

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

In the Matter of

JAMES H. EISENSHTADT, PH.D.

License Number: 63-01-003797

Complaint No. 63-17-145385

/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

An administrative complaint was filed with the Disciplinary Subcommittee of the Board of Psychology on February 22, 2017, charging James H. Eisenshtadt, Ph.D. (Respondent) with having violated sections 16221(a), (b)(i), (b)(ii), and (b)(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 Psychology, the Department summarily suspended Respondent's license to practice psychology by order dated February 22, 2017.

A hearing on a petition to dissolve the Department's order of summary suspension was conducted on May 11, 2017, following which the administrative hearing officer entered an order dissolving the summary suspension.

A first superseding administrative complaint was filed with the Disciplinary Subcommittee of the Board of Psychology on June 8, 2017, charging James H. Eisenshtadt, Ph.D. (Respondent) with having violated sections 16221(c)(iv) and (h) of the Public Health Code and Mich Admin Code, R 338.1632.

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 first superseding complaint are true and that Respondent has violated sections 16221(c)(iv) and (h) of the Public Health Code and Mich Admin Code R 338.1632.

Accordingly, for these violations, IT IS ORDERED:

Respondent is placed on PROBATION for a period of one year 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 one year. If Respondent fails to complete any term or condition of probation as set forth in this order within one year 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. COUNSELING. Respondent shall obtain/continue treatment on a regular basis with psychiatrist Dr. Thomas J. Herbst. Respondent shall remain in treatment throughout the probation period. Respondent's therapist shall submit quarterly reports to the Department addressing his ability to practice in a safe and competent manner.
- B. 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.

- C. RESIDENCY AND PRACTICE OUTSIDE MICHIGAN. Periods of residency and practice outside Michigan shall not reduce the probationary period of this order. Respondent shall report any change of residency or practice outside Michigan to the Department within fifteen days after the change occurs. Compliance with this provision does not satisfy the requirements of section 16192(1) and 16171(f) of the Public Health Code regarding Respondent's duty to report name or mailing address changes to the Department.
- D. REPORT OF NON-EMPLOYMENT. If, at any time during the period of probation, Respondent is not employed as a psychologist, 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 psychologist. If Respondent subsequently returns to practice as a psychologist, he shall notify the Department of this fact within 15 days after returning to practice.

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 REPRIMANDED.

Respondent is FINED THREE THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$3,500.00) to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 63-17-145385 clearly indicated on the check or money order), and shall be payable within 90 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, Legal Affairs Division,
Compliance Section, P.O. Box 30189, Lansing, Michigan 48909.

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, Legal Affairs 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.

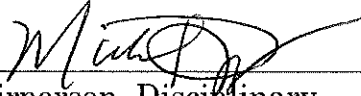
If Respondent violates any term or condition set forth in this order, Respondent will be in violation of Mich Admin Code, R 338.1632, and section 16221(h) of the Public Health Code.

Respondent is currently subject to the terms of a Final Order entered by the Disciplinary Subcommittee of the Board of Psychology on April 18, 2013. This Consent Order supersedes the Disciplinary Subcommittee of the Board of Psychology's April 18, 2013 Final Order.

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 14 Sep 17

MICHIGAN BOARD OF
PSYCHOLOGY

By 
Chairperson, Disciplinary
Subcommittee

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the first superseding administrative 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 first superseding administrative 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.

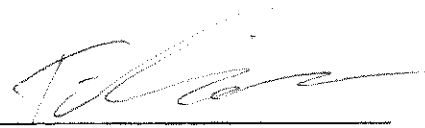
3. The Disciplinary Subcommittee may enter the above Consent Order, supported by Board conferee Eric D. Ozkan, Ph.D.

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

- A. Respondent complied with the term of the April 18, 2013 consent order requiring general supervision of Respondent's practice. Respondent was supervised by Susie Kamen, M.S.W. and Susan Birndorf, Ph.D, who submitted quarterly reports to the Department regarding Respondent's work performance. Neither supervisor reported issues or concerns with Respondent's practice as a clinical psychologist.
- B. Respondent complied with the term of the April 18, 2013 consent order requiring the completion of a continuing education course in ethics.
- C. Respondent participated in HPRP for approximately 40 months.
- D. Respondent readily admitted the three instances where he used marijuana. The ng/ml levels of the THC metabolite in Respondent's urine was consistent with one-time, rather than habitual, uses.
- E. After each of Respondent's positive urine drug screens, Respondent was found safe to practice by HPRP providers and they authorized that Respondent return to work.
- F. Respondent's HPRP addictionist/psychiatrist, Kirk Brower, M.D., believed that Respondent did not have an addiction problem or a substance use disorder.
- G. On May 7, 2017, Respondent was evaluated by Samuel P. Gross, LLP and was not diagnosed with any substance use disorder.

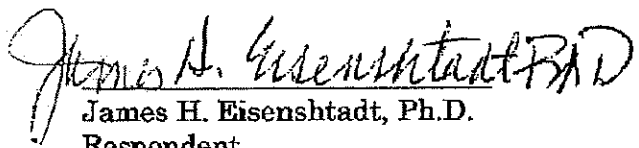
By signing this stipulation, the parties confirm that they have read,
understand and agree with the terms of the consent order.

AGREED TO BY:



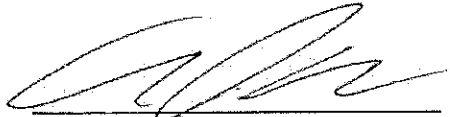
Timothy C. Erickson
Assistant Attorney General
Attorney for Complainant
Dated: 6/9/2017

AGREED TO BY:



James H. Eisenshtadt, Ph.D.
Respondent

Dated: 6/8/17



Aaron J. Kemp (P55238)
Attorney for Respondent
Dated: 6/8/17

LF: 2017-0176911-A/Eisenshtadt, James H., Ph.D., 145385/Consent order -- 2017-06-01

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

In the Matter of

JAMES H. EISENSHTADT, PH.D.
License Number: 63-01-003797

Complaint No. 63-17-145385

FIRST SUPERSEDING ADMINISTRATIVE COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Timothy C. Erickson, on behalf of the Department of Licensing and Regulatory Affairs, Complainant herein, files the within First Superseding Administrative Complaint against James H. Eisenshtadt, Ph.D. (Respondent), alleging upon information and belief as follows:

1. The Michigan Board of Psychology (Board) 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 is licensed to practice as a psychologist in the state of Michigan and, at all relevant times, was engaged in private practice.
3. Section 16221(c)(iv) of the Code provides the Disciplinary Subcommittee with the authority to take disciplinary action against a licensee for "[o]btaining, 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.”

4. Section 16221(h) of the Code authorizes the Disciplinary Subcommittee to take disciplinary action against a licensee for “[a] violation, or aiding or abetting in a violation, of [Article 15] or of a rule promulgated under [Article 15].”

5. Mich Admin Code, R 338.1632 provides that a “[v]iolation of a final order issued by a disciplinary subcommittee, board, or task force constitutes a violation of this rule.”

6. Marijuana is a schedule 1 controlled substance.

7. On November 13, 2012, the Department executed an Order for Summary Suspension and Administrative Complaint against Respondent, due to a misdemeanor controlled substance conviction. In resolution of the above complaint, Respondent signed a Consent Order and Stipulation that required, in part, Respondent to submit to an evaluation with the Health Professional Recovery Program (HPRP) and, if recommended, enter into a regulatory monitoring agreement.

8. On April 18, 2013, the proposed consent order was approved by the Disciplinary Subcommittee and became a final order.

9. On April 10, 2013, Respondent reported to HPRP, as required by the proposed resolution of the November 13, 2012, Administrative Complaint. Respondent completed the HPRP intake interview and was directed to undergo an evaluation.

10. On June 12, 2013, Respondent underwent an evaluation and was diagnosed with Sedative/Hypnotic Abuse Disorder and Major Depressive Disorder. The evaluator recommended treatment monitoring.

11. On September 10, 2013, Respondent entered into a three-year monitoring agreement with HPRP. The terms of the monitoring agreement required, in part, that Respondent submit to urine drug screens by calling the HPRP designated laboratory (First Lab) and, when instructed, submit the requested specimen; and abstain from all alcohol and controlled substances.

12. On June 22, 2015, Respondent's urine drug screen tested positive for marijuana. Respondent had recreationally used marijuana.

13. On July 16, 2015, following Respondent's positive urine drug screen, HPRP required Respondent to follow all providers' treatment recommendations and increased his therapy sessions.

14. On October 5, 2015, Respondent's urine drug screen tested positive for marijuana. Respondent had again recreationally used marijuana.

15. On July 7, 2016, Respondent's urine drug screen tested positive for Oxazepam and Temazepam.

16. On July 11, 2016, Respondent's urine drug screen tested positive for Oxazepam, Temazepam, and alcohol. HPRP revoked Respondent's "safety to practice" and required him to stop working immediately.

17. On July 13, 2016, Respondent's urine drug screen tested positive for Oxazepam.

18. On July 21, 2016, due to the three positive urine drug screens, HPRP extended Respondent's monitoring agreement by 22 months and required Respondent to meet with a HPRP paneled addiction psychiatrist for the remainder of the monitoring agreement.

19. On July 28, 2016, HPRP approved Respondent to return to work.

20. On December 19, 2016, Respondent's urine drug screen tested positive for marijuana. Respondent had again recreationally used marijuana.

21. On December 28, 2016, due to Respondent's positive urine drug screen, HPRP revoked Respondent's "safety to practice" and required him to stop working immediately.

22. On January 12, 2017, HPRP determined that Respondent's case would be closed noncompliant due to his failure to progress satisfactorily in the recovery plan. HPRP notified Respondent that he had until January 30, 2017, to request a review of this determination. Respondent failed to submit a request for review.

23. On February 6, 2017, HPRP closed Respondent's case noncompliant and forwarded the matter to the Department.

COUNT I

24. Respondent's conduct, as set forth above, evidences obtaining and possessing a controlled substance without lawful authority, in violation of section 16221(c)(iv) of the Code.

COUNT II

25. Respondent's conduct, as set forth above, evidences a violation of a final order issued by a disciplinary subcommittee, contrary to Mich Admin Code, R 338.1632, in violation of section 16221(h) of the Code.

THEREFORE, Complainant requests that this Complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the aforesaid license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Public Health Code, rules promulgated pursuant to it, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq.

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

FURTHER, the administrative complaint previously filed against Respondent on February 22, 2017 is hereby WITHDRAWN and replaced in full by this First Superseding Administrative Complaint.

Respectfully submitted,

BILL SCHUETTE
Attorney General

By 

Timothy C. Erickson (P72071)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
(517) 373-1146; Fax (517) 241-1997

Dated: June 8, 2017

PROOF OF SERVICE

The undersigned certifies that on the date indicated above a copy of the foregoing document was served upon Aaron J. Kemp, Attorney for Respondent, by mailing the same enclosed in an envelope bearing first class postage fully prepaid and plainly addressed and via email as follows:

Aaron J. Kemp
Chapman Law Group
1441 West Long Lake Road, Ste. 310
Troy, MI 48098
akemp@chapmanlawgroup.com


Susan Macias

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

In the Matter of

JAMES H. EISENSHTADT, PH.D.
License Number: 63-01-003797

File Number: 63-17-145385

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 Psychology pursuant to section 16233(5) of the Public Health Code, supra, the Department finds that the public health, safety, or welfare requires emergency action.

IT IS ORDERED that Respondent's license to practice as a psychologist in the state of Michigan is SUMMARILY SUSPENDED, commencing the date this Order is served.

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, MI 48909.

MICHIGAN DEPARTMENT OF LICENSING
AND REGULATORY AFFAIRS

Dated: 02/22/2017

By: Kim Gaedeke

Kim Gaedeke, Director
Bureau of Professional Licensing

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM**

IN THE MATTER OF:

Docket No.:17-006963

**Bureau of Professional Licensing,
Petitioner**

Case No.: 63-17-145385

v

Agency: Bureau of Professional Licensing

**James H. Eisenshtadt, Ph.D.,
Respondent**

Case Type: Summary Susp.

Filing Type:Summary Suspension

Issued and entered
this 11th day of May, 2017
by: Peter L. Plummer
Administrative Law Judge

ORDER DISSOLVING SUMMARY SUSPENSION

WHEREAS, a hearing was held on May 11, 2017 in the above-captioned matter on Respondent's petition to dissolve the Order of Summary Suspension issued on February 22, 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 February 22, 2017 shall be and hereby is dissolved.



**Peter L. Plummer
Administrative Law Judge**