

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF HEALTH CARE SERVICES
BOARD OF MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the Matter of
Peter T. Smith, M.D.
License No. 43-01-053454

Complaint No. 43-13-129566

ADMINISTRATIVE COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Kelly K. Elizondo, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Health Care Services (Complainant), files this complaint against Peter T. Smith, M.D. (Respondent) alleging upon information and belief as follows:

JURISDICTIONAL ALLEGATIONS

1. The Board of Medicine, (Board), an administrative agency established by the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 et seq, is empowered to discipline licensees under the Code through its Disciplinary Subcommittee (DSC).
2. Respondent is currently licensed to practice medicine pursuant to the Public Health Code.
3. Section 16221(a) of the Code authorizes the DSC to take disciplinary action against Respondent for a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of

employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, Respondent's ability to safely and skillfully practice medicine.

4. Section 16221(b)(i) of the Code authorizes the DSC to take disciplinary action against Respondent for incompetence, which is defined at section 16106(1) of the Code as "a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession, whether or not actual injury to an individual occurs."

5. Section 16221(c)(iv) of the Code authorizes the DSC to take disciplinary action against Respondent for obtaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 or a drug as defined in section 7105 without lawful authority, or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

6. Section 1306.07 of Title 1 of the Code of Federal Regulations provides as follows:

(a) A practitioner may administer or dispense directly (but not prescribe) a narcotic drug listed in any schedule to a narcotic dependent person for the purpose of maintenance therapy or detoxification treatment if the practitioner meets both of the following conditions:

- (1) The practitioner is separately registered with DEA as a narcotic treatment program.
- (2) The practitioner is in compliance with DEA regulations regarding treatment qualifications, security, records, and unsupervised use of drugs pursuant to the Act.

(b) Nothing in this section shall prohibit a physician who is not specifically registered to conduct a narcotic treatment program from administering (but not prescribing) narcotic drugs to a person for the purpose of relieving acute

withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three days and may not be renewed or extended.

6. Section 16226 of the Code authorizes the DSC to impose sanctions against a person licensed by the Board if, after opportunity for a hearing, the DSC determines that a licensee violated one or more of the subdivisions contained in section 16221 of the Code.

FACTUAL ALLEGATIONS

7. An investigation was authorized into Respondent's prescribing practices after an allegation was received from a pharmacist that Respondent was prescribing methadone for treatment of opiate addiction in violation of federal law.

8. Complainant reviewed Respondent's Michigan Automated Prescription System (MAPS) data for the time period of August 9, 2011 through January 1, 2013. The MAPS report confirmed that Respondent had authorized 198 prescriptions (35,852 tablets) for methadone hydrochloride (Schedule II drug used for drug addiction detoxification and maintenance programs).

9. Based on the MAPS data, Complainant obtained medical records of patients who received prescriptions for methadone to determine if prescriptions were being issued in violation of applicable standards of practice and federal law. A review of patient records confirmed that Respondent was prescribing methadone to treat opiate addiction in violation of the standard of practice and federal law.

10. Complainant reviewed the medical record of patient D.L.¹ (D.O.B. 1/15/1989). Respondent began treating patient D.L. on January 7, 2011. Respondent lists D.L.'s diagnoses as attention deficit disorder, opioid dependency, chronic pain and anxiety. Respondent originally prescribed Suboxone, Trileptal, Klonopin and Adderall. Respondent thereafter discontinued Suboxone and prescribed methadone. During an interview with Complainant's investigator, Respondent claimed the methadone was prescribed for pain; however there is documentation to back up this statement as D.L.'s medical record does not contain any documentation in accordance with the applicable standards for the treatment of chronic pain including: pain assessments; treatment goals; or monitoring for compliance including urine drug screening.

11. . Complainant reviewed the medical record of patient M.H. (D.O.B. 1/25/1966). Respondent began treating patient M.H. on May 27, 2011. Respondent lists M.H.'s diagnoses as general anxiety, attention deficit disorder, bipolar disorder, and opioid dependence. Respondent originally prescribed Klonopin, Seroquel and Prozac. On December 15, 2011, Respondent prescribed methadone to M.H. for "increased pain" despite a lack of documentation in the chart to support that the patient had pain symptoms or a diagnosis consistent with pain symptoms. M.H.'s medical record does not contain any documentation in accordance with the applicable standards of practice for the treatment of chronic pain including: pain assessments; treatment goals; or monitoring for compliance including urine drug screening.

¹ Initials used to protect patient confidentiality.

12. Complainant reviewed the medical record of E.W. (D.O.B. 6/13/1982). E.W. was first seen by Respondent's associate physician on December 6, 2010, with diagnoses that included: bipolar disorder and anxiety. On December 17, 2010, Respondent prescribed methadone to E.W. for "severe back pain." Respondent maintained E.W. on methadone for "pain" despite a lack of documentation in the chart to support that the patient had pain symptoms or a diagnosis consistent with pain symptoms. M.H.'s medical record does not contain any documentation in accordance with the applicable standards of practice for the treatment of chronic pain including: pain assessments; treatment goals; or monitoring for compliance including urine drug screening.

13. Complainant reviewed the medical record of P.W. (D.O.B. 2/24/1983). P.W. was first seen by Respondent on November 11, 2010, with diagnoses including: anxiety, attention deficit disorder, chronic pain syndrome and schizoaffective disorder. P.W. was noted to have a history of substance abuse. On September 25, 2012, Respondent prescribed methadone for "chronic pain." P.W. was maintained on methadone for a period of 1 year despite a lack of documentation in the chart to support that the patient had pain symptoms or a diagnosis consistent with pain symptoms. M.H.'s medical record does not contain any documentation in accordance with the applicable standards of practice for the treatment of chronic pain including: pain assessments; treatment goals; or monitoring for compliance including urine drug screening.

COUNT I

Respondent's conduct as described above constitutes negligence, in violation of section 16221(a) of the Code.

COUNT II

Respondent's conduct as described above constitutes incompetence, in violation of section 16221(b)(i) of the Code.

COUNT III

Respondent's conduct as described above constitutes prescribing drugs for other than lawful diagnostic or therapeutic purposes, in violation of section 16221(c)(iv) of the Code.

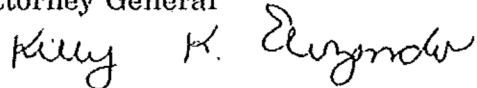
THEREFORE, Complainant requests that this complaint be served upon Respondent and that he be offered an opportunity to show compliance with all lawful requirements for retention of his license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Public Health Code, rules promulgated pursuant to it, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq.*

RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(7) of the Public Health Code, Respondent has 30 days from receipt of this complaint to submit a written response to the allegations contained in it. The written response shall be submitted to the Bureau of Health Care Services, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan, 48909, with a copy to the undersigned assistant attorney general. Further, pursuant to section 16231(8),

failure to submit a written response within 30 days shall be treated as an admission of the allegations contained in the complaint and shall result in transmittal of the complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Respectfully Submitted,

BILL SCHUETTE
Attorney General



Kelly K. Elizondo
Assistant Attorney General
Licensing & Regulation Division
3030 W. Grand Blvd., Suite 10-100
Cadillac Place, 10th Floor
Detroit, Michigan 48202
Telephone (313) 456-0040

Dated: October 21, 2014

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