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

In the Matter of  

GARRETT HOWARD SMITH, M.D.,  
License No. 43-01-074897  

Complaint No. 43-16-138188

CONSENT ORDER AND STIPULATION

CONSENT ORDER

An administrative complaint was filed with the Disciplinary Subcommittee of the Board of Medicine on December 9, 2016, charging Garrett Howard Smith, M.D. (Respondent) with having violated sections 16221(a), (b)(i), (b)(vi), (c)(iv) and (e)(iii) of the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 et seq.

Based on the administrative complaint and after consultation with the Chairperson of the Board of Medicine, the Department summarily suspended Respondent's license to practice medicine by order dated December 13, 2016.

The parties stipulated to the dissolution of the summary suspension. Based on this stipulation, the administrative hearing officer entered an order dissolving the summary suspension on February 16, 2017.

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 section 16221(a) of the Public Health Code.

Accordingly, for these violations, IT IS ORDERED:

Respondent's license is LIMITED for a minimum period of two (2) years commencing on the effective date of this order. Reduction of the limitation period shall occur only while Respondent is employed as a doctor. The details of the limitation are as follows:

A. CONTROLLED SUBSTANCES. Respondent shall not obtain, possess, prescribe, dispense or administer any drug designated as a controlled substance under the Public Health Code or its counterpart in federal law except in a hospital or other institutional setting.

Respondent is placed on PROBATION for a period of two (2) years commencing on the effective date of this order. 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 (2) years. If Respondent fails to complete any term or condition of probation as set forth in this order within two (2) 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 a doctor, he shall immediately provide copies of this order and the complaint dated December 9, 2016, 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 December 9, 2016, to each successor employer in any position in which he is working as a doctor. The successor employer shall file reports with the Department advising of Respondent's work performance, as set forth above.

C. **MEETING WITH BOARD-APPROVED REVIEWER.** Respondent shall meet quarterly with a physician designated by Affiliated Monitors, Inc., or other approved monitor pre-approved by the Chairperson, or the Chairperson's designee, to review Respondent's professional practice.

Within 30 days of the effective date of the order, Respondent shall contact the Compliance Section to obtain the contact information for Affiliated Monitors, Inc., or other approved monitor, or the designated physician reviewer, or request approval of another board approved monitor. When requesting approval of a proposed monitor, Respondent shall provide a copy of the proposed monitor's curriculum vitae to the Department. Respondent shall provide a copy of this order and the complaint dated December 9, 2016, to the proposed monitor before requesting approval of the monitor. Respondent shall not work in any capacity for which a medical license is required until Respondent receives written confirmation from the Department that an Affiliated Monitors physician, or other approved entity, has been designated or the proposed monitor was approved.

The initial meeting shall occur at the end of the third month of probation, and subsequent meetings shall occur every 3 months thereafter until the end of the probationary period. Respondent shall then be responsible for scheduling the time and place of the meetings with the designated physician reviewer. Respondent shall submit the request for the Affiliated Monitors, Inc., designated physician reviewer or other board approved monitor to: Bureau of Professional Licensing, Legal Affairs Division, Compliance Section, Department of Licensing
D. **PHYSICIAN REVIEWER CHANGE.** If at any time during the period of probation, Affiliated Monitors, Inc., is unable to designate a suitable physician to review, or other board approved monitor is unable to review, Respondent's professional practice, Respondent shall report this information in writing to the Department within 15 days of such change and request approval of another physician reviewer or Board Member designated by the Chairperson of the Board of Medicine. Respondent shall submit the request for the designated physician reviewer assignment to: Bureau of Professional Licensing, Legal Affairs Division, Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan 48909, or by fax to (517) 241-9280.

E. **RECORDS REVIEW.** During the period of probation, the designated Board member shall review records of patients treated by Respondent as either outpatients or inpatients. This review may occur at the quarterly meetings described in the above paragraph.

F. **DESIGNATED PHYSICIAN REVIEWER REPORTS.** Respondent's designated physician reviewer 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 designated physician reviewer shall immediately notify the Department.

G. **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.

H. **CONTINUING EDUCATION CREDITS.** Within one year of the effective date of this Order, Respondent shall successfully complete ten (10) hours of continuing education credits in the areas of prescription practices and ethics and legal compliance. These credit hours shall not count toward the number of credit hours required for license renewal. Respondent must seek and obtain advance approval of the continuing education courses from the Chairperson of the Board or the Chairperson's designee. Respondent shall mail requests for approval of a
course and proof of successful completion of a course to the 
Department at the address set forth below.

I. REPORT OF NON-EMPLOYMENT. If, at any time during the 
period of probation, Respondent is not employed as a doctor, 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 
a doctor. If Respondent subsequently returns to practice as a 
doctor, he shall notify the Department of this fact within 15 days 
after returning to practice. If Respondent is required to work 
under supervision as a term of limitation imposed by this order, 
then Respondent must notify the Department before returning 
to work and must not return to work until a supervisor is 
approved, as required by the terms of limitation.

J. 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 Seven Thousand Five Hundred and 00/100 Dollars 
($7,500.00) to be paid by check, money order or cashier's check made payable to the 
State of Michigan (with complaint number 43-16-138188 clearly indicated on the 
check or money order), $3,750.00 shall be due one year after the effective date of the
order. The remaining $8,750.00 shall be due prior to completion of probation. The timely payment of the fine shall be Respondent's responsibility. Respondent shall mail the fine to: Bureau of Professional Licensing, Legal Affairs Division – Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30189, Lansing, Michigan 48909.

Counts II, III, IV and V of the complaint, alleging a violation of sections 16221(b)(i), (b)(vi), (c)(iv) and (e)(iii) of the Public Health Code, are DISMISSED.

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

Reclassification of Respondent's limited license shall not be automatic, but Respondent may petition for reclassification of the limited license upon conclusion of the limitation period. In the event Respondent petitions for reclassification of the license, the petition shall be in accordance with section 16249 of the Public Health Code and Mich Admin Code, R 792.10712. Under these provisions, Respondent must demonstrate that he (1) will practice the profession safely and competently within the area of practice and under conditions stipulated by the Disciplinary Subcommittee, and (2) should be permitted in the public interest to so practice.

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 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 _3-15-17______________________

MICHIGAN BOARD OF MEDICINE

By ________________________________
Chairperson, Disciplinary Subcommittee

STIPULATION

The parties stipulate as follows:

1. Respondent does not contest the allegations of fact and law in the complaint. Respondent understands that, by pleading no contest, he does not admit the truth of the allegations but agrees that the Disciplinary Subcommittee may treat the allegations as true for resolution of the complaint and may enter an order treating the allegations as true.

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 conferee Peter Graham, M.D. Dr. Graham or an attorney from the Licensing and Regulation Division may discuss this matter with the Disciplinary Subcommittee in order to recommend acceptance of this resolution.

4. Dr. Graham and the parties considered the following factors in reaching this agreement:

A. Respondent has provided evidence that, to the extent he overprescribed medications, his motivation was not personal financial gain, but an attempt to help another physician on a part-time, fill-in basis in his pain management practice, as to the nature of which Respondent lacked a full understanding. Respondent was compensated for the assistance he provided at a flat rate, not on a per patient basis, so he did not personally profit from the refill prescriptions he provided on behalf of the physician for whom he was filling in.

B. Respondent has expressed recognition of the concerns raised by his prescribing practices and a strong desire to avoid such concerns in the future.

C. Respondent has spent the bulk of his medical practice recently providing medical care to problem youth and intends to return to this practice if possible.
The parties understand that a proposed consent order and stipulation resolving the pending disciplinary proceedings will be submitted to the Disciplinary Subcommittee.

**AGREED TO BY:**

Bruce Charles Johnson (P62645)
Assistant Attorney General
Attorney for Complainant
Dated: February 16, 2017

Jessica A. Taub (P77540)
Assistant Attorney General
Attorney for Complainant
Dated: 2/16/2017

**AGREED TO BY:**

Melvin S. McWilliams (P26792)
Attorney for Respondent
Dated: 2/16/2017