

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the Matter of

MITCHEL OSMAN, M.D.
License No. 43-01-056574

Complaint No. 43-14-132954

CONSENT ORDER AND STIPULATION

CONSENT ORDER

An administrative complaint was filed with the Disciplinary Subcommittee of the Board of Medicine on August 24, 2015, charging Mitchel Osman, M.D. (Respondent) with having violated sections 16221(a), (b)(i), and (c)(iv) of the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 *et seq.*

The parties have stipulated that the Disciplinary Subcommittee may enter this consent order. The Disciplinary Subcommittee has reviewed the stipulation contained in this document and agrees that the public interest is best served by resolution of the outstanding complaint. Therefore, the Disciplinary Subcommittee finds that the allegations of fact contained in the complaint are true and that Respondent has violated section 16221(a) of the Public Health Code.

Accordingly, for these violations, IT IS ORDERED:

Respondent is placed on PROBATION for a period of 1 year commencing on the effective date of this order. Reduction of the probationary period shall occur only while Respondent is employed as a medical doctor. Respondent shall be

automatically discharged from probation at the end of the probationary period provided the Department of Licensing and Regulatory Affairs (hereafter, Department) has received satisfactory written evidence that Respondent has successfully complied with the terms of this order. The terms and conditions of the probation, which Respondent must complete within the period of probation, are as follows:

- A. MEETING WITH BOARD-APPROVED REVIEWER. Respondent shall meet quarterly with a physician designated by Affiliated Monitors, Inc., to review Respondent's professional practice as further set forth in paragraph C. The initial meeting shall occur at the end of the third month of probation, and subsequent meetings shall occur every 3 months thereafter until the end of the probationary period.

Within 30 days of the effective date of the order, Respondent shall contact the Sanction Monitoring Unit to obtain the contact information for Affiliated Monitors, Inc., and the designated physician reviewer. Respondent shall then be responsible for scheduling the time and place of the meetings with the designated physician reviewer. Respondent shall submit the request for the Affiliated Monitors, Inc., designated physician reviewer to: Sanction Monitoring Unit, Bureau of Professional Licensing, Enforcement Division – Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan 48909, or by fax to (517) 241-1431.

- B. PHYSICIAN REVIEWER CHANGE. If at any time during the period of probation, Affiliated Monitors, Inc., is unable to designate a suitable physician to review Respondent's professional practice, Respondent shall report this information in writing to the Department within 15 days of such change and request approval of another physician reviewer or Board Member designated by the Chairperson of the Board of Medicine. Respondent shall submit the request for the designated physician reviewer assignment to: Sanction Monitoring Unit, Bureau of Professional Licensing, Enforcement Division – Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan 48909, or by fax to (517) 241-1431.

- C. RECORDS REVIEW. During the period of probation, the designated physician reviewer shall obtain a Michigan Automated Prescription System (MAPS) report reflecting Respondent's prescribing history during the preceding three (3) month period. The designated physician reviewer shall identify patients from the MAPS report who were prescribed opioids and review up to 10 of these patients' charts (if available) for appropriate prescribing and documentation practices, including the presence or absence of the following: proof of informed consent, previous medical records, diagnostic testing documentation, physical examination documentation, MAPS reports, and treatment plans.
- D. DESIGNATED PHYSICIAN REVIEWER REPORTS. Respondent's designated physician reviewer shall file reports with the Department, as further provided below, advising of Respondent's work performance. If, at any time, Respondent fails to comply with minimal standards of acceptable and prevailing practice, or appears unable to practice with reasonable skill and safety, his designated physician reviewer shall immediately notify the Department.
- E. COMPLIANCE WITH THE PUBLIC HEALTH CODE. Respondent shall comply with all applicable provisions of the Public Health Code and rules promulgated under the Public Health Code.
- F. CONTINUING EDUCATION CREDITS. Within 90 days of the effective date of this order, Respondent shall successfully complete 10 total hours of continuing education credits in the areas of medical documentation (5 hours) and responsible opioid prescribing practices (5 hours). These credit hours shall not count toward the number of credit hours required for license renewal. Respondent must seek and obtain advance approval of the continuing education courses from the Chairperson of the Board or the Chairperson's designee. Respondent shall mail requests for approval of a course and proof of successful completion of a course to the Department at the following address: Sanction Monitoring Unit, Bureau of Professional Licensing, Enforcement Division – Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan 48909.

G. REPORT OF NON-EMPLOYMENT. If, at any time during the period of probation, Respondent is not employed as a medical doctor, he shall file a report of non-employment with the Department. Respondent shall file this report within 15 days after becoming unemployed. Respondent shall continue to file reports of non-employment on a quarterly basis until he returns to practice as a medical doctor. If Respondent subsequently returns to practice as a medical doctor, he shall notify the Department of this fact within 15 days after returning to practice.

H. REPORTING PROCEDURE. Unless otherwise provided above, all reports required by the terms of probation shall be filed on a quarterly basis, the first report to be filed at the end of the third month of probation, and subsequent reports every three months until Respondent is discharged from probation. In addition to receiving reports as required above, the Department or its authorized representative may periodically contact the reporting individuals or agencies to inquire of Respondent's progress. By accepting the terms of this consent order and stipulation, Respondent has authorized the release of all necessary records and information.

Any violation of the Public Health Code by Respondent during the period of probation shall be deemed a violation of probation and constitute grounds for further disciplinary action.

Respondent is FINED \$7,500.00 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 43-14-132954 clearly indicated on the check or money order) within 60 days from the effective date of this order. The timely payment of the fine shall be Respondent's responsibility. Respondent shall mail the fine to: Sanction Monitoring, Bureau of Professional Licensing, Enforcement Division – Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30189, Lansing, Michigan 48909.

Counts II and III of the complaint, alleging violations of section 16221(b)(i) and (c)(iv) of the Public Health Code, are DISMISSED.

Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.

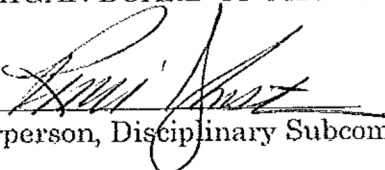
Respondent shall be responsible for the timely compliance with the terms of this consent order. Failure to comply within the time limitations provided will constitute a violation of this order.

If Respondent violates any term or condition set forth in this order, Respondent will be in violation of Mich Admin Code, R 338.1632, and section 16221(h) of the Public Health Code.

This order shall be effective thirty days from the date signed by the Chairperson of the Disciplinary Subcommittee or the Disciplinary Subcommittee's authorized representative, as set forth below.

Signed on 5-18-10

MICHIGAN BOARD OF MEDICINE

By 
Chairperson, Disciplinary Subcommittee

STIPULATION

The parties stipulate as follows:

1. Respondent does not contest the allegations of fact and law in the complaint. Respondent understands that, by pleading no contest, he does not admit the truth of the allegations but agrees that the Disciplinary Subcommittee may treat the allegations as true for resolution of the complaint and may enter an order treating the allegations as true.

2. Respondent understands and intends that by signing this stipulation, he is waiving the right under the Public Health Code, rules promulgated under the Public Health Code, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 *et seq.*, to require the Department to prove the charges set forth in the complaint by presentation of evidence and legal authority, and to present a defense to the charges before the Disciplinary Subcommittee or its authorized representative. Should the Disciplinary Subcommittee reject the proposed consent order, the parties reserve the right to proceed to hearing.

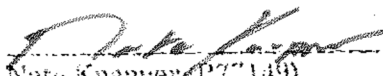
3. The Disciplinary Subcommittee may enter the above Consent Order, supported by Board conferee Mohammed A. Arsiwala, M.D. Dr. Arsiwala or an attorney from the Department of Attorney General's Licensing and Regulation Division may discuss this matter with the Disciplinary Subcommittee in order to recommend acceptance of this resolution.

4. Dr. Arsiwala and the parties considered the following factors in reaching this agreement:

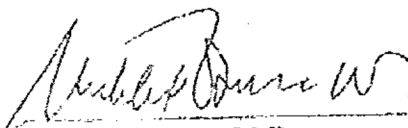
- A. During a telephonic compliance conference between the parties on March 8, 2016, Dr. Arsiwala considered Respondent's rationale for prescribing patient K.D. the range of controlled substances described in the Administrative Complaint to treat pain, sleep issues, and social issues. Dr. Arsiwala ultimately did not consider the prescription combinations described in the complaint to be unreasonable.
- B. Respondent acknowledges that he did not contemporaneously sign and date the prescriptions his office distributed while he was out of the country in 2014. While Respondent recognizes that his prescription writing practices must conform to acceptable standards of practice, it was clarified in compliance conference that the prescriptions issued in his absence were either refills of medications that had been appropriately prescribed previously, or prescriptions that were distributed pursuant to direct telephonic consultation with Respondent. Thus, while the method of issuance did not conform to acceptable practice standards, the prescriptions were ultimately not issued for other than lawful diagnostic or therapeutic purposes.

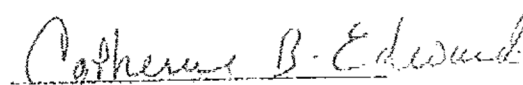
By signing this stipulation, the parties confirm that they have read,
understand, and agree with the terms of the consent order.

AGREED TO BY:


Nate Knapper (P77149)
Assistant Attorney General
Attorney for Complainant
Dated: 4/22/16

AGREED TO BY:


Mitchel Osman, M.D.
Respondent
Dated: 4/21/16


Catherine B. Edwards (P41742)
Kerr, Russell and Weber, PLC
Attorney for Respondent
Dated: 4/22/16