

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES**

In re: Kevin Gallagher, E.M.B.

Petition No. 9900217-030-002

CONSENT ORDER

WHEREAS, Kevin Gallagher, E.M.B. of Stamford, Connecticut (hereinafter "respondent") has been issued license number 002218 to practice as an embalmer by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 385 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent admits that:

1. In 1998, respondent was arrested, charged and plead guilty to criminal possession of a forged instrument which involved a prescription to obtain Hycodan Syrup.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-227(9).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Department, this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 20-227 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-227 of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license shall be placed on probation for a period of one year under the following terms and conditions:
 - a. Respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.
 - (1) During the probationary period, respondent shall submit to bi-monthly random observed urine screens for alcohol, controlled substances, and legend drugs. Respondent shall submit to such screens on a more frequent basis if requested to do so by the Department. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.
 - (2) Respondent shall cause to have the facility provide monthly reports to the Department on the urine screens for alcohol, controlled substances and legend drugs. All such screens shall be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by respondent's physician. If respondent has a positive urine screen, the facility shall

immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.

- (3) Respondent understands and agrees that if he fails to submit a urine sample when requested, such missed screen shall be deemed a positive screen.
 - (4) Respondent shall notify each of his health care professionals of all medications prescribed for him by any and all other health care professionals.
 - (5) Respondent is hereby advised that the ingestion of poppy seeds and mouthwash has from time to time, been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances, and mouthwash during the term of this Consent Order. In the event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such a screen.
- b. If respondent returns to work as an embalmer during the period of probation, respondent shall provide his employer at which he is employed or where respondent practices as an embalmer throughout the probationary period with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Respondent agrees to provide reports from such employer where he is employed as an embalmer during the probationary period stating that respondent is practicing with reasonable skill and safety and in an alcohol and substance-free state.

3. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

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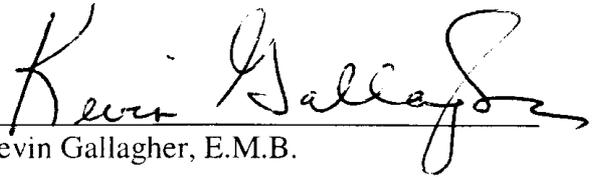
4. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
- The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
 - Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
 - Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.
 - If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the

satisfaction of the Department, he shall be entitled to a hearing before the Department which shall make a final determination of the disciplinary action to be taken.

- e. Evidence presented to the Department by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
8. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as an embalmer, upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's certificate. In any such summary action, respondent stipulates that his failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).
9. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Department.
10. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
11. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Department.

12. Respondent understands this Consent Order may be considered as a public document and evidence of the above admitted violations in any proceeding before the Department in which his compliance with this Consent Order or with Chapter 368d of the General Statutes of Connecticut, as amended, is at issue.
13. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
14. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
15. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
16. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.
17. Respondent understands and agrees that he is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which he is away from his residence.
18. Respondent has the right to consult with an attorney prior to signing this document.

I, Kevin Gallagher, E.M.B., have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.


Kevin Gallagher, E.M.B.

Subscribed and sworn to before me this 24 day of DECEMBER 1999.


Notary Public or person authorized
by law to administer an oath or affirmation
My Commission Expires August 31, 2001

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 30th day of December, it is hereby accepted.


Kathleen Zarrella, Director
Division of Health Systems Regulation

The above Consent Order having been presented to the duly appointed agent of the Commissioner on the 2 day of March ²⁰⁰⁰, it is hereby ordered and accepted.


Examining Board of Embalmers and Funeral Directors