry in the State of Georgia and was licensed at all times relevant herein.

2.

On or about August 6, 2009, the Respondent entered a plea of guilty to six (6) counts of misdemeanor theft by taking charges, a crime of moral turpitude, in the Superior Court of Carroll County, State of Georgia, in Criminal Action No. 09CR622.

3.

The Respondent's plea of guilty to six (6) counts of misdemeanor theft by taking, a crime of moral turpitude, in Criminal Action No. 09CR622, Superior Court of Carroll County, Georgia,

was a negotiated plea. Respondent was sentenced in Criminal Action No. 09CR622 on or about August 6, 2009. The sentence imposed a period of probation consisting of twelve (12) months consecutive for each of five (5) counts and a period of twelve (12) months concurrent on one (1) count, for a total of sixty (60) months of probation. The sentence also imposed fines and investigative expenses, among other provisions of the sentence.

4.

The sentence imposed on Respondent in Criminal Action No. 09CR622, was under first offender treatment without adjudication of guilt or an adjudication of guilt was otherwise withheld or not entered on the charge.

5.

The sentence imposed upon Respondent in Criminal Action No. 09CR622 included an order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42 or other first offender treatment.

6.

In entering his plea in Criminal Action No. 09CR622, Respondent pleaded guilty to Count 1 of the Accusation which alleged, in part, that Respondent "...on or about the 30<sup>th</sup> day of September, 2003, knowingly and willfully, and with the intent of depriving the State of Georgia Medicaid program of funds, did cause to be submitted a false claim to the Medicaid program, namely, that defendant had performed extractions of teeth, numbers 17 and 32, from the mouth of patient 'S.O.', when, in fact, defendant did not perform such services, resulting in the unlawful taking of funds from the Medicaid program, value less than \$500.00, said offense being unknown until August 26, 2008, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof."

7.

In entering his plea in Criminal Action No. 09CR622, Respondent pleaded guilty to Court 2 of the Accusation which alleged, in part, that Respondent "...on or about the 24<sup>th</sup> day of November, 2003, knowingly and willfully, with the intent of depriving the State of Georgia Medicaid program of funds, did cause to be submitted a false claim to the Medicaid program, namely, that defendant had performed extractions of teeth, numbers 1 and 16, from the mouth of patient 'T.B.', when in fact, defendant did not perform such services, resulting in the unlawful taking of funds from the Medicaid program, value less than \$500.00, said offense being unknown until August 26, 2008, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof."

8.

In entering his pleas in Criminal Action No. 09CR622, Respondent pleaded guilty to Count 3 of the Accusation which alleged, in part, that Respondent ".... on or about the 29<sup>th</sup> day of April, 2005, knowingly and willfully, and with the intent of depriving the State of Georgia Medicaid program of funds, did cause to be submitted a false claim to the Medicaid program, namely, that defendant had performed an extraction of tooth number 1 from the mouth of patient 'D.J.', when, in fact, defendant did not perform such service, resulting in the unlawful taking of funds from the Medicaid program, value less than \$500.00, said offense being unknown until August 26, 2008, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof."

9.

In entering his pleas in Criminal Action No. 09CR622, Respondent pleaded guilty to Count 4 of the Accusation which alleged, in part, that Respondent "...on or about the 16<sup>th</sup> day of August, 2007, knowingly and willfully, and with the intent of depriving the State of Georgia Medicaid program of funds, did cause to be submitted a false claim to the Medicaid program, namely, that defendant had performed extractions of teeth, numbers 16 and 17, from the mouth of patient 'M.C.', when, in fact, defendant did not perform such services, resulting in the unlawful taking of funds from the Medicaid program, value less than \$500.00, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof."

10.

In entering his pleas in Criminal Action No. 09CR622, Respondent pleaded guilty to Count 5 of the Accusation which alleged, in part, that Respondent "...on or about the 17<sup>th</sup> day of January, 2008, knowingly and willfully, and with the intent of depriving the State of Georgia Medicaid program of funds, did cause to be submitted a false claim to the Medicaid program, namely, that defendant had performed extraction of tooth number 1 from the mouth of patient 'M.B.', when, in fact, defendant did not perform such services, resulting in the unlawful taking of funds from the Medicaid program, value less than \$500.00, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof."

11.

In entering his plea in Criminal Action No. 09CR622, Respondent pleaded guilty to Count 6 of the Accusation which alleged, in part, that Respondent "...on or about the 18<sup>th</sup> day of January, 2008, knowingly and willfully, and with the intent of depriving the State of Georgia Medicaid Program of funds, did cause to be submitted a false claim to the Medicaid program,

namely, that defendant had performed extractions of teeth, numbers 16 and 17 and 32, from the mouth of patient 'A.B.', when, in fact, defendant did not perform such services, resulting in the unlawful taking of funds from the Medicaid program, value less than \$500.00, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof."

12.

The Respondent paid to or reimbursed to the State of Georgia Medicaid Program the sum of approximately \$6,112.00.

13.

The Respondent's payment to or reimbursement of approximately \$6,112.00 to the State of Georgia Medicaid Program was in connection with resolution of the charges in Criminal Action No. 09CR622.

14.

The Respondent was indicted in the Superior Court of Carroll County, Georgia, in Indictment Nos. 08CR488, 08CR630, and 09CR464.

15.

On or about August 6, 2009, the Respondent entered into a written Agreement with the State of Georgia whereby the State would move to nolle prosequi Indictment Nos. 08CR488, 08CR630, and 09CR464 to cease prosecution of the Respondent in exchange for Respondent's agreement to certain conditions.

16.

The conditions to which the Respondent agreed in the Agreement on or about August 6, 2009, with the State of Georgia included, among others, that Respondent would cease performing any oral surgeries except as authorized by Federal Services; would not work with



civilian patients except as authorized by Federal Services; would not renew his City of Carrollton business license or apply for a new business license concerning the practice of dentistry and/or oral surgery in the State of Georgia; and would close his Carroll County practice instanter. The Agreement provided that these conditions shall endure for ten (10) years.

17.

On or about September 15, 2003, the Respondent was convicted of the crime of misdemeanor obstructing or hindering of law enforcement officer(s) under O.C.G.A. Section 16-10-24(a) in the Superior Court of Carroll County, Georgia, Criminal Action No. 03CR441.

18.

Respondent pleaded guilty in Criminal Action No. 03CR441 to the misdemeanor charge of obstruction of officer, O.C.G.A. Section 16-10-24(a), and was sentenced to twelve (12) months probation, a fine, and other terms and conditions of probation.

19.

In entering his plea in Criminal Action No. 03CR441, Respondent pleaded guilty to Count One of the Accusation which alleged, in part, that Respondent "...on or about the 24<sup>th</sup> day of October, 2001, did then and there unlawfully knowingly and willfully obstruct and hinder Tracy Lambert, Mike Mansour, Jimmy Adams, and Mike Bradley of the Carrollton Police Department, law enforcement officers in the lawful discharge of their official duties, by interfering with the investigation surrounding documents purported to be lab results from Tanner Medical Center, contrary to the laws of said State, the good order, peace and dignity thereof."

The charge in Criminal Action No. 03CR441 was based upon Respondent's falsely making and/or presenting a purported lab report showing that the blood alcohol content of the person tested was .00%.

STATUTES AND RULES INVOLVED

Sanction of the Respondent's license is sought pursuant to the following provisions of O.C.G.A. §§ 43-11-47, 43-1-19, 42-8-60(a), 16-8-2, 16-10-24(a), and Rule 150-8-.01, as amended.

O.C.G.A. § 43-11-47 provides that:

(a) The board shall have the authority to refuse to grant a license to an applicant or to revoke the license of a dentist licensed by the board or to discipline a dentist licensed under this chapter or any antecedent law upon a finding by a majority of the entire board that the licensee or applicant has:

(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of dentistry or on any document connected therewith; or practiced fraud or deceit or intentionally made any false statement in obtaining a license to practice dentistry; or made a false statement or deceptive annual registration with the board;

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this subsection, the term "felony" shall include any offense which, if committed in this state, would be deemed a felony without regard to its designation elsewhere; and, as used in this subsection, the term "conviction" shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

(4) Been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(A) A plea of nolo contendere was entered to the charge;

(B) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(C) An adjudication or sentence was otherwise withheld or not entered on the charge. The plea of nolo contendere or the order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42 or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice dentistry, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of dentistry but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness; unprofessional conduct shall also include any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing dental practice;

(10) Violated a statute, law, or any rule or regulation of this state, any other state, the board, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of dentistry, when the licensee or applicant knows or should know that such action is violative of such statute, law, or rule, or violated a lawful order of the board previously entered by the board in a disciplinary hearing, consent decree, or license reinstatement.

(d) When the board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take any one or more of the following actions:

(1) Refuse to grant or renew a license to an applicant;

(2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;

- (3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license
- (4) Limit or restrict any license as the board deems necessary for the protection of the public;
- (5) Revoke any license;
- (6) Condition the penalty upon, or withhold formal disposition pending, the applicant's

O.C.G.A. § 43-1-19(a) provides that:

(a) A professional licensing board shall have the authority to refuse to grant a license to an applicant therefor or to revoke the license of a person licensed by that board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the licensee or applicant has:

(2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a business or profession licensed under this title or on any document connected therewith; or practiced fraud or deceit or intentionally made any false statement in obtaining a license; or made a false statement or deceptive annual registration with the board;

(3) Been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this paragraph and paragraph (4) of this subsection, the term "felony" shall include any offense which, if committed in this state, would be deemed a felony without regard to its designation elsewhere; and, as used in this subsection, the term "conviction" shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

(4) Been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(A) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(B) An adjudication of guilt or sentence was otherwise withheld or not entered on the charge, except with respect to a plea of nolo contendere;

The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(6) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title, or of a nature likely to jeopardize the interest of the public, which conduct or practice need not have resulted in actual injury to any person or be directly related to the practice of the licensed business or profession but shows that the licensee or applicant has committed any act or omission which is indicative of bad moral character or untrustworthiness: unprofessional conduct shall also include any departure from, or failure to conform to, the minimal reasonable standards of acceptable and prevailing practice of the business or profession licensed under this title;

(8) Violated a statute, law, or any rule or regulation of this state, any other state, the professional licensing board regulating the business or profession licensed under this title, the United States, or any other lawful authority (without regard to whether the violation is criminally punishable), which statute, law, or rule or regulation relates to or in part regulates the practice of a business or profession licensed under this title, when the licensee or applicant knows or should know that such action is violative of such statute, law, or rule; or violated a lawful order of the Board previously entered by the Board in a disciplinary hearing, consent decree, or license reinstatement.

(d) When a professional licensing board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this

Code section or the laws, rules, or regulations relating to the business or profession licensed by the board, the board may take any one or more of the following actions:

- (1) Refuse to grant or renew a license to an applicant;
- (2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;
- (3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license.
- (5) Revoke any license;

O.C.G.A. § 42-8-60 (a) provides that:

(a) Upon a verdict or plea of guilty or a plea of nolo contendere, but before an adjudication of guilt, in the case of a defendant who has not been previously convicted of a felony, the court may, without entering a judgment of guilt and with the consent of the defendant:

- (1) Defer further proceedings and place the defendant on probation as provided by law; or
- (2) Sentence the defendant to a term of confinement as provided by law.

O.C.G.A. Section 16-8-2 provides that:

A person commits the offense of theft by taking when he unlawfully takes or, being in lawful possession thereof, unlawfully appropriates any property of another with the intention of depriving him of the property, regardless of the manner in which the property is taken or appropriated.

O.C.G.A. Section 16-10-24(a) provides that

(a) Except as otherwise provided in subsection (b) of this Code section, a person who knowingly and willfully obstructs or hinders any law enforcement officer in the lawful discharge of his official duties is guilty of a misdemeanor.

Rule 150-8-.01 provides that:

The Board has the authority to refuse to grant a license to an applicant or to discipline a dentist or dental hygienist licensed in Georgia if that individual has engaged in unprofessional conduct. For the purpose of the implementation and enforcement of this rule, unprofessional conduct is defined to include, but not be limited to, the following:

(d) Violating statutes and rules relating to or regulating the practice of dentistry, including, but not limited to, the following:

1. The Georgia Dental Practice Act (O.C.G.A. T. 43, Ch. 11);
5. Rules and Regulations of the Georgia Board of Dentistry;

(j) Knowingly submitting any misleading, deceptive, untrue, or fraudulent misrepresentation on a claim for, bill or statement to a third party;

**GEORGIA BOARD OF DENTISTRY**  
**STEPHAN F. HOLCOMB, D.M.D.**  
**President**

Prepared by:

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