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

In the Matter of

LESLY POMPY, M.D.
License Number: 43-01-058720

STATE OF MICHIGAN)
)
COUNTY OF INGHAM)

FILE NO.: 43-16-143670

PROOF OF SERVICE

I, Dina Young, of Lansing, County of Ingham, State of Michigan, do hereby state that on August 4, 2017, I mailed the following documents to each of the parties listed below, enclosed in an envelope bearing postage fully prepaid, plainly addressed as follows:

ORDER OF SUMMARY SUSPENSION signed August 3, 2017 and ADMINISTRATIVE COMPLAINT signed August 3, 2017.

By: (x) Certified Mail, Return Receipt Requested
(x) First Class Mail

To: Lesly Pompy, M.D.
Mercy Memorial Hospital
730 N. Macomb Street, Suite 222
Monroe, MI 48162

By: (x) Interdepartmental Mail

To: Andrew Hudson, Manager
Drug Monitoring Section
Bureau of Professional Licensing

Dina Young
Dina Young
Enforcement Division

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

In the Matter of

LESLY POMPY, M.D.
License No. 43-01-058720,

File No. 43-16-143670

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 Medicine 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 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: 08/03, 2017

By: Kim Gaedeke, Director
Bureau of Professional Licensing

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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 Lesly Pompy, M.D. 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. Respondent also holds a controlled substance license. Respondent's drug treatment program prescriber license expired in 2013.

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

4. Buprenorphine/naloxone (Suboxone) is an opioid schedule 3 controlled substance commonly used in opioid dependence treatment. Suboxone is known as "prison heroin," and is commonly abused and diverted.

5. Fentanyl is an extremely potent opioid schedule 2 controlled substance. Subsys is fentanyl in sublingual spray form. Its manufacturer is Insys Therapeutics, Inc. (Insys). Subsys is an extremely dangerous drug, due to its high addiction potential and capacity for abuse. It is indicated only for treatment of breakthrough pain in cancer patients.

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

7. The federal Centers for Disease Control and Prevention guidelines for opioid prescribing direct providers to use "extra precautions" when prescribing opioids with a daily morphine milligram equivalent (MME) of 50 or more. Those guidelines also direct providers to "avoid or carefully justify" increasing dosage to a daily MME of 90 or more.

8. Complainant 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.

9. MAPS data revealed that Respondent ranked among Michigan's highest-volume prescribers of commonly abused and diverted controlled substances in 2015 and during the first three quarters of 2016:

Drug	Licensee's 2015 rank	Licensee's 2016 Q1 rank	Licensee's 2016 Q2 rank	Licensee's 2016 Q3 rank
(a) All Controlled Substances	**3**	**3**	**4**	**3**
(b) Hydrocodone combination products (all strengths)	12	7	8	6
(c) Hydrocodone combination products (10 mg)	9	7	9	8
(d) Methadone	4	5	5	5
(e) Morphine	35	31	19	20
(f) Oxycodone	4	3	3	3

10. MAPS data for 2015 and for the first three quarters of 2016 revealed that Respondent authorized the following number of prescriptions for the following commonly abused and diverted controlled substances:

	2015		2016 thru Sep't 30	
(a) Hydrocodone combination products (all strengths)	5581	25.9%	4848	27.1%
(b) Oxycodone combination products (all strengths)	4029	18.7%	3398	19.0%
(c) Buprenorphine/naloxone	1994	9.3%	1473	8.2%
(d) Methadone	1438	6.7%	1041	5.8%
(e) Morphine	1120	5.2%	1012	5.7%
(f) Total, (a) - (d)	14162	**65.7%**	11772	**65.8%**
Total Controlled Substances	**21552**	100%	**17901**	100%

Respondent authorized, on average, more than ***eighty-nine*** controlled substance prescriptions for every workday between January 1, 2015 and September 30, 2016.

11. The federal Drug Enforcement Agency, in conjunction with Monroe Area Narcotics Team Investigation Services and Blue Cross and Blue Shield of Michigan, investigated Respondent's controlled substance and patient treatment practices and related issues, and found the following:

(a) Respondent treated drug addiction patients by prescribing Suboxone without a current Michigan drug treatment program prescriber license.

(b) Respondent treated far more patients with Suboxone and buprenorphine than the federal Drug Addiction Treatment Act allowed.

(c) Respondent possessed numerous controlled substances in his office and at his home without required records. Investigators found and confiscated many large garbage bags containing controlled substance samples and patient prescriptions.

(d) A representative of Insys worked in Respondent's office completing paperwork to obtain prior authorizations for patients to receive Subsys oral fentanyl spray prescriptions. Insys provided Respondent with consideration in return for prescribing Subsys.

(e) Respondent prescribed Subsys to at least 17 patients who did not report cancer breakthrough pain.

(f) Respondent provided ongoing prescriptions for controlled substances to an undercover investigator despite drug screens with negative results for the prescribed controlled substances.

(g) Respondent spent little or no time treating or consulting with his patients, but falsely represented he spent considerable time treating and consulting with individual patients for purposes of health coverage billing.

12. During the course of the investigation, Respondent admitted he usually sees at least 60 patients per day and some days sees 250 to 300 patients.

13. As part of an investigation of Respondent's prescribing practices, the Department received and analyzed medical records of ten (10) of Respondent's patients

14. An expert reviewed the individual medical files Respondent produced and discovered the following deficiencies consistently across files:

(a) Respondent's patient files are unnecessarily voluminous due to cut-and-pasted segments repeated from note to note.

(b) Respondent's patient notes are poorly organized and frequently unintelligible, possibly due to ineffective cut-and-pasting.

(c) Despite their length, the patient files lack a description of the patient's pain problem adequate to permit informed prescription decision-making.

(d) Every patient file describes the patient's prognosis as "guarded," which suggests Respondent made no actual consideration of individual patient prognosis.

(e) Despite the fact that each patient was apparently seen for a diagnosis of chronic pain, the musculoskeletal element of the review of systems were usually negative for symptoms.

(f) Respondent's files failure to document consideration of alternative treatments to opioid prescribing, except for pain blocks Respondent himself performed and for which he billed.

(g) Respondent's files do not contain treatment records from previous physicians, nor do they contain documentation of any contact with other health care providers (except for imaging study reports).

(h) Despite occasionally stating that MAPS records were reviewed, Respondent's files often do not contain any MAPS reports.

(i) Respondent's files do not contain narcotic agreements with the patient.

(j) Respondent's patient files consistently record multiple dates of service with no clinical information at all.

(k) Respondent failed to document responses to evidence of abuse or diversion of controlled substances.

(l) Respondent continued to prescribe controlled substances with high addiction potential to patients while failing to document asking patients if they exhausted their previously prescribed supply.

(m) Respondent routinely prescribed high opioid dosages, consistently exceeding 50 MMEs, and in some cases exceeding 100 MMEs, without adequate explanation for the high level of narcotic dosage.

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

Patient DA[1]

(a) Respondent prescribed Patient DA opioids with dosages exceeding 50 MMEs during Respondent's first patient visit.

(b) Respondent prescribed Patient DA controlled substances despite MAPS reports showing that Patient DA filled controlled substance prescriptions from multiple providers before and during Respondent's treatment of Patient DA.

[1]Patients are identified by their initials.

(c) Respondent prescribed Patient DA naloxegol, an opioid antagonist contraindicated for pregnant patients, even though Patient DA was pregnant.

(d) Respondent noted Patient DA's pain at 10/10, and also noted several other complaints in review of systems, without further discussion or documented inquiry.

(e) On September 1, 2016, Respondent documented that DA complained of chest pain, but he failed to perform any evaluation or explore the history behind her symptoms.

Patient TB

(f) Respondent prescribed Patient TB controlled substances despite MAPS reports showing that Patient TB filled controlled substance prescriptions from multiple providers during Respondent's treatment of Patient TB.

(g) Respondent performed several procedures without adequate studies or examinations to support the need for them.

Patient RB

(h) Respondent prescribed Patient RB controlled substances despite MAPS reports showing that Patient RB filled controlled substance prescriptions from multiple providers before and during Respondent's treatment of Patient RB.

(i) Respondent prescribed Patient RB high dosages of opioids with inadequate clinical justification.

(j) Respondent continued prescribing Patient RB controlled substances despite discrepant results on urine drug screens (UDSs).

Patient RF

(k) Respondent prescribed Patient RF controlled substances despite MAPS reports showing that Patient RF filled controlled substance prescriptions from multiple providers during Respondent's treatment of Patient RF.

(l) Respondent's patient file documented only rare physical examinations.

(m) Despite ongoing prescribing of opioid analgesics, Respondent's review of systems consistently was negative for complaints.

(n) Respondent prescribed Patient RF high dosages of opioids with inadequate clinical justification.

(o) In May 2016, Respondent noted a complaint of abdominal pain at an 8/10 level, but made no further comment.

(p) Respondent's file does not include discussion of the abnormal laboratory testing results found there.

Patient JH

(q) Respondent prescribed Patient JH controlled substances despite MAPS reports showing that Patient JH filled controlled substance prescriptions from multiple providers before and during Respondent's treatment of Patient JH.

(r) Respondent incongruously documented that Patient JH's back, neck and thigh pain (elsewhere noted at a 10/10 level) is exacerbated by "wind."

Patient CH

(s) Respondent prescribed Patient CH controlled substances despite MAPS reports showing that Patient CH filled controlled substance prescriptions from multiple providers during Respondent's treatment of Patient CH.

(t) Despite the fact that Patient CH was seen for chronic pain, the musculoskeletal element of the review of systems were always negative for symptoms.

(u) Respondent never documented a specific history or performed examinations to reach a specific diagnosis or justify Patient CH's subjective pain reports or "guarded" prognosis.

Patient MM

(v) Respondent prescribed Patient MM controlled substances despite MAPS reports showing that Patient MM filled controlled substance prescriptions from multiple providers during Respondent's treatment of Patient MM.

(w) Respondent documented a history of lymphoma but did not adequately document the chronology or activity of the disease.

(x) Respondent inadequately responded to noted aberrant drug behavior.

(y) Respondent never performed adequate examinations to determine the neurological or musculoskeletal causes of Patient MM's reported pain, or the reported loss of decreased leg sensation and function, of "buckling of knees," and of cramps.

(z) Respondent, without explanation, changed Respondent's drug therapy from opioid analgesics to Suboxone, despite Patient MM's history of lymphoma and "guarded" prognosis.

Patient JSh

(aa) Respondent prescribed Patient JSh controlled substances despite MAPS reports showing that Patient JSh filled controlled substance prescriptions from multiple providers during Respondent's treatment of Patient JSh.

(bb) Respondent never performed adequate examinations to determine the neurological or musculoskeletal causes of Patient JSh's reported pain.

(cc) On an examination of Patient JSh's lower extremities, Respondent recorded tone and strength at 50% of normal. Despite this serious abnormality, further tests were not performed or ordered.

Patient HS

(dd) Respondent prescribed large doses of opioid analgesics to Patient HS, who suffered from COPD and obstructive sleep apnea with hypoxemia, without discussion of the particular risks of respiratory depression for this patient.

(ee) Respondent did not document adequate attention given to Respondent's psychiatric disease.

(ff) Respondent documented prescribing Subsys without corresponding dispensing records in MAPS, which suggests that Respondent was dispensing the drug himself.

(gg) Respondent failed to adequately investigate the source of reported pain, and documented the pain had continued for several years for "unknown" reasons.

(hh) Respondent failed to properly investigate a report of abdominal tenderness.

Patient JSt

(ii) Respondent failed to adequately document and comment on Respondent's report of brain tumor.

(jj) Respondent prescribed Patient JSt controlled substances despite MAPS reports showing that Patient JSt filled controlled substance prescriptions from multiple providers during Respondent's treatment of Patient JSt.

(kk) Respondent documented prescribing Subsys without corresponding dispensing records in MAPS, which suggests that Respondent was dispensing the drug himself.

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).

COUNT V

Respondent's conduct constitutes the promotion, for personal gain, of unnecessary drugs and/or treatments, and is therefore unprofessional conduct in violation of MCL 333.16221(e)(iii).

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: 08/03, 2017

By: Kim Gaedeke, Director
Bureau of Professional Licensing

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