

mens rea standard for the criminal regulatory offense.

(b) At the same time the head of each agency provides to the Director of OMB the report required by subsection (a) of this section, the agency head shall publicly post the report on its agency webpage.

(c) The head of each agency shall periodically, but not less than once a year, update the report described in subsection (a) of this section.

(d) Criminal enforcement of any criminal regulatory offense not identified in the report described in subsection (a) of this section is strongly discouraged.

The head of each agency shall consider whether a criminal regulatory offense is included in an agency's public report when considering whether to make a criminal referral to the Department of Justice or, where applicable, to the agency's Inspector General.

Further, the Attorney General shall consider whether a criminal regulatory offense is included in an agency's public report before initiating an investigation or initiating criminal proceedings for violating regulatory standards.

Sec. 5 . *Promoting Regulatory Transparency.* (a)

Following issuance of this order, all future notices of proposed rulemaking (NPRMs) and final rules published in the *Federal Register*, the violation of which may constitute criminal regulatory offenses, should include a statement identifying that the rule or proposed rule is a criminal regulatory offense and the authorizing statute. Agencies should draft this statement in consultation with the Department of Justice.

(b) The regulatory text of all NPRMs and final rules with criminal consequences published in the *Federal Register* after the date of this order should explicitly

state a mens rea requirement for each element of a criminal regulatory offense, accompanied by citations to the relevant provisions of the authorizing statute.

(c) Strict liability criminal regulatory offenses are disfavored. Any proposed or final criminal regulatory offense that includes a strict liability mens rea for the offense shall be treated as a “significant regulatory action” and submitted to the Administrator of the Office of Information and Regulatory Affairs for the review applicable to significant regulatory actions under Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), or any successor process.

Sec. 6 . *Default Mens Rea for Criminal Regulatory Offenses.* (a) The head of each agency, in consultation with the Attorney General, shall examine the agency's statutory authorities and determine whether there is authority to adopt a

background mens rea standard for criminal regulatory offenses that applies unless a specific regulation states an alternative mens rea.

(b) Within 30 days of the submission of the report described in section 4(a) of this order, the head of each agency, in consultation with the Attorney General, shall submit a report to the Director of OMB summarizing the information submitted under section 4(a) of this order and assessing whether the applicable mens rea standards for criminal regulatory offenses enforced by the agency are appropriate. If consistent with the statutory authorities identified pursuant to the review described in subsection (a) of this section, the report should present a plan for changing the applicable mens rea standards and adopting a generally applicable background mens rea standard, and provide a justification for each criminal regulatory

offense for which the agency proposes to deviate from its default mens rea standard.

Sec. 7 . *Agency Referrals for Potential Criminal*

Enforcement. Within 45 days of the date of this order, and in consultation with the Attorney General, each agency should publish guidance in the *Federal Register* describing its plan to address criminally liable regulatory offenses. Each agency's guidance should make clear that when the agency is deciding whether to refer alleged violations of criminal regulatory offenses to the Department of Justice, the agency should consider factors such as:

- (a) the harm or risk of harm, pecuniary or otherwise, caused by the alleged offense;
- (b) the potential gain to the putative defendant that could result from the offense;

(c) whether the putative defendant held specialized knowledge, expertise, or was licensed in an industry related to the rule or regulation at issue; and

(d) evidence, if any is available, of the putative defendant's general awareness of the unlawfulness of his conduct as well as his knowledge or lack thereof of the regulation at issue.

Sec. 8 . *Effect on Immigration Enforcement and National Security Functions.* Nothing in this order shall apply to the enforcement of the immigration laws or regulations promulgated to implement such laws, nor shall it apply to the enforcement of laws or regulations related to national security or defense.

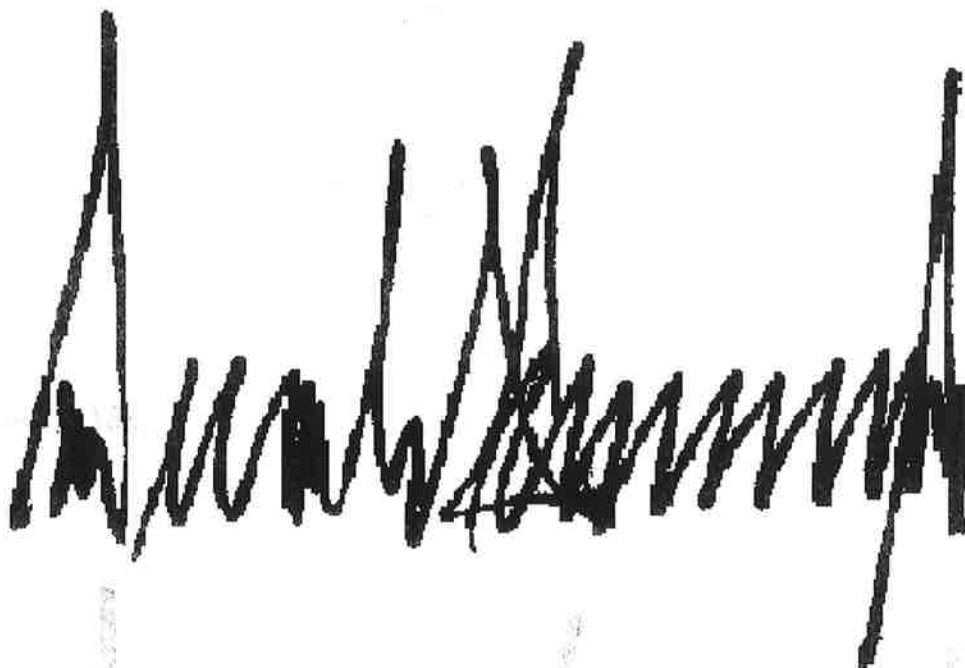
Sec. 9 . *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,

May 9, 2025.

[FR Doc. 2025-08681]

Filed 5-13-25; 8:45 am]

Billing code 3395-F4-P

OFFICE OF THE ATTORNEY GENERAL

May 9, 2025.

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Appendix G- Proposal for Decision. MOAHR

**MICHIGAN OFFICE OF ADMINISTRATIVE
HEARINGS AND RULES. Issued and entered This 31st
day of October 2024 by: Stephen B. Goldstein
Administrative Law Judge PROPOSAL FOR DECISION
Procedural History On or about April 21, 2024, Lesly
Pompy, M.D. (Petitioner) filed an Application for
Reinstatement (Application) of his license to practice
medicine in the State of Michigan. The Application is filed
pursuant to Section 16247 of the Michigan Public Health
Code, MCL 333.1101 et seq. (Code), and the
Administrative Rules (Rules) promulgated thereunder.
On June 7, 2024, the Bureau of Professional Licensing
(Respondent) filed a Response Opposing Application for
Reinstatement. On June 11, 2024, this matter was
referred to the Michigan Office of Administrative
Hearings and Rules (MOAHR) to schedule a
reinstatement hearing. On June 12, 2024, MOAHR issued
a Notice of Hearing, scheduling the reinstatement hearing
to convene at 9:00 a.m. on July 23, 2024. Following an
adjournment, the matter was scheduled for hearing on
August 12, 2024, which proceeded as scheduled. Karen
Carpenter, Administrative Law Specialist, represented
Respondent. Petitioner appeared In Pro Per and testified**

on his own behalf. IN THE MATTER OF: Docket No.:
24-014996 LESLY POMPY, M.D., Petitioner v BUREAU
OF P24-014996 Page 2 This proceeding is governed by the
Code and/or Rules promulgated thereunder, the
Administrative Procedures Act, MCL 24.271 et seq.
(APA) and the Michigan Administrative Hearing System
Rules (General Hearing Rules), 2015 AACS R 792.0101 et
seq. Issue Has Petitioner satisfied the reinstatement
requirements set forth in MCL 333.16247 of the Code, the
Rules promulgated thereunder, and the Guidelines for
Reinstatement? Applicable Law Section 16247 of the
Code provides, in relevant part: A board or task force
may reinstate a license or issue a limited license to an
individual whose license has been suspended or revoked
under this part if after a hearing the board or task force
is satisfied by clear and convincing evidence that the
applicant is of good moral character, is able to practice
the profession with reasonable skill and safety to patients,
has met the criteria in the rules promulgated under
section 16245(6), and should be permitted in the public
interest to resume practice. Pursuant to the rules
promulgated under section 16245(6), as a condition of
reinstatement, a disciplinary subcommittee, upon the
recommendation of a board or task force, may impose a
disciplinary or corrective measure authorized under this

part and require that the licensee attend a school or program selected by the board or task force to take designated courses or training to become competent or proficient in those areas of practice in which the board or task force finds the licensee to be deficient. The board or task force may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency or proficiency. (2) As a condition of reinstatement, a board or task force shall place the licensee on probation for 1 year under conditions set by the board or task force... Section 16245(6) provides, in relevant part: (6) Based upon the recommendation of the disciplinary subcommittee for each health profession, the department shall adopt guidelines to establish specific criteria to be met by an applicant for reinstatement under this article, article 7, or article 8. The criteria may include corrective measures or remedial education as a condition of reinstatement. If a board or task force, in reinstating a license or 24-014996 Page 3 registration, deviates from the guidelines adopted under this subsection, the board or task force shall state the reason for the deviation on the record. Guidelines on Reinstatement In accordance with MCL 333.16245(6), the following guidelines were adopted

on November 4, 1996: 1. The applicant has participated in one or more community service or professional volunteer activities or programs since the revocation or suspension of his or her license or registration. 2. The applicant has successfully completed one or more substance abuse treatment programs, which may include inpatient or outpatient care at a substance abuse facility, regular attendance at Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings, AA/NA sponsorship, regular or random witnessed alcohol/drug urine or blood screens, individual or group counseling or therapy, Caduceus or other professional support group attendance, an agreement with his or her employer for monitoring, or ongoing review by a primary care physician knowledgeable and experienced in the treatment of chemical dependency. This criterion applies only if the applicant's license or registration was suspended or revoked due to a substance abuse violation. 3. The applicant has participated in inpatient or outpatient treatment for mental, psychological, emotional, and/or physical disorders. This criterion applies only if the applicant's license or registration was revoked due to a mental, psychological, emotional, and/or physical disorder. 4. The applicant has complied with all terms of his or her order of discipline, including payment of fines

and costs as set forth in said order. 5. The applicant has successfully completed one or more continuing education programs during the period of suspension or revocation or consumed current literature concerning the practice of his or her profession. 6. The applicant has participated in didactic or clinical training, including remedial education in areas previously found deficient, or successfully completed an overall refresher course if the applicant has been out of practice for a significant period. 7. The applicant has submitted an assessment or evaluation of the applicant's professional skills and knowledge by an individual or entity who is trained or otherwise qualified to make such an evaluation. 24-014996 Page 4 8. The applicant desires in good faith to be restored to the privilege of practicing his or her profession in Michigan. If the board or task force, in reinstating a license or registration, deviates from the guidelines, the board or task force shall state the reason for the deviation on the record SUMMARY OF EXHIBITS PETITIONER

EXHIBITS Petitioner offered the following exhibits which were admitted into evidence. Petitioner Exhibit 1 Verdict Form, in the matter of United States of America v Lesly Pompy, Eastern District of Michigan, Southern Division, Case No. 2:18-cr-20454. Petitioner Exhibit 2 Settlement Agreement between Monroe County Prosecutor's Office,

Lesly Pompy, M.D., and Interventional Pain Management Associates, P.C. Petitioner Exhibit 3 February 19, 2020, Proposal for Decision in the matter of Lesly Pompy v Department of Health and Human Services, Docket No. 19-004701. Petitioner Exhibit 4 Health & Wellness Coach Certifying Examination Program, Scheduling Permit. Petitioner Exhibit 5 April 25, 2024, letter from the National Board for Health and Wellness Coaching, certifying that Petitioner has successfully completed the Health Coach Certification at mindbodygreen. Petitioner Exhibit 6 The Ideal Coaching Skills Assessment Rubric. Petitioner Exhibit 7 Activity Tracker, continuing medical education coursework. Petitioner Exhibit 8 List of continuing medical education coursework completed by Petitioner, for the period January 2023 to the present. Petitioner Exhibit 9A April 29, 2024, notarized letter of reference from Michael Mendezsoon, M.D. 24-014996 Page 5 Petitioner Exhibit 9B July 2, 2024, notarized letter of reference from Ana Shah, M.D., Surgical Institute of Monroe. Petitioner Exhibit 9C July 10, 2024, notarized letter of reference from Taufiek Alhadi, D.O., Chief, Department of Anesthesia, Promedica Monroe Regional. Petitioner Exhibit 9D March 11, 2024, notarized letter of reference from Lynn R. Webster, M.D. Petitioner Exhibit 9E March 19, 2024, notarized letter of reference from

Paulette Molton, M.D., Moulton Group. Petitioner Exhibit 10A-B July 29, 2024, notarized letter of reference from Mary Lynne Noble, R.N. Petitioner Exhibit 10C August 1, 2024, notarized letter of reference from Janet Pavlat. Petitioner Exhibit 10D August 7, 2024, notarized letter of reference from Ann L. Herr, LPN. Petitioner Exhibit 11A July 5, 2024, notarized letter of reference from Richard Hiltz, Retired President, Mercy Memorial Hospital. Petitioner Exhibit 11B March 19, 2024, notarized letter of reference from Natasha English, Office Manager, Moulton Group PC. Petitioner Exhibit 12A July 8, 2024, notarized letter of reference from Linda Miller, R.N. Petitioner Exhibit 12B August 3, 2024, notarized letter of reference from Michael Smallwood. Petitioner Exhibit 12C Undated, partially notarized letter of reference from Ines Helm. Petitioner Exhibit 12D July 11, 2024, notarized letter of reference from Denis Helm. Petitioner Exhibit 12E August 1, 2024, notarized letter of reference from Daniel McKart. 24-014996 Page 6 Petitioner Exhibit 12F July 13, 2024, notarized letter of reference from Robert Leski. Petitioner Exhibit 13A May 3, 2024, notarized letter of reference from Pastor Darrell Williams, Hope Church of Monroe. Petitioner Exhibit 13B July 15, 2024, notarized letter of reference from Pastor Harold Raine. Petitioner Exhibit 14 July 31, 2024,

letter of reference from Janet Berry. Petitioner Exhibit 15
July 8, 2024, notarized letter of reference from Kojo A.
Quartey, Ph.D., President, Monroe Community College.
RESPONDENT EXHIBITS Respondent offered the
following exhibits, which were admitted into evidence.
Respondent Exhibit A Verification of Licensure, Michigan
Board of Medicine. Respondent Exhibit B Final Order;
August 3, 2017, First Superseding Administrative
Complaint; August 3, 2017, Order of Summary
Suspension. Findings of Fact Based on the evidence
presented, the tribunal finds, as material fact: 1. On
August 3, 2017, Respondent filed an Administrative
Complaint and Order of Summary Suspension against
Petitioner alleging violations of the Code. The summary
suspension of Petitioner's license was affirmed following a
March 30, 2017, dissolution hearing. This matter was
assigned Docket No. 17-016555. 2. On May 9, 2018,
Respondent filed a First Superseding Administrative
Complaint (Superseding Complaint) against Petitioner
alleging that he prescribed controlled substances to drug-
seeking patients without medical justification; failed to
have pain management contracts or to enforce the terms
of any contracts; and had inadequate documentation. The
Superseding Complaint also alleged that Petitioner
operated a drug treatment program without the

necessary license and treated more patients with Suboxone and buprenorphine than would have been allowed under federal law, if Petitioner was appropriately licensed and subject to federal regulations. The Superseding Complaint additionally alleged that Petitioner 24-014996 Page 7 possessed controlled substances at two office locations and at his home without proper licenses or security precautions.^{1 3} Following a contested case hearing, the tribunal issued a Proposal for Decision (PFD), dated April 29, 2019, concluding that Petitioner violated the Code. ⁴ In a Final Order dated June 2, 2020, Petitioner's medical license was suspended for a minimum of six (6) months and one (1) day. His controlled substance license was declared automatically void commencing on the effective date that his license to practice medicine was suspended. Petitioner was also fined \$5,000.00.^{2 5} In the matter of The United States of America v Lesly Pompy, United States District Court, Eastern District of Michigan, in Case No. 2:18-cr-20454, Petitioner was charged with 22 counts of unlawful distribution of controlled substances relative to specific patients, with 11 counts of health care fraud, and one count of maintaining a drug-involved premises. Following a trial by jury, Petitioner was acquitted of all charges.^{3 6} While the Superseding Complaint was pending, Petitioner

applied for an emergency medical services (EMT) license. On July 16, 2018, the Michigan Department of Health and Human Services (DHHS) issued a notice of intent to deny the application under MCL 333.20958, alleging that Petitioner was involved in a licensing case. Following a contested case hearing, the tribunal issued a PFD recommending that Petitioner be granted an EMT license.^{4 7} The tribunal's PFD in the EMT intent to deny licensure case considered favorably Petitioner's explanation regarding how he came into possession of the controlled substances found in his offices and home. Petitioner's explanation is captured in the below-quoted excerpt, which this tribunal adopts as material fact. "Dr. Pompy explained how he came into possession of the drugs. His explanation is credible and uncontested. Some of his patients gave him their drugs when they were no longer using them. Pompy took possession of the drugs in an effort to keep his patients safe from temptation and keep the drugs off the street. He did not intend to steal his patients' drugs. In fact, he did not steal the drugs; he did

1 Respondent Exhibit B, pp. 6-17. Note: The exhibits and/or transcripts in this case were submitted electronically in portable document format (PDF). All references to exhibit or transcript page numbers are to the PDF page number of the electronic exhibit and/or

transcript, not the page number at the bottom of the exhibit and/or transcript. 2 Respondent Exhibit A, pp. 3-4. 3 Petitioner Exhibit 1. 4 Petitioner Exhibit 3. 24-014996 Page 8 not gain possession by stealth, false pretenses or abuse of trust. Pompy's intent in taking possession of the drugs – even if mistaken, misguided or incompetently executed – was to protect his patients and the public. That state of mind hardly suggests that Pompy has a propensity to steal.”⁵ 8. Following his suspension, Petitioner pursued certification as a Health & Wellness Coach. On April 25, 2024, he was issued a letter by the National Board for Health and Wellness Coaching (NBHWC), San Diego, CA. The letter certifies that Petitioner successfully completed the Health Coach Certification and that he has satisfied the Health & Wellness Coaching Certifying Examination requirement of completing the NBHWC approved training program.⁶ Petitioner sat for and passed the Health and Wellness Coach Certifying Examination Program (HWCCP).⁷ 9. Since the suspension of his license, the Petitioner has completed 163.50 hours of continuing medical education coursework, including courses on opioid, alcohol and cannabis use disorder. He has also kept abreast of the medical profession through self-study learned treatises and articles.⁸ 10. Petitioner provides health coaching

support to participants in a drug and alcohol recovery program at Hope Church of Monroe, Monroe, Michigan.⁹ 11. Petitioner paid the \$5,000 fine ordered under the Final Order.¹⁰ Conclusions of Law Section 16247 of the Code allows reinstatement of a license or issuance of a limited license to an applicant whose license has been revoked or suspended if the applicant proves by clear and convincing evidence that he is of "good moral character", is able to practice the profession with reasonable skill and safety, should be permitted in the public interest to resume practice, and that he has satisfied the criteria in the guidelines for reinstatement promulgated under Section 16245(6) and adopted by the Department. 5 Petitioner Exhibit 3, p. 27. 6 Petitioner Exhibit 5. 7 Petitioner Exhibits 4, 6. 8 Petitioner Exhibits 7, 8. 9 Petitioner Exhibit 13A. 10 Respondent's Response Opposing Application for Reinstatement, p. 4.

(Respondent acknowledges in its Response Opposing Application for Reinstatement that Petitioner has paid the fine) 24-014996 Page 9 Good Moral Character The Petitioner must demonstrate, by clear and convincing evidence, that he is presently of good moral character. The Petitioner testified that he is presently of good moral character and relied heavily on the federal jury's acquittal of the criminal charges brought against him,

including no finding of unlawful controlled substance possession/distribution or health care fraud. The Petitioner also submitted several letters of reference from individuals who attest that they have known Petitioner for several years and believe that he is currently of good moral character.¹¹ The Petitioner also cited the tribunal's prior PFD recommending that he be granted an EMT license, as evidence that he did not have a propensity to steal or otherwise be in unlawful possession of controlled substances.¹² The Petitioner acknowledged that he was mistaken in his belief regarding what federal authorization he needed to treat addicted patients and because of this error, took continuing medical education to better understand how to appropriately treat drug-addicted patients. The Petitioner also discussed his interest in health and wellness coaching for his patients, which is why he decided to pursue certification in this occupation.¹³ Respondent asserts that Petitioner's Code violations, especially his prescribing and recordkeeping violations, establish that he is not presently of good moral character. The Code defines good moral character at Section 16106, referencing the Licensing of Former Offenders Act, 1974 PA381, as amended, MCL 338.41 et seq. MCL 338.41 provides: Sec. 1. (1) The phrase "good moral character", when used as a requirement for an

occupational or professional license or when used as a requirement to establish or operate an organization or facility regulated by this state in a statute of this state or administrative rules promulgated under a statute of this state, means the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner. 11 Petitioner Exhibits 9A-9E, 10A-10D, 11A-11B, 12A-12F, 13A-13B, 14, 15. 12 Petitioner Exhibit 3. 13 Petitioner Exhibits 4, 5. 24-014996 Page 10 While the June 2, 2020 Final Order's conclusion regarding Petitioner's moral character cannot be disturbed, Respondent may not rely solely on the Final Order or the Superseding Complaint as definitive evidence in this proceeding that Petitioner currently lacks good moral character. Here, Petitioner called no witnesses. Consistent with principles of due process and fair hearing rights, the tribunal accorded some consideration to the letters of reference submitted by Petitioner's former patients and colleagues. Although none of these individuals appeared at hearing, their statements are nonetheless assigned some evidentiary weight, especially given that Respondent produced no contrary evidence and because the statements gave the tribunal some insight into Petitioner's overall moral fitness. Since Respondent produced no contrary evidence, the letters of reference are the only

evidence in this record of Petitioner's current moral character, and therefore clear and convincing evidence. All the letters attest to Petitioner's good moral character; none of the letters speak negatively about Petitioner in any manner. Petitioner also acknowledged his prior mistakes and appears to understand how better to proceed in the future. These factors convince the tribunal that Petitioner is currently able to practice medicine in a fair, honest, and open manner. The tribunal also considered its PFD in the EMT licensure case, as it is instructive on the degree of Petitioner's moral culpability in this proceeding. "Dr. Pompy explained how he came into possession of the drugs. His explanation is credible and uncontested. Some of his patients gave him their drugs when they were no longer using them. Pompy took possession of the drugs in an effort to keep his patients safe from temptation and keep the drugs off the street. He did not intend to steal his patients' drugs. In fact, he did not steal the drugs; he did not gain possession by stealth, false pretenses or abuse of trust. Pompy's intent in taking possession of the drugs – even if mistaken, misguided or incompetently executed – was to protect his patients and the public. That state of mind hardly suggests that Pompy has a propensity to steal."¹⁴ The above quote persuades the tribunal that Petitioner's moral failures are strictly

associated with his negligent and incompetent controlled substance prescribing, dispensing, storage and recordkeeping practices. There is no evidence that he consciously intended to harm his patients or the public in general. Accordingly, the tribunal concludes that Petitioner has established, by clear and convincing evidence, that he is currently of good moral character. 14 Petitioner Exhibit 3, p. 27. 24-014996 Page 11 Ability to Practice Before Petitioner's license may be reinstated, he must demonstrate, by clear and convincing evidence, that he is currently able to practice medicine with reasonable skill and safety. The Final Order establishes that Petitioner was negligent, incompetent and lacked good moral character regarding his controlled substance prescribing, dispensing, storage and recordkeeping practices. However, the evidence introduced at hearing establishes that Petitioner has taken measures to better education himself about the inherent dangers of opioid medications by participating in continuing medical education coursework which addresses the issues that led to his suspension.¹⁵ The clear and convincing evidence also suggests that many of Petitioner's former patients think highly of his skills as a physician and fully support his reinstatement. The letters speak to Petitioner's patient and compassionate approach to treating their ailments,

especially those dealing with chronic pain issues.¹⁶ The clear and convincing evidence also strongly suggests that Petitioner possesses an institutional level of knowledge of the practice of medicine acquired through years of experience. This is evidenced by several of the reference letters, written by nurses, physicians and other health care professionals who have worked with Petitioner. All these references attest to Petitioner's ability to practice medicine in a safe and skillful manner.¹⁷ Additionally, three of the reference letters are from physicians who have known Petitioner for a considerable period and who, since the suspension, have had opportunities to test Petitioner's knowledge and skills. One such letter is from Dr. Paulette Molton, M.D., who indicates that, since October 2023, Petitioner has been shadowing her clinic practice three Saturdays per month and during these sessions, they discuss patient histories, physical examinations, lab results, diagnoses, and treatment protocols. These letters reflect positively on Petitioner's current abilities and strongly suggest that he is currently able to practice medicine with reasonable skill and safety.¹⁸ Any potential deficits in Petitioner's clinical abilities due to the period of suspension may be addressed and remedied by a period of supervision or other conditions, as deemed appropriate by the Board of

Medicine. 15 Petitioner Exhibits 7, 8. 16 Petitioner Exhibits 12A-12F 17 Petitioner Exhibit 9A-9E, 10A-10D, 11A, 11B, 18 Petitioner Exhibits 9A, 9B, 9C, 9D, 9E 24-014996 Page 12 Accordingly, the tribunal concludes that Petitioner has established, by clear and convincing evidence, that he can practice medicine with reasonable skill and safety. Public Interest The public interest is served by having health care practitioners conduct their affairs in accordance with professional standards of behavior. The Petitioner's prior actions most certainly strayed from those standards. His controlled substance negligent and incompetent prescribing, dispensing and storage practices posed a significant risk to the public health, safety, and welfare. However, public interest is also served by granting once competent practitioners a second chance to demonstrate compliance with those standards and expectations. The Petitioner testified that the public interest is served by reinstating his medical license because his community is medically underserved, because he is well-trained and because he has been a member of the Monroe, Michigan community since 1991. He also believes that he has been sufficiently punished for his prior actions. Here, the evidence clearly and convincingly establishes that Petitioner possesses a firm comprehension of the consequences of his failure to

appropriately prescribe, dispense and store highly abused and diverted opioid medications. The continuing medical education evidence establishes that he has kept himself abreast of the medical profession in general and has taken coursework focused on the substance abuse and opioid prescribing, dispensing and storage issues that led to his suspension. Thus, the evidence establishes that Petitioner is committed to ensuring that he never makes these errors again. Respondent asserts that the public interest is not served by reinstating Petitioner's medical license because he negligently prescribed, dispensed and stored opioid medications. While this is true that Petitioner's prior actions amount to negligence, incompetence and failure to prescribe in good faith, these are past behaviors, and therefore, Respondent's reliance on this conduct is misplaced. This is a reinstatement proceeding where the specific issue presented is whether Petitioner's current behaviors are consistent with the public interest in affording him another opportunity to practice medicine within acceptable norms. Petitioner's clear and convincing evidence establishes it is in the public interest to afford him another chance to practice his chosen profession in compliance with standards, expectations, and behaviors. Accordingly, he has established, by clear and convincing evidence, that it is in the public interest to

reinstate his medical license. 24-014996 Page 13

Compliance with MCL 333.16245(6) (Guidelines on Reinstatement) Before Petitioner's license can be reinstated, he must also demonstrate, by clear and convincing evidence, satisfaction of guidelines promulgated under MCL 333.16245(6). The Guidelines were adopted by the Department on November 4, 1996, and they are also incorporated under Michigan Administrative Hearing Rule 792.10711(7). The applicant has participated in one or more community service or professional volunteer activities or programs since the revocation or suspension of her license Petitioner testified, and at least one document corroborates, that Petitioner is and continues to volunteer his time as a health and wellness coach with an alcohol and drug recovery program at the Hope Church of Monroe.¹⁹ Given that this guideline only requires participation in one or more volunteer activities and does not specifically define what qualifies as this type of activity, and what does not, the tribunal finds and concludes that Petitioner's health and wellness coaching activities satisfies this guideline. The applicant has successfully completed one or more substance abuse treatment programs * * *. There has never been any allegation, either in the underlying Administrative Complaint, Order of Summary

Suspension, The Superseding Complaint or the Final Order that Petitioner's violations were in any manner related to a substance abuse disorder. As such, the tribunal concludes that this guideline is inapplicable. The applicant has participated in inpatient or outpatient treatment for mental, psychological, emotional, and/or physical disorders. * * *. This guideline applies only if the license or registration was revoked due to a mental, psychological, emotional, and/or physical disorder. Here, the Petitioner's medical license was suspended, not revoked. As such, this guideline is inapplicable. The applicant has complied with all terms of his or her order of discipline, including payment of fines and costs as set forth in said order. The evidence establishes that Petitioner has complied with all terms and conditions of the June 2, 2020 Final Order, including the payment of the \$5,000 fine.²⁰ Accordingly, the tribunal concludes that Petitioner has satisfied this guideline. ¹⁹ Petitioner Exhibit 13A. ²⁰ Respondent's Response Opposing Application for Reinstatement, p. 4. 24-014996 Page 14

The applicant has successfully completed one or more continuing education programs during the period of suspension or revocation or consumed current literature concerning the practice of his profession. The evidence establishes that, since the suspension of his license, the

Petitioner has completed 163.50 hours of continuing medical education coursework, including courses on opioid, alcohol and cannabis use disorder. He has also kept abreast of the medical profession through self-study learned treatises and articles.²¹ Accordingly, the tribunal concludes that Petitioner has satisfied this guideline. The applicant has participated in didactic or clinical training, including remedial education in areas previously found deficient, or successfully completed an overall refresher course if the applicant has been out of practice for a significant period. The clear and convincing evidence demonstrates that, since the June 2020 suspension, The evidence establishes that, since the suspension of his license, the Petitioner has completed 163.50 hours of continuing medical education coursework, including courses on opioid, alcohol and cannabis use disorder. He has also kept abreast of the medical profession through self-study, treatises and articles.²² Due to his suspension, Petitioner has had no realistic opportunity to participate in didactic or clinical training. However, one letter of reference indicates that while attending a December 2023 meeting of the New York State Anesthesiology Association, his physician skills were informally evaluated by a fellow colleague attending the meeting and he was determined capable of practicing safely and skillfully.

Another letter is from Dr. Ana Shah of the Surgical Institute of Monroe. Dr. Shah writes that Petitioner has had “employment sessions” and during those sessions has displayed competence in the intake of patient histories, review of systems, etc.²³ Additionally, Petitioner’s completion of continuing education coursework and self-study suggests his fund of knowledge is solid. Any deficiency in Petitioner’s skills of which the Board of Medicine may be concerned can be remedied through a period of limitations as deemed appropriate. Accordingly, the tribunal concludes that Petitioner has satisfied this guideline. The applicant has submitted an assessment or evaluation of his professional skills and knowledge by an individual or entity who is trained or otherwise qualified to make such an evaluation. 21 Petitioner Exhibits 7, 8. 22 Petitioner Exhibits 7, 8. 23 Petitioner Exhibits 9A, 9B. 24-014996 Page 15 As mentioned above, one letter of reference submitted on behalf of Petitioner indicates that while attending a December 2023 meeting of the New York State Anesthesiology Association, his physician skills were informally evaluated by a fellow colleague attending the meeting and he was determined capable of practicing safely and skillfully. Another letter is from Dr. Ana Shah of the Surgical Institute of Monroe who indicates that Petitioner has participated in “employment sessions”

during which time his physician skills were evaluated and where he displayed competence in the intake of patient histories, review of systems, etc.²⁴ The tribunal is cognizant of the fact that none of the individuals who authored letters of reference on Petitioner's behalf were present at the hearing. Thus, the Respondent was accorded no opportunity to examine the veracity of their statements. However, any deficiency in Petitioner's skills of which the Board of Medicine may be concerned can be remedied through a period of limitations as deemed appropriate. Accordingly, the tribunal concludes that Petitioner has satisfied this guideline. The applicant desires in good faith to be restored to the privilege of practicing medicine in Michigan. Petitioner submitted no formal Affidavit with his application expressing remorse for past actions or his sincere and genuine desire to be relicensed. However, the cumulative evidence he has presented during the hearing is clear and convincing evidence of his good faith desire to be restored to the practice of medicine. Accordingly, the tribunal concludes that the Petitioner has satisfied this guideline.

PROPOSED DECISION The tribunal proposes that the Board of Medicine grant Petitioner's Application for Reinstatement of his medical license, subject to whatever limitations, if any, it deems appropriate.

Stephen B. Goldstein

Administrative Law Judge 24 Petitioner Exhibits 9A, 9B.

24-014996 Page 16 Exceptions: The parties may file

Exceptions to this Proposal for Decision within twenty-one (21) days after it is issued and entered. An opposing

party may file a Response to Exceptions within fourteen (14) days after initial Exceptions are filed (see

computation of filing time at Mich Admin Code, R

792.10104). For any Exceptions and Responses to

Exceptions, a party must: 1) State the case name and

docket number as shown on the first page of this Proposal

for Decision; 2) File with the Michigan Office of

Administrative Hearings and Rules-General

Adjudication, by e-mail (preferred):

MOAHR□GA@michigan.gov; fax: 517-763-0148; regular

mail: MOAHR-GA, P.O. Box 30695, Lansing, Michigan

48909-8195; or overnight carrier delivery (UPS, FedEx,

DHL): MOAHR-GA, c/o Department of Licensing and

Regulatory Affairs, Mail Services, 2407 N. Grand River

Avenue, Lansing, Michigan 48906; and 3) Serve a copy on

all parties to the proceeding at the email/regular mail

addresses shown on the attached Proof of Service. Notice

to Agency to Provide MOAHR with Subsequent Agency

or Court Orders The state agency that is a party to this

matter, and/or referred this matter to MOAHR, shall

serve MOAHR with any subsequent orders entered as a result of this ALJ's decision or proposed decision, including but not limited to the agency's final order, order to remand the matter to MOAHR for further proceedings, or order on appeal, as soon as practicable following entry of the order to: Michigan Office of Administrative Hearings and Rules, General Adjudication, by email (preferred) to: MOAHR-GA@michigan.gov; or by regular mail to: MOAHR-GA, P.O. Box 30695, Lansing, Michigan 48909-8195. See: Mich Admin Code, R 792.10120(2)(i). 24-014996 Page 17

PROOF OF SERVICE I certify that I served a copy of the foregoing document upon all parties and/or attorneys, to their last-known addresses in the manner specified below, this 31st day of October 2024. R. Taylor R. Taylor

Michigan Office of Administrative Hearings and Rules
VIA FIRST CLASS-ELECTRONIC MAIL LESLY
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POMPYPAIN@GMAIL.COM VIA ELECTRONIC
MAIL KAREN CARPENTER BUREAU OF
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Appendix 215

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