

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

In the Matter of

MOHAN VISWA KAZA, M.D.
License Number: 43-01-075190

File Number: 43-16-142136

ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Complainant) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Mohan Viswa Kaza, M.D. (Respondent) as follows:

1. The Michigan Board of Medicine (Board) is an administrative agency established by the Public Health Code, MCL 333.1101 et seq. Pursuant to section 16226 of the Public Health Code, supra, the Board's Disciplinary Subcommittee is empowered to discipline licensees for violations of the Public Health Code.

2. Respondent is licensed to practice in the state of Michigan and has a controlled substance license.

3. Section 16233(5) of the Public Health Code, supra, provides, in pertinent part, as follows:

After consultation with the chair of the appropriate board or task force or his or her designee, the department may summarily suspend a license or registration if the public health, safety, or welfare

requires emergency action in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292.

4. Section 7311(6) of the Public Health Code, supra, provides that a controlled substance license is automatically void if a licensee's license to practice is suspended or revoked under Article 15 of the Public Health Code.

5. Section 16106a of the Public Health Code, being MCL 333.16106a, defines substance abuse as a "substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d."

6. Section 100d(11) of the Mental Health Code, being MCL 330.1100d(11), defines substance use disorder as a "chronic disorder in which repeated use of alcohol, drugs, or both, results in significant and adverse consequences. Substance abuse is considered a substance use disorder."

7. Section 100d(10) of the Mental Health Code, being MCL 330.1100d(10), defines substance abuse as:

...the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof.

8. On April 10, 2015, Complainant executed an Order of Summary Suspension and an Administrative Complaint (Complaint) against Respondent based on

his 2013 and 2014 alcohol-related convictions. On September 8, 2015, in resolution of the matter, the Board's Disciplinary Subcommittee executed a Final Order (Order) that dissolved the summary suspension and suspended Respondent's license to practice medicine for a minimum of one day, until he entered into a disciplinary monitoring agreement with the Health Professional Recovery Program (HPRP) and was deemed safe to practice. Upon automatic reinstatement, Respondent would be placed on probation for one year, which required, in part, that he comply with the terms of his HPRP monitoring agreement. A copy of the Order, marked Exhibit A, is attached and incorporated.

9. On October 1, 2015, Respondent's license to practice medicine was reinstated after Respondent underwent a substance abuse evaluation; entered into a disciplinary monitoring agreement based on the diagnoses of "Alcohol Use Disorder, moderate," and "Major Depressive Disorder, moderate"; and was endorsed as safe to practice. The terms of the monitoring agreement required, in part, that Respondent abstain from alcohol and all controlled substances; submit to urine drug screens by calling the HPRP designated laboratory, and when instructed, submitting the requested specimen; and obtain advance approval of employment.

10. On November 10, 2015, without obtaining advance approval from HPRP before resuming employment, Respondent reported to HPRP that he had treated a couple for mental health counseling in a private office that Respondent had rented and had scheduled another client for an appointment.

11. From December 25, 2015, to March 11, 2016, on four occasions, Respondent failed to call HPRP's designated drug testing laboratory to ascertain whether he was required to submit a urine specimen for drug screening.

12. On April 13, 2016, Respondent's therapist informed HPRP that Respondent could no longer attend group therapy due to recurring inappropriate behavior.

13. On April 19, May 2, May 17, and June 2, 2016, Respondent's urine drug screens tested positive for alcohol.

14. On May 4, 2016, Respondent's individual therapist informed HPRP that two of the therapist's clients were planning to see Respondent as a new provider. Contrary to the terms of the monitoring agreement, Respondent failed to obtain HPRP's approval in advance before resuming employment.

15. On May 27, 2016, Respondent's individual therapist informed HPRP that Respondent admitted drinking alcohol because "it's the only way insurance will cover all of this [treatment]."

16. On June 2, 2016, Respondent's urine drug screen tested positive for alcohol. As a result, Respondent's individual therapist recommended that Respondent enter a 30-day residential treatment program by June 7, 2016. Contrary to the recommendation, Respondent failed to enter a residential treatment program.

17. On June 9, 2016, HPRP closed Respondent's case due to his failure to comply with the terms of his monitoring agreement and forwarded the matter to Complainant.

18. Contrary to the terms of the Order, Respondent failed to comply with the terms of a disciplinary monitoring agreement. Specifically, Respondent failed to abstain from alcohol and failed to submit to drug testing as directed and as required by the terms of his monitoring agreement with HPRP.

COUNT I

Respondent's conduct, as set forth above, evidences a condition that impairs, or may impair, the ability to safely and skillfully practice the health profession, in violation of section 16221(a) of the Public Health Code, supra.

COUNT II

Respondent's conduct, as set forth above, evidences substance use disorder, in violation of section 16221(b)(ii) of the Public Health Code, supra.

COUNT III

Respondent's conduct, as set forth above, evidences a mental or physical inability reasonably related to and adversely affecting Respondent's ability to practice in a safe and competent manner, in violation of section 16221(b)(iii) of the Public Health Code, supra.

COUNT IV

Respondent's conduct, as set forth above, evidences a violation of a final order issued by the Board's Disciplinary Subcommittee, contrary to Mich Admin Code, R 338.1632, in violation of section 16221(h) of the Public Health Code, supra.

After consultation with the chairperson of the Board or his or her designee pursuant to section 16233(5) of the Public Health Code, supra, Complainant states that the public health, safety, and welfare requires emergency action and, accordingly, Respondent's license to practice in the state of Michigan is summarily suspended, pending a hearing and final determination of this matter.

Pursuant to section 16231(8) of the Public Health Code, supra, Respondent has 30 days from the date of receipt of this Complaint to submit a written response to the allegations contained herein. The written response shall be submitted to Complainant, Kim Gaedeke, Director, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909.

Pursuant to section 16231(9) of the Public Health Code, supra, Respondent's failure to submit a written response within 30 days, as noted above, shall be treated as an admission of the allegations contained herein and shall result in

transmittal of this Complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Dated: 10-18-16


Kim Gaedeke, Director
Bureau of Professional Licensing

Attachment

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