

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF HEALTH PROFESSIONS
BOARD OF OSTEOPATHIC MEDICINE AND SURGERY
DISCIPLINARY SUBCOMMITTEE

In the Matter of

KIMBERLY TREVER, D.O.
License No. 51-01-015472

Complaint No. 51-10-117530

FIRST SUPERSEDING ADMINISTRATIVE COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Bridget K. Smith, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Health Professions (Complainant), files this First Superseding Administrative Complaint against Kimberly Trever, D.O. (Respondent) alleging upon information and belief as follows:

1. The Board of Osteopathic Medicine and Surgery, (Board of Osteopathic Medicine), an administrative agency established by the Public Health Code (Code), 1978 PA 368, as amended, MCL 333.1101 *et seq*, is empowered to discipline licensees under the Code through its Disciplinary Subcommittee (DSC).

2. Respondent is currently licensed to practice as a doctor of osteopathic medicine pursuant to the Code. At all times relevant to the complaint, Respondent worked as a psychiatrist at her own practice, Ingress P.L.L.C., located in Traverse

City, Michigan.

3. Section 16221(a) of the Code provides the DSC 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 medicine.

4. Section 16221(h) of the Code authorizes the DSC to take disciplinary action against a licensee for violating, or aiding or abetting in a violation of, Article 15 or a rule promulgated under Article 15.

5. A violation of a final order issued by a disciplinary subcommittee, board or task force constitutes a violation of 1996 AACRS R. 338.1632.

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

PRIOR LICENSING ACTIONS

7. On September 2, 2009, Complainant filed an Administrative Complaint with the Board of Osteopathic Medicine's DSC charging Respondent with violations of sections 16221(a) and (b)(vi) of the Code, based on allegations that between 2003 and 2004 Respondent prescribed schedule 3 and 4 controlled substances via the internet without a valid physician-patient relationship.

8. On September 2, 2009, Complainant also filed an Administrative Complaint against Respondent's controlled substance license with the Board of Pharmacy's DSC charging Respondent with violations of sections 7311(1)(e), (f) and (h) of the Code, based on the same allegations described in paragraph 8.

9. In December, 2009, Respondent entered into two separate consent agreements with Complainant. On February 4, 2010, the Board of Osteopathic Medicine's DSC issued a Final Order pursuant to a consent agreement dismissing the alleged violation of section 16221(b)(vi) of the Code, and placing Respondent on probation for a period of two years with terms including a requirement that Respondent comply with all applicable provisions of the Code. The Final Order was effective March 6, 2010.

10. On March 10, 2010, the Board of Pharmacy's DSC also issued a Final Order pursuant to a consent agreement, placing Respondent on probation for a

minimum period of one day, not to exceed one year with terms including a requirement that Respondent comply with all applicable provisions of the Code. The Final Order was effective on April 9, 2010.

FACTUAL ALLEGATIONS

11. Respondent treated M.W. (initials used to protect patient confidentiality) for bipolar disorder and depression related to multiple sclerosis from December 1, 2009 until May 20, 2010. During that time, Respondent met with M.W. approximately once a month.

12. According to M.W.'s cell phone records, between March 21, 2010 and March 29, 2010 alone, Respondent and M.W. exchanged approximately 370 text messages, over 70 of which were sent between the hours of 11 p.m. and 2 a.m. While Respondent noted discussing texting with M.W. in a February treatment note, there is nothing in Respondent's subsequent notes mentioning the 370 texts she exchanged with M.W. between March 21 and March 29, 2010.

13. On May 20, 2010, Respondent sent M.W. a letter terminating the physician-patient relationship. In the letter Respondent indicated that she would provide M.W. with medication and emergency care up until June 18, 2010. In addition, Respondent indicated in the letter, that she was terminating the physician-patient relationship based, in part, on M.W.'s inability to respect the professional boundaries, as well as M.W.'s decision to continue endangering himself

by mixing prescription medications with alcohol.

14. Despite the termination letter and Respondent's stated concerns that M.W. was mixing prescription medications with alcohol, on August 13, 2010, Respondent provided M.W. with a prescription for alprazolam, a controlled substance. According to his Michigan Automated Prescription System report, M.W. refilled this prescription on September 16, 2010, October 19, 2010 and November 22, 2010, despite the fact he was no longer receiving mental health treatment from Respondent.

COUNT I

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

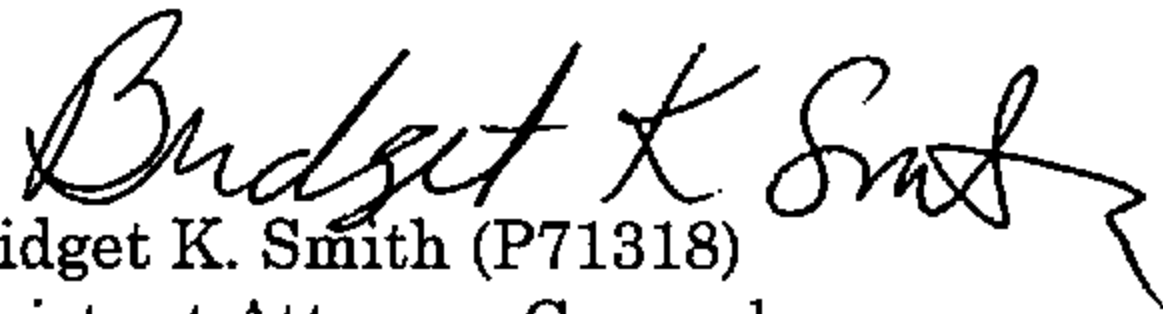
COUNT II

16. Respondent's conduct as described above constitutes a violation of the Code contrary to a final order of a DSC, in violation of 1996 AACRS R. 338.1632 and section 16221(h) of the Code.

FURTHER, the administrative complaint previously filed against Respondent on May 31, 2012 is hereby WITHDRAWN and replaced in full by this first superseding complaint.

Respectfully Submitted,

BILL SCHUETTE
Attorney General



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