

**IN THE MATTER OF
TIMOTHY B. GILBERT, M.D.**

Respondent

License Number: D42981

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**BEFORE THE
MARYLAND STATE
BOARD OF PHYSICIANS
Case Number: 2011-0875**

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**ORDER FOR SUMMARY SUSPENSION OF LICENSE
TO PRACTICE MEDICINE**

The Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of **TIMOTHY B. GILBERT, M.D.** (the "Respondent") (Date of Birth, 05/03/1961), License Number D42981, to practice medicine in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. ("S.G.") § 10-226(c)(2009 Repl. Vol. and 2011 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:¹

¹ The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on March 16, 1992, under License Number D42981. The Respondent's license is scheduled to expire on September 30, 2012.

2. The Respondent reports that he does not maintain an office for the practice of medicine but provides medical care from his residence.

3. The Respondent is board-certified in anesthesiology and critical care medicine.

4. The Respondent resigned his privileges at a Baltimore-area hospital on November 17, 2009.

5. The Respondent does not have any medical staff or admitting privileges at any hospitals in Maryland.

6. The Board initiated an investigation of the Respondent after receiving a complaint from a detective from the Anne Arundel County Police Department, who reported concerns about the Respondent's competency and professionalism after investigating him for questionable prescribing practices involving two patients and for possible prescription fraud/forgery.

7. The Board's investigation determined the following:

(a) The Respondent has a chronic and active alcohol abuse/dependency problem, which he has acknowledged in statements to the Board, to medical professionals and to law enforcement officials. At other times, though, the Respondent has denied any issues or impairment due to alcohol abuse, despite overwhelming evidence to the contrary. Since at least 2008, the Respondent has been hospitalized or sought treatment at rehabilitation facilities on numerous occasions for alcohol and

benzodiazepine abuse, and problems associated with these conditions. These treatment records state that the Respondent has manifested severe behavioral disturbances while abusing alcohol and other controlled dangerous substances, requiring the intervention of law enforcement personnel and transport by emergency medical services to area hospitals. On one occasion, the Respondent threatened extreme violence to himself and others, requiring the issuance of a protective order. Treatment records also state that the Respondent has had episodes of benzodiazepine withdrawal. The Respondent was most recently transported by emergency response personnel for substance abuse on or about October 2, 2011, after suffering a seizure in a liquor store parking lot. The Respondent was hospitalized for three days as a result, during which time he tested positive for benzodiazepines.

- (b) The Respondent's alcohol abuse and dependency problems have affected his professional judgment and ability to provide safe and competent medical care to patients. The Respondent resides or otherwise associates with individuals who have acknowledged substance abuse problems, including opioid addiction. These individuals have exhibited drug-seeking behaviors. Despite this, the Respondent has provided them with prescriptions for opioids, amphetamines and other controlled dangerous substances. These individuals have stated to law enforcement officials that the Respondent has a serious alcohol dependency problem and requires assistance with daily living activities. In a statement to the Board, the Respondent acknowledged that he provided prescriptions for opioids and other controlled substances to these individuals as a "convenience" to them. The Respondent's personal association and living arrangements with these individuals, to whom he provides prescriptions for controlled dangerous substances, creates a potential conflict of interests and seriously undermines his objectivity and professional judgment. In one instance, one of the individuals lost consciousness at the Respondent's residence while in the Respondent's presence, requiring the individual's hospitalization for a drug overdose.
- (c) The Board obtained records from various primary care physicians who treated the Respondent. At least two of the practitioners dismissed the Respondent due to the Respondent's alcohol abuse and failure to keep appointments. The records state that in or around November 2010, one of the Respondent's treating physicians ordered that the Respondent undergo alcohol testing; the Respondent's blood alcohol level was measured as being 0.263%. The physician dismissed the Respondent as a result.

- (d) Board investigators recently interviewed the Respondent, who appeared for the interview in a disheveled condition, smelling of alcohol and exhibiting general signs of alcohol abuse.
- (e) The Board attempted to obtain medical records from the Respondent with respect to the individuals with whom he resides or associates and prescribes opioids and other controlled dangerous substances. The Respondent did not provide the records in a timely fashion. The Respondent did not provide records for any visits for which he prescribed controlled substances, indicating that he either failed to evaluate the patients or failed to keep medical records when treating them. The Respondent's prescribing documentation did not correspond to pharmacy records.
- (f) As part of its investigation, the Board referred this matter to the Maryland Society of Anesthesiologists ("MSA") for a practice review. The MSA reviewed the Respondent's treatment of the individuals with whom he also maintained personal relationships. The MSA review found numerous deficiencies in the Respondent's provision of medical care, determining that he was professionally incompetent; engaged in unprofessional conduct in the practice of medicine; prescribed medications to the patients without evaluating them or maintaining medical records; failed to keep adequate medical records; and otherwise provided deficient medical care to the patients.

8. After reviewing the Respondent's professional activities, chronic substance abuse problems, and professional and mental competency issues, the Board issues this Order for Summary Suspension pursuant to S.G. § 10-226(c)(2). The Board concludes that the Respondent's actions constitute a substantial likelihood of risk of serious harm to the public health, safety and welfare, which imperatively requires the immediate suspension of his license to practice medicine.

9. Based on its investigation, the Board has a basis to charge the Respondent under the following provisions of the Act under H.O. § 14-404(a):

- (3) Is guilty of: (3)(ii) unprofessional conduct in the practice of medicine;

- (4) Is professionally, physically or mentally incompetent;
- (7) Habitually is intoxicated;
- (27) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes; and
- (40) Fails to keep adequate medical records as determined by appropriate peer review.

CONCLUSIONS OF LAW

Based on the foregoing investigative facts, the Board concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(2009 Repl. Vol. and 2011 Supp.).

ORDER

It is this third day of November, 2011, by a majority of the quorum of the Board:

ORDERED that pursuant to the authority vested by Md. State Gov't Code Ann. §10-226(c)(2), the Respondent's license to practice medicine in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that a post-deprivation hearing in accordance with Code of Maryland Regulations tit. 10, § 32.02.05.B(7), C and E on the Summary Suspension has been scheduled for **Wednesday, November 16, 2011 at 4:00 p.m.**, at the Maryland State Board of Physicians, 4201 Patterson Avenue, Room 108, Baltimore, Maryland 21215-0095; and it is further

ORDERED that at the conclusion of the **SUMMARY SUSPENSION** hearing held before the Board, the Respondent, if dissatisfied with the result of the

hearing, may, within ten (10) days, request an evidentiary hearing, such hearing to be held within thirty (30) days of the request, before an administrative law judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further


ORDERED that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board's investigator the following items:

- (1) his original Maryland License D42981;
- (2) his current renewal certificate;
- (3) DEA Certificate of Registration, # BG1706160 (exp. 09/30/12);
- (4) Maryland Controlled Dangerous Substance Registration, # M35125 (exp. 05/31/13);
- (5) All controlled dangerous substances in his possession and/or practice;
- (6) All Medical Assistance prescription forms;
- (7) All prescription forms and pads in his possession and/or practice; and
- (8) Any and all prescription pads on which his name and DEA number are imprinted.

AND IT IS FURTHER ORDERED that a copy of this Order of Summary Suspension shall be filed with the Board in accordance with Md. Health Occ. Code Ann. § 14-407 (2009 Repl. Vol. and 2011 Supp.); and it is further

ORDERED that this is a Final Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2009 Repl. Vol. and 2011 Supp.)

11/3/2011
Date



John T. Papavasiliou
Deputy Director
Maryland State Board of Physicians