

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

In the Matter of
LINDSAY ROSE DYKEMA, M.D.
License No. 43-01-097316

Complaint No. 43-19-155264

CONSENT ORDER AND STIPULATION

CONSENT ORDER

An administrative complaint was filed with the Disciplinary Subcommittee of the Board of Medicine on October 3, 2019, charging Lindsay Rose Dykema, M.D. (Respondent) with having violated sections 16221(a), (b)(i), (b)(vi), and (e)(vi) of the Public Health Code, MCL 333.1101 *et seq.*

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 is placed on PROBATION for a minimum period of 12 months not to exceed 24 months, commencing on the effective date of this order. Reduction of the period of probation shall occur only while Respondent is employed as a 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 24 months. If Respondent fails to complete any term or condition of probation as set forth in this order within 24 months 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 physician, she shall immediately provide copies of this order and the complaint dated October 3, 2019, to her employer and supervisor. Respondent's immediate supervisor at the place of employment shall be knowledgeable of Respondent's history and file reports with the Department, as further provided below, advising of Respondent's work performance. For purposes of these reports, Respondent's immediate supervisor shall be a licensed physician. 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, her supervisor shall immediately notify the Department.

Respondent is responsible to ensure that the employer submits quarterly reports.

- 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. REPORT OF NON-EMPLOYMENT. If, at any time during the period of probation, Respondent is not employed as a psychiatrist, she 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 she returns to practice as a psychiatrist. If Respondent subsequently returns to practice as a psychiatrist, she 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.

- D. 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 \$4,000.00 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 43-19-155264 clearly indicated on the check or money order); and shall be payable within 120 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.

Counts II, III, and IV of the complaint, alleging a violation of sections 16221(b)(i), (b)(vi), and (e)(vi) 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: 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.

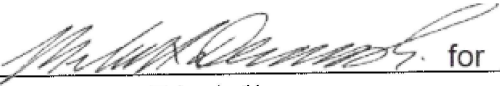
Respondent shall be responsible for the timely compliance with the terms of
this consent order, including the timely filing of any documentation. Failure to
comply within the time limitations provided will constitute a violation of this order.

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 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 May 20, 2020

MICHIGAN BOARD OF MEDICINE

By  for
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, she is waiving the right under the Public Health Code, rules promulgated under the Public Health Code, and the Administrative Procedures Act of 1969, 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 Venkat Rao, M.D. Dr. Rao 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. Rao and the parties considered the following factors in reaching this agreement:

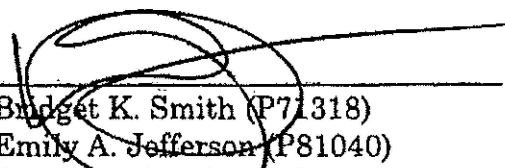
- A. Respondent has been licensed to practice medicine in Michigan since 2010 and has no prior disciplinary action.
- B. Respondent provided evidence of completing over 30 hours of continuing education in boundary violations and ethics as follows: *Maintaining Proper Boundaries*, Vanderbilt University Medical Center, in-person (24 CE credit hours); *Ethical Boundary Violations*, Massachusetts Medical Society (one CE credit); *Boundaries for Physicians: The Code of Medical Ethics*, AMA (one

CE credit); *PBI Complete Professional – Navigating Professional Boundaries in Medicine*, UC Irvine (one CE credit); *Sexual and Romantic Boundary Violations*, AMA (one CE credit); and *Risk Management Focus: Professional Boundaries*, Medical Risk Management, Inc (2 CE credits).


- C. Respondent provided numerous letters of support including local licensed Michigan medical doctors and other health care providers;
- D. The allegations against Respondent did not involve multiple patients or any physical abuse or injury;
- E. Respondent met in-person with the Board Conferee and engaged in a very transparent discussion of the events and circumstances regarding the subject allegations;
- F. Respondent described steps she has put in place to avoid any future boundary violations from occurring;
- G. Respondent has spent most of her career in service of underserved populations, including programs for homeless veterans, jail diversion, and mental health courts, and intends to continue to work with these populations

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

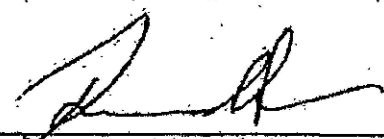
AGREED TO BY:


Bridget K. Smith (P71318)
Emily A. Jefferson (P81040)
Assistant Attorneys General
Attorney for Complainant
Dated: 4 March 2020

AGREED TO BY:


Lindsay Rose Dykema, M.D.
Respondent

Dated: 02-25-2020


Robert S. Iwrey (P48688)
Attorney for Respondent
Dated: 3/4/20

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ADMINISTRATIVE COMPLAINT

Attorney General Dana Nessel, through Assistant Attorneys General Bridget K. Smith and Emily A. Jefferson, on behalf of the Department of Licensing & Regulatory Affairs, Bureau of Professional Licensing (Complainant), files this complaint against Lindsay R. Dykema, M.D. (Respondent), alleging upon information and belief as follows:

1. The Board of Medicine, an administrative agency established by the Public Health Code, MCL 333.1101 *et seq.*, is empowered to discipline licensees under the Code through its Disciplinary Subcommittee.
2. Respondent is currently licensed to practice medicine pursuant to the Public Health Code and is board-certified in the practice of psychiatry.
3. Section 16221(a) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against a licensee for a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to, or supervision of employees or other individuals, whether or

not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully practice as a physician.

4. Section 16221(b)(i) of the Code authorizes the Disciplinary Subcommittee to take disciplinary action against a licensee for incompetence, which is defined at section 16106(1) of the Code as a "departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession, whether or not actual injury to an individual occurs."

5. Section 16221(b)(vi) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against a licensee for lack of good moral character, defined at section 1 of 1974 PA 381, as amended; MCL 338.41 *et seq*, as the "propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner."

6. Section 16221(e)(vi) of the Code authorizes the Disciplinary Subcommittee to discipline licensees for conduct with a patient "including conduct initiated by a patient or to which the patient consents, that is sexual or may reasonably be interpreted as sexual."

7. Section 16226 of the Code authorizes the Disciplinary Subcommittee to impose sanctions against persons licensed by the Board if, after opportunity for a hearing, the Disciplinary Subcommittee determines that a registrant violated one or more of the subdivisions contained in section 16221 of the Code.

FACTUAL ALLEGATIONS

8. From January 28, 2016 to March 5, 2019, Livingston County Mental Health (CMH) employed Respondent as a staff psychiatrist.

9. Respondent provided Patient psychiatric care from November 1, 2017 until Patient was transferred to a different provider in March 2018 (patient name withheld to protect privacy). Respondent provided Patient monthly medication review.

10. Respondent initiated inappropriate communications with Patient via her personal email and postal mail on January 1, 2018. The communications continued through May 22, 2018.

11. Respondent's communications with Patient were of a flirtatious and sexual nature. For example, on January 25, 2018, Patient asked Respondent via email whether she had a boyfriend or partner. Respondent's messages to Patient contained sexual innuendos.

12. In or about March 2018, Respondent told her supervisor about the communications with Patient, who was subsequently transferred to a different provider.

13. Patient disclosed the inappropriate communications to Patient's CMH therapist almost a year later – in or about February 2019. On March 1, 2019, the CMH therapist informed the Recipient Rights Officer of the improper communications because they were still negatively affecting Patient. The Recipient Rights Officer commenced an investigation that same day.

14. CMH suspended Respondent without pay pending the full Recipient Rights Complaint investigation. Upon notification of the investigation on March 5, 2019, Respondent immediately resigned.

15. During a June 18, 2019 interview with the Bureau Investigator, Respondent acknowledged that her communications with Patient were inappropriate and caused some lapses in judgment related to Patient's treatment.

COUNT I

16. Respondent's conduct as described above constitutes negligence and a failure to exercise due care in violation of section 16221(a) of the Code.

COUNT II

17. Respondent's conduct as described above constitutes incompetence in violation of section 16221(b)(i) of the Code.

COUNT III

18. Respondent's conduct as described above constitutes a lack of good moral character in violation of section 16221(b)(vi) of the Code.

COUNT IV

19. Respondent's conduct as described above constitutes sexual misconduct in violation of section 16221(e)(vi) 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, 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 receipt of this complaint to submit a written response to the allegations contained in it. Pursuant to section 16192(2) of the Code, Respondent is deemed to be in receipt of the complaint 3 days after the date of mailing listed in the attached proof of service. The written response shall be submitted 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) of the Code, failure to submit a written response within the 30 day-period shall be treated as an admission of the allegations contained in the complaint and shall result in transmittal of the complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Respectfully submitted,

DANA NESSEL
Attorney General



Bridget K. Smith (P71318)
Emily A. Jefferson (P81040)
Assistant Attorneys General
Licensing & Regulation Division
P.O. Box 30758
Lansing, Michigan 48909
(517) 335-7569

Dated: October 3, 2019