

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

In the Matter of

JOSEPH AARON SCOTT HETHORN, L.P.C.
License No. 64-01-016668

Complaint No. 64-19-154182

ADMINISTRATIVE COMPLAINT

Attorney General Dana Nessel, through Assistant Attorney General Eric M. St. Onge, on behalf of the Department of Licensing & Regulatory Affairs, Bureau of Professional Licensing (Complainant), files this complaint against Joseph Aaron Scott Hethorn, L.P.C. (Respondent), alleging upon information and belief as follows:

1. The Board of Counseling, an administrative agency established by the Public Health 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 counseling pursuant to the Public Health Code.
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 counseling.

4. Section 16221(b)(i) of the Code authorizes the DSC to take disciplinary action against Respondent 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)(ii) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against a licensee for betrayal of a professional confidence.

7. Section 16221(e)(vi) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against a licensee for unprofessional conduct consisting of any conduct by a health professional with a patient while he is acting within the health profession for which he is licensed, including conduct initiated by a patient or to which the patient consents, which is sexual or can reasonably be interpreted as sexual.

8. Section 16221(e)(vii) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against a licensee for offering to provide practice-related services, such as drugs, in exchange for sexual favors.

9. Section 16221(h) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against a licensee for a violation, or aiding or abetting in a violation, of this article or of a rule promulgated under this article.

10. Section 16233(5) of the Public Health Code provides for the summary suspension of a license, reading, in pertinent part, as follows:

After consultation with the chair of the appropriate board or task force or his or her designee, the department may summarily suspend a license or registration if the public health, safety, or welfare requires emergency action in accordance with section 92 of the Administrative Procedures Act of 1969, being section 24.292 of the Michigan Compiled Laws. If a licensee or registrant is convicted of a felony; a misdemeanor punishable by imprisonment for a maximum term of 2 years; or a misdemeanor involving the illegal delivery, possession, or use of a controlled substance, the department shall find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the administrative procedures act of 1969, shall summarily suspend the licensee's license or the registrant's registration.

11. 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 of the subdivisions contained in section 16221 of the Code.

FACTUAL ALLEGATIONS

12. Respondent provided counseling services to MS (a male, initials used to protect patient confidentiality) at Victory Methadone Clinic (VMC) beginning on or around fall of 2018. MS saw Respondent for counseling for approximately 20 sessions.

13. MS was required to undergo counseling sessions once weekly in order to obtain medication from VMC, and a VMC counselor could put a stop on medication if an appointment was missed.

14. During one of his counseling sessions with Respondent at VMC, MS confided to Respondent that MS believed he required additional help from a Psychiatrist or needed to enter a rehab facility or program. Respondent advised MS that this was not needed, and that MS could counsel with Respondent at Respondent's private practice. Respondent then provided MS with his business card containing information about his private practice.

15. On or about November 2, 2018 MS attended his first appointment with Respondent at Respondent's private practice in East Lansing. MS did not have an operable vehicle, so Respondent picked him up at MS's residence.

16. Respondent and MS took a smoking break during the above private counseling session, at which time Respondent accidentally locked the office keys inside the office. Eventually Respondent broke the door to gain access. Afterward Respondent and MS traveled to Home Depot to purchase parts to fix the door.

17. During the drive back from Home Depot Respondent told MS that he could not stop thinking about him, and that he wanted to kiss him from the very first time he saw him.

18. Upon returning to the office Respondent and MS began working on fixing the door, during which time Respondent made comments about giving MS a massage.

19. Upon completion of the work MS washed his hands in the bathroom. While washing his hands Respondent came up behind MS, put his face near MS's ear, and whispered "You're worth it. You're worth it."

20. Respondent then flipped MS around and began kissing his neck, mouth, working his way down to MS's belt buckle. Respondent then unbuckled MS's belt, pulled down MS's pants, and performed fellatio on MS for approximately 3 minutes.

21. MS was in shock, did not know what to do, and was worried that Respondent would prevent him from obtaining his medications.

22. After the encounter Respondent drove MS home.

23. As a result of being afraid, MS played along with Respondent's text message advances over the next two days.

24. On November 4, 2018 MS reported Respondent to the East Lansing Police Department. Respondent was subsequently charged with Criminal Sexual Conduct (CSC) 1st degree and CSC 3rd degree.

25. On November 7, 2018 MS reported Respondent to VMC. Respondent was suspended pending an investigation, then terminated by VMC.

COUNT I

26. Respondent's conduct as described constitutes negligence and a failure to exercise due care, as well as conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully practice counseling in violation of section 16221(a) of the Code.

COUNT II

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

COUNT III

28. 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

29. Respondent's conduct as described above constitutes betrayal of a professional confidence in violation of section 16221(e)(ii).

COUNT V

30. Respondent's conduct as described above constitutes unprofessional conduct consisting of any conduct by a health professional with a patient while he is acting within the health profession for which he is licensed, including conduct initiated by a patient or to which the patient consents, which is sexual or can reasonably be interpreted as sexual in violation of section 16221(e)(vi).

COUNT VI

31. Respondent's conduct as described above constitutes offering to provide practice-related services, such as drugs, in exchange for sexual favors in violation of section 16221(e)(vii).

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.*

FURTHER, Complainant requests that pending the hearing and final determination Respondent's license to practice counseling in the State of Michigan continue to be summarily suspended pursuant to section 92 of the Administrative Procedures Act and section 16233(5) of the Public Health Code for the reason that, based upon the allegations set forth herein, to permit Respondent to continue to practice the profession constitutes a danger to the public health, safety and welfare requiring emergency action.

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



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Dated: August 8, 2019

LF: 2019-0253452-B/Hethorn, Joseph Aaron Scott, L.P.C., 154182/Complaint -- Administrative -- 2019-08-01