

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

In the Matter of

Michael Varney, L.L.P.
License No. 63-01-013523

Complaint No. 63-17-147912

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 Psychology, 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.

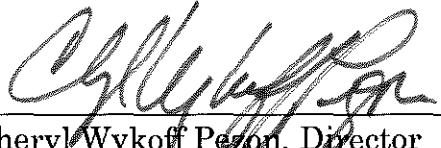
THEREFORE, IT IS ORDERED that Respondent's license to practice psychology in the State of Michigan shall be summarily suspended commencing on the date this order is served.

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) 373-1146. 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: 7/3/18

LF: 2018-0216362-A/Varney, Michael, L.L.P., 147912/Order – of Summary Suspension – 2018-07-02

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

In the Matter of

Michael Varney, L.L.P.
License No. 63-01-013523

Complaint No. 63-17-147912

ADMINISTRATIVE COMPLAINT

Attorney General Bill Schuette, through Assistant Attorneys General Bridget K. Smith and Alyssa A. Grissom, on behalf of the Department of Licensing & Regulatory Affairs, Bureau of Professional Licensing (Complainant), files this complaint against Michael Varney, L.L.P (Respondent), alleging upon information and belief as follows:

1. The Board of Psychology, 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.
2. Respondent is currently licensed as a limited licensed psychologist pursuant to the Public Health Code.
3. Section 16221(a) of the Code authorizes 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 practice as a limited licensed psychologist.

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

5. Section 16221(b)(vi) of the Code authorizes the Disciplinary Subcommittee to take disciplinary action against a licensee for "[l]ack of good moral character," which is defined as "the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner," MCL 338.41.

6. Section 16221(c)(iv) of the Code provides the Disciplinary Subcommittee with the authority to take disciplinary action against a licensee for "[o]btaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 or a drug as defined in section 7105 without lawful authority; or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes."

7. Section 16221(e)(ii) of the Code authorizes the Disciplinary Subcommittee to take disciplinary action against a licensee for the "[b]etrayal of a professional confidence."

8. Section 16221(e)(vi) of the Code authorizes the Disciplinary Subcommittee to take disciplinary action against a licensee for, "[a]ny 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."

9. Section 16221(e)(vii) of the Code authorizes the Disciplinary Subcommittee to take disciplinary action against a licensee for "[o]ffering to provide practice-related services, such as drugs, in exchange for sexual favors."

10. Section 16221(h) of the Code authorizes the Disciplinary Subcommittee 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."

11. Section 18223(2) of the Code indicates that, "[e]xcept for duties performed as an employee of a governmental entity or of a nonprofit organization serving benevolent and charitable purposes, the board shall place 2 limitations on a license granted to an individual under this subsection. The limitations must require supervision by a psychologist who has a license other than a limited license and must prohibit advertising or other representation to the public that will lead the public to believe the individual is engaging in the practice of psychology." MCL 333.18223(2)

12. Pursuant to Mich Admin Code, R 338.2571(a), an individual who is granted a limited license under section 18223(2) of the Code and has less than 10 years of experience as a limited licensed psychologist and is required to be supervised by a licensed psychologist shall "meet individually and in person with his or her supervisor for a minimum of 2 hours a month."

13. 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.

14. 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 licensee violated one or more of the subdivisions contained in section 16221 of the Code.

FACTUAL ALLEGATIONS

15. Respondent obtained his limited license as a psychologist in 2009.

16. Respondent owns and works at Superior Psychological with offices in Caspian, Kingsford and Marquette, Michigan. Superior Psychological is registered with the State of Michigan as a non-profit corporation, however it does not serve benevolent and charitable purposes. Additionally, Respondent owns Superior Psychological Services, P.C., a professional corporation and bills most, if not all of his services under this corporation. At all times relevant to the complaint, Respondent did not have or meet with a supervising psychologist for his practice at either facility.

J.M.

17. In approximately 2009, Respondent began providing J.M. with psychological treatment services. Shortly thereafter, Respondent hired J.M. as an employee of Superior Psychological. Around this same time, Respondent began a personal, intimate relationship with J.M.

18. Respondent's personal relationship with J.M. lasted at least eight years. During that time, Respondent and J.M. engaged in sexual contact on several occasions. Respondent also gave J.M. money and allowed her to live in a home he owned through his corporation. As of April 24, 2018, J.M. was still living in the same home.

19. On several occasions, Respondent provided controlled substances to J.M.

20. According to J.M., Respondent maintained baggies of prescription pills in the center console of his vehicle.

21. Respondent requested and received nude photographs from J.M.

22. Respondent billed J.M.'s insurance for psychological services as recent as June 2016.

23. On June 6, 2018, Respondent threatened J.M. regarding the pending investigations against him stating, "I know it was you who talked and I'll be at your house in one hour."

24. On June 8, 2018, J.M. was informed by a friend that Respondent was looking for J.M. Later that same day, J.M. petitioned for, and was granted, an ex parte personal protective order in Iron County, Michigan against Respondent.

L.W.

25. In 2009, L.W. began substance abuse treatment with Respondent. L.W. remained Respondent's patient until 2014.

26. On more than one occasion, Respondent provided L.W. prescription pills that L.W. believed were controlled substances.

27. Respondent also asked L.W. to send him sexually suggestive photographs.

28. While L.W. was Respondent's patient, he would take her to lunch and give her hugs. Respondent's conduct made L.W. uncomfortable.

29. On one occasion, Respondent sent a message asking L.W. to meet him at a motel. L.W. refused.

M.O.

30. Around 2011-2012, Respondent began providing substance abuse treatment to M.O.

31. During this time, Respondent sent M.O. chocolates.

32. When M.O. was petitioning for custody of her children, Respondent gave the court a positive recommendation of M.O. despite the fact that M.O. was ill equipped to parent at that time due to her drug usage.

33. During therapy sessions, Respondent told M.O. confidential information about other patients.

K.E.

34. Around 2011-2012, Respondent began treating K.E.'s minor step-son. Soon afterwards, Respondent requested that K.E. and her husband participate in family counseling, however, Respondent separated K.E. and her husband's sessions. Eventually, Respondent cancelled all sessions with K.E.'s husband and began to see K.E. alone.

35. During K.E.'s treatment sessions, Respondent would make inappropriate sexual comments and gestures to K.E.

36. Respondent also sent K.E. an email stating she "deserves 1000 roses" and included numerous pictures of roses.

37. Respondent revealed confidential information regarding other patients to K.E., specifically about her step-son's mother and other people in the community K.E. did not know.

J.H.

38. In May 2015, J.H. saw Respondent for a psychological evaluation and substance abuse treatment. J.H. remained Respondent's patient until the end of approximately 2017.

39. During their sessions, Respondent often provided J.H. crushed prescription pills. J.H. would ingest the pills in Respondent's presence.

40. During this time, Respondent texted J.H. sexually suggestive and inappropriate messages about his feelings for J.H., including, but not limited to: calling J.H. "fine ass," "pretty lady," "baby," and "pretty one;" inviting J.H. to lunch

with him; and stating to J.H. that he, "would love to spend time with you at least a couple times a week. And finally start screwing you."

41. On one occasion, while J.H. was Respondent's patient, Respondent hugged and kissed J.H. on the cheek and neck.

J.O.

42. In approximately August 2015, J.O. began seeing Respondent for a psychological evaluation and substance abuse treatment. J.O. remained Respondent's patient until approximately December 2015.

43. On several occasions during the period of treatment, Respondent provided J.O. controlled substances, gifts, and money in exchange for hugs, kisses, sexual contact and sexual penetration. This occurred on several occasions, in various locations, including J.O.'s home and Respondent's vehicles.

44. Respondent also provided J.O. with a cell phone. On several occasions, Respondent texted J.O. to arrange a time and place to give her controlled substances, which he would occasionally crush and insist she snort off the console of his vehicle.

45. In March 2016, when J.O. was no longer Respondent's patient, he provided Racine County in Wisconsin with an evaluation of J.O. for a pending court case without actually conducting an evaluation.

46. On or about December 2017, Respondent advised J.O. that he believed he was being investigated. On two occasions, Respondent had J.O. sign letters stating that she never received drugs in exchange for sex. During this time, Respondent bought J.O. another cell phone.

47. From approximately March 2016 until May 2018, Respondent continued to provide controlled substances to J.O. and have inappropriate contact with J.O.

B.B.

48. In the summer of 2016, B.B., who was not Respondent's patient, texted Respondent and requested pain killers for a tooth ache.

49. Respondent drove to B.B.'s residence and gave her multiple controlled substances. Later that same evening, Respondent texted B.B. and asked her to come over to his home.

A.C.

50. A.C. was Respondent's patient from November 2016 until August 2017.

51. On more than one occasion, Respondent took A.C. out to lunch.

52. On more than one occasion, Respondent gave A.C. controlled substances and marihuana for recreational use.

53. Respondent gave A.C. a credit card for personal spending.

54. Respondent requested and received sexually suggestive and partially nude photographs from A.C.

55. Respondent texted A.C. inappropriate messages and called her, "pretty one."

T.M.

56. In 2016 and 2017, Respondent began treating T.M.'s two minor children. During that time, Respondent would often transport the minor patients to and from their treatment appointments. Respondent would also pick up T.M.'s minor children from their home and take them to a gas station to get candy.

57. While treating her children, Respondent gave T.M. phone cards and would fill her vehicle tank with gasoline.

58. On at least two occasions, Respondent gave T.M. cash. When T.M. attempted to pay Respondent back, Respondent refused and stated that he "wanted to be the man in her life." Shortly thereafter, Respondent began requesting and received sexually suggestive photos of T.M. Based on Respondent's actions, T.M. feared that Respondent would have her children taken away if she did not comply with his requests.

59. Respondent gave T.M. controlled substances on multiple occasions.

60. Respondent and T.M. agreed to sexual contact in exchange for prescription pills.

61. On one occasion, Respondent kissed T.M. and groped her breasts over her clothing.

C.W.

62. In February 2017, C.W. started seeing Respondent for substance abuse treatment. C.W. remained Respondent's patient until approximately May of 2017.

63. During this time, Respondent asked C.W. to go out with him for dinner. On more than one occasion, Respondent took C.W. out of lunch.

64. Respondent assisted C.W. in filing divorce paperwork and paid her filing fees.
65. Respondent purchased a cell phone and phone cards for C.W.
66. Respondent texted C.W. sexually suggestive and inappropriate messages.
67. On one occasion, Respondent asked C.W. to come to his home to watch movies. Respondent indicated that if C.W. came to his home that he could help her with her pending child custody matter.
68. On one occasion, Respondent offered to take C.W. away for the weekend. Respondent also allowed C.W. to use his vehicle when she needed.
69. On at least one occasion, Respondent offered controlled substances to C.W.
70. On at least one occasion, Respondent revealed confidential treatment information about another patient to C.W.

COUNT I

71. Respondent's conduct as described above constitutes a violation of general duty consisting of negligence or failure to exercise due care in violation of section 16221(a) of the Code.

COUNT II

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

COUNT III

73. 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

74. Respondent's conduct as described above constitutes giving away or administering drugs for other than lawful diagnostic or therapeutic purposes in violation of section 16221(c)(iv) of the Code.

COUNT V

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

COUNT VI

76. Respondent's conduct as described above constitutes sexual conduct with a patient perpetrated while acting within the health profession for which Respondent is licensed in violation of 16221(e)(vi) of the Code.

COUNT VII

77. 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)(ii) of the Code.

COUNT VIII

78. Respondent's conduct as described above evidences a failure to practice under the supervision of a licensed psychologist, contrary to section 18223(2) of the Code, in violation of section 16221(h) of the Code.

COUNT VIII

79. Respondent's conduct as described above evidences a failure to practice under the supervision of licensed psychologist, contrary to section R 338.2571(a) of the Code, in violation of section 16221(h) 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, 1969 PA 306, as amended; MCL 24.201 *et seq.*

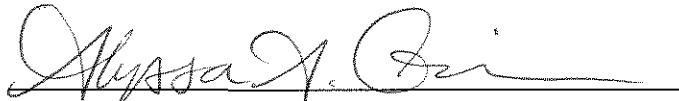
FURTHER, Complainant requests that pending the hearing and final determination, Respondent's license to practice as a limited licensed psychologist in the State of Michigan continue to be summarily suspended pursuant to section 92 of the Administrative Procedures Act and section 16233(5) of the Public 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 the receipt of this Complaint to submit a written response to the allegations contained in it. 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), failure to submit a written response within 30 days shall be treated as an admission of the allegations contained in the complaint and shall result in the transmittal of the complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Respectfully submitted,

BILL SCHUETTE
Attorney General



Bridget K. Smith (P71318)
Alyssa A. Grissom (P82329)
Assistant Attorneys General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
(517) 373-1146

Dated: July 2, 2018

LF: 2018-0216362-A/Varney, Michael, L.L.P., 147912/Administrative Complaint – 2018-07-02