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

In the Matter of

KENNETH CHUN, M.D.
License No. 43-01-038189
_____/

Complaint No. 43-16-141087
(Consolidated with 43-17-143784)

ORDER OF SUMMARY SUSPENSION

An administrative complaint has been issued against Respondent under the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 *et seq*, promulgated rules, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq*.

After consideration of the documentation filed in this case and consultation with the Chairperson of the Board of Medicine, the Department concludes that the public health, safety or welfare requires emergency action, as allowed by section 16233(5) of the Public Health Code and section 92(2) of the Administrative Procedures Act.

THEREFORE, IT IS ORDERED that Respondent's license to practice medicine in the State of Michigan shall be summarily suspended commencing on the date this order is served.

Code section 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 has the right to petition for the dissolution of this order of summary suspension. This petition shall clearly state that it is a Petition for Dissolution of Summary Suspension and shall be filed with the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, P.O. Box 30670, Lansing, Michigan 48909, with a copy served upon the Department of Attorney General, Licensing & Regulation Division, P.O. Box 30758, Lansing, Michigan, 48909.

Upon receipt of such a petition, an administrative hearing will immediately be scheduled before an administrative law judge, who shall dissolve the order of summary suspension unless sufficient evidence is produced to support a finding that the public health, safety, or welfare requires emergency action and a continuation of the suspension order.

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS

By: _____
Kim Gaedeke, Director
Bureau of Professional Licensing

Dated: 04/25/2017

LF: 2017-0162797-A/Chun, Kenneth, M.D., 141087/Order of Summary Suspension – 2017-04-25

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
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ADMINISTRATIVE COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Andrew J. Hudson, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing (Complainant), files this administrative complaint against Kenneth Chun, M.D. (Respondent) alleging upon information and belief as follows:

JURISDICTIONAL ALLEGATIONS

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 medicine pursuant to the Public Health Code and holds a controlled substance license.

3. Section 16221(a) of the Code authorizes the Disciplinary Subcommittee to take disciplinary action against Respondent 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, Respondent's ability to safely and skillfully practice medicine.

4. Section 16221(b)(i) of the Code authorizes the Disciplinary Subcommittee to take disciplinary action against Respondent 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 authorizes the Disciplinary Subcommittee to take disciplinary action against Respondent for obtaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 or a drug as defined in section 7105 without lawful authority, or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

6. Section 16233(5) of the Public Health Code provides for the summary suspension of a license, reading, 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, being section 24.292 of the Michigan Compiled Laws.

7. Section 16226 of the Code authorizes the DSC to impose sanctions against a person licensed by the Board if, after opportunity for a hearing, the DSC determines that a licensee violated one or more of the subdivisions contained in section 16221 of the Code.

FACTUAL ALLEGATIONS

8. A review of prescription data for calendar year 2015, from the Michigan Automated Prescription System, revealed that Respondent had prescribed over 26,100 prescriptions for controlled substances, representing 2,616,800 dosage units (tablets/capsules).

9. MAPS data analysis further revealed that during calendar year 2015 Respondent was the number 1 prescriber of methadone in the State of Michigan, and the 15th highest prescriber of hydrocodone. Overall, Respondent was the 2nd highest prescriber of all controlled substances for 2015.

10. MAPS data was analyzed and compared for 2015, 2016 and the beginning of 2017 and revealed the following prescribing practices:

	2015	1/1/16 to 6/30/16	7/1/16 to 2/9/17	1/1/16 to 12/31/16	1/1/17 to 2/9/17
alprazolam 1 mg	5820 (22.28%)	3143 (22.08%)	3844 (21.47%)	6314 (21.77%)	673 (21.34%)
hydrocodone/apap	5248 (20.09%)	3033 (21.31%)	3848 (21.49%)	6203 (21.39%)	680 (21.57%)
methadone	2331 (8.92%)	1211 (8.51%)	1399 (7.81%)	2384 (8.22%)	233 (7.39%)
Total Controlled Substance RXs	26,124	14,232	17,905	28,999	3153

The data set forth above evidences an increase in the volume of prescribing from 2015 to 2016.

11. A review of rankings of the top prescribers in the State of Michigan demonstrated that Respondent is consistently one of the top controlled substance prescribers in the State:

	2015	Q1 - 2016	Q2 - 2016	Q3 - 2016	Q4 - 2016
All Controlled Substances	2	2	1	1	2
methadone	1	1	1	1	1
alprazolam 1 mg	1	1	1	1	1
hydrocodone/apap	15	11	6	5	7
hydrocodone/apap - 7.5	1	1	1	1	1

12. Complainant obtained the medical records of patients John Doe #1, John Doe #2, John Doe #3, John Doe #4, John Doe #5, John Doe #6, Jane Doe #1, Jane Doe #2, Jane Doe #3, and Jane Doe #4 for review to determine if medications were being prescribed for legitimate medical purposes. Expert review revealed that Respondent was prescribing controlled substances contrary to applicable standards of practice in the following manner:

a. Respondent's documentation is inadequate and does not meet the standards of practice for the prescribing of controlled substances as Respondent does not document a discussion with the patient regarding the risks and benefits of treatment. Respondent does not document an initial pain level or the level of functioning and in subsequent visits does not document how medical therapy affects the pain level or ability to function. Respondent does not document a physical examination relative to the patient's complaints of pain. Respondent does not document a mental health assessment. Respondent does not document that he discusses the results of urine drug screens with patients when the results demonstrate non-compliance with their medication regimen, and possible substance abuse or diversion.

b. Respondent's patient charts do not contain treatment plans or goals of treatment. There is no documentation that any treatment plan besides treatment with controlled substances is utilized. Respondent's patient charts do not contain evidence that other therapies such as non-steroidal anti-inflammatory drugs, physical or occupational therapy, referral to physical therapy and rehabilitation doctors or to orthopedic specialists are made before the initiation of treatment with opioids.

c. Respondent does not perform a baseline EKG before prescribing methadone and does not do follow-up EKGs for patients being prescribed methadone.

d. Respondent routinely prescribes opioids and benzodiazepines together without documentation that he discussed the risk of combination therapy with the patient and without documenting why he believes this combination of medications is justified for the particular patient.

e. Respondent does not offer naloxone prescriptions to patients on combination therapy who are at increased risk for respiratory depression and death.

f. Morphine equivalent dosages for greater than 50 mg are to be avoided; however, 8 of the patient charts reviewed demonstrated these patients were on dosages exceeding 50 mg and there was no documentation as to why such high-risk therapy was necessary. Furthermore, 2 patients were on 180 mg of morphine equivalent, and no justification was given.

g. Respondent lists depression and anxiety as diagnoses for patients without documenting a mental health assessment, or that he addresses the topics of abuse, addiction or diversion. There are no referrals to mental health professionals or discussion of these conditions beyond prescribing controlled substances.

h. Respondent routinely prescribes the strongest dosage of medications and there is no documentation of attempts to wean patients off of high-dose opioids.

i. Respondent prescribed a combination of methadone and alprazolam to patients Jane Doe #3, John Doe #6 and John Doe #3 without documentation as to why the combination of medications was justified, given their additive affect and risk of respiratory depression and death. There is no documentation that Respondent discussed the risk of this combination therapy with the patients.

j. Respondent treated patients Jane Doe #1, John Doe #3, John Doe #6, and Jane Doe #4 for opioid dependence with prescription methadone when this is not authorized by federal law.

k. Respondent did not document that he accessed the MAPS program to determine whether patients were doctor shopping.

13. John Doe #1. Respondent prescribed a combination of Norco, Xanax, and Ambien without offering alternative therapies, discussing the risk of combination therapy or establishing treatment goals. Catapres is added to the medical regimen, adding to the additive respiratory depressive effect and this is not discussed with the patient. Respondent does not document a discussion of urine drug screen results including a result positive for heroin. Methadone is prescribed for opioid dependence, despite the fact that this is contrary to federal law. Alprazolam is prescribed for anxiety without any documentation of the cause of the anxiety, referral or treatment goals. There is no discussion regarding treatment of general medical conditions.

14. John Doe #2. Respondent did not document a physical examination, discuss the results of urine drug screening, or offer alternative treatment for chronic pain besides opioids. Respondent does not assess the effect of medication at subsequent visits and does not discuss why he is continuing high dose therapy. Respondent prescribed a combination of opioids and benzodiazepines without documenting why this combination was justified or that he discussed the risk of therapy with the patient. Respondent prescribed Adderall for ADHD without any documentation demonstrating that the patient had this condition.

15. John Doe #3. Respondent prescribed suboxone and alprazolam without documenting a medical necessity or a discussion with the patient regarding risks and benefits. There appeared to be a risk for addiction and/or diversion as the patient made a specific request for 5 Dilaudid tablets daily, and other treatment

providers' notes in the chart referenced illicit drug use. Respondent prescribed the highest dosage of Dilaudid to the patient despite evidence of addiction and risk of diversion. Respondent also prescribed Fioricet, Catapres and Adderrall which all have additive effects on respiration. Again, there was no documentation as to the medical necessity for this combination of medications.

16. John Doe #4. Respondent prescribed Dilaudid, Norco, oxycodone, Opana ER, Xanax 2 mg, Adderall, Ambien, Provigil and Adipex. The poly-pharmacy cannot be medically justified, is not explained in the chart, and posed a serious risk of arrhythmia and respiratory depression to the patient.

17. John Doe #5. The patient is consistently prescribed Norco, Xanax and Vyvanse with no medical justification in the chart and no documentation that the risk of combination therapy is discussed with the patient. The patient is noted to have been hospitalized for a heart attack, but there are no specifics in the chart as to the cardiac status.

18. John Doe #6. Respondent prescribed methadone for maintenance of opioid addiction in violation of federal law and failed to perform EKGs to monitor for a prolonged QT wave. Methadone was combined with Xanax and Ambien with no documented clinical indication or discussion with the patient. The patient was at increased risk due to asthma and collateral information from the patient's family that he stopped breathing while sleeping. Furthermore, inconsistent urine drug screens are not discussed with the patient.

19. Jane Doe #1. Respondent prescribed a combination of Fentanyl, Klonopin and methadone without documenting a justification for this combination of therapy or that he discussed the risks of combination therapy with the patient. The highest dosage of medications is used without documenting why high dosages were necessary, how the medications were affecting pain levels or functioning or that he attempted to titrate the dosages down. Respondent also prescribed medication for depression and ADHD without any discussion of these conditions, how the diagnoses were made, how functioning was affected or why medications were necessary.

20. Jane Doe #2. The patient was on high dose Norco and Vicodin when she first presented to Respondent. There were 4 other prescribers besides Respondent. Respondent did not attempt to obtain prior records and treated this patient with combinations of hydrocodone/apap with Klonopin and Percocet with Xanax. There was mention in the chart that the patient would "be having another child soon" but no documentation of a pregnancy test and whether the patient was seeing another provider for pre-natal care. Respondent also prescribed a Fentanyl patch and Prozac. There is no discussion in the chart as to what the rationale is for various medications prescribed or that risks were discussed with the patient.

21. Jane Doe #3. The patient was hospitalized for bi-polar disorder and discharged on Depakote and Zyprexa; however, there is no discussion in the chart regarding the patient's mental health condition. Furthermore, there is a history of methadone overdose, yet Suboxone is prescribed. Respondent prescribes narcotics

to Jane Doe #3 at all visits without any discussion in the chart about the medical justification, given the patient's risk for substance abuse, addiction and death. Respondent also prescribes Ambien and Xanax without commenting on how the bi-polar disorder is being managed. There is also evidence of doctor shopping and the patient losing medications, yet there is consistent controlled substance prescribing.

22. Jane Doe #4. Respondent prescribed methadone for maintenance of opioid addiction in violation of federal law and failed to perform EKGs to monitor for a prolonged QT wave. In addition to prescribing methadone, Respondent prescribed Valium, and Adderall without documenting a medical justification or that he discussed the risk of combination therapy with the patient.

COUNT I

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

COUNT II

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

COUNT III

25. Respondent's conduct as described above constitutes prescribing drugs for other than lawful diagnostic or therapeutic purposes, in violation of section 16221(c)(iv) of the Code.

Complainant requests that pending the hearing and final determination, Respondent's license to practice as a doctor of medicine in the State of Michigan be summarily suspended pursuant to section 92 of the Administrative Procedures Act

and section 16233(5) of the Public Health Code for the reason that, based on the allegations set forth herein, to permit Respondent to continue to practice the profession constitutes a danger to the public health, safety and welfare requiring emergency action.

RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(8) of the Public Health Code, Respondent has 30 days from 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 transmittal of the complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Respectfully Submitted,

BILL SCHUETTE
Attorney General

Dated: 4-25-17

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