

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF HEALTH CARE SERVICES
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
CONSENT ORDER AND STIPULATION

CONSENT ORDER

A First Superseding Administrative Complaint was filed with the Disciplinary Subcommittee of the Board of Osteopathic Medicine and Surgery on October 25, 2012, charging Kimberly Trever, D.O. (Respondent) with having violated sections 16221(a) and (h) of the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 *et seq.*; 1996 AACS 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 complaint are true and that Respondent has violated sections 16221(a) and (h) of the Public Health Code; 1996 AACS R. 338.1632.

Accordingly, for these violations, IT IS ORDERED:

Respondent is placed on PROBATION for a minimum period of one day, not to exceed three years, commencing on the effective date of this order. Respondent shall be automatically discharged from probation upon successful compliance with the terms and conditions as provided below, provided compliance occurs within three years of the effective date of this order. If Respondent fails to complete any term or condition of probation as set forth in this order within three years of the effective date of this order, Respondent will be in violation of 1996 AACRS, R. 338.1632 and section 16221(h) of the Public Health Code. The terms and conditions of the probation are as follows:

- A. 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.
- B. CONTINUING EDUCATION CREDITS. Respondent shall successfully complete 4 hours of continuing education credits in the area of ethics and 16 hours of continuing education credits in the area of professional boundaries. 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.

Respondent is FINED FIVE HUNDRED and 00/100 DOLLARS (\$500.00) to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 51-10-117530 clearly indicated

on the check or money order) within three years from the effective date of this order. The timely payment of the fine shall be Respondent's responsibility. Respondent shall mail the fine to: Sanction Monitoring, Bureau of Health Care Services, Department of Licensing and Regulatory Affairs, P.O. Box 30185, Lansing, Michigan 48909.

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 shall direct any communications to the Department that are required by the terms of this order to: Sanction Monitoring Unit, Bureau of Health Care Services, Department of Licensing and Regulatory Affairs, 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.

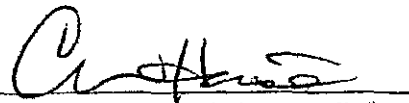
Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

If Respondent violates any term or condition set forth in this order, Respondent will be in violation of 1996 AACR, R 338.1632, and section 16221(h) of the Public Health Code.

This order shall be effective on the date signed by the Chairperson of the Disciplinary Subcommittee or the Disciplinary Subcommittee's authorized representative, as set forth below.

Signed on 6/6/13

MICHIGAN BOARD OF OSTEOPATHIC
MEDICINE AND SURGERY

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*, she 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, she 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 Charles E. Kelly, D.O. Dr. Kelly 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. Kelly and the parties considered the following factors in reaching this agreement:


- A. During an October 19, 2012 compliance conference, Respondent explained that she did not typically allow patients to contact her after 7:00 p.m. unless it was an emergency. However, she admitted to bending these rules to allow M.W. to contact her late at night because he was often awake late due to sleep disturbances. However, looking back, Respondent stated she recognizes that this decision was inappropriate and realizes that by making exceptions for M.W, she contributed to M.W.'s transference issues.
- B. During the compliance conference Respondent admitted that she continued to prescribe M.W. Alprazolam after she had already terminated the patient relationship. However, Respondent explained

that due to a shortage of psychiatrists in northern Michigan, M.W. was having a difficult time finding a new provider. Therefore, Respondent stated she felt she had a duty to continue M.W.'s prescription to give him additional time to find a new therapist with the risk of withdrawal. She now recognizes this was inappropriate.


- C. Respondent is currently in the process of winding down her practice in Traverse City and is only treating a handful of patients at this time. Respondent indicated that once her practice is closed, she wants to take some time to reflect on what she wants to do with her license moving forward.
- D. At the time of the compliance conference, Respondent had not fully complied with the terms of her previous consent orders and stipulations. Dr. Kelly and the parties took that into consideration and this agreement incorporates the provisions of those orders that Respondent has not completed.

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)
Assistant Attorney General
Attorney for Complainant
Dated: 3/27/13

AGREED TO BY:


Kimberly Trever, D.O.
Respondent

Dated: 3/24/13

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.

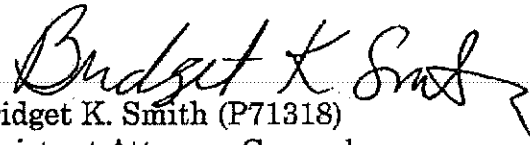
COUNT II

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



Bridget K. Smith (P71318)
Assistant Attorney General
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P.O. Box 30758
Lansing, Michigan 48933
(517) 373-1146

Dated: October 25, 2012