

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

In the Matter of

JEFFRY WARREN KNAPP, M.T.
License No. 75-01-0090620

Complaint No. 75-19-156010

ORDER OF SUMMARY SUSPENSION


An administrative complaint has been issued against Respondent under the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 *et seq*, promulgated rules, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq*.

After consideration of the documentation filed in this case and consultation with the Chairperson of the Board of Massage Therapy, the Department concludes that the public health, safety or welfare requires emergency action, as allowed by section 16233(5) of the Public Health Code and section 92(2) of the Administrative Procedures Act.

THEREFORE, IT IS ORDERED that Respondent's license to practice massage therapy in the State of Michigan shall be summarily suspended commencing on the date this order is served.

Under Mich Admin Code, R 792.10702, Respondent has the right to petition for the dissolution of this order of summary suspension. This petition shall clearly state that it is a Petition for Dissolution of Summary Suspension and shall be filed with the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, P.O. Box 30670, Lansing, Michigan 48909, with a copy served upon the Department of Attorney General, Licensing & Regulation Division, P.O. Box 30758, Lansing, Michigan, 48909. Questions concerning the Order of Summary Suspension may be directed to (517) 335-7569. Upon receipt of such a petition, an administrative hearing will immediately be scheduled before an administrative law judge, who shall dissolve the order of summary suspension unless sufficient evidence is produced to support a finding that the public health, safety, or welfare requires emergency action and a continuation of the suspension order.

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS

By: 
Cheryl Wykoff Pezon, Director
Bureau of Professional Licensing

Dated: 10-2-19

LF: 2019-0264660-A/Knapp, Jeffry Warren, M.T./Order for Summary Suspension/2019-09-30

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ADMINISTRATIVE COMPLAINT

Attorney General Dana Nessel, through Assistant Attorney General Rose P. Kleff, on behalf of the Department of Licensing & Regulatory Affairs, Bureau of Professional Licensing (Complainant), files this complaint against Jeffry Warren Knapp, M.T. (Respondent), alleging upon information and belief as follows:

1. The Board of Massage Therapy, 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 massage therapy pursuant to the Public Health Code.
3. Section 16221(a) of the Code allows the Disciplinary Subcommittee 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 engage in the practice of the health profession."

4. Section 16221(b)(i) of the Code allows the Disciplinary Subcommittee to take disciplinary action against a licensee for incompetence. Section 333.16106(1) of the Code defines incompetence 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 allows the Disciplinary Subcommittee to take disciplinary action against a licensee for lack of good moral character. Section 333.16104(6) of the Code and MCL 338.41 to 338.47 define "good moral character" to mean "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 allows the Disciplinary Subcommittee to take disciplinary action against a licensee for "conduct by a health professional with a patient while he or she is acting within the health profession for which he or she is licensed or registered, including conduct initiated by a patient or to which the patient consents, that is sexual or may reasonably be interpreted as sexual, including, but not limited to, sexual intercourse, kissing in a sexual manner, or touching of a body part for any purpose other than appropriate examination, treatment, or comfort."

7. 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.

8. Section 16226 of the Code authorizes the Disciplinary Subcommittee to impose sanctions against licensees if, after an opportunity for hearing, the Disciplinary Subcommittee determines the licensee violated one of more of the subdivisions in section 16221 of the Code.

FACTUAL ALLEGATIONS

Patient 1 – D.A. (initials used to protect privacy)

9. In April 2018, Respondent was working at Loving Hands Massage, located in Traverse City, Michigan, as a massage therapist.

10. D.A. presented to Loving Hands Massage for a massage, and Respondent proceeded to provide her with one.

11. During the massage, after D.A. turned onto her back, Respondent began massaging her legs.

12. Respondent moved his fingers quickly from the inside to the outside of D.A.'s thighs. During this movement, Respondent put his fingers inside D.A.'s underwear, quickly touching and massaging D.A.'s labia.

13. D.A. stopped the massage. D.A. subsequently reported the incident to law enforcement.

Patient 2 – J.R.

14. In September 2018, Respondent was still working at Loving Hands Massage.

15. J.R. presented to Loving Hands Massage for a massage, and Respondent proceeded to provide her with one.

16. During the massage, after J.R. turned onto her back, Respondent began massaging her legs and inner thighs.

17. Respondent then put his hand under J.R.'s underwear and rubbed J.R.'s vaginal area.

18. J.R. told Respondent that she did not want him to finish the massage.

19. J.R. immediately reported the incident to law enforcement.

Patient 3 – R.S.

20. In 2005, Respondent was working at Grand Traverse Resort, located in Traverse City, Michigan, as a massage therapist.

21. R.S. presented to Grand Traverse Resort for a massage, and Respondent proceeded to provide her with one.

22. During the massage, Respondent asked R.S. permission to massage her chest. R.S. agreed thinking that the massage would only cover the upper chest and shoulders.

23. However, Respondent uncovered the drape that was covering R.S.'s chest, leaving her breasts exposed, and proceeded to massage R.S.'s breasts.

24. R.S. reported the incident to Grand Traverse Resort and Respondent's employment there was subsequently terminated.

COUNT I

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

COUNT II

26. Respondent's conduct, as described above, constitutes Respondent's failure to conform to minimal standards of acceptable and prevailing practice for a massage therapist, in violation of section 16221(b)(i) of the Code.

COUNT III

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

COUNT IV

28. Respondent's conduct, as described above in paragraphs 9-19, constitutes conduct by Respondent with a patient while acting within the health profession for which he is licensed, including conduct initiated by a patient or to which the patient consents that is sexual or may reasonably be interpreted as sexual, including, but not limited to, sexual intercourse, 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 licenses. 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, as amended; MCL 24.201 *et seq.*

FURTHER, Complainant requests that pending the hearing and final determination Respondent's license to practice massage therapy 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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Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, Michigan 48909
(517) 335-7569

Dated: October 1, 2019

LF: 2019-0264660-A/Knapp, Jeffrey Warren, M.T./Administrative Complaint/2019-09-30