

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

IN RE: DAVID A. GILBERT, M.D.
License No.: 0101-030832

CONSENT ORDER

Pursuant to Sections 9-6.14:11 and 54.1-2919 of the Code of Virginia (1950), as amended ("Code"), an informal conference was held with David A. Gilbert, M.D. on November 5, 1993, in Williamsburg, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the informal conference committee ("Committee") were: Stephanie J. Marioneaux, M.D., Chairman; Thomas A. Wash, M.D.; and Leslie H. Vogt. Dr. Gilbert was present, but was not represented by counsel. The Board was represented by Carol R. Russek, Assistant Attorney General. The purpose of the informal conference was to inquire into allegations that Dr. Gilbert may have violated certain laws governing the practice of medicine in Virginia, as set forth in the Board's notice of informal conference dated September 27, 1993.

FINDINGS OF FACT

Now, having properly considered the evidence presented, the Committee makes the following findings of fact:

1. Between the period of March, 1987 and September, 1992, Dr. Gilbert indiscriminately prescribed to Patient A, a person he knew or should have known was drug dependent, an excessive number of Schedule II - VI controlled substances as set forth in the notice of informal conference dated September 27, 1993, most of which have a high abuse potential, contrary to sound medical judgment, and without maintaining complete and adequate records.

Patient A's physician cautioned her regarding the use of analgesics in February 1991, and referred her for substance abuse treatment in March 1992. With Dr. Gilbert's knowledge, the patient left treatment against medical advice; however, Dr. Gilbert continued to prescribe abusable medications. Furthermore, during the period from July 27, 1989 to August 16, 1992, Patient A obtained multiple controlled substances as set forth in the notice of informal conference dated September 27, 1993, from at least 17 other physicians.

2. Between 1987 and 1991, Patient A underwent 5 separate cosmetic and plastic surgery procedures, all of which were performed by Dr. Gilbert. However, between 1987 and September, 1992, Dr. Gilbert failed to maintain complete and adequate office records on this patient, in that he neglected to document the taking of a history and physical, his findings, and what medications he was prescribing for this patient and his rationale for said prescribing.

3. In addition to the above described abusable controlled substances, Dr. Gilbert prescribed various Schedule VI controlled substances as set forth in the notice of informal conference dated September 27, 1993, for Patient A, contrary to sound medical judgement, and without maintaining complete and adequate records.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Committee concludes that Dr. Gilbert has violated Section 54.1-2915.A(4) and (3) as further defined in Section 54.1-2914.A(3), (9), (10) and (14) of the Code and Sections 54.1-3303 and 54.1-3808 of the Drug Control Act.

CONSENT

I, David A. Gilbert, M.D. by affixing my signature hereto, acknowledge that:

1. I have been specifically advised to seek the advice of counsel prior to signing this document;
2. I am aware that without my consent, no legal action can be taken against me, except pursuant to the Virginia Administrative Process Act, Section 9-6.14:1 et seq., of the Code;
3. I have the following rights, among others: the right to a formal fact finding hearing before the Board, to reasonable notice of said hearing, to representation by counsel, and to cross-examine witnesses against me;
4. I waive all such rights to a formal hearing;
5. I admit to the foregoing Findings of Fact; and

6. I consent to the entry of this Consent Order affecting my license to practice medicine in the Commonwealth of Virginia.

ORDER

WHEREFORE, it is hereby ORDERED that the license of David A. Gilbert, M.D. to practice medicine in the Commonwealth of Virginia be placed on INDEFINITE PROBATION upon the following terms and conditions:

1. Within one year of the entry of this Consent Order, Dr. Gilbert shall attend and successfully pass the mini-residency entitled "The Proper Prescribing of Controlled Dangerous Substances" sponsored by the Robert Wood Johnson Medical School of the University of Medicine and Dentistry of New Jersey.
2. Dr. Gilbert is prohibited from medically treating Patient A.
3. Dr. Gilbert is prohibited from prescribing, administering or dispensing any medications to Patient A.
4. Dr. Gilbert shall appear before an informal conference committee of the Board in one year. Such Committee shall monitor Dr. Gilbert's indefinite probation, determine the frequency of further appearances before it, and shall serve as an instrument of the Board responsible for approving and reviewing all information relative to the terms and conditions of this Consent Order.
5. Dr. Gilbert shall maintain a course of conduct in his practice of medicine commensurate with the requirements of Chapter 29, Title 54.1 of the Code.

Violation of this Consent Order shall constitute grounds for the revocation of the license of David A. Gilbert, M.D. In the event Dr. Gilbert violates any of the terms and conditions of this Consent Order, a formal administrative hearing shall be convened to determine whether the license of David A. Gilbert, M.D. shall be revoked.

Pursuant to Section 9-6.14:14 of the Code, the signed original of this Consent Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection and copying upon request.

FOR THE BOARD:

Hilary H. Connor
Hilary H. Connor, M.D.
Executive Director
Virginia Board of Medicine

ENTERED: 2-14-94

SEEN AND AGREED TO:

David A. Gilbert
David A. Gilbert, M.D.

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Norfolk, to wit:

Subscribed and sworn to before me, the undersigned Notary Public, in and for the Commonwealth of Virginia at large, this 26th day of JAN., 1994 by David A. Gilbert, M.D.

Deborah W. Matthews
Notary Public

My commission expires: 5-31-95

RECEIVED: February 17, 1994

Bernard L. Henderson, Jr.
Bernard L. Henderson, Jr., Director
Department of Health Professions

KTM:KB110801:ORDERS