

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

In the Matter of

GARY RONALD PIERCE, M.D.  
License No. 43-01-028737,

File No. 43-20-002474

Respondent.

CONSENT ORDER AND STIPULATION

CONSENT ORDER

On August 9, 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 Disciplinary Subcommittee (DSC) of the Michigan Board of Medicine may enter this Consent Order. The DSC of the Michigan Board of Medicine has reviewed this Consent Order and Stipulation and agrees that the public interest is best served by resolution of the outstanding Complaint.

Therefore, IT IS FOUND that the facts alleged in the Complaint are true and constitute violations of MCL 333.7303a(4), (5) and MCL 333.16221(a) (b)(i), and (w).

Accordingly, IT IS ORDERED that for the cited violations of the Public Health Code:

Respondent is FINED \$1,000.00, to be paid to the State of Michigan within 6 months 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 43-20-002474**.

If Respondent violates any provision of this Order the DSC may take disciplinary action pursuant to Mich Admin Code, R 338.1632 and MCL 333.16221(h).

This Order shall be effective 30 days from the date signed by the Board, as set forth below.

MICHIGAN BOARD OF MEDICINE

By: Laurann Brown for  
Chairperson, Disciplinary Subcommittee

Dated: May 3, 2023

## 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 that the facts alleged in the Complaint are true and constitute violations of MCL 333.7303a(4), (5), and MCL 333.16221(a), (b)(i), and (w).

2. 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 the charges set forth in the Complaint 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.

3. 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.

4. Mustafa Hamed, MD, served as conferee and supports this resolution. Dr. Hamed and the Department took the following factors into consideration in the formulation of this Order:

- a. In a compliance conference with a Bureau representative and Dr. Hamed, Respondent stated that he has now tapered most patients off opioids. The ones that he could not taper are now receiving pain management services from other physicians.
- b. Respondent stated that he is now using MAPS consistently and this information was verified by the MAPS section. Respondent also stated that he is utilizing semi-annual drug screens on controlled substance patients.
- c. Respondent stated that in regard to HV, that he did not make a referral to authorities for alleged child abuse because he believed that it had already been reported.
- d. Respondent stated that he did not write a letter to the court on behalf of patient KV, but he did write a letter to KV's attorney.
- e. Respondent stated that he continued to treat KV after she moved to Wisconsin due to a lack of treatment providers in the area where she had moved. Respondent stated that he is no longer treating KV.
- f. Respondent provided proof that he has completed continuing medical education as follows: opioid prescribing 7.5 hours; recognizing red flags for abuse 5.5 hours; and benzodiazepine prescribing 3.0 hours.

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

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

AGREED TO BY:



Forrest Pasanski, Director  
Enforcement Division  
Bureau of Professional Licensing

Dated: 3-28-2023

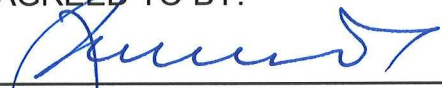
AGREED TO BY:



Gary R. Pierce, M.D.  
Respondent

Dated: 3-16-23

AGREED TO BY:



James W. Burdick (P11397),  
Attorney for Respondent

Dated: 03/16/2023

Pc/jp

STATE OF MICHIGAN  
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ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, by Forrest Pasanski, Enforcement Division Director, Bureau of Professional Licensing, complains against Respondent Gary R. Pierce, 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 violations of the Public Health Code.

2. Respondent holds a Michigan license to practice medicine. Respondent also holds an active controlled substance license.

3. At times relevant to this Complaint, Respondent practiced medicine in Bingham Farms, 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. Lisdexamfetamine (e.g., Vyvanse) is a central nervous system stimulant and a schedule 2 controlled substance.

7. 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.

8. Promethazine with codeine syrup is a schedule 5 controlled substance prescribed for treating cough and related upper respiratory symptoms. Promethazine with codeine syrup is rarely indicated for any other health condition and is particularly ill-suited for long-term treatment of chronic pain. Promethazine with codeine syrup is a highly sought-after drug of abuse, and is known by the street names “lean,” “purple drank,” and “sizzurp.”

9. MCL 333.7303a(5) states in relevant part “Beginning June 1, 2018, before prescribing or dispensing a controlled substance to a patient, a licensed prescriber shall register with the electronic system for monitoring schedule 2, 3, 4, and 5 controlled substances established under section 7333a.”

10. MCL 333.7303a(4) states in relevant part “Beginning June 1, 2018, before prescribing or dispensing to a patient a controlled substance in a quantity that exceeds a 3-day supply, a licensed prescriber shall obtain and review a report concerning that patient from the electronic system for monitoring schedule 2, 3, 4, and 5 controlled substances established under section 7333a.”



11. 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.

12. 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.

13. 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.”

### **PRIOR DISCIPLINARY CONDUCT**

14. On or about September 27, 2007, the Department issued a First Superseding Administrative Complaint against Respondent alleging inappropriate conduct with a patient. On or about March 19, 2008, the parties entered into a consent order and stipulation, which reprimanded Respondent and ordered Respondent to pay a \$2,000.00 fine.

15. In 1984, Respondent’s license was suspended for one year in response to allegations of insurance fraud.



## **CURRENT ALLEGATIONS**

16. The Department received the following allegations:
  - a. Respondent is prescribing controlled substances to two patients, one a minor, who used to live in Michigan but have lived in Wisconsin for six years.
  - b. Respondent has not physically seen the adult patient KV<sup>1</sup> in approximately three years and has never physically seen minor patient HV.
  - c. Respondent submitted a letter with recommendations to a Wisconsin court on behalf of patients KV and HV.
  - d. Respondent failed to taper Xanax and Adderall prescriptions and instead just stopped prescribing these medications to patient MV.

## **MICHIGAN AUTOMATED PRESCRIPTION SYSTEM (MAPS) DATA ANALYSIS**

17. The Department reviewed data from MAPS, the State of Michigan's prescription monitoring program, which gathers data regarding controlled substances dispensed in Michigan.

18. Respondent failed to register for MAPS until February 8, 2019. Respondent issued over 1,300 controlled substances between June 1, 2018 and February 7, 2019.

19. Between June 1, 2018 and January 24, 2021, Respondent issued over 5,300 controlled substance prescriptions and only obtained MAPS reports 10 times.

20. In 2020, Respondent prescribed seven patients' opioid medication with an MME greater than 90.

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<sup>1</sup> Patient initials used for patient confidentiality.

21. In 2020, Respondent prescribed an opioid and a benzodiazepine concurrently to 17 patients.

22. From February 2020 through November 2020, Respondent prescribed Patient JW promethazine with codeine, oxycodone 30mg, alprazolam 2mg, and Adderall 30mg concurrently. In 2020, Respondent prescribed Patient SW promethazine with codeine, alprazolam 2mg and Adderall 30mg concurrently on seven occasions.

### **INVESTIGATIVE INTERVIEW – RESPONDENT**

23. On or about January 25, 2021, a Department investigator interviewed Respondent, who stated the following:

- a. Respondent was not aware of the CDC Guidelines for Opioid Prescribing for Chronic Pain. Respondent indicated he uses his medical judgment and recommendations from the Physicians' Desk Reference.
- b. Respondent was not aware of the term MME or the CDC recommendations for daily MME when prescribing narcotics.
- c. Respondent was not aware of the CDC or Food and Drug Administration's (FDA) recommendation regarding prescribing opioids and benzodiazepines concurrently.
- d. Respondent's assistant would obtain MAPS reports and review them. Respondent will review MAPS reports if the assistant brings something to his attention.
- e. Respondent and his assistant failed to request MAPS reports every time MAPS reports are required. Respondent stated there is no need to review MAPS reports each time a controlled substance is prescribed because he treats his patients regularly.

- f. Respondent stated that prior to COVID-19 he treated approximately 1-2% of his patients by telephone and not through office visits. Respondent did not document in the chart if the patient encounter was in person or by telephone.
- g. Respondent has been treating patient KV since 2016, even though KV moved to Wisconsin a number of years ago.
- h. Respondent treated KV mostly by telephone. Respondent prescribes patient KV a stimulant for ADHD.<sup>2</sup> Respondent obtains heart rate and blood pressure from patient KV.
- i. Respondent stated that he is still treating patient KV and prescribes her Adderall and Xanax.
- j. Respondent denied ever treating patient HV. Respondent did admit to speaking with patient HV a couple of times on the telephone at the request of patient KV. However, Respondent provided documents that he treated HV on five occasions and on each occasion, billed for the patient encounters.
- k. Respondent wrote a letter to the court in Wisconsin. Respondent recommended to the court that KV's husband, patient MV<sup>3</sup>, be given a psychological examination due to alleged child abuse.
- l. Respondent could not remember what he had prescribed patient MV and could not remember if he gave MV a warning before he stopped prescribing to MV.

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<sup>2</sup> Attention Deficit Hyperactivity Disorder.

<sup>3</sup> Patient MV was also a patient of Respondent.

## **EXPERT'S OBSERVATIONS**

24. The Department retained an expert who reviewed the evidence collected during the Department's investigation and made the following general observations and patient-specific observations from reviewing patients KV's, and HV's medical records:

- a. Respondent failed to maintain appropriate documentation. The charts do not contain information on patients' chief complaints, history of present illnesses, assessments, and treatment plans.
- b. Respondent failed to order urine drug screens before prescribing controlled substances.
- c. Respondent failed to document his rationale for treating patient KV's pain with opioids. Pain management by a psychiatrist with an opioid medicine is ordinarily outside the standard of care unless there is justification for an exception.
- d. Respondent failed to document many sessions with patient KV, leaving it unclear whether the sessions were in person, through the telephone, or did not occur. There was no monitoring of patient use or side effects of the controlled substances. Despite this, Respondent kept prescribing Vyvanse, Adderall, and Xanax on a long-term basis.
- e. Respondent failed to document his rationale for prescribing patient KV Vyvanse, Adderall, and Xanax on a long-term basis.
- f. Respondent failed to make a referral to proper authorities for the alleged child abuse of patient HV. According to the letter Respondent wrote to the court in Wisconsin, Respondent asserted allegations of child physical abuse and that should have been reported.
- g. Respondent failed to meet any standard of advocacy for patient HV when he wrote a letter to the Wisconsin divorce and custody court. Respondent had not established a patient/physician relationship with HV by his own admission.

### COUNT I

Respondent's conduct, as set forth above, evidences 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, 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 above constitutes a failure to Register for MAPS before prescribing a controlled substance, contrary to MCL 333.7303a(5) and in violation of MCL 333.16221(w).

### COUNT IV

Respondent's conduct above constitutes a failure to obtain and review a MAPS report prior to issuing a controlled substance prescription for more than a 3-day supply, 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: 8/9/21

 signing for

By: Forrest Pasanski  
Enforcement Division Director  
Bureau of Professional Licensing

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