

COPY

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE

Department of State

2010 AUG 16 AM 11:49

PROTHONOTARY

Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs

vs.

Kermit B. Gosnell, M.D.,  
Respondent

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Docket No. 1595 -49-10  
File No. 10-49-07163

ORDER OF TEMPORARY SUSPENSION AND NOTICE OF HEARING

AND NOW, this 16<sup>th</sup> day of August, 2010, upon review of the

Petition for Temporary Suspension of the license to practice Medicine of Kermit B. Gosnell, M.D., (hereinafter "Respondent") License No. MD009422E, filed by the Prosecuting Attorney for the Commonwealth of Pennsylvania, the State Board of Medicine (hereinafter "Board") makes the following findings and enters the following Order:

SUSPENSION ORDER

The Board finds the Prosecuting Attorney has alleged facts in the Petition, which, if taken as true, establish at each and every count that the continued practice or resumption of practice of medicine by the Respondent presents an immediate danger to the public health and safety. Therefore in accordance with section 40(a) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended, (hereinafter "Act"), 63 P.S. § 422.40(a), the Board **ORDERS** that the license issued to the Respondent to practice medicine in the Commonwealth is **TEMPORARILY SUSPENDED** upon the service of this order. Respondent shall surrender his wallet card, registration certificate and wall certificate to representatives of the Bureau of

Enforcement and Investigation, Bureau of Professional and Occupational Affairs, immediately upon service of this order in accordance with the Act at 63 P.S. § 422.44.

### PRELIMINARY HEARING

A preliminary hearing shall be scheduled and conducted by the Board or Office of Hearing Examiners to be convened within thirty (30) days from the date of issuance of this Order. The preliminary hearing shall be limited to evidence on the issue of whether there is a prima facie case to support temporary suspension of the Respondent's license. The preliminary hearing will be held at a location designated by the Board or a hearing examiner for the Board.

The Respondent is entitled to be present at the preliminary hearing and may be represented by an attorney, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings.

If the Board or hearing examiner finds a prima facie case is not established, Respondent's license will be immediately restored. If a prima facie case is established, the temporary suspension shall remain in effect until vacated by the Board, but in no event longer than 180 days, unless otherwise ordered or agreed to by the participants.

### FORMAL HEARING

Pursuant to Section 40(a) of the Medical Practice Act, Act, 63 P.S. § 422.40(a), the action to suspend, revoke, or otherwise restrict a Respondent's license following an Order of Temporary Suspension will be commenced by the filing of an Order to Show Cause.

An Order to Show Cause may be filed by the prosecuting attorney subsequent to this Order of Temporary Suspension, which would seek further restrictions upon Respondent's license to practice. Respondent is directed to respond to any such Order to Show Cause by filing a written answer with the Prothonotary within twenty (20) days of the date of the issuance of the

Order to Show Cause. A formal hearing on the charges contained in the Order to Show Cause will be conducted by the Board or hearing examiner for the Board.

### PROCEDURES

Continuances will be granted for good cause only. A request for a continuance must be filed with the Prothonotary in writing at least one week prior to the date of the hearing. The requirement of the one-week advance filing of a request for continuance will be waived only upon a showing of good cause. The failure to have an attorney present and a request for continuance to retain an attorney will not be considered a valid reason for the granting of a continuance on the day of the hearing. **A request by the Respondent for an extension of time for a continuance which will delay the preliminary hearing or the formal hearing must be accompanied by the agreement of the Respondent that the 180-day temporary suspension will continue during whatever additional time is necessary to conclude the proceedings.**

All proceedings are conducted in accordance with the Administrative Agency Law, 2 Pa.C.S. §§ 501-508, 701-704; 63 P.S. §§ 2201-2207; and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1-35.251. A record of the hearing will be stenographically prepared by an official reporting service. A copy of the transcript may be secured by personally making arrangements with the reporting service at the time of the hearing.

Any document submitted in this matter must be filed with:

Prothonotary  
Department of State  
2601 North Third Street  
Harrisburg, PA 17110  
717-772-2686

Any document filed with the Prothonotary must also be served on the Prosecuting Attorney:

Juan A. Ruiz  
Prosecuting Attorney  
2601 North Third Street  
Harrisburg, Pennsylvania 17110  
717-783-7200

BY ORDER:

STATE BOARD OF MEDICINE  
PROBABLE CAUSE SCREENING  
COMMITTEE



---

Radheshyam M. Agrawal, M.D.  
Committee Member

---

James W. Freeman, M.D.  
Committee Member

Respondent's Address:

3801 Lancaster Avenue  
Philadelphia, PA 19104

Prosecuting Attorney:

Juan A. Ruiz, Esquire

Board Counsel:

Sabina Howell, Esquire

Date of Issuance:

August 16, 2010

COPY

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE

Department of State

2010 AUG 16 AM 11:52

PROTHONOTARY

Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs

vs.

Kermit B. Gosnell, M.D.,  
Respondent

Docket No. 1595 -49-10  
File No. 10-49-07163

PETITION FOR IMMEDIATE TEMPORARY SUSPENSION

AND NOW, the Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs, by and through its Prosecuting Attorney, Juan A. Ruiz, petitions the State Board of Medicine (*hereinafter* "Board") for the immediate temporary suspension of the license to practice medicine issued to Kermit B. Gosnell, M.D. (*hereinafter* "Respondent"), pursuant to section 40(a) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended, (*hereinafter* "Act"), 63 P.S. § 422.40(a), and in support thereof alleges as follows:

1. Petitioner is a Prosecuting Attorney for the Bureau of Professional and Occupational Affairs, a departmental administrative agency within the Pennsylvania Department of State.
2. The Respondent is Kermit B. Gosnell, M.D., who at all times relevant was licensed to practice medicine in the Commonwealth of Pennsylvania, License No. MD009422E.
3. The Respondent's last known address on file with the Board is 3801 Lancaster Avenue, Philadelphia, PA 19104.
4. At all times pertinent to the allegations in this Petition, Respondent was licensed to practice medicine and surgery in the Commonwealth of Pennsylvania.

5. Respondent's license is currently suspended from a prior immediate temporary suspension. Said suspension will expire on August 22, 2010.

**COUNT ONE**

6. Paragraphs 1 through 5 are incorporated by reference.

7. On or about May 17, 2010, the undersigned prosecutor became aware of a recent interview with DEA personnel, during which Respondent admitted that he prescribed Oxycontin, a Schedule II controlled substance, to patients for their emotional well-being.

8. During the same interview, Respondent also admitted that he prescribed controlled substances to patients whom he believed were selling the controlled substances for monetary gain.

9. Respondent also allowed patients to pick up controlled substance prescriptions in the names of other patients.

10. Based upon the foregoing factual allegations, the Respondent's continued practice or resumption of practice of medicine within the Commonwealth of Pennsylvania makes Respondent an immediate and clear danger to the public health and safety.

WHEREFORE, the Petitioner respectfully requests that the Board issue an Order immediately suspending the license to practice medicine of Kermit B. Gosnell, M.D., License No. MD009422E pursuant to the authority granted to it pursuant to section 40(a) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended, 63 P.S. § 422.40(a).

Respectfully submitted,



Juan A. Ruiz  
Prosecuting Attorney  
Commonwealth of Pennsylvania  
Department of State  
P.O. Box 2649  
Harrisburg, PA 17105-2649  
(717) 783-7200

DATE: 8/12/10

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs

vs.

Kermit B. Gosnell, M.D.,  
Respondent


:  
:  
:  
:  
: Docket No. -49-10  
: File No. 10-49-07163  
:  
:

CERTIFICATE OF SERVICE

I, Juan A. Ruiz, hereby certify that I have this 16<sup>th</sup> day of August, 2010 served a true and correct copy of the foregoing Order and Petition for Immediate Temporary Suspension upon all parties of record in this proceeding in accordance with the requirements of §33.32 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code §33.32 (relating to service by the agency).

CERTIFIED MAIL, RETURN RECEIPT REQUESTED:

Kermit B. Gosnell, M.D.  
3801 Lancaster Avenue  
Philadelphia, PA 19104

  
\_\_\_\_\_  
Juan A. Ruiz  
Prosecuting Attorney  
Commonwealth of Pennsylvania  
Department of State

P. O. Box 2649  
Harrisburg, PA 17105-2649  
(717) 783-7200



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE


Commonwealth of Pennsylvania :  
Bureau of Professional and :  
Occupational Affairs :  
 :  
vs. : Docket No. -49-10  
 : File No. 10-49-07163  
Kermit B. Gosnell, M.D., :  
Respondent :

CERTIFICATE OF SERVICE

I, Juan A. Ruiz, hereby certify that I have this 16<sup>th</sup> day of August, 2010 served a true and correct copy of the foregoing Order and Petition for Immediate Temporary Suspension upon all parties of record in this proceeding in accordance with the requirements of §33.32 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code §33.32 (relating to service by the agency).

FIRST CLASS MAIL, POSTAGE PREPAID:

Kermit B. Gosnell, M.D.  
3801 Lancaster Avenue  
Philadelphia, PA 19104



Juan A. Ruiz  
Prosecuting Attorney  
Commonwealth of Pennsylvania  
Department of State

P. O. Box 2649  
Harrisburg, PA 17105-2649  
(717) 783-7200