

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

In the Matter of

ANDREA ZDAN NOWAK, M.D.
License No. 43-01-070428,
Respondent.

File No. 43-22-000724

CONSENT ORDER

On March 27, 2023, 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 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 333.16221(a), (b)(i), and (w).

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

Respondent is FINED **\$3,000.00** to be paid to the State of Michigan within

90 days of the effective date of this Order. The fine shall be paid electronically through Respondent's MiPLUS account OR by mail with a check or money order directly to: Department of Licensing and Regulatory Affairs, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, MI 48909. If the fine is paid by mail, the check or money order shall be made payable to the State of Michigan and shall clearly display File Number 43-22-000724

If Respondent fails to comply with the terms and conditions of this Order, Respondent shall be in violation of Mich Admin Code, R 338.1632 and MCL 333.16221(h) of the Public Health Code.

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

MICHIGAN BOARD OF MEDICINE

Lauren Brown for

By: Chairperson, Disciplinary Subcommittee

Dated: January 17, 2024

STIPULATION

The Department of Licensing and Regulatory Affairs and Respondent stipulate as follows:

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 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. Therefore, the DSC finds that the facts alleged in the Complaint are true and constitute violations of MCL 333.16221(a), (b)(i), and (w).

2. Respondent understands and intends that, by signing this Stipulation, 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 set forth in the Complaint by presenting evidence and legal authority, and Respondent is waiving the right to appear with an attorney and witnesses 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. 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.

5. Cara Poland, M.D. supports this resolution. Dr. Poland or a Department representative may discuss this matter with the DSC and recommend acceptance of the resolution set forth in this Order.

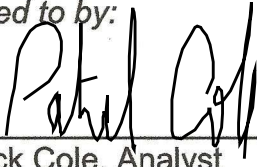
6. Dr. Poland and the parties considered the following factors in agreeing to the above terms:

- a. In a Compliance Conference with a Bureau representative and Board conferee, Respondent discussed the one patient that was subject of this Administrative Complaint. Respondent admitted to not always checking MAPS as required but states that she is checking it consistently now.
- b. Dr. Poland agreed with Respondent that this patient was a very troubled and complex patient. Respondent admitted to not drug screening patients unless she notices red flags for abuse and diversion but will now drug test controlled substance patients at least annually.
- c. Respondent presented documentation of completing the Centers for Professionalized Education for Professionals (CPEP) three-day course Prescribing Controlled Drugs: Critical Issues and Common Pitfalls.
- d. Respondent stated that she has worked on improving her documentation and submitted several examples from several patients to show her current medical documentation. Dr. Poland agreed that the documentation examples were adequate.
- e. Respondent has no other disciplinary history and has been licensed since 1999.

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

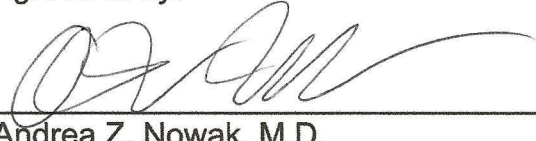
Agreed to by:



Patrick Cole, Analyst
Regulation Section
Enforcement Division

Dated: December 18, 2023

Agreed to by:



Andrea Z. Nowak, M.D.
Respondent

Dated: 12/17/2023

Approved by:



Kim Sveska (P46303),
Attorney for Respondent

Dated: 12/18/2023

PC/ses

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In the Matter of

ANDREA ZDAN NOWAK, M.D.
License No.43-01-070428,

File No. 43-22-000724

Respondent.

ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, complains against Respondent Andrea Z. Nowak, 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 the greater Detroit, Michigan area.

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. The Department received an allegation that Respondent improperly prescribed controlled substances to patient CM¹ and failed to monitor drug compliance. The patient expired on September 19, 2021, of combined toxicity of several drugs.

MICHIGAN AUTOMATED PRESCRIPTION SYSTEM (MAPS) DATA ANALYSIS

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

8. MAPS data showed that Respondent failed to check MAPS reports as required by law 13 times in 2019, 11 times in 2020, and 9 times in 2021 for patient CM.

9. MAPS data showed that Respondent last checked CM's MAPS report on June 31, 2020, despite continuing to prescribe multiple controlled substances concurrently and continuously until CM expired in September 2021.

INTERVIEW WITH CM'S FAMILY MEMBER

10. On or about July 12, 2022, a Department investigator spoke to a family member of CM who related the following information:

- a. CM went to Respondent's office every month to pick up her controlled substance prescriptions but did not see Respondent every month.

¹ Patient initials used for patient privacy.

- b. CM had an alcohol disorder and had started ingesting solvents.
- c. CM had not seen Respondent in person in a couple of years.
- d. CM had Medicaid but Respondent did not take Medicaid.
- e. Respondent did not perform physicals, blood tests, or drug screens on CM.

INTERVIEW WITH RESPONDENT

11. Respondent spoke to a Department investigator and provided the following information:

- a. Respondent stated that she is board-certified in psychiatry.
- b. Respondent stated that she is in private practice and sees about 20 patients per day, four days per week.
- c. Respondent stated that very stable patients may go up to six months between visits.
- d. Respondent stated that urine drug screens are not routinely obtained for patients receiving controlled substance prescriptions.
- e. Respondent stated that she submitted the complete medical records for patient CM from January 25, 2011, through March 9, 2020. This record contained 22 pages.
- f. Respondent stated that she did not take vitals or order blood tests for patients.
- g. Respondent admitted that there were no patient visits between March 10, 2020 and the patient's death in September 2021 despite monthly prescriptions of 90 tablets of Adderall 20mg and 90 tablets of alprazolam 0.5mg until August 2021.

EXPERT'S OBSERVATIONS

12. The Department retained an expert, who reviewed the evidence collected during the Department's investigation and made the following observations from reviewing medical records for patient CM:

- a. Respondent failed to obtain a MAPS report as required by law.
- b. Respondent failed to obtain urine drugs screens on CM despite prescribing her multiple controlled substances every month.
- c. Respondent failed to maintain adequate patient encounter documentation. Respondent failed to document a physical examination, there was no description of CM's physical state, and there was no evaluation for addiction.
- d. Respondent failed to document his rationale for prescribing excessive dosages of Adderall concurrently with alprazolam. The expert opined that Respondent exceeded the daily recommended Adderall dosage limit of 40mg.
- e. Respondent failed to document a legitimate diagnosis of attention deficit disorder or anxiety in CM.
- f. Respondent failed to document any attempt to assess red flags for abuse and diversion.
- g. Respondent failed to demonstrate safe prescribing when she prescribed CM multiple controlled substances for months without an office visit. There were no documented pill counts and no controlled substance agreements to help monitor proper controlled substance use.

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 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 LARA-BPL-RegulationSection@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: 5/10/2023

Patrick Cole

By: _____
Patrick Cole, Analyst
Regulation Section
Bureau of Professional Licensing

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