

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

In the Matter of

LEOPOLDO H. COVARRUBIAS, M.D.,
License No. 43-01-039110,

File No. 43-20-002141

Respondent.

CONSENT ORDER

On August 3, 2021, the Department of Licensing and Regulatory Affairs executed an Administrative Complaint charging Respondent with violating the Public Health Code, MCL 333.1101 *et seq.*

The parties have stipulated that the Michigan Board of Medicine's Disciplinary Subcommittee (DSC) may enter this Consent Order and Stipulation. The DSC has reviewed this Consent Order and Stipulation and agrees that resolution of the Complaint best serves the public interest.

Respondent has agreed to voluntarily surrender to the Board his license to practice medicine in the State of Michigan previously issued to Respondent by the Board pursuant to the Public Health Code. Respondent further agrees to relinquish any claim to reinstate, renew, or reactivate the license, limited or otherwise at any future date.

Therefore, IT IS FOUND that the facts alleged in the Complaint are true and constitute violations of MCL 333.16221(a), (b)(i), (w), and MCL 333.7303a(4). Count III of the Complaint, alleging a violation of MCL 333.16221(c)(iv), is dismissed with prejudice.

Accordingly, IT IS ORDERED that Respondent's license to practice medicine is PERMANENTLY SURRENDERED, commencing on the effective date of this Order.

The surrender of licensure shall be deemed PERMANENT and that the license shall not be renewed, reinstated, reissued, or reactivated, limited or otherwise, at any future date.

Respondent is FINED \$1,000.00, to be paid to the State of Michigan within ninety (90) days of the effective date of this Order. Respondent shall **direct payment to the Department of Licensing and Regulatory 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 43-20-002141**.

This Order shall be effective on the date signed below.

MICHIGAN BOARD OF MEDICINE

By  For
Chairperson, Disciplinary Subcommittee

Dated: March 16, 2022

STIPULATION

1. Respondent does not contest the allegations of fact and law in the Complaint. Respondent understands that, by pleading no contest, Respondent does not admit the truth of the allegations but agrees the DSC of the Michigan Board of Medicine may treat the allegations as true for the resolution of the complaint and may enter an order treating the allegations as true. Therefore, the DSC finds the facts alleged in the Complaint constitute violations of MCL 333.16221(a), (b)(i), (w), and MCL 333.7303a(4). Count III of the Complaint, alleging a violation of MCL 333.16221(c)(iv), is dismissed with prejudice.

2. Respondent agrees to permanently surrender to the Board the license to practice medicine previously issued to Respondent pursuant to the Public Health Code.

3. Respondent further agrees to relinquish any claim to reinstate, renew, reissue, or reactivate the license, limited or otherwise, at any future date.

4. Respondent understands and intends that, by signing this Stipulation, Respondent is waiving the right, pursuant to the Public Health Code, the rules promulgated thereunder, and the Administrative Procedures Act, MCL 24.201 *et seq.*, to require the Department to prove a violation of the Public Health Code by presentation of evidence and legal authority, and Respondent is waiving the right to appear with an attorney and such witnesses as Respondent may desire to present a defense to the charges.

5. This matter is a public record required to be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq.*, and this action will be reported to the National Practitioner Data Bank and any other entity as required by state or federal law.

6. Board conferee Donald Tynes, M.D. attended the compliance conference in this matter and supports this resolution. This Order is approved as to form and substance by Respondent and the Department and may be entered as the final order of the DSC in this matter. Factors taken into consideration in the formation of this Order are:

- a. At a compliance conference, Respondent stated that he has permanently retired from the practice of medicine.
- b. Respondent understands that the surrender of his license is permanent and that he cannot get his license to practice medicine back at a later date.

7. A Department representative or Dr. Tynes may discuss this matter with the DSC and recommend acceptance of the resolution set forth in this Order.

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8. This proposal is conditioned upon acceptance by the Disciplinary Subcommittee. Respondent and the Department expressly reserve the right to further proceedings without prejudice should this Order be rejected.

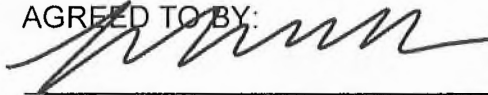
AGREED TO BY:

 signing for

Forrest Pasanski
Enforcement Division Director
Bureau of Professional Licensing

Dated: 2/7/2022

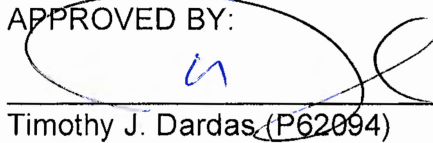
AGREED TO BY:



Leopoldo H. Covarrubias, M.D.
Respondent

Dated: 2/6/22

APPROVED BY:


Timothy J. Dardas (P62094)

Dated: 2/7/22

Pc/jp

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In the Matter of

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Respondent.

ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, by Forrest Pasanski, Director, Enforcement Division, Bureau of Professional Licensing, complains against Respondent Leopoldo H. Covarrubias, M.D. as follows:

1. The Michigan Board of Medicine is an administrative agency established by the Public Health Code, MCL 333.1101 *et seq.* Pursuant to MCL 333.16226, the Board's Disciplinary Subcommittee (DSC) is empowered to discipline licensees for Code violations.

2. Respondent is currently licensed to practice medicine in the state of Michigan. Respondent also holds an active controlled substance license.

3. At times relevant to this Complaint, Respondent was engaged in private practice in Battle Creek, Michigan.

4. Alprazolam (e.g., Xanax), a schedule 4 controlled substance, is a benzodiazepine used to treat anxiety disorders and panic disorder. Alprazolam is a commonly abused and diverted drug, particularly in its 1 mg and 2 mg dosages.

5. Amphetamine salts (e.g., Adderall) are schedule 2 controlled substances.
6. Brexpiprazole (e.g., Rexulti), is an antipsychotic medication. It is not a controlled substance.
7. Carisoprodol (Soma) is a muscle relaxant and a schedule 4 controlled substance. Carisoprodol has significant potential for abuse, dependence, overdose, and withdrawal, particularly when used in conjunction with opioids and benzodiazepines.
8. Clonazepam (e.g., Klonopin), a schedule 4 controlled substance, is a commonly abused and diverted benzodiazepine used to treat seizures, panic disorder, and akathisia.
9. Diazepam (e.g., Valium) is a benzodiazepine schedule 4 controlled substance.
10. Escitalopram (e.g., Lexapro), is an antidepressant. It is not a controlled substance.
11. Gabapentin (e.g., Neurontin) is a schedule 5 controlled substance used to treat, among other things, neuropathic pain and seizures. Gabapentin is known to be abused and diverted.
12. Hydrocodone is an opioid. Hydrocodone combination products (e.g., Norco), are Schedule 2 controlled substances due to their high potential for abuse.
13. Morphine is a frequently diverted and abused schedule 2 controlled substance.

14. Methadone is a commonly abused and diverted opioid schedule 2 controlled substance used to treat pain and to aid in detoxification in people with opioid dependence.

15. Oxycodone (e.g., OxyContin) and oxycodone combination products (e.g., Percocet) are opioid schedule 2 controlled substances. These medications are used to treat pain and are commonly abused and diverted.

16. Trazodone (e.g., Oleptro) is used to treat major depressive disorder. It is available by prescription only.

17. Quetiapine (e.g., Seroquel) is an antipsychotic medicine used to treat bi-polar disorder. It is available by prescription only.

18. Zolpidem (e.g., Ambien), a schedule 4 controlled substance, is a non-benzodiazepine sedative used to treat sleep disorders and is commonly abused and diverted.

19. 21 CFR 1306.05(f)

Accordingly, an authorized agent may prepare a controlled substance prescription only based on the instructions of the prescribing practitioner as to the required elements of a valid prescription and then provide the prescription to the practitioner to review. The authorized agent does not have the authority to make medical determinations. The practitioner must personally, sign the prescriptions, whether manually or electronically. The prescribing practitioner cannot delegate his or her signature authority.

20. 21 CFR 1311.102(a) Practitioner responsibilities:

The practitioner must retain sole possession of the hand token, where applicable, and must not share the password or other knowledge factor, or biometric information, with any person. The practitioner must not allow any other person to use the token or enter the knowledge factor or other identification means to sign prescriptions for controlled substances. Failure by the practitioner to secure the hard

token, knowledge factor, or biometric information may provide a basis for revocation or suspension of registration pursuant to section 304(a)(4) of the Act (21 U.S.C. 824(a)(4)).

21. The federal Centers for Disease Control and Prevention guidelines for opioid prescribing direct providers to use “extra precautions” when prescribing opioids with a daily morphine milligram equivalent (MME) of 50 or more. Those guidelines also direct providers to “avoid or carefully justify” increasing dosage to a daily MME of 90 or more.

22. The federal Centers for Disease Control and Prevention (CDC) guidelines for opioid prescribing direct providers to avoid prescribing opioid pain medication and benzodiazepines concurrently whenever possible.

23. When used in combination, opioids, carisoprodol, and benzodiazepines can produce a feeling of euphoria. These combinations are highly desired for diversion and abuse and have the street name “Holy Trinity.”

24. When used in combination, opioids, stimulants (e.g., Adderall), and benzodiazepines can produce a feeling of euphoria. These combinations are highly desired for diversion and abuse and have the street name “New Trinity.”

MAPS Data

25. The Department reviewed data from the Michigan Automated Prescription System (MAPS), the State of Michigan’s prescription monitoring program, which gathers data regarding controlled substances dispensed in Michigan. MAPS data revealed that Respondent ranked among Michigan’s highest-volume prescribers of the following commonly abused and diverted controlled substances in 2018, 2019, 2020 and the first two quarters of 2021:

<u>Drug</u>	2018 Q1	2018 Q2	2018 Q3	2018 Q4	2019 Q1	2019 Q2	2019 Q3	2019 Q4
Alprazolam 1mg	41	37	32	31	27	20	28	22
Alprazolam 2mg	5	4	3	2	2	2	2	2

<u>Drug</u>	2020 Q1	2020 Q2	2020 Q3	2020 Q4	2021 Q1	2021 Q2
Alprazolam 1mg	29	28	25	20	24	21
Alprazolam 2mg	2	1	1	1	1	1
Clonazepam 2mg	--	--	--	--	3	3
Benzodiazepines (all)	--	--	--	--	25	25

26. From May 8, 2018 through May 8, 2020, nearly 57% of Respondent's controlled substance prescriptions were for Adderall, all doses (25.00%); clonazepam, all doses (12.05%); alprazolam 1mg (10.23%); and alprazolam 2mg (9.66%).

27. MAPS data show that Respondent prescribed dangerous combinations of controlled substances to multiple patients.

28. Respondent prescribed an opioid, benzodiazepine, and carisoprodol together to at least two patients.

29. MAPS records show that Respondent prescribed an opioid, benzodiazepine, and a stimulant together to at least two patients.

30. MAPS data show that Respondent prescribed multiple patients concurrently benzodiazepine medication and an opioid with an MME in excess of 120.

31. MAPS data show that Respondent prescribed similar controlled substances to patients residing at the same address on multiple occasions.

Interview with Respondent

32. On or about February 1, 2021, a Department investigator interviewed Respondent, who provided the following information:

- a. Respondent stated that he completed a residency in psychiatry at Henry Ford hospital and a fellowship in child and adolescent psychiatry from the University of Michigan Hospital.

- b. Respondent stated that he has not completed any formalized pain management training or earned a certificate in pain management.
- c. Respondent stated that he treated approximately 30 patients for drug addiction but failed to renew his drug treatment program prescriber license in 2017.¹
- d. Respondent stated that once patients are stabilized, they will be seen every three months. A few patients are seen every six months.
- e. Respondent stated that he allowed his office manager to have access to the electronic prescribing FOB² password to send prescriptions electronically.
- f. Respondent stated that he does not have a formal procedure to follow for prescribing benzodiazepines and just gets a feel for the patient during their conversations.
- g. Respondent stated that in patients to whom he prescribed Xanax, he prefers to keep the dose at 8mg daily but may go up to 10mg daily.
- h. Respondent stated that despite the manufacturer warning of the maximum dose of Adderall being 60mg, Respondent prescribes some patients Adderall 30mg three times per day and some patients get Adderall 30mg four times per day.

33. The Department subpoenaed thirteen medical records from

Respondent for patients CJ³, CS, DC, DM, DB, JB, JS, NO, PB, RP, TA, TS, and WA.

Respondent discussed the individual patients with the investigator:

Patient CJ:

- a. Respondent prescribed this over 60-year-old female patient Percocet 7.5mg four tablets daily and alprazolam 2mg five times daily. The medical charts did not contain urine drug screens or imaging reports.

¹ Respondent renewed his drug treatment program prescriber license on February 11, 2021.

² An electronic prescribing FOB is a small device that provides the prescriber a unique password to complete a controlled substance prescription transmission to a pharmacy.

³ Patients are identified by their initials to protect confidentiality

Patient CS:

- b. Respondent prescribed alprazolam 10mg daily to patient CS. The medical chart did not contain urine drug screens, controlled substance contracts, or MAPS reports.

Patient DC:

- c. Respondent prescribed this over 60-year-old patient Adderall 50mg daily, MS Contin 120mg daily, Percocet 60mg daily, Xanax 1mg daily, Seroquel 300mg daily, Trazadone 100mg daily, and Xanax 2mg half a tablet per day on September 15, 2020. Other office visits had similar prescribing.
- d. The medical chart contained one drug screen from 2017 and no MAPS reports were found.

Patient DM:

- e. Respondent prescribed this over 60-year-old patient Adderall XR 50mg daily, Xanax 10mg daily, and gabapentin 900mg daily. The medical chart did not contain drug screens, MAPS reports or controlled substance agreements.

Patient DB:

- f. Respondent prescribed Xanax 1.5mg daily, Lexapro 20mg daily, and Rexulti 1mg daily. The medical chart did not contain MAPS reports, drug screens, or general chemistry laboratory tests.

Patient JB:

- g. Respondent prescribed Adderall ER 20mg daily. The medical chart did not contain MAPS reports, drug screens, controlled substance agreements, or general chemistry laboratory tests.

Patient JS:

- h. Respondent prescribed this chronic pain patient oxycodone 30mg carrying an MME of 180. The medical chart did not contain MAPS reports, drug screens, or general chemistry laboratory tests.

Patient NO:

- i. Respondent prescribed Adderall 30mg daily, Norco 7.5mg, zolpidem ER 12.5mg daily, and Xanax 4mg daily. The medical charts did not contain drug screens or general chemistry laboratory tests.
- j. Respondent prescribed Xanax for patient NO's panic disorder. Respondent stated patient NO began using the Xanax more regularly due to pain.

Patient PB:

- k. Respondent authorized two prescriptions of 180 tablets Adderall 30mg for patient PB every 90 days. Respondent stated this was done due to patient PB's insurance coverage. However, MAPS information indicated that patient PB filled his prescriptions by private pay 81% of the time.
- l. MAPS data shows that on or about October 28, 2020, Respondent authorized two prescriptions for Adderall, but the last office visit note is from July 29, 2020.
- m. The medical chart did not contain drug screens, controlled substance agreements, or general chemistry laboratory tests.

Patient RP:

- n. Respondent prescribed Methadone 10mg with a 330 MME. The medical chart did not contain drug screens, controlled substance agreements, or general chemistry laboratory tests.

Patient TJ:

- o. Respondent prescribed this over 60-year-old female patient methadone with a 120 MME. The medical chart did not contain controlled substance agreements, drug screens or general chemistry laboratory tests.

Patient TS:

- p. Respondent prescribed Norco 10mg, Adderall 90 mg daily, Xanax 8mg daily, and Soma 750mg daily as recently as August 2020. The medical chart did not contain drug screens, imaging studies, referral reports, or general chemistry laboratory tests.

Patient WA:

- q. Respondent prescribed Percocet 10mg, Valium 30mg daily, and Soma 700mg as needed. The medical chart did not contain drug screens or imaging studies.

Expert Overview of Respondent's Practice

34. As part of an investigation of Respondent's prescribing practices, the Department received and analyzed medical records of thirteen of Respondent's patients.

35. An expert reviewed the individual medical files Respondent produced and discovered the following deficiencies consistently across files:

- (a) Respondent failed to maintain adequate medical charts. Many of the records are handwritten and illegible. The medical records do not document active therapeutic treatment for psychiatric and physical disorders.
- (b) Respondent failed to document information regarding informed consent, including the risks and benefits of prescribing combinations of potentially highly dangerous controlled substances.
- (c) Respondent failed to document the rationale for prescribing the types and dosages of medications based upon his diagnoses.
- (d) Respondent failed to check MAPS reports as required.
- (e) Respondent failed to adequately require urine drug screens for patients receiving controlled substances, including combinations of controlled substances.
- (f) Respondent improperly allowed his office manager to have his electronic prescribing key FOB password.
- (g) Respondent acted improperly when he prescribed opioid and benzodiazepine combinations to patients already prescribed methadone by other physicians.

COUNT I

Respondent's conduct constitutes a violation of a general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, or a condition, conduct, or practice that impairs, or may impair, the ability safely and skillfully to engage in the practice of the health profession in violation of MCL 333.16221(a).

COUNT II

Respondent's conduct, as set forth above, demonstrates Respondent's "departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for the health profession, whether or not actual injury to an individual occurs", and accordingly "incompetence," in violation of MCL 333.16221(b)(i).

COUNT III

Respondent's conduct, as set forth above, constitutes selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes, in violation of MCL 333.16221(c)(iv).

COUNT IV

Respondent failed to obtain and review a MAPS report prior to prescribing a controlled substance, contrary to MCL 333.7303a(4) and in violation of MCL 333.16221(w).

RESPONDENT IS NOTIFIED that, pursuant to MCL 333.16231(8), Respondent has 30 days from the date of receipt of this Complaint to submit a written response to the allegations contained in it. Pursuant to section 16192(2) of the Code,

Respondent is deemed to be in receipt of the complaint three (3) days after the date of mailing listed in the attached proof of service. The written response shall be submitted by email to the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing to BPL-DMS@michigan.gov. If unable to submit a response by email, Respondent may submit by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, P.O. Box 30670, Lansing, MI 48909.

Respondent's failure to submit an answer within 30 days is an admission of all Complaint allegations. If Respondent fails to answer, the Department shall transmit this complaint directly to the Board's Disciplinary Subcommittee to impose a sanction pursuant to MCL 333.16231(9).

MICHIGAN DEPARTMENT OF
LICENSING AND REGULATORY AFFAIRS

Dated: 8/3/2021

 signing for

By: Forrest Pasanski, Director
Enforcement Division
Bureau of Professional Licensing

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