

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

In the Matter of
JOHN DOINAS GHERMAN, M.D.
License No. 43-01-084565

Complaint No. 43-20-000160

/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

An administrative complaint was filed with the Disciplinary Subcommittee of the Board of Medicine on January 27, 2020, charging John Doinas Gherman, M.D. (Respondent) with having violated sections 16221(a), (b)(ii), (b)(iii), (b)(vi), and (c)(iv) of the Public Health Code, MCL 333.1101 *et seq.*

Based on the administrative complaint and after consultation with the Chairperson of the Board of Medicine, the Department summarily suspended Respondent's license to practice medicine by order dated January 27, 2020.

After the Health Professional Recovery Program (HPRP) confirmed that Respondent did not pose an emergency threat to the public health, safety, and welfare, the parties stipulated to the dissolution of the summary suspension. Based on this stipulation, the administrative hearing officer entered an order dissolving the summary suspension on: October 14, 2020.

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)(ii), (b)(iii), (b)(vi), and (c)(iv) of the Public Health Code.

Accordingly, for these violations, IT IS ORDERED:

Respondent is placed on PROBATION for 18 months, 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. If Respondent fails to complete any term or condition of probation as 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. The terms and conditions of the probation are as follows:

- A. MONITORING AGREEMENT. Within 30 days of the date of this order, Respondent shall enter into and comply with a disciplinary monitoring agreement with the Health Professional Recovery Program (HPRP). This disciplinary monitoring agreement shall contain the same terms and conditions as the previously entered into non-disciplinary monitoring agreement dated April 23, 2020, unless HPRP determines that a change in terms or conditions is required. The duration of the monitoring agreement may exceed the period of probation.

All information and documentation acquired by HPRP in developing and implementing a monitoring agreement shall be made available to the Department upon request to establish Respondent's compliance or noncompliance with the monitoring agreement and this order.

If Respondent fails to comply with the terms of the monitoring agreement, HPRP shall immediately notify the Department in writing.

Upon Respondent's successful completion of the monitoring agreement, HPRP shall promptly notify the Department in writing.

- B. CONTINUING EDUCATION CREDITS. Within 90 days of the effective date of this Order, Respondent shall successfully complete 3 hours of continuing education credits in the area of alcohol's effects on one's ability to practice a health profession, 3 hours in the area of understanding recidivism, 3 hours in the area of establishing trust and professionalism in the physician/patient relationship, and 3 hours in the area of ethics and professionalism in practicing a health profession. 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 submit requests for approval of a course and proof of successful completion of a course to the Department by email to BPL-Monitoring@michigan.gov.
- C. 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.

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 \$4,000.00 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 43-20-000160 clearly indicated on the check or money order), and shall be payable within 180 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 comply with the terms of the monitoring agreement, successfully complete the continuing education credits, and timely pay the fine, his

license shall be suspended a minimum of 1 day until successful completion of the continuing education credits, payment of the fine, and he is in compliance with the terms of the monitoring agreement. If Respondent's license remains suspended for more than six months, reinstatement of the license shall not be automatic, and Respondent will have to petition for reinstatement of the license. 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.

Respondent shall direct all communications, except fines, required by the terms of this Order to: BPL-Monitoring@michigan.gov.

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 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 November 18, 2020

MICHIGAN BOARD OF MEDICINE

By  for
Chairperson, Disciplinary Subcommittee

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the complaint are true and constitute a violation of the Public Health Code.
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, 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 Michael Chafty, M.D., J.D. Dr. Chafty 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. Chafty and the parties considered the following factors in reaching this agreement:

- A. Respondent advises that he takes full responsibility and that he is remorseful for his conduct.
- B. Respondent has been licensed since 2004 without any prior disciplinary actions against his license.
- C. Respondent advises that he is currently unemployed, but he has been solely focused on his sobriety since being summarily suspended and he looks forward to being employed again now that he has been deemed safe-to-practice and his license reinstated.
- D. Respondent entered an updated monitoring agreement with HPRP on August 18, 2020.
- E. HPRP designated Respondent as safe to practice on August 18, 2020.

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

AGREED TO BY:

/s/ DeAnthony D. Shaw

DeAnthony D. Shaw (P82292)
Assistant Attorney General
Attorney for Complainant
Dated: October 15, 2020

AGREED TO BY:

[Signature]
John Doinas Gherman, M.D.
Respondent

Dated: 10/12/2020

[Signature]
Aaron J. Kemp (P55238)
Attorney for Respondent
Dated: 10/12/20

**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

IN THE MATTER OF:

**Bureau of Professional Licensing,
Petitioner**

v

**John Doinas Gherman, M.D.,
Respondent**

Docket No.: 20-020848

Case No.: 43-20-000160

**Agency: Bureau of Professional
Licensing**

Case Type: Summary Suspension

Filing Type: Board of Medicine

_____/

**Issued and entered
this 14th day of October 2020
by: Eric J. Feldman
Administrative Law Judge**

ORDER DISSOLVING SUMMARY SUSPENSION

On October 13, 2020, the parties filed a fully executed Stipulation to Dissolve Order of Summary Suspension (Stipulation). Specifically, the Stipulation states there is currently insufficient evidence of John Doinas Gherman, M.D., Respondent, continued practice as a health professional posing an imminent threat to the public's health, safety, and welfare. Therefore, the Stipulation requests that this Tribunal enter an order to dissolve the order of summary suspension.

NOW THEREFORE, IT IS ORDERED that, based on the parties' Stipulation and pursuant to Mich Admin Code R 792.10702(2), the Order of Summary Suspension issued by the Michigan Department of Licensing and Regulatory Affairs (Department) on January 27, 2020, shall be and hereby is DISSOLVED. Respondent's license to practice medicine in the state of Michigan is hereby restored, pending any further order of the Department or the Disciplinary Subcommittee of the Board of Medicine.

IT IS FURTHER ORDERED that the hearing on Respondent's petition for dissolution of summary suspension in the above-captioned matter scheduled for October 21, 2020, is hereby cancelled.



**Eric J. Feldman
Administrative Law Judge**

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

In the Matter of

JOHN DOINAS GHERMAN, M.D.
License No. 43-01-084565
Respondent.

File No. 43-20-000160

ORDER OF SUMMARY SUSPENSION

The Department filed an Administrative Complaint against Respondent, as provided by the Public Health Code, MCL 333.1101 *et seq*; the rules promulgated under the Code; and the Administrative Procedures Act, MCL 24.201 *et seq*.

After careful consideration, and after consultation with the Chairperson of the Board of Medicine, pursuant to MCL 333.16233(5), the Department finds that the public health, safety, or welfare requires emergency action.

Therefore, IT IS ORDERED that Respondent's license to practice medicine in the state of Michigan is SUMMARILY SUSPENDED, commencing the date this Order is served.

MCL 333.7311(6) 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 Code.

Under Mich Admin Code, R 792.10702, Respondent may petition for the dissolution of this Order by filing a document clearly titled **Petition for Dissolution of Summary Suspension** with the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, P.O. Box 30670, Lansing, MI 48909.

MICHIGAN DEPARTMENT OF
LICENSING AND REGULATORY AFFAIRS

Dated: 01/27/2020



By: Debra Gagliardi, Director
Bureau of Professional Licensing

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
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ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, by Debra Gagliardi, Director, Bureau of Professional Licensing, complains against Respondent 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 is empowered to discipline persons for violations of the Public Health Code.

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

3. Pursuant to MCL 333.16233(5):

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. MCL 333.16106a(c) defines substance abuse as a “substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.”

5. 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 use disorder includes substance abuse.”

6. 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.

7. Nordiazepam, lorazepam, clonazepam, temazepam, and alprazolam are schedule 4 controlled substances. Gabapentin is a schedule 5 controlled substance.

8. On April 26, 2019, Respondent was referred to the Health Professional Recovery Program (HPRP) following an employment interview where Respondent appeared to be under the influence of alcohol. Respondent completed an HPRP intake interview and was directed to undergo an evaluation.

9. On May 30, 2019, Respondent underwent an evaluation and was diagnosed with "Alcohol Use Disorder, moderate," "sedative use disorder, moderate," and "generalizing anxiety disorder." During the evaluation, the evaluator performed a breathalyzer test, revealing that Respondent had a blood alcohol content of 0.05. The evaluator recommended a detox/inpatient program and subsequent monitoring for Respondent.

10. On June 11, 2019, HPRP was informed that Respondent had entered a detox/inpatient treatment facility.

11. On June 25, 2019, HPRP was informed that Respondent had been discharged from the detox/inpatient treatment facility.

12. On or about July 1, 2019, HPRP was informed that Respondent had begun an Intensive Outpatient Program at a second facility.

13. On July 9, 2019, Respondent entered into an interim monitoring agreement which, in part, required that he submit to urine drug screens via the HPRP designated laboratory (FirstSource) or the treatment facility.

14. Between July 9, 2019, and August 20, 2019, on multiple occasions, Respondent's drug screens were positive for lorazepam, clonazepam, Phosphatidylethanol (PEth)¹, and Ethyl Glucuronide/Ethyl Sulfate (EtG/EtS)².

15. On August 22, 2019, following Respondent's multiple positive drug screens for controlled substances, HPRP discussed this matter with Respondent. Respondent admitted that he had been prescribing gabapentin to himself. Respondent informed HPRP he saw no issue with self-prescribing gabapentin but provided no clinical reason for prescribing himself gabapentin.

16. On or about August 26, 2019, HPRP was informed that Respondent had been discharged from the second treatment facility.

17. Between August 29, 2019, and September 19, 2019, on multiple occasions, Respondent's drug screens were positive for lorazepam, clonazepam, gabapentin, PEth, and EtG/EtS.

18. On September 19, 2019, Respondent entered into a three-year dual diagnosis monitoring agreement with HPRP. The terms of the monitoring agreement required, in part, that Respondent provide quarterly self/sponsor reports and logs, undergo daily alcohol tests with Soberlink³, take only HPRP approved medications, submit to urine drug screens by calling the HPRP designated laboratory (FirstSource),

¹ A PEth test measures blood levels of an alcohol-specific biomarker to detect recent alcohol consumption.

² Ethyl Glucuronide and Ethyl Sulfate are metabolites produced by the body after consuming alcohol.

³ Soberlink is a daily alcohol monitoring system utilizing an at home breathalyzer.

submit a specimen in the manner requested when instructed, and abstain from any mood-altering substances, including alcohol and controlled substances.

19. Between September 20, 2019, and October 3, 2019, on multiple occasions, Respondent's drug screens were positive for lorazepam, temazepam, nordiazepam, PEth, and EtG/EtS.

20. As a result of the above violations of the monitoring agreement, HPRP extended Respondent's monitoring agreement by 3 months.

21. Between October 7, 2019, and October 23, 2019, on multiple occasions, Respondent's drug screens were positive for lorazepam, temazepam, nordiazepam, PEth, and EtG/EtS. Additionally, Respondent refused to undergo Soberlink testing, as required under his monitoring agreement. Accordingly, HPRP initiated non-compliant closure of Respondent's case.

22. On November 26, 2019, HPRP's Health Professional Recovery Committee reviewed Respondent's step 1 request to rescind the non-compliant closure. After consideration, HPRP denied this request and referred Respondent to submit a step 2 request appealing the HPRP decision.

23. On December 17, 2019, Respondent submitted a step 2 request to appeal the HPRP decision.

24. On January 3, 2020, HPRP closed Respondent's case as non-compliant, after upholding the Health Professionals Recovery Committee's decision to deny Respondent's request to rescind the non-compliant closure. HPRP subsequently forwarded the matter to the Department.

COUNT I

Respondent's conduct, as set forth above, evidences a conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully engage in the practice of the health profession, in violation of MCL 333.16221(a).

COUNT II

Respondent's conduct, as set forth above, evidences a substance use disorder, in violation of MCL 333.16221(b)(ii).

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 MCL 333.16221(b)(iii).

COUNT IV

Respondent's conduct, demonstrates Respondent's lack of a "propensity on the part of the person 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 V

Respondent's conduct, as set forth above, evidences obtaining, possessing, or attempting to obtain or possess a controlled substance; or 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, after consultation with the chairperson of the Board, or his or her designee, and pursuant to MCL 333.16233(5), the Department states that the public health, safety, or welfare requires emergency action, and, accordingly, Respondent's license to practice medicine in the state of Michigan is summarily suspended, pending a hearing and final determination of this matter.

RESPONDENT IS FURTHER NOTIFIED that, pursuant to MCL 333.16231(8), Respondent has 30 days from the date of receipt of this Complaint to answer this Complaint in writing and to show compliance with all lawful requirements for licensure. Respondent shall submit the response 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).

Dated: 01/27/2020


Debra Gagliardi, Director
Bureau of Professional Licensing