

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

In the Matter of

SURENDRA KELWALA, M.D.
License No. 43-01-043972

Complaint No. 43-22-000503

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A first superseding administrative complaint was filed with the Disciplinary Subcommittee of the Board of Medicine on April 21, 2023, charging Surendra Kelwala, M.D. (Respondent) with having violated section 16221(a) of the Public Health Code, 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 this violation, IT IS ORDERED:

Respondent is FINED One Thousand and 00/100 Dollars (\$1,000.00) to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 43-22-000503 clearly indicated on the check or

money order), and shall be payable within sixty (60) days of the effective date of this order. The timely payment of the fine shall be Respondent's responsibility.

Respondent shall mail the fine to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, Michigan 48909.

Respondent shall direct all communications, except fines, required by the terms of this Order to: BPL-Monitoring@michigan.gov.

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, including the timely filing of any documentation. 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 30 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 May 3, 2023

MICHIGAN BOARD OF MEDICINE

By Laurann Brown for
Chairperson
Disciplinary Subcommittee

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the complaint are true and constitute a violation of the Public Health Code.

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, 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 Donald Tynes, M.D. Dr. Tynes or an attorney from the Licensing and Regulation Division may discuss this matter with the Disciplinary Subcommittee in order to recommend acceptance of this resolution.

4. The parties considered the following factors in reaching this agreement:

A. Respondent participated in a compliance conference where he took accountability for his actions and explained that he was trying to help the patient get past her financial challenges.

B. Respondent has completed the following continuing education courses to the Board conferee's satisfaction:

- American Medical Association, *Identifying the Fundamentals of Medical Ethics*, .50 CME hours
 - American Medical Association, *Treating Colleagues, Family and Self*, .25 CME hours
 - American Medical Association, *Sexual and Romantic Boundary Violations*, .25 CME hours
 - American Medical Association, *How Should Clinicians Determine a Traumatized Patient's Readiness to Return to Work?*, 1.00 CME hours
 - American Medical Association, *Social Media Channels in Health Care Research and Rising Ethical Issues*, 1.00 CME hours
 - American Medical Association, *How Should Educators and Publishers Eliminate Racial Essentialism?*, 1.00 CME hours
- C. Respondent obtained his license to practice Medicine in Michigan 1981 and no other disciplinary actions have been filed against his license.

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

AGREED TO BY:

Alyssa R. Coast
 Alyssa R. Coast (P82677)
 Assistant Attorney General
 Attorney for Complainant
 Dated: April 21, 2023

AGREED TO BY:

Surendra Kelwala MD
 Surendra Kelwala, M.D.
 Respondent

Dated: 4/20/23

Kathleen A. Westfall
 Kathleen A. Westfall (P78874)
 Attorney for Respondent
 Dated: 4/21/23

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In the Matter of

SURENDRA KELWALA, M.D.
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FIRST SUPERSEDING ADMINISTRATIVE COMPLAINT

Assistant Attorney General Alyssa R. Coast, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing (Complainant), files this first superseding complaint against Surendra Kelwala, M.D. (Respondent), alleging upon information and belief as follows:

1. The Board of Medicine, an administrative agency established by the Public Health Code, MCL 333.1101 *et seq.*, is authorized to find that a licensee has violated the Code and impose sanctions through its Disciplinary Subcommittee under the Code.

2. Respondent is currently licensed to practice medicine pursuant to the Code. At all relevant times, Respondent practiced as a psychiatry specialist at Trinity Health Livonia Hospital in Livonia, Michigan.

ARTICLE 15 PROVISIONS

3. Section 16221(a) of the Code authorizes the Disciplinary Subcommittee to sanction a licensee 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, the ability to safely and skillfully engage in the practice of the health profession.

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

FACTUAL ALLEGATIONS

5. Respondent treated patient L.L. (initials used for confidentiality) from approximately 2007 until 2020.

6. L.L. reported that she has been diagnosed with bi-polar disorder, panic anxiety disorder, attention deficit hyperactivity disorder, multiple sclerosis, and thyroid disease. She further reported that Respondent was treating her for bipolar disorder.

7. In 2016, Respondent paid an outstanding balance of approximately \$1,200 on L.L.'s car loan so that the car would not be repossessed by the bank. L.L. reported that she partially repaid Respondent by making payments to Respondent and by cleaning his rental houses.

8. On or about September 2020, Respondent reported that L.L. ended her status as his patient.

9. Respondent and the L.L. exchanged text messages about personal financial matters.

10. In a March 7, 2022 interview with the Bureau investigator, Respondent acknowledged that he has occasionally loaned patients money in the past.

11. In an email to the Bureau Investigator, dated March 8, 2022, Respondent acknowledged that on a couple of occasions he gave L.L. cash in increments of \$100 as seed money to start her own business.

COUNT I

12. Respondent's conduct as described above constitutes a violation of general duty, consisting of negligence or failure to exercise due care, whether or not injury results, in violation of section 16221(a) of the Code.

THEREFORE, Complainant requests that this complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the aforesaid licenses. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Public Health Code, the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, and associated administrative rules.

RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(8) 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. Pursuant to section 16192(2) of the Code, Respondent is deemed to be in receipt of the complaint 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 LARA-BPL-RegulationSection@michigan.gov, with a copy mailed to the undersigned assistant attorney general. 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, with a copy mailed to the undersigned assistant attorney general.

Pursuant to section 16231(9) of the Code, failure to submit a written response within the 30-day period 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.

FURTHER, the administrative complaint previously filed against Respondent on October 4, 2022 is hereby WITHDRAWN and replaced in full by this superseding complaint.

Respectfully submitted,

/s/ *Alyssa R. Coast*
Alyssa R. Coast (P82677)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 335-7569
Fax: (517) 241-1997

Dated: April 21, 2023