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

ROBERT E. LANE, D.O.
License No. 51-01-004855,

File No. 51-16-140454

Respondent.

CONSENT ORDER

On April 27, 2017, the Department of Licensing and Regulatory Affairs executed an Administrative Complaint charging Respondent Robert E. Lane, D.O. with violating the Public Health Code, MCL 333.1101 *et seq.* The Department also executed an order summarily suspending Respondent's license to practice osteopathic medicine and surgery on that date.

Respondent stipulates that the facts alleged in the Complaint are true and constitute violations of the Public Health Code. The Disciplinary Subcommittee of the Michigan Board of Osteopathic Medicine and Surgery (DSC), after reviewing this Consent Order and Stipulation (Order), agrees that resolution of the Complaint best serves the public interest.

Therefore, IT IS FOUND that the facts alleged in the Complaint are true for purposes of the Order and violate Code MCL 333.16221(a), (b)(i), and (c)(iv). Count III of the Complaint, alleging violation of MCL 333.16221(b)(vi), is dismissed, with prejudice.

IT IS ORDERED that the Order of Summary Suspension is DISSOLVED.

IT IS FURTHER ORDERED that Respondent's license to practice osteopathic medicine and surgery is SUSPENDED for a minimum of one day, commencing on the effective date of this Order.

IT IS FURTHER ORDERED that Respondent's license shall be automatically reinstated if, within six months from the effective date of this Order, the Department receives a written report from a Board-approved assessment entity, that Respondent has undergone a clinical competence assessment as directed, and that the assessment has found Respondent safe to practice.

Respondent must contact the Board-approved assessment entity, undergo a clinical competence assessment as directed, and comply with any follow-up regarding

the assessment. Respondent is responsible for all costs associated with the evaluation. Respondent will provide a written release permitting disclosure of the evaluation report to the Department. Respondent shall ensure that the verification described above is submitted to the Department.

IT IS FURTHER ORDERED that if Respondent's license to practice remains suspended for more than six months, Respondent must apply for reinstatement of the license as provided in MCL 333.16245.

IT IS FURTHER ORDERED that Respondent's license to practice osteopathic medicine and surgery shall be LIMITED for a period concurrent with the probation term, beginning with the date of automatic reinstatement. During the limitation period, Respondent shall not obtain, possess, prescribe, dispense, or administer any drug designated as a controlled substance under the Public Health Code or the federal Controlled Substances Act unless a licensed physician prescribes or dispenses the controlled substance for Respondent as a patient.

Reclassification of Respondent's license to unlimited status is not automatic. Respondent must apply for reclassification of his license to unlimited status.

IT IS FURTHER ORDERED that Respondent is placed on PROBATION for a minimum of two years, commencing on the effective date of automatic reinstatement. The probationary period is reduced only while Respondent is employed as an osteopathic physician in the State of Michigan.

The terms of probation are as follows:

1. Meeting with Board-Approved Physician Reviewer. If Respondent works as an osteopathic physician, Respondent shall meet quarterly (i.e., every 3 months) with a Physician Reviewer designated by a Board-approved monitoring entity to review Respondent's professional practice.

(a) Contacting the Monitoring Entity. Within 30 days of the effective date of this Order, Respondent shall contact the Compliance Section (517.335.3114) to obtain contact information for an approved monitoring entity. Respondent shall not work in any capacity for which a medical license is required until the Department confirms in writing that it has approved a monitoring entity. Respondent will contact the monitoring entity, which will designate a licensed physician to serve as a Physician Reviewer for Respondent.

(b) Department Approval of the Designated Physician Reviewer. Respondent will contact the designated Physician Reviewer and provide the designated Physician Reviewer a copy of this Order and the Complaint. Respondent shall submit a request for Department approval of the designated Physician Reviewer (including a copy of the proposed Physician Reviewer's curriculum vitae) to the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division,

Compliance Section, P.O. Box 30670, Lansing, Michigan 48909, or by fax (517.241.9280).

(c) Meetings with Physician Reviewer. Respondent shall first meet with the Physician Reviewer at the end of the third month of probation, and shall meet quarterly thereafter until the probationary period ends. Respondent is responsible to schedule the meetings with the Physician Reviewer.

2. Change in Employment; Report of Non-Employment. Respondent shall provide written notice to the Department upon entering into or leaving any employment in the licensed profession within 15 days of such action. Respondent shall provide copies of this Order and the Complaint to each successor employer in the licensed profession immediately upon beginning employment. If at any time during the period of probation Respondent is not employed in the licensed profession, Respondent shall file a report of non-employment with the Department within 15 days after becoming unemployed. Respondent shall continue to file a report of non-employment on a quarterly basis until Respondent returns to employment in the licensed profession.

3. 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 no more than 15 days after the change occurs. Compliance with this provision does *not* satisfy the requirements of MCL 333.16192(1) and 333.16221(g) regarding Respondent's duty to report name or mailing address changes to the Department.

4. Board-Approved Assessment Entity Recommendations. If the Board-approved assessment entity's clinical competence report recommends any additional continuing education or other training, Respondent shall complete that continuing education or training before the probation period expires and will provide written verification of completion to the Department.

5. Authorization to Contact. Respondent authorizes any authorized representative of the Department periodically to contact the reporting individuals, agencies, or employers to discuss Respondent's compliance with this Order.

6. Address for Communications. Except as otherwise provided in this Order, all persons shall direct all communications required by the terms of this Order to the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, MI 48909.

7. Timely Filing of Reports. It is Respondent's responsibility to ensure timely filing of all reports and other documents required by this Order. Failure to file a report or other document within the time limitations provided is a violation of this Order.

8. Compliance with the Public Health Code. Respondent shall comply with the Public Health Code and rules promulgated under the Code.

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

IT IS FURTHER ORDERED that Respondent shall be automatically discharged from probation at the end of the probationary period, *if* Respondent complies with all terms of this Order.

IT IS FURTHER ORDERED that Respondent is FINED two thousand dollars ($2,000), to be paid to the State of Michigan within 90 days after the effective date of this Order. Respondent shall file to the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, MI 48909. The fine shall be paid by check or money order, made payable to the State of Michigan, and shall clearly display **File Number 51-16-140454**.

IT IS FURTHER ORDERED that if within four years of the effective date of this Order Respondent fails to complete the probationary period, or at any time violates any provision of this Order, the DSC may proceed to take disciplinary action pursuant to Mich Admin Code, R 338.1632 and MCL 333.16221(h).

IT IS FURTHER ORDERED that this Order shall be effective on the date signed by the DSC.

MICHIGAN BOARD OF OSTEOPATHIC
MEDICINE AND SURGERY

By: Chairperson, Disciplinary Subcommittee
Dated: 10·5·17

STIPULATION

The Department of Licensing and Regulatory Affairs and Respondent Robert E. Lane, D.O. stipulate as follows:

1. The facts alleged in the Complaint are true and constitute violation(s) of MCL 333.16221(a), (b)(i), and (c)(iv). Count III of the Complaint, alleging violation of MCL 333.16221(b)(vi), is dismissed, with prejudice.

2. Respondent waives the right, under the Public Health Code, its administrative rules, and the Administrative Procedures Act, MCL 24.201 *et seq*, to require that the Department prove the violations alleged in the Complaint with evidence and legal authority. Respondent waives the right to appear with an attorney and witnesses to present a defense to the charges.

3. This matter is a public record that must be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq.* This matter will be reported to the National Practitioner Data Bank and any other entity as required by state or federal law, in accordance with the Health Care Quality Improvement Act of 1986, 42 USC 11101 *et seq*.

4. Respondent approves the form and substance of this Order. The Disciplinary Subcommittee may enter this Order as its final order in this matter.

5. The proposed Order is not effective unless accepted by the DSC. Respondent and the Department reserve the right to further proceedings without prejudice if this Order is rejected.

Agreed to by:

Kim Gaedeke, Director
Bureau of Professional Licensing
Dated: 07/28/2017

Agreed to by:

Robert E. Lane, D.O.
Respondent
Dated: 7/26/17

Approved as to form:

John J. Ramar (P36410)
Douglas I. Durfee (P56156)
Attorneys for Respondent
Dated: 7-26-17

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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

ROBERT E. LANE, D.O.
License No. 51-01-004855,

File No. 51-16-140454

Respondent.

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 Osteopathic Medicine and Surgery pursuant to MCL 333.16233(5), the Department finds that the public health, safety, and welfare requires emergency action.

Therefore, IT IS ORDERED that Respondent's license to practice osteopathic 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: 04/27, 2017

By: Kim Gaedeke, Director
Bureau of Professional Licensing

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

ROBERT E. LANE, D.O.
License No. 51-01-004855,

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Respondent.

ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs by Kim Gaedeke, Director, Bureau of Professional Licensing, complains against Respondent Robert E. Lane, 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 osteopathic medicine license. Respondent also holds a controlled substance license.

3. After consultation with the Board Chairperson, the Department found that the public health, safety, and welfare requires emergency action. Therefore, pursuant to MCL 333.16233(5), the Department summarily suspended Respondent's license to practice osteopathic medicine in the state of Michigan, effective on the date the accompanying *Order of Summary Suspension* was served.

4. Alprazolam, a schedule 4 controlled substance, is a benzodiazepine used to treat anxiety disorders and panic disorder. Concurrent use of opioids and

benzodiazepines carries a substantial overdose risk, and many authorities, including the federal Centers for Disease Control and Prevention, discourage their co-prescription. Alprazolam is a commonly abused and diverted drug, particularly in its 1 mg and 2 mg dosages.

5. Amphetamine salt combinations (e.g., Adderall) are commonly abused and diverted stimulant schedule 2 controlled substances.

6. Hydrocodone, and combination products including hydrocodone (e.g., Vicodin, Norco), are schedule 2 controlled substances. Hydrocodone and hydrocodone combination products are commonly abused and diverted drugs.

7. Oxycodone is a commonly abused and diverted opioid schedule 2 controlled substance.

8. Phentermine is a stimulant schedule 4 controlled substance.

9. The Department reviewed data from the Michigan Automated Prescription System (MAPS), the State of Michigan's prescription monitoring program, which gathers data regarding controlled substances dispensed in Michigan.

10. MAPS data for the period between May 1, 2015 through May 5, 2016 revealed that Respondent authorized the following number of prescriptions for the following controlled substances:

Controlled Substance	*Prescriptions*	*Doses*
(a) Alprazolam	**385 (17.2%[1])**	**35,502**
(b) Hydrocodone/Apap	**831 (37.1%)**	**99,863**
(c) Hydrocodone/Apap 10/325 mg	*697 (31.2%)*	*84,803*
(d) Amphetamine salts	**594 (26.6%)**	**31,396**
(e) Amphetamine salts 30 mg	*469 (21.0%)*	*24,976*
(f) Total of (a), (b), and (d) above	**1810 (80.9%)**	**166,761**
(g) Total CS Prescriptions	2,237	202,323

Respondent prescribed for 162 patients in the period between May 1, 2015 through May

[1]Percentage of Respondent's total controlled substance prescriptions.

5, 2016. During that period, he prescribed, on average, ***six hundred sixteen*** (616) doses of hydrocodone combination products to every patient.

11. More than eighteen percent (18%) of the controlled substance prescriptions Respondent wrote in the period between May 1, 2015 through May 5, 2016 were filled by patients who paid cash for their medications. The state average for cash payment is approximately ten percent (10%). The high proportion of patients paying cash for controlled substance medications is indicative of prescriptions filled for the purpose of drug diversion.

12. As part of an investigation of Respondent's prescribing practices, the Department received and analyzed medical records of seven (7) of Respondent's patients.

13. Expert review of the individual medical files Respondent produced revealed the following deficiencies consistently across all files:

(a) Respondent's notations on patient files are often illegible.

(b) Patient files lack adequate history, including treatment history and substance abuse history.

(c) Patient files lack record of physical examination, other than routine vital signs.

(d) Patient files lack treatment plans including objectives for treatment including reasonable expectations for pain level management as well as goals for improving function.

(e) Patient files typically lack corroborating records from other providers. In instances where such records exist, there is no documentation of changes in evaluation or treatment made on their basis.

(f) Patient files typically lack imaging studies or other diagnostic tests to assess patients complaining of chronic pain. In instances where such studies or tests exist, there is no documentation of changes in evaluation or treatment made on their basis.

(g) Patient files lack documentation of the bases of diagnoses other than patient self-reports.

(h) Patient files lack documentation of the significant social supports available to the patient.

(i) Patient files lack documentation of inquiry into the presence of comorbid medical or psychiatric conditions contributing to patient pain complaints.

(j) Respondent's patient files lack documented tracking of compliance with controlled substance agreements, where controlled substance agreements exist.

(k) Patient files lack documentation that he used MAPS to monitor for signs of diversion or abuse.

(l) Patient files lack urine drug screens (UDSs) for his patients.

(m) Respondent's patient files lack consideration of other therapeutic modalities for pain management other than prescribing long-term courses of controlled substances.

(n) Respondent's patient files lack ongoing evaluation of the appropriateness of continued use of controlled substances.

14. Upon review of the individual medical files Respondent, the expert found the following consistent inappropriate and dangerous practices with respect to the prescription of controlled substances, in addition to those noted above:

(a) Respondent consistently prescribed dangerous combinations of controlled substances without documenting informed consent to the risks and benefits of the therapy.

(b) Respondent consistently prescribed the same three-drug combination of opioids, alprazolam, and amphetamine salt combinations, with insufficient documented medical justification of the appropriateness of their coprescription.

15. Expert review of the individual medical files Respondent produced reviewed the following deficiencies, in addition to those noted above:

Patient SC[2]

(a) Respondent's notes lack history of present illness, adequate exams, past medical, surgical, social or family history pertinent to chronic pain evaluations.

[2]Patients are identified by their initials to protect confidentiality.

(b) The file lacks documentation that Respondent addressed Patient SC's violation of the controlled substance agreement and apparent drug diversion or drug abuse, which would have been apparent from a review of MAPS.

(c) Respondent prescribed Patient SC the three-drug combination of hydrocodone/apap, alprazolam, and amphetamine salt combinations, with insufficient documented medical justification of the appropriateness of their coprescription.

Patient JH

(d) Respondent's notes lack history of present illness, adequate exams, past medical, surgical, social or family history pertinent to chronic pain evaluations.

(e) Respondent's notes lack adequate diagnostic testing or patient records to support the diagnosis of attention deficit disorder and narcolepsy.

(f) Respondent prescribed Patient JH a three-drug combination of hydrocodone/apap, alprazolam, and amphetamine salt combinations, with insufficient documented medical justification of the appropriateness of their coprescription.

(g) Patient JH's file lacks a controlled substance agreement.

(h) Patient JH had a spinal MRI performed in 2015; however, there is no documentation of changes in evaluation or treatment made because of the study.

Patient DL

(i) Patient DL's file includes only a single, illegible note from Respondent regarding Respondent's care for Patient DL.

(j) Respondent prescribed Patient DL a three-drug combination of hydrocodone/apap, alprazolam, and amphetamine salt combinations, with insufficient documented medical justification of the appropriateness of their coprescription.

Patient DM

(k) Respondent's notes lack history of present illness, adequate exams, past medical, surgical, social or family history pertinent to chronic pain evaluations.

(l) Respondent prescribed Patient DM the three-drug combination of hydrocodone/apap, alprazolam, and amphetamine salt combinations,

with insufficient documented medical justification of the appropriateness of their coprescription.

(m) Respondent's notes lack adequate diagnostic testing or patient records to support the diagnosis of attention deficit disorder.

(n) The file lacks documentation that Respondent addressed Patient DM's violation of the controlled substance agreement and apparent drug diversion or drug abuse, which would have been apparent from a review of MAPS.

Patient SW

(o) Respondent's notes lack history of present illness, adequate exams, past medical, surgical, social or family history pertinent to chronic pain evaluations.

(p) Respondent's notes lack adequate diagnostic testing or patient records to support the diagnosis of attention deficit disorder.

(q) Respondent prescribed Patient SW a three-drug combination of hydrocodone/apap, alprazolam, and amphetamine salt combinations, with insufficient documented medical justification of the appropriateness of their coprescription. Respondent also prescribed Patient SW phentermine without documenting the appropriateness of prescribing two stimulants simultaneously.

(r) Respondent did not document comment on records from another provider that included diagnoses of bipolar disorder and cannabis dependence.

(s) The file lacks documentation that Respondent addressed Patient DM's violation of the controlled substance agreement and apparent drug diversion or drug abuse, which would have been apparent from a review of MAPS.

Patient TP

(t) Patient TP's file includes only a single note stating Patient TP's chief complaint and minimal additional information on a medical history form.

(u) Respondent prescribed Patient TP a three-drug combination of opioids (hydrocodone/apap and oxycodone), alprazolam, and amphetamine salt combinations, with insufficient documented medical justification of the appropriateness of their coprescription.

(v) The file lacks documentation that Respondent addressed Patient TP's drug diversion or drug abuse, which would have been apparent from a review of MAPS.

Patient HO

(w) Respondent's notes lack history of present illness, adequate exams, past medical, surgical, social or family history pertinent to chronic pain evaluations.

(x) Respondent prescribed Patient HO a three-drug combination of opioids (hydrocodone/apap, and oxycodone), alprazolam, and amphetamine salt combinations, with insufficient documented medical justification of the appropriateness of their coprescription.

(y) The file lacks documentation that Respondent addressed Patient HO's violation of the controlled substance agreement and apparent drug diversion or drug abuse, which would have been apparent from a review of MAPS.

COUNT I

Respondent's conduct constitutes a violation of a general duty, consisting of negligence or failure to exercise due care, 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: 04/27, 2017

By: Kim Gaedeke, Director
Bureau of Professional Licensing

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