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

MICHAEL J. BACON, D.O.  Complaint No. 51-17-146386
License No. 51-01406585

CONSENT ORDER AND STIPULATION

CONSENT ORDER

An administrative complaint was filed with the Disciplinary Subcommittee of
the Board of Osteopathic Medicine & Surgery on May 12, 2017, charging Michael J.
Bacon, D.O. (Respondent) with having violated sections 16221(a), (b)(ii) and (b)(iii)
of the Public Health Code, as amended, MCL 333.1101 et seq.

Based on the administrative complaint and after consultation with the
Chairperson of the Board of Osteopathic Medicine and Surgery, the Department
summarily suspended Respondent’s license to practice osteopathic medicine by
order dated May 12, 2017.

A hearing on a petition to dissolve the Department’s order of summary
suspension was conducted on June 9, 2017, following which the administrative
hearing officer entered an order dissolving the summary suspension.

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) and (b)(ii) of the Public Health Code.

Accordingly, for these violations, IT IS ORDERED:

Respondent is placed on PROBATION for a period of two years commencing on the effective date of this order. Reduction of the probation period shall occur only while Respondent is employed as an osteopathic physician. 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, provided compliance occurs within two years. If Respondent fails to complete any term or condition of probation as set forth in this order within two years of the effective date of 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. **EMPLOYER REPORTS.** In the event Respondent is employed in any capacity as an osteopathic physician, he shall immediately provide copies of this order and the complaint dated May 12, 2017, to his employer. Respondent’s immediate supervisor at the place of employment shall file reports with the Department, as further provided below, advising of Respondent’s work performance. If, at any time, Respondent fails to comply with minimal standards of acceptable and prevailing practice, or appears unable to practice with reasonable skill and safety, his supervisor shall immediately notify the Department.

B. **EMPLOYMENT CHANGE.** Respondent shall report to the Department in writing any and all changes in his employment within 15 days of such change. Respondent shall provide copies of this order and the complaint dated May 12, 2017, to each successor employer in any position in which he is working as an osteopathic physician. The successor employer shall file reports with the
Department advising of Respondent's work performance, as set forth above.

C. MONITORING AGREEMENT. Within 30 days of the effective date of this order, Respondent shall contact the Health Professional Recovery Program (HPRP) at (800) 453-3784, and shall undergo a chemical dependency/substance abuse evaluation as directed by HPRP.

The evaluation shall be conducted at Respondent's expense and Respondent shall ensure that a copy of the evaluation report is provided to HPRP.

If the evaluation determines that Respondent does not require treatment monitoring, HPRP shall immediately notify the Department in writing of this determination, and Respondent need not enter into a monitoring agreement.

If the evaluation determines that Respondent is in need of treatment monitoring, Respondent shall promptly enter into and shall comply with the terms of a disciplinary monitoring agreement with HPRP. 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.

D. 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.

E. REPORT OF NON-EMPLOYMENT. If, at any time during the period of probation, Respondent is not employed as an osteopathic
physician, he shall file a report of non-employment with the Department. Respondent shall file this report within 15 days after becoming unemployed. Respondent shall continue to file reports of non-employment on a quarterly basis until he returns to practice as an osteopathic physician. If Respondent subsequently returns to practice as an osteopathic physician, he shall notify the Department of this fact within 15 days after returning to practice.

F. REPORTING PROCEDURE. Unless otherwise provided above, all reports required by the terms of probation shall be filed on a quarterly basis, the first report to be filed at the end of the third month of probation, and subsequent reports every three months until Respondent is discharged from probation. In addition to receiving reports as required above, the Department or its authorized representative may periodically contact the reporting individuals or agencies to inquire of Respondent's progress. By accepting the terms of this consent order and stipulation, Respondent has authorized the release of all necessary records and information.

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 $1,000.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 51-17-146386 clearly indicated on the check or money order), and shall be payable within sixty (60) 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 timely pay the fine, his license shall be suspended until payment is received. If Respondent's license remains suspended for longer than six
months and one day, reinstatement is not automatic. 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.

Count III of the complaint, alleging a violation of section 16221(b)(iii) of the Public Health Code, is DISMISSED.

Respondent shall direct any communications to the Department that are required by the terms of this order to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, Michigan 48909.

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 thirty (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 ______________

MICHLI&AN BOARD OF
OSTEOPATHIC MEDICINE AND
SURGERY

By __________________________
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, 1969 PA 306, as amended, 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 Conferees David P. Walters, D.O., M.H.S.A.
Dr. Walters and the parties considered the following factors in reaching this agreement:

A. Respondent acknowledged his problem with alcohol and understands and appreciates the accountability and support provided by HPRP.

B. Respondent failed to provide his HPRP worksite monitor with all the pertinent details of both his June 2013 and January 2015 relapses on alcohol in an attempt to hide the relapses from his employer.

C. Respondent works at a clinic predominantly focused on general family practice. Respondent works 4 days a week for approximately 8 hours each day.

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

AGREED TO BY:

Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 7/17/2017

Michael J. Bacon, D.O.
Respondent
Dated: 7-14-17

Christopher Pencak (P34701)
Attorney for Respondent
Dated: 7/14/17
STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:
Bureau of Professional Licensing,
Petitioner

v

Michael J. Bacon, D.O.,
Respondent

Docket No.: 17-011162
Case No.: 51-17-146386
Agency: Bureau of Professional Licensing
Case Type: Summary Susp.
Filing Type: Summary Suspension

Issued and entered
this 4th day of June, 2017
by: Michael J. St. John
Administrative Law Judge

ORDER DISSOLVING SUMMARY SUSPENSION

WHEREAS, a hearing was held on June 9, 2017 in the above-captioned matter on
Respondent's petition to dissolve the Order of Summary Suspension issued on May 12,
2017 by the Director of the Bureau of Professional Licensing within the Department of
Licensing and Regulatory Affairs (Department); and

WHEREAS, the undersigned Administrative Law Judge has been appointed to render a
decision, subsequent to hearing, on whether the Order of Summary Suspension should
be continued or dissolved; and

WHEREAS, the undersigned Administrative Law Judge has determined, at the
conclusion of the hearing, that sufficient evidence has not been produced to support a
finding that the public health, safety, or welfare requires emergency action and a
continuation of the Order of Summary Suspension;

NOW THEREFORE, IT IS ORDERED that the Order of Summary Suspension issued by
the Department on May 12, 2017 shall be and hereby is dissolved.

Michael J. St. John
Administrative Law Judge
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

MICHAEL J. BACON, D.O.
License Number: 51-01-006585

File Number: 51-17-148386

ORDER OF SUMMARY SUSPENSION

An Administrative Complaint has been filed against Respondent as provided by the Public Health Code, MCL 333.1101 et seq., the rules promulgated thereunder, and the Administrative Procedures Act, MCL 24.201 et seq.

After careful consideration of the documentation filed in this matter, and after consultation with the Chairperson of the Board of Osteopathic Medicine and Surgery, pursuant to section 16233(5) of the Public Health Code, supra, the Department finds that the public health, safety, or welfare requires emergency action. Therefore,

IT IS ORDERED that Respondent’s license to practice as an osteopathic physician in the state of Michigan is SUMMARILY SUSPENDED, commencing the date this Order is served.

Section 7311(6) of the Public Health Code, supra, 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 Public Health Code.

Under Mich Admin Code, R 792.10702, Respondent has the right to petition for the dissolution of this Order of Summary Suspension. The 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, MI 48909.

MICHIGAN DEPARTMENT OF LICENSING
AND REGULATORY AFFAIRS

Dated: 05/19/2007

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

MICHAEL J. BACON; D.O.
License Number: 51-01-006585

ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Department), by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Michael J. Bacon, D.O. (Respondent) 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 section 16226 of the Public Health Code, supra, the Board’s Disciplinary Subcommittee is empowered to discipline licensees for violations of the Public Health Code.

2. Respondent licensed to practice as an osteopathic physician in the state of Michigan and has a controlled substance license.

3. Section 7311(6) of the Public Health Code, supra, 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 Public Health Code.
4. Section 16233(5) of the Public Health Code, supra, provides, 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, MCL 24.292.

5. Section 16106a of the Public Health Code, being MCL 333.16106a, defines substance abuse as a "substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d."

6. Section 100d(11) of the Mental Health Code, being 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 abuse is considered a substance use disorder."

7. Section 100d(10) of the Mental Health Code, being 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.
8. On or around June 24, 2011, Respondent self-reported to the Health Professional Recovery Program (HPRP), following his second-alcohol related driving conviction.

9. On July 5, 2011, Respondent completed an intake interview with HPRP and was directed to undergo a substance use evaluation.

10. On August 4, 2011, Respondent underwent a substance use evaluation and was diagnosed with "Alcohol Dependence, moderate, in early remission."

11. On November 7, 2011, Respondent entered into a three-year substance use monitoring agreement. The terms of the monitoring agreement required, in part, that Respondent submit to urine drug screens by calling the "Hi Ri" designated laboratory (previously Fortes Laboratories, now First Lab) and, when instructed, submit a specimen in the manner requested; abstain from any mood-altering substances, including alcohol and controlled substances; participate in therapy, as directed by HPRP providers; and submit all required self-reports to HPRP.


13. On or around August 27, 2013, Respondent "self-reported" to his therapist that he relapsed in June of 2013. However, on or around that same day, Respondent's worksite monitor submitted a quarterly report, which indicated Respondent
was observed by a coworker "intoxicated at a bar" and admitted to a "slip up" when confronted by the coworker.

14. On August 29, 2013, HPRP extended Respondent's monitoring agreement by seven months for the reported relapse.


16. On January 27, 2015, Respondent's worksite monitor notified HPRP that Respondent was sent to the emergency room after he was found "passed out" in his car from "excessive alcohol consumption."

17. On January 29, 2015, HPRP extended Respondent's monitoring agreement by 20 months and required Respondent to enter into an intensive outpatient program (IOP).


20. On December 19, 2016, Respondent's blood alcohol (PEth) test was positive for alcohol.

22. On January 25, 2017, Respondent requested a review of HPRP's decision to extend his monitoring agreement. However, Respondent failed to provide all the necessary paperwork to HPRP for the review, and HPRP refused to consider Respondent's request.

23. On February 20, 2017, Respondent informed HPRP that he would no longer have any contact with HPRP, complete any urine drug screens, or submit any reports.

24. From February 21, 2017, through March 2, 2017, Respondent failed to call First Lab eight times, including one where Respondent was required to submit a urine drug screen.

25. On March 2, 2017, HPRP notified Respondent that his case would be closed non-complaint for his failure to call First Lab, failure to attend individual therapy sessions, and failure to submit an individual therapy quarterly report. HPRP notified Respondent that he had until March 17, 2017, to request a review of HPRP's decision.

26. On April 5, 2017, following a requested "Step 2 review," HPRP's decision to close Respondent's case non-complaint was affirmed.

27. On April 6, 2017, HPRP closed Respondent's case non-compliant and forwarded the matter to the Department.

Complaint
File Number: 51-17-146386
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 section 16221(a) of the Public Health Code, supra.

COUNT II

Respondent's conduct, as set forth above, evidences a substance use disorder, in violation of section 16221(b)(ii) of the Public Health Code, supra.

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 section 16221(b)(iii) of the Public Health Code, supra.

After consultation with the Chairperson of the Board, or his or her designee, pursuant to section 16233(5) of the Public Health Code, supra, the Department states that the public health, safety, and welfare requires emergency action, and, accordingly, Respondent's license to practice as an osteopathic physician in the state of Michigan is summarily suspended, pending a hearing and final determination of this matter.
Pursuant to section 16231(8) of the Public Health Code, supra, Respondent has 30 days from the date of receipt of this Complaint to submit a written response to the allegations contained in this Complaint. The written response shall be submitted to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909.

Pursuant to section 16231(9) of the Public Health Code, supra, Respondent's 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 this Complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Dated: 05/18/2007

Kim Gaedeke, Director
Bureau of Professional Licensing