

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

In the Matter of

MITCHEL OSMAN, M.D.
License No. 43-01-056574

Complaint No. 43-14-132954

ADMINISTRATIVE COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Nate Knapper, on behalf of the Department of Licensing & Regulatory Affairs, Bureau of Professional Licensing (Complainant), files this complaint against Mitchel Osman, M.D. (Respondent), alleging upon information and belief as follows:

1. The Board of Medicine, an administrative agency established by the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 *et seq*, is empowered to discipline licensees under the Code through its Disciplinary Subcommittee.
2. Respondent is currently licensed to practice as a medical doctor in the State of Michigan pursuant to the Public Health Code.
3. Section 16221(a) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against 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 practice medicine.

4. Section 16221(b)(i) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against a licensee for incompetence, which is defined at section 16106(1) of the Code as a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession, whether or not actual injury to an individual occurs.

5. Section 16221(c)(iv) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against a licensee for prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

6. Section 16226 of the Code authorizes the Disciplinary Subcommittee to impose sanctions against persons licensed by the Board if, after 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

7. On October 1 and November 1, 2012, Respondent provided treatment to patient K.D. (initials used to protect patient confidentiality) for "pain, sleep issues, and social issues."

8. On October 1, Respondent prescribed K.D. Subutex, Xanax, and Adderall XR. On November 1, Respondent prescribed K.D. methadone, Xanax, and Adderall XR. Each of these medications is a controlled substance.

9. Respondent prescribed the aforementioned medications for K.D. despite the patient's "poor tolerance for opiates" and his susceptibility to addiction, which Respondent documented in K.D.'s patient chart.

10. Contrary to the *Michigan Guidelines for the Use of Controlled Substances for the Treatment of Pain*, Respondent failed to secure K.D.'s informed consent to administer treatment, obtain his previous medical records, perform diagnostic tests to determine the cause of his pain, conduct a physical examination, review his Michigan Automated Prescription System (MAPS) reports, or develop a treatment plan.

11. The patient chart that Respondent composed for K.D. is illegible, thus making it difficult to decipher the contents of his writing.

12. From August 7, 2014, to August 23, 2014, controlled substances were being prescribed by Respondent while Respondent was out of the country. During this time period, Respondent hand-numbered and pre-signed blank prescriptions for controlled substances for his office staff to fill out and distribute to patients. In Respondent's absence, one hundred and twenty-eight (128) prescriptions were given to patients according to MAPS data.

COUNT I

13. Respondent's conduct as described above constitutes negligence, in violation of section 16221(a) of the Code.

COUNT II

14. Respondent's conduct as described above constitutes incompetence, in violation of section 16221(b)(i) of the Code.

COUNT II

15. Respondent's conduct as described above constitutes prescribing controlled substances for other than lawful diagnostic or therapeutic purposes, in violation of section 16221(c)(iv) 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 license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Public Health Code, rules promulgated pursuant to it, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq.*

RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(8) of the Public Health Code, Respondent has 30 days from the receipt of this Complaint to submit a written response to the allegations contained in it. The written response shall be submitted to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan, 48909, with a

copy to the undersigned assistant attorney general. Further, pursuant to section 16231(9), failure to submit a written response within 30 days shall be treated as an admission of the allegations contained in the complaint and shall result in the transmittal of the complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Respectfully submitted,

BILL SCHUETTE
Attorney General

A handwritten signature in black ink, appearing to read "Nate Knapper", written over the printed name.

Nate Knapper (P77149)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, Michigan 48909
(517) 373-1146

Dated: August 24, 2015

LF: 2015-0114557-A/Osman, Mitchel, M.D., 132954/Complaint – 2015-08-21