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

In the Matter of

BARDIA GHOLAMI, M.D.
License No. 43-01-086885
_____/

Complaint No. 43-17-148038

CONSENT ORDER AND STIPULATION

CONSENT ORDER

An administrative complaint was filed with the Disciplinary Subcommittee of the Board of Medicine on June 20, 2018, charging Bardia Gholami, M.D. (Respondent) with having violated sections 16221(a), (b)(i), (b)(vi), and (c)(iv) of the Public Health Code, 1978 PA 368, as amended, 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 sections 16221(a), (b)(i), and b(vi) of the Public Health Code.

Accordingly, for these violations, IT IS ORDERED:

Respondent is placed on PROBATION for a period of 6 months, not to exceed 1 year, commencing on the effective date of this order. Respondent shall be automatically discharged from probation upon the Department's receipt of satisfactory written evidence of Respondent's successful compliance with the terms and conditions as provided below, provided compliance occurs within 1 year. If Respondent fails to complete any term or condition of probation as set forth in this order within 1 year of the effective date of this order, Respondent will be in violation of Mich Admin Code, R 338.1632 and section 16221(h) of the Public Health Code. The terms and conditions of the probation are as follows:

A. SUPERVISOR REPORTS. Respondent's supervisor shall file two reports with the Department, as further provided below, advising of his work performance. If, at any time, Respondent fails to comply with minimal standards of acceptable and prevailing practice, or appears unable to practice with reasonable skill and safety, his supervisor shall immediately notify the Department.

B. COMPLIANCE WITH THE PUBLIC HEALTH CODE. Respondent shall comply with all applicable provisions of the Public Health Code and rules promulgated under the Public Health Code.

C. RESIDENCY AND PRACTICE OUTSIDE MICHIGAN. Periods of residency and practice outside Michigan shall not reduce the probationary period of this order. Respondent shall report any change of residency or practice outside Michigan to the Department within fifteen days after the change occurs. Compliance with this provision does not satisfy the requirements of section 16192(1) and 16171(f) of the Public Health Code regarding Respondent's duty to report name or mailing address changes to the Department.

D. CONTINUING EDUCATION CREDITS. Within 6 months of the effective date of this Order, Respondent shall successfully complete 5 hours of continuing education credits in the area of prescribing controlled substances. These credit hours shall not count toward

the number of credit hours required for license renewal. Respondent must seek and obtain advance approval of the continuing education courses from the Chairperson of the Board or the Chairperson's designee. Respondent shall mail requests for approval of a course and proof of successful completion of a course to the Department at the address set forth below.

E. REPORTING PROCEDURE. Unless otherwise provided above, all reports required by the terms of probation shall be filed on a quarterly basis, the first report to be filed at the end of the third month of probation, and subsequent reports every three months until Respondent is discharged from probation. In addition to receiving reports as required above, the Department or its authorized representative may periodically contact the reporting individuals or agencies to inquire of Respondent's progress. By accepting the terms of this consent order and stipulation, Respondent has authorized the release of all necessary records and information.

Any violation of the Public Health Code by Respondent during the period of probation shall be deemed a violation of probation and constitute grounds for further disciplinary action.

Respondent is FINED (FIVE THOUSAND AND 00/100 DOLLARS) $5,000.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 43-17-148038 clearly indicated on the check or money order), and shall be payable within 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.

If Respondent fails to timely pay the fine, his license shall be suspended until payment is received. If Respondent's license remains suspended for longer than six

months and one day, reinstatement is not automatic. If Respondent petitions for reinstatement of his license, the petition shall be in accordance with sections 16245 and 16247 of the Public Health Code and Mich Admin Code, R 792.10711. Under these provisions, Respondent must demonstrate the following by clear and convincing evidence: (1) good moral character; (2) the ability to practice the profession with reasonable skill and safety; (3) satisfaction of the guidelines on reinstatement adopted by the Department; and (4) that it is in the public interest for the license to be reinstated.

Count IV of the complaint, alleging a violation of section 16221(c)(iv) of the Public Health Code, is DISMISSED.

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 thirty (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 5-15-19

MICHIGAN BOARD OF MEDICINE

By _____
Chairperson, Disciplinary Subcommittee

STIPULATION

The parties stipulate as follows:

1. Respondent does not contest the allegations of fact and law in the complaint. Respondent understands that, by pleading no contest, he 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.

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, 1969 PA 306, as amended, 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 Venkat Rao, M.D. Dr. Rao 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. Dr. Rao and the parties considered the following factors in reaching this agreement:

A. Respondent has been employed by the Wayne State University psychiatry group since February 2018 and his practice has focused on older adolescents and adults.

B. In this position at WSU, he has been subject to weekly peer reviews of his practice.

C. Respondent's supervisor stated Respondent has received positive feedback and has not violated the Public Health Code. Moreover, his supervisor reports that Respondent has exemplary relations with staff and management.

D. Respondent acknowledged that the doses for the named patients may have seemed high, but he explained the dosing was appropriate and effective at controlling the patients' conditions.

E. Respondent provided statements from two physicians, one board certified in psychiatry and neurology and one board certified in adult, adolescent, and child psychiatry. Both opined that Respondent treated complex patients and they did not consider his prescribing inappropriate.

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

AGREED TO BY:

Timothy C. Erickson (P72071)
Michael S. Williams (P82389)
Assistant Attorneys General
Attorney for Complainant
Dated: 4/9/2019

AGREED TO BY:

Bardia Gholami, M.D.
Respondent

Dated: 04/03/2019

Scott L. Feuer (P38185)
Attorney for Respondent
Dated: 4-3-19

LF: 2018-0236364-A\Gholami, Bardia, M.D., 148038\Pleading – Consent Order – Health – 2019-02-07

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

In the Matter of

BARDIA GHOLAMI, M.D.
License No. 43-01-086885,

File No. 43-17-148038

Respondent.

ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs by Cheryl Wykoff Pezon, Director, Bureau of Professional Licensing, complains against Respondent Bardia Gholami 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 Code violations.

2. Respondent holds a Michigan license to practice medicine and an active controlled substance license.

3. At all relevant times, Respondent was employed as a physician with Community Care Services (CCS) at several offices located in Lincoln Park, Michigan and Taylor, Michigan. Respondent cared for children and adolescents at CSC.

4. Amphetamine salts (e.g., Adderall) are schedule 2 controlled substances.

5. Atomoxetine (e.g., Strattera) is a prescription drug used to treat attention deficit hyperactivity disorder (ADHD).

6. Clonidine (e.g., Kapvay) is a prescription drug used to treat high blood pressure and ADHD.

7. Diphenhydramine (e.g., Benadryl) is an antihistamine used to treat symptoms related to allergies. It is available by prescription and over the counter.

8. Fluoxetine (e.g., Prozac) is a selective serotonin reuptake inhibitor (SSRI) used in the treatment of depression, anxiety, panic, and bulimia. It requires a prescription and is regulated by the federal Food and Drug Administration (FDA).

9. Guanfacine (e.g., Intuniv) is a prescription drug used to treat ADHD.

10. Lamotrigine (e.g., Lamictal) is a prescription anti-convulsant used in the treatment of seizure disorders and bipolar disorder.

11. Lorazepam (e.g., Ativan) is a schedule 4 benzodiazepine controlled substance.

12. Lisdexamfetamine (e.g., Vyvanse) is a central nervous system stimulant and a schedule 2 controlled substance.

13. Methylphenidate (e.g., Ritalin) is a central nervous system stimulant and a schedule 2 controlled substance. It is commonly abused and diverted.

14. Mirtazapine (e.g., Remeron) is a prescription anti-depressant primarily used to treat major depression.

15. Oxcarbazepine (e.g., Trileptal) is a prescription anti-convulsant used in the treatment of seizure disorders.

16. Sertraline (e.g., Zoloft) is an SSRI used in the treatment of depression, anxiety, panic, and obsessive-compulsive disorder (OCD). It requires a

prescription and is regulated by the federal Food and Drug Administration (FDA). Its only approved use for children is in the treatment of OCD.

17. Trazadone (e.g., Desyrel) is a prescription anti-depressant primarily used to treat major depression. It is not approved for use in children.

18. On or about May 8, 2017, management from CCS gave Respondent 30-days' notice that his contract would be terminated due to poor treatment of staff members. On or about May 31, 2017, Respondent damaged the personal vehicle of one of the members of CCS's management and was subsequently criminally charged and forced to pay restitution and a fine.

19. In May 2017, another physician took over Respondent's caseload at CCS. This physician filed a complaint with the Department on August 9, 2017, alleging that Respondent had engaged in unsafe and dangerous practices that include, but are not limited to the following:

a. Respondent prescribing high amounts of Adderall, a drug that is commonly abused and diverted.

b. Respondent prescribing drugs at levels and in combinations that placed his patients at risk of harm.

c. Many of Respondent's patients reported that he appeared to be "high", and that he was rude and irritable.

Respondent Interview

20. On or about March 13, 2018, the Respondent was interviewed by a Department investigator. Respondent stated he completed a residency in Child and Adolescent Psychiatry and is Board certified in Adult Psychiatry, as of September 2017.

21. Respondent stated that all of his prescribing and treatment was done pursuant to his professional judgement. Respondent stated that with mental health conditions there is no "recipe book" for treating behavior driven disorders. Respondent stated there was no literature indicating various combinations of stimulants were inappropriate and that he would engage in trial-and-error to determine what the best dosage was.

22. Respondent admitted patient vital signs were not consistently present in each patient file. Respondent also stated that he was not concerned about drug diversion.

Expert Overview of Respondent's Practice

23. The Bureau subpoenaed five of Respondent's records during its investigation. An expert reviewed the individual medical files Respondent produced for patients and discovered the following deficiencies consistently across files:

(a) Respondent failed to record patient vitals on a consistent basis. In one instance, he failed to record vital signs for a period of more than two (2) years.

(b) Respondent failed to record any evidence that he evaluated how his patients were doing on the drugs he prescribed. Specifically,he failed to evaluate the cognitive, behavioral, and mood-changing effects of the medications he was prescribing.

(c) Respondent failed to discuss the risks and cost/benefit of controlled substances with his patients that were prescribed controlled substances.

(d) Respondent failed to document any evidence that he evaluated patients for pre-existing conditions.

(e) For his patients that were diagnosed with ADHD, Respondent failed to adequately assess them before prescribing controlled substances.

(f) Respondent consistently prescribed Adderall, Ritalin, Vyvanse, and Strattera at levels above what it recommended by the FDA or the manufacturer.

(g) Respondent based dosages, in several instances, solely on what he was told by parents and not based upon an evaluation of the patient.

Individual Patient Examples

24. The expert discovered the following deficiencies in the individual medical files Respondent produced, in addition to those noted above:

Patient MB[1]

(a) Respondent noted on every form that this patient was "not depressed" despite reports from the treating therapist that he was. The expert also noted that there is nothing in MB's file that would warrant prescribing a stimulant.

(b) At one point, Respondent prescribed the following for this patient: methylphenidate 80 mg/day, Strattera 60mg/day, Mirtazapine 15 mg/day, Benadryl 50 mg/day, and Clonidine .02 mg/day. This dosing is above what is recommended and could cause some harmful side-effects, including growth suppression.

(c) The physician that treated MB after Respondent was terminated found that he was experiencing some of the above-referenced side effects.

(d) The expert stated that the use of Clonidine in the form that was prescribed was not indicated for this patient.

Patient TU

(e) At one point, Respondent prescribed the following for this patient: Vyvanse 70 mg/day, Adderall 10mg twice/day, Sertraline 100 mg/day, Lamictal 25 mg/day, Clonidine .02 mg/day. The expert noted that this was a "striking amount" of medication to be prescribed for someone that is 12 years old and that it could result in multiple dangerous side-effects.

(f) The expert noted that this patient was prescribed several drugs to counteract the stimulants to sleep and one drug to counteract the depression that is another side effect of high dosages of stimulants.

(g) Respondent's treatment notes regarding dosage do not match what he actually prescribed.

[1]Patients names withheld to protect confidentiality.

Patient BU

(h) At one point, Respondent prescribed the following for this patient: Vyvanse 70 mg/day, Adderall 10mg/day, Oxcarbazepine 300 mg/day, Guanfacine 1 mg/day, and Prozac 20 mg/day. This patient was 11 years old.

(i) The expert noted that the dosage for Vyvanse, which is the highest dose of this medication, was usually reserved for patients that were older and much larger. In addition, this patient had been taking the above-referenced combination of drugs for nearly three (3) years and that this could harm her growth and cause her to build up a tolerance to stimulants, which would render her untreatable by stimulants by the time she reached adulthood.

(j) BU reported difficulty in sleeping and having a seizure. The expert felt that this was likely caused by the high dosages of stimulants prescribed by Respondent. The expert also noted that when Respondent was presented with this information, he prescribed higher doses of stimulants.

Patient DH

(k) Respondent prescribed Adderall 30 mg/twice daily and Ativan 1 mg/day for this patient. This dosage of Adderall is above what is recommended by the FDA.

(l) According to the expert, patient was prescribed drugs that put him at risk of an overdose that could result in injury or death.

(m) The physician that took over DH's treatment after Respondent was terminated, discontinued the Ativan and lowered the dose of Adderall to within what is recommended.

(n) Respondent failed to address possible diversion when he was told that DH "lost" his bottles of medication.

Patient JH

(o) Respondent prescribed Adderall 30 mg/twice daily and Adderall 20 mg/once daily for this patient. This dosage of Adderall is twice what is recommended by the FDA.

(p) Despite some serious reports of behavioral issues, there is no evidence that Respondent conducted any formal assessment or evaluation of this patient.

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, or a condition, conduct, or practice that impairs, or may impair, the ability safely and skillfully to engage in the practice of the health profession in violation of MCL 333.16221(a).

COUNT II

Respondent's conduct fails to conform to minimal standards of acceptable, prevailing practice for the health profession in violation of MCL 333.16221(b)(i).

COUNT III

Respondent's conduct demonstrates Respondent's lack of a "propensity . . . to serve the public in the licensed area in a fair, honest, and open manner," MCL 338.41(1), and accordingly a lack of "good moral character," in violation of MCL 333.16221(b)(vi).

COUNT IV

Respondent's conduct, as set forth above, constitutes selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes, in violation of MCL 333.16221(c)(iv).

RESPONDENT IS NOTIFIED that, pursuant to MCL 333.16231(8), Respondent has 30 days from the date of receipt of this Complaint to answer it in writing and to show compliance with all lawful requirements for retention of the license. Respondent shall submit the written answer to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 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: 6/20/18, 2018

By: Cheryl Wykoff Pezon, Director
Bureau of Professional Licensing