

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

In the Matter of

DAVID GERALD MACK, D.O.
License No. 51-01-013539,

File No. 51-21-002553

Respondent.

CONSENT ORDER AND STIPULATION

CONSENT ORDER

On October 1, 2022, 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 Osteopathic Medicine and Surgery'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.

Respondent has agreed to voluntarily surrender to the Board the license to practice osteopathic medicine and surgery 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).

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

Respondent's license to practice osteopathic medicine and surgery in the State of Michigan is PERMANENTLY SURRENDERED, commencing on the effective date of this Order.

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

This Order shall not be modifiable for any cause whatsoever.

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

This Order shall be effective on the date signed by the Disciplinary Subcommittee, as set forth below.

**MICHIGAN BOARD OF OSTEOPATHIC MEDICINE
AND SURGERY**

By:  for
Chairperson, Disciplinary Subcommittee

Dated: December 1, 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 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), (w), and MCL 333.7303a(4).

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 waving the right to appear with an attorney and such witnesses as Respondent may desire to present a defense to the charges.

3. Respondent agrees to permanently surrender to the Board the license to practice osteopathic medicine and surgery previously issued to Respondent pursuant to the Public Health Code.

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

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. 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.

7. The parties considered the following factors in agreeing to the above terms:


- a. Respondent wished to resolve this matter by surrendering his license rather than go through the time and expense of an administrative hearing, as he is currently retired.
- b. Respondent understands that by agreeing to this Order, he cannot reinstate, renew, reissue, or reactivate his osteopathic medicine and surgery license, limited or otherwise, at any future date.

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

9. 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.

Signatures on Next Page

Agreed to by:

 signing for

Forrest Pasanski, Director
Enforcement Division
Bureau of Professional Licensing

Dated: 11/9/2022

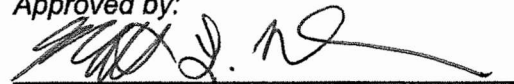
Agreed to by:



David Gerald Mack, D.O.
Respondent

Dated: 11/4/2022

Approved by:



Scott L. Feuer (P38185)
Attorney for Respondent

Dated: 11-7-22

JP/ses

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

In the Matter of

DAVID GERALD MACK, D.O.
License No. 51-01-013539,

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Respondent.

ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs by Forrest Pasanski, Enforcement Division Director, Bureau of Professional Licensing, complains against Respondent David Gerald Mack, D.O. as follows:

1. The Michigan Board of Osteopathic Medicine And Surgery 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 holds a Michigan license to practice osteopathic medicine and surgery and holds a current controlled substance license.
3. At all relevant times, Respondent was engaged in private practice at Lansing Psychological Associates (LPA) located in East Lansing, Michigan.
4. Amphetamine salts (e.g., Adderall) are schedule 2 stimulant controlled substances.

5. Clonazepam (e.g., Klonopin) is a schedule 4 benzodiazepine controlled substance used to treat seizures, panic disorder, and akathisia and is commonly abused and diverted.

6. Hydrocodone is an opioid. Hydrocodone combination products (e.g., Norco), are schedule 2 controlled substances due to their high potential for abuse.

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

8. MCL 333.7303a(4) states that “[b]eginning 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.

Department Investigation

9. On or around August 25, 2021, the Department received an allegation that Respondent continued to prescribe Adderall to patient M.W.¹ while patient M.W. gave Adderall to a family member.

10. On or around September 3, 2021, the Department reviewed patient M.W.’s MAPS² data and found that between January 1, 2020 and September 3, 2021, Respondent prescribed patient M.W. 27 prescriptions for generic Adderall and 19 prescriptions for clonazepam. During the period, another provider prescribed patient M.W. regular hydrocodone-acetaminophen 5-325 mg prescriptions.

¹ Patient is identified by initials to protect confidentiality.

² Michigan Automated Prescription System, the State of Michigan’s prescription monitoring program, which tracks controlled substances dispensed in Michigan.

11. On February 2, 2022, a Department investigator interviewed Respondent, who provided the following information:

- a. Respondent completed his residency in psychiatry but was not Board-certified.
- b. Respondent began working at LPA in 2004 as an independent contractor. Respondent currently works one day a week, remotely.
- c. Respondent stated that first patient visits included a review of previous medical histories, social histories, a medication review, treatment consent forms, and a patient profile review.
- d. Respondent indicated that his review of patients' medication histories includes any medications prescribed by other providers.
- e. Respondent indicated that during each patient visit he reviews medications with patients regarding any side effects and the efficacy of the prescribed medications.
- f. Respondent stated that the majority of mental disorders he sees are major depressive disorder, generalized anxiety disorder, panic attacks, and bipolar disorder and some patients with schizophrenia disorder, autism, alcoholism, and dementia. When the investigator asked if Respondent treated patients with ADHD,³ Respondent said yes, if a patient with another mental illness also had ADHD, he would treat both.
- g. Respondent indicated patients are diagnosed using a DSM⁴ 5 reference questionnaire and a direct patient interview.
- h. Respondent stated that he was not familiar with the CDC recommendations regarding co-prescribing opioids and benzodiazepines.
- i. Respondent stated that patients are not required to sign any controlled substance contract form or an informed consent form regarding risks and benefits of medications.
- j. Respondent stated that he does not utilize drug screening but monitors patients for drug diversion based on discussions with patients. When discussing patient M.W., Respondent stated that he monitors patient M.W. by reviewing MAPS data in addition to holding discussions.

³ Attention-Deficit/Hyperactivity Disorder.

⁴ Diagnostic Statistical Manual of Mental Disorders.

12. A review of Respondent's MAPS data for patient M.W. showed that between June 1, 2018 and January 10, 2022, Respondent reviewed MAPS reports for 82 of the 89 instances where a MAPS review was required.

Expert Review

13. As part of the investigation into Respondent's prescribing practices, the Department received and patient M.W.'s medical record. An expert reviewed the medical record and found the following deficiencies:

- a. Respondent's medical records were missing documentation of clinical services between November 14, 2014 through July 25, 2017. MAPS data showed that Respondent prescribed patient M.W. controlled substance medication during this timeframe.
- b. Respondent failed to document and comment on the fact that patient M.W. was receiving hydrocodone-acetaminophen from another provider between September 13, 2016 and August 16, 2021, during which time Respondent prescribed Adderall and clonazepam to patient M.W.
- c. Respondent's prescribing of Adderall was inappropriate in its use and strength given patient M.W.'s history of symptomatic coronary artery disease. Respondent continued prescribing Adderall to patient M.W. despite noting at least two myocardial infarctions, three cardiac catheterizations, and several reports of chest pain and/or shortness of breath between 2006 and 2018.
- d. Respondent failed to document that patient M.W.'s cardiac condition could pose a risk to patient M.W. when prescribed Adderall.
- e. Respondent noted on several occasions that patient M.W.'s cardiologist was aware of patient M.W.'s medications but failed to document a consultation with the cardiologist or approval from the cardiologist of patient M.W.'s Adderall.
- f. Respondent consistently listed ADHD as a diagnosis in patient M.W.'s record but failed to document the symptoms M.W. experienced that would satisfy the diagnostic criteria for the condition.
- g. Respondent failed to sufficiently monitor patient M.W.'s Adderall use related to patient M.W.'s coronary artery disease.

- h. Respondent failed to document a risk/benefit analysis for the use of benzodiazepines concurrently with opioids on a chronic basis.

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, 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, evidences a failure to obtain and review patients' MAPS reports before issuing controlled substance prescriptions in a quantity exceeding a three-day supply after June 1, 2018, contrary to MCL 333.7303a(4), 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 the allegations in this complaint. 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: 10/1/22 _____

JP/ses

 signing for

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