

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

In the matter of

FERNANDO JOSE CASTRO-URRUTIA, M.D.

License Number: 43-01-067134

File Number: 43-16-142125

CONSENT ORDER

On November 14, 2016, the Department of Licensing and Regulatory Affairs (Department) executed an *Administrative Complaint* (Complaint) charging Respondent Fernando Jose Castro-Urrutia, M.D. with violating Code §§ 16221(a), 16221(b)(i), 16221(b)(vi), and 16221(h) of the Public Health Code, MCL 333.1101 *et seq.*

Respondent stipulates that the facts alleged in the Complaint are true and constitute violations of the Code. The Michigan Board of Medicine Disciplinary Subcommittee (DSC) has reviewed this Consent Order and Stipulation and agrees that resolution of the Complaint best serves the public interest.

Therefore, IT IS FOUND that the facts alleged in the Complaint are true and violate Code §§ 16221(a), 16221(b)(i), 16221(b)(vi), and 16221(h).

Accordingly, IT IS ORDERED that Respondent is placed on PROBATION for a minimum of two years, commencing on the effective date of this Order. The probationary period is reduced only while Respondent is employed as a physician in the State of Michigan.

The terms of probation are as follows:

1. Continuing Education.

- a. Within one year from the effective date of this Order, Respondent shall successfully complete at least five hours of continuing education accepted by the Michigan Board of Medicine (Board) in **each** of the following areas: (1) documentation and (2) responsible opioid prescribing. This continuing education shall *not* apply in computing Respondent's current continuing education requirements for license renewal.

- b. Respondent shall obtain *advance* approval of the continuing education courses from the Board Chairperson or designee.
- c. Respondent shall submit acceptable written proof of completion of the continuing education required by this paragraph to the Department of Licensing and Regulatory Affairs, Legal Affairs/Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, MI 48909.

2. Meeting with Board-Approved Reviewer.

- a. Within 30 days of the effective date of this Order, Respondent shall request, in writing, that the Department approve a proposed practitioner Reviewer from a Board-accepted monitoring organization. The request shall include the Reviewer's name, address, telephone number, and monitoring organization affiliation. Respondent shall submit the request to the Department of Licensing and Regulatory Affairs, Legal Affairs/Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, MI 48909.
- b. Respondent shall meet quarterly (eight times) with the approved Reviewer to review Respondent's professional practice. Respondent shall be responsible for scheduling the time and place of the meetings with the Reviewer. The initial meeting shall occur at the end of the third month of probation, with subsequent meetings every third month thereafter until the period of probation ends.
- c. During the term of probation, the Reviewer shall review the charts of twenty (20) of Respondent's current patients. The Reviewer shall check the patient charts for appropriate prescribing and documentation practices, including the presence or absence of the following: medical history and physical examination; diagnostic, therapeutic, and laboratory results; evaluation and consultations; treatment objectives; discussion of risks and benefits; treatments; medications (including date, type, dosage and quantity prescribed); instructions and agreements; and periodic reviews. This review may occur at the quarterly meetings set forth above, or at another time. Respondent will make appropriate arrangements to accommodate the Reviewer's chart reviews.
- d. The Reviewer shall submit quarterly reports to the Department of Licensing and Regulatory Affairs, Legal Affairs/Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, MI 48909.

- e. In the event that Respondent, at any time, fails to comply with the minimal standards of acceptable and prevailing practice, or appears unable to practice with reasonable skill and safety, the Reviewer shall notify the Department immediately.

3. Employer Reports.

- a. If Respondent is employed in the licensed profession (other than self-employment), Respondent shall immediately provide copies of this Order and the Complaint to Respondent's employer and supervisor.
- b. Respondent's employer or supervisor shall be knowledgeable of Respondent's history and shall file reports with the Department advising of Respondent's work performance on a quarterly basis, with the first report to be filed by the last day of the third month of Respondent's probation and by the last day of each following third month for the duration of Respondent's probation.
- c. If Respondent fails to comply with minimal standards of acceptable and prevailing practice or appears unable to practice with reasonable skill and safety, Respondent's employer or supervisor shall notify the Department immediately.

4. Change in Employment. Respondent shall provide written notice to the Department upon entering into or leaving any employment in the licensed profession within 15 days of such action. Respondent shall provide copies of this Order and the Complaint to each successor employer in the licensed profession immediately upon beginning employment. Each successor shall continue to file reports with the Department advising of Respondent's work performance, as set forth in paragraph 3 of this Order.

5. Report of Non-Employment. If at any time during the period of probation Respondent is not employed in the licensed profession, Respondent shall file a report of non-employment with the Department within 15 days after becoming unemployed. Respondent shall continue to file a report of non-employment on a quarterly basis until Respondent returns to employment in the licensed profession.

6. Residency and Practice outside Michigan. Periods of residency and practice outside Michigan shall not reduce the probationary period of this Order. Respondent shall report any change of residency or practice outside Michigan no more than 15 days after the change occurs. Compliance with this provision does *not* satisfy the requirements of Code §§ 16192(1) and 16221(g) regarding Respondent's duty to report name or mailing address changes to the Department.

7. Reporting Procedure. Unless this Order otherwise provides, all reports shall be filed on a quarterly basis, with the first report to be filed by the last day of the third month of Respondent's probation and by the last day of each following third month for the duration of Respondent's probation.

8. Authorization to Contact. Respondent authorizes the Department or any authorized representative periodically to contact the reporting individuals, agencies, or employers to inquire of Respondent's progress.

9. Address for Communications. Except as otherwise provided in this Order, all persons shall direct all communications required by the terms of this Order to the Department of Licensing and Regulatory Affairs, Legal Affairs/Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, MI 48909.

10. Timely Filing of Reports. It is Respondent's responsibility to ensure timely filing of all reports and other documents required by this Order. Failure to file a report or other document within the time limitations provided is a violation of this Order.

11. Compliance with the Public Health Code. Respondent shall comply with the Public Health Code and rules promulgated under the Code.

12. Costs. Respondent is solely responsible for payment of all costs incurred in complying with the terms of this Order.

IT IS FURTHER ORDERED that Respondent is automatically discharged from probation at the end of the probationary period, *if* Respondent complied with all the terms of this Order.

IT IS ORDERED that Respondent's license to practice medicine in the state of Michigan is LIMITED for a minimum of five years beginning on the effective date of this Consent Order (the Limitation Term). The Limitation Term will only be reduced while Respondent is employed as a physician. During the Limitation Term, Respondent shall not obtain, possess, prescribe, dispense or administer any drug designated as a schedule 2 controlled substance under the Code or the federal Controlled Substances Act unless that controlled substance is prescribed or dispensed by a licensed physician for Respondent as a patient.

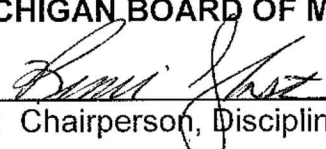
IT IS FURTHER ORDERED that Respondent is FINED twenty thousand dollars (\$20,000), to be paid to the State of Michigan within one hundred twenty (120) days after the effective date of this Order. Respondent shall mail payment of the fine to the Department of Licensing and Regulatory Affairs, Legal Affairs/Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, MI 48909. The fine shall be paid by check or money order, made payable to the State of Michigan, and shall clearly display File Number 43-16-142125.

IT IS FURTHER ORDERED that if, within four years of the effective date of this Order, Respondent fails to complete the probationary period, or at any time violates any provision of this Order, the DSC may proceed to take disciplinary action pursuant to Mich Admin Code, R 338.1632 and Code §16221(h).

IT IS FURTHER ORDERED that this Order replaces in full the *Consent Order* in File No. 43-16-141023 entered November 16, 2016, except that the fine ordered by this Order is in addition to the fine ordered by the *Consent Order* in File No. 43-16-141023.

IT IS FURTHER ORDERED that this Order shall be effective 30 days after the date signed by the DSC.

MICHIGAN BOARD OF MEDICINE


By: Chairperson, Disciplinary Subcommittee

Dated: 5-17-17, 2017

STIPULATION

The Department of Licensing and Regulatory Affairs and Respondent Fernando Jose Castro-Urrutia, M.D. stipulate as follows:

1. The facts alleged in the Complaint are true and constitute violations of Code §§ 16221(a), 16221(b)(i), 16221(b)(vi), and 16221(h).

2. Respondent waives the right, under the Public Health Code, its administrative rules, and the Administrative Procedures Act, MCL 24.201 *et seq.*, to require the Department to prove the charges in the Complaint by presenting evidence and legal authority. Respondent waives the right to appear with an attorney and witnesses to present a defense to the charges.

3. This matter is a public record that must be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

4. This action will be reported to the National Practitioner Data Bank and any other entity as required by state or federal law, in accordance with the Health Care Quality Improvement Act of 1986, 42 USC 11101 *et seq.*

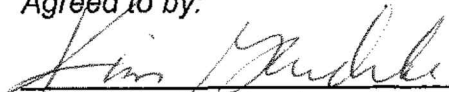
5. Peter Graham, M.D., a member of the Michigan Board of Medicine who supports this proposal, may, along with a Department representative, discuss this matter with the DSC and recommend acceptance of the resolution set forth in this Order.

6. Respondent approves the form and substance of this Order. The DSC may enter this Order as its final order in this matter.

7. This Order is effective only upon acceptance by the DSC. Respondent and the Department reserve the right to further proceedings without prejudice if the DSC rejects this Order.

***** Signatures on Next Page *****


Agreed to by:



Kim Gaedeke, Director
Bureau of Professional Licensing

Dated: 04/06/2017, 2017

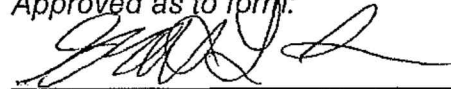
Agreed to by:



Fernando Jose Castro-Urrutia, M.D.
Respondent

Dated: MARCH 26, 17, 2017

Approved as to form:



Scott L. Feuer (P38185)
Attorney for Respondent

Dated: 3-29, 2017

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