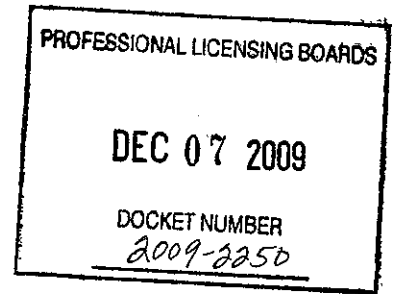


**BEFORE THE STATE BOARD OF DENTISTRY  
STATE OF GEORGIA**



IN THE MATTER OF: )  
 )  
GORDON TRENT AUSTIN, D.M.D., ) BOARD DOCKET NO.2009-2250  
License No. DN008598 )  
Respondent. )

**FINAL DECISION**

I. Introduction

On November 13, 2009, a hearing was conducted in the above-referenced matter before the State Board of Dentistry [the "Board"]. The hearing was held for the purpose of determining whether the Board should sanction the Respondent's license to practice dentistry. The Respondent, Gordon Trent Austin, D.M.D., appeared and was represented by Matthew Cole, Esq. The Board was represented by Reagan Dean, Assistant Attorney General.

II. Findings of Fact

Respondent is licensed to practice dentistry in the State of Georgia and was licensed at all times relevant herein. (Petitioner's Exhibit 1). The record of the hearing reveals that on August 6, 2009, in the Superior Court of Carroll County, State of Georgia, Respondent entered a guilty plea to six (6) counts of misdemeanor theft by taking. (Petitioner's Exhibit 2). Respondent received first offender treatment and was sentenced to probation for five consecutive 12-month periods and one concurrent 12-month period. (Petitioner's Exhibit 2). Under Respondent's sentence, Respondent cannot participate as a provider in any Georgia Medicaid program. (Petitioner's Exhibit 2). Each count of the indictment charged Respondent with submitting or causing to be submitted a false claim for dental services to the Medicaid program. (Petitioner's Exhibit 2). At the hearing,

Respondent admitted that he had entered a guilty plea to the aforementioned charges. (Testimony of Respondent). Respondent's guilty plea was entered under North Carolina v. Alford, 400 U.S. 25 (1970). (Petitioner's Exhibit 2). However, in the criminal case, Respondent agreed and acknowledged that there was a factual basis for his guilty plea; and in the hearing in the instant case Respondent admitted that he had so agreed. (Petitioner's Exhibit 2); (Testimony of Respondent). Respondent testified that he did not knowingly submit a false claim to get money that he was not entitled to and that the claims contained errors or were submitted in error. (Testimony of Respondent). Two of Respondent's employees who had prepared claims which were submitted to Medicaid testified that Respondent never encouraged them to or suggested that they prepare or submit a false claim to Medicaid. (Testimony of Felicia Evans) (Testimony of Haley Bissel). Respondent tendered into evidence three letters, each from a member of the United States House of Representatives, urging the Board to allow Respondent to continue to practice dentistry. (Respondent's Exhibits 1, 2, and 3).

On the same date that Respondent entered the aforementioned guilty plea, he also entered an agreement with the State that resolved other pending criminal charges. (Petitioner's Exhibits 4, 5, and 6). Those other pending charges accused Respondent of, among other things, committing the offense of simple battery as a result of conduct that occurred after oral surgery on a patient; committing the offense of aggravated assault and the offense of simple battery by assaulting or striking a patient with a dental elevator; and committing the offense of cruelty to children in the first degree by slapping a child patient on the head during oral surgery. (Petitioner's Exhibits 4 and 6). In the aforementioned agreement that Respondent entered with the State, in exchange for the

State's dismissal of pending criminal charges, Respondent agreed to cease performing any oral surgeries except as authorized by Federal Services; to not work on civilian patients except as authorized by Federal Services; to 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 to close his Carroll County practice instantler. (Petitioner's Exhibits 4, 5, and 6). The agreement is effective for ten years. (Petitioner's Exhibit 4, 5, and 6).

## II. Conclusions of Law

Under O.C.G.A. §§ 43-11-47 and 43-1-19, the Board may discipline a licensee when grounds for discipline exist. The preponderance of the evidence standard is applicable to disciplinary proceedings. Georgia Board of Dentistry v. Pence, 223 Ga. App. 603 (1996).

The Board has met its burden of proof. Pursuant to O.C.G.A. §§ 43-1-19(a)(3) and 43-11-47 (a)(3), the Board is authorized to sanction Respondent's license based on Respondent's August 6, 2009, guilty plea conviction for misdemeanor theft by taking, a crime of moral turpitude. For the purposes of O.C.G.A. §§ 43-1-19(a)(3) and 43-11-47(a)(3), theft by taking is clearly a crime of moral turpitude. See Sapp v. State, 271 Ga. 446 (1999) (superseded by statute on other grounds). Consequently, the Board has proven grounds upon which to sanction Respondent's license under O.C.G.A. §§ 43-1-19(a)(3) and 43-11-47(a)(3).

Pursuant to O.C.G.A. §§ 43-1-19(a)(4) and 43-11-47 (a)(4), the Board is authorized to sanction Respondent's license based on Respondent's arrest, indictment, and sentence for a crime of moral turpitude, as evidenced by his August 6, 2009, first offender guilty

plea to six (6) counts of misdemeanor theft by taking. Consequently, the Board has proven grounds upon which to sanction Respondent's license under O.C.G.A. §§ 43-1-19(a)(4) and 43-11-47(a)(4).

Pursuant to Rule 150-8-.01, the Board has the authority to discipline a licensee for unprofessional conduct if the licensee violates statutes and rules relating to or regulating the practice of dentistry including, but not limited to, the Georgia Dental Practice Act, (O.C.G.A. T. 43, Ch. 11). Because grounds for discipline exist as provided by O.C.G.A. § 43-11-47 of the Dental Practice Act, Respondent has similarly engaged in unprofessional conduct as provide by Rule 150-8-.01. Consequently, because Respondent has violated Rule 150-8-.01 by having engaged in unprofessional conduct, discipline is also authorized under O.C.G.A. §§ 43-1-19(a)(8) and 43-11-47(a)(10) for violating a statute, law or rule which relates to or in part regulates the practice of dentistry. Accordingly, the Board has proven grounds upon which to sanction Respondent's license under Rule 150-8-.01 and O.C.G.A. §§ 43-1-19(a)(8) and 43-11-47 (a)(10).

### III. Decision and Order

After having found that the Board can impose disciplinary sanctions, the remaining issue is what is the appropriate sanction. Although Respondent entered a best interests guilty plea and at the hearing in the instant case denied that he had committed the offenses alleged in the indictment, Respondent, nevertheless, admitted there was a factual basis supporting his August 6, 2009, plea of guilty. The record reveals that Respondent received a stringent sentence in connection with his guilty plea. Respondent was sentenced to a total of 60 months probation, an equivalent of five years. Furthermore,

Respondent's sentence clearly indicates that the charges to which he pleaded guilty dealt with Respondent's practice of dentistry. A condition of Respondent's probationary sentence is that he cannot participate as a provider in any Georgia Medicaid Program. Similarly, Respondent's agreement with the State clearly dealt with Respondent's practice of dentistry. In exchange for the dismissal of other pending criminal charges, Respondent agreed not to practice dentistry on civilian patients except as authorized by Federal Services. In light of Respondent's exclusion from participating in the Georgia Medicaid Program, Respondent's agreement not to practice dentistry on civilian patients except as authorized by Federal Services, and Respondent's agreement to close his Carroll County, Georgia practice, it is very difficult to comprehend a justification for allowing Respondent to practice dentistry on patients who are not covered by Medicaid or patients who are members of the military or civilian patients within the federal jurisdiction or patients anywhere in the State of Georgia.

For the above and foregoing reasons, Respondent's license to practice dentistry is hereby **REVOKED**. This Final Decision is effective upon docketing.

SO ORDERED this 4<sup>th</sup> day of December, 2009.



STATE BOARD OF DENTISTRY  
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President

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