

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

In the Matter of

DANIEL PHILIP ELSKENS, M.D.
License No. 43-01-406954,
Respondent.

File No. 43-21-001227

CONSENT ORDER

On May 27, 2021, the Department of Licensing and Regulatory Affairs executed an Administrative Complaint charging Respondent with violating the Public Health Code, MCL 333.1101 *et seq.*

Respondent has admitted that the facts alleged in the Complaint are true and constitute violation(s) of the Public Health Code. The Disciplinary Subcommittee of the Michigan Board of Medicine (DSC) has reviewed this Consent Order and Stipulation and agrees that the public interest is best served by resolution of the outstanding Complaint.

Therefore, IT IS FOUND that the facts alleged in the Complaint are true and constitute violation(s) of MCL 333.16221(b)(x) and (f).

Accordingly, IT IS ORDERED that for the cited violation(s) of the Public Health Code:

Respondent is placed on PROBATION for a minimum of one (1) day, and not to exceed two (2) years, commencing on the effective date of this Order. The terms of probation shall be as follows:

1. COMPLIANCE WITH WASHINGTON ORDER: Within two (2) years of the effective date of this Order, Respondent shall submit to the Department written documentation from the Washington State Medical Commission verifying that Respondent completed all terms as required by the January 22, 2021 Stipulation to Informal Disposition and that Respondent holds a full and unencumbered license to practice medicine in the state of Washington.

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

2. COMPLIANCE WITH THE PUBLIC HEALTH CODE: Respondent shall comply with all applicable provisions of the Public Health Code and rules promulgated thereunder.
3. COSTS: Respondent shall be solely responsible for payment of all costs incurred in complying with the terms of this Order.

Respondent shall be automatically discharged from probation upon receipt by the Department of satisfactory evidence of the successful completion of the probationary terms as set forth above, PROVIDED compliance occurs within two (2) years, Respondent has paid the fine set forth below, complied with the terms of this Order and has not violated the Public Health Code.

Respondent is FINED \$500.00 to be paid to the State of Michigan within three (3) months of the effective date of this Order. Respondent shall **direct payment** to the **Department of Licensing and Regulatory Affairs, 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 **43-21-001227**.

If Respondent fails to comply with the terms and conditions of this Order, Respondent's license shall be automatically SUSPENDED for a minimum of one (1) day. If, within six (6) months of the suspension of the license, Respondent complies with the terms of this Order, the license shall be automatically reinstated.

If Respondent's license to practice remains suspended for more than six (6) months, Respondent must apply for reinstatement of the license. If Respondent applies for reinstatement of the license, application for reinstatement shall be in accordance with MCL 333.16245 and 333.16247.

This Order shall be effective 30 days from the date signed by the DSC, as set forth below.

MICHIGAN BOARD OF MEDICINE

By:  For
Chairperson, Disciplinary Subcommittee

Dated: November 17, 2021

STIPULATION

1. The facts alleged in the Complaint are true and constitute violation(s) of MCL 333.16221(b)(x) and (f).

2. Respondent understands and intends that, by signing this Stipulation, Respondent is waiving the right, pursuant to the Public Health Code, the rules promulgated thereunder, and the Administrative Procedures Act, MCL 24.201 *et seq.*, to require the Department to prove a violation of the Public Health Code by presentation of evidence and legal authority, and Respondent is waiving the right to appear with an attorney and such witnesses as Respondent may desire to present a defense to the charges.

3. This matter is a public record required to be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq.*, and this action will be reported to the National Practitioner Data Bank and any other entity as required by state or federal law.

4. Venkat Rao, M.D., a member of the Board who supports this proposal, and the Department's representative are both free to discuss this matter with the DSC and recommend acceptance of the resolution set forth in this Order.

5. A factor considered in the formulation of this order is:

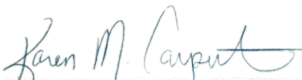
a. Respondent has been licensed in Michigan since 1991 and has no prior discipline.

b. Respondent has paid the fine as required by the January 22, 2021 Stipulation to Informal Disposition and is scheduled to take the required seminar in October 2021, after delays in scheduling due to Covid.

6. This Order is approved as to form and substance by Respondent and the Department and may be entered as the final order of the DSC in this matter.

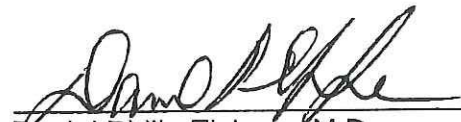
7. This proposal is conditioned upon acceptance by the DSC. Respondent and the Department expressly reserve the right to further proceedings without prejudice should this Order be rejected.

AGREED TO BY:

 signing for
Forrest Pasanski, Director
Enforcement Division
Bureau of Professional Licensing

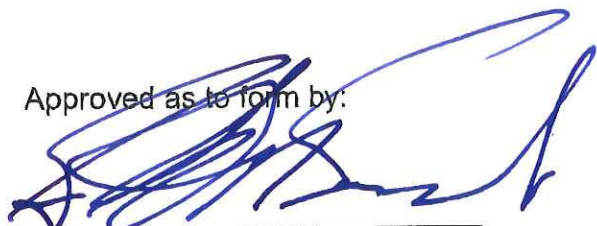
Dated: September 30, 2021

AGREED TO BY:


Daniel Philip Elskens, M.D.
Respondent

Dated: 9/19/21

Approved as to form by:


Scott A. Saurbier (P19914)
Attorney for Respondent

Dated: 9/26/21

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ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, by Forrest Pasanski, Enforcement Division 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 (DSC) 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 lapsed controlled substance license. Respondent has an address of record with the Department of Sandusky, Ohio.

3. On January 22, 2021, the State of Washington Medical Commission (Washington Commission) executed a Stipulation to Informal Disposition that, in part, required Respondent to complete a compliance orientation, four hours of continuing

medical education, and pay costs of \$1,000.00. The disciplinary action was based on Respondent performing an anterior discectomy and fusion¹ at the wrong level. A copy of the disciplinary documents, marked Exhibit A, is attached and incorporated.

4. Respondent failed to notify the Department of the action within 30 days of the date of the action.

COUNT I

The action by the Washington Commission, as set forth above, constitutes a final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state, a territory of the United States, or by another country, in violation of MCL 333.16221(b)(x).

COUNT II

Respondent's conduct, as set forth above, evidences a failure to notify the Department of the disciplinary action by the Washington Commission within 30 days from the date of the action, as required by MCL 333.16222(4), in violation of MCL 333.16221(f).

RESPONDENT IS NOTIFIED that, pursuant to MCL 333.16231(8), Respondent has 30 days from the date of receipt of this Complaint to submit a written response to the allegations contained in it. Pursuant to MCL 333.16192(2), Respondent

¹ A type of neck surgery that involves removing damaged discs.

is deemed to be in receipt of the complaint 3 days after the date of mailing listed in the attached proof of service. The written response shall be submitted by email to the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing to LARA-BPL-RegulationSection@michigan.gov. If unable to submit a response by email, Respondent may submit by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 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 DSC to impose a sanction, pursuant to MCL 333.16231(9).

Dated: 5/27/2021


Forrest Pasanski, Director
Enforcement Division
Bureau of Professional Licensing

Attachment

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