

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

In the Matter of

DANIEL ARMAND LOCKETT, M.T.
License No. 75-01-004480,
Respondent.

File No. 75-17-145574

FINAL ORDER

On September 1, 2017, the Department of Attorney General, on behalf of the Department of Licensing and Regulatory Affairs (Department), executed a First Superseding Administrative Complaint charging Respondent with violating the Public Health Code, MCL 333.1101 *et seq.*

Based upon the Complaint and after consultation with the Chairperson of the Michigan Board of Massage Therapy, the Department summarily suspended Respondent's license to practice as a massage therapist in the state of Michigan by Order of Summary Suspension, dated June 9, 2017.

The Complaint notified Respondent that, pursuant to MCL 333.16231, Respondent's failure to respond to the Complaint within 30 days from the date of receipt would be treated as an admission of the allegations contained in the Complaint and would result in transmittal of the Complaint directly to the Michigan Board of Massage Therapy Disciplinary Subcommittee (DSC) for imposition of an appropriate sanction.

Contrary to MCL 333.16231, Respondent failed to provide a written response to the allegations set forth in the Complaint within 30 days from the date of receipt.

The DSC, having read the Complaint and Order of Summary Suspension, considered this matter at a regularly scheduled meeting held in Lansing, Michigan on January 8, 2018, and imposed a sanction pursuant to MCL 333.16231. Therefore,

IT IS ORDERED that the Order of Summary Suspension dated June 9, 2017, is DISSOLVED, as of the effective date of this Order.

IT IS FURTHER ORDERED that for violating MCL 333.16221(a), (b)(i), (b)(vi), (b)(xiii) and (e)(vi), Respondent's license to practice as a massage therapist is PERMANENTLY REVOKED commencing on the effective date of this Order. In accordance with MCL 333.16226(1) and (5), the DSC shall impose the sanction of PERMANENT revocation for a violation of MCL 333.16221(b)(xiii) if the violation occurred while Respondent was acting within the licensed health profession.

IT IS FURTHER ORDERED that in accordance with MCL 333.16245(9), Respondent is ineligible for reinstatement.

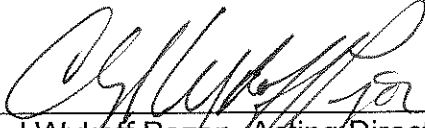
IT IS FURTHER ORDERED that in accordance with MCL 333.16245a, Respondent is permanently ineligible for a license, registration, or authorization to engage in the practice of a health profession under the Public Health Code, MCL 333.16101 to 333.18838.

This Order is a public record required to be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 15.241(1)(a); and this action may be reported to the National Practitioner Data Bank, and any other entity as required by state or federal law, in accordance with 42 USC 11101-11152.

IT IS FURTHER ORDERED that this Order shall be effective on the date signed by the DSC's Chairperson or authorized representative, as set forth below.

Dated: 1/30/18

**MICHIGAN BOARD OF MASSAGE THERAPY
DISCIPLINARY SUBCOMMITTEE**

By: 
Cheryl Wykoff Pezon, Acting Director
Bureau of Professional Licensing
Authorized Representative

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DISCIPLINARY SUBCOMMITTEE

In the Matter of

DANIEL ARMAND LOCKETT, M.T.
License No. 75-01-004480

Complaint No. 75-17-145574

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, Complainant herein, files the within First Superseding Administrative Complaint against Daniel Armand Lockett, 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, 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 licensed to practice as a massage therapist pursuant to the Public Health Code. At all times relevant to the complaint, Respondent owned and operated Unity Integrated Wellness and Fitness located in Kalamazoo, Michigan.

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 as a massage therapist.

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(b)(xiii) of the Code provides the Disciplinary Subcommittee with authority to take disciplinary action against a licensee for conviction of a criminal offense under section 83, 84, 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321, 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the court record is conclusive evidence of the conviction.

7. Section 16221(e)(vi) of the Public Health 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 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.

9. 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.

ALLEGATIONS

10. From 2014 until March 2017, Respondent inappropriately touched the vagina, breasts and buttocks of multiple female clients in a sexual manner, under the guise of providing massage therapy.

11. Based on this conduct, on April 28, 2017, Respondent was charged with one count Criminal Sexual Conduct-2nd Degree, two counts of Criminal Sexual Conduct-3rd Degree, and seven counts of Criminal Sexual Conduct-4th Degree.

12. On July 3, 2017, Respondent was convicted of one count of CSC-3rd Degree and one count of CSC-4th Degree (Case No. 2017-0358-FH) in the Kalamazoo County Circuit Court. As part of the plea agreement, Respondent stipulated that on at least two occasions he digitally penetrated client A.B. during the course of providing massage therapy. In addition, the parties agreed that there were at least nine separate victims of Respondent's alleged touching. The Court sentenced Respondent to a minimum 57 months in prison.

COUNT I

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

COUNT II

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

COUNT III

15. 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

16. Respondent's conduct as described above constitutes a conviction of a criminal offense under section 520d of the Michigan penal code in violation of section 16221(b)(xiii) of the Code.

COUNT V

17. Respondent's conduct as described above constitutes unprofessional conduct with a patient that is sexual or can reasonably be interpreted as sexual in violation of section 16221(e)(vi) of the Public Health 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 license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Public Health Code, rules promulgated thereunder, and the Administrative Procedures Act of 1969, MCL 24.201 et seq.

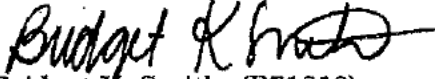
RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(8) of the Public Health Code, supra, Respondent has 30 days from the date of receipt of this Complaint to submit a written response to the allegations contained herein. The written response shall be submitted to Complainant, Bureau of Professional

Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan 48909, with a copy to the undersigned assistant attorney general. Pursuant to section 16231(9) of the Public Health Code, supra, Respondent's failure to submit a written response within 30 days shall be treated as an admission of the allegations contained herein and shall result in transmittal of this Complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

FURTHER, pending a hearing and final determination in the within cause; and pursuant to section 16233(5) or (6) of the Public Health Code, the Order of Summary Suspension issued on June 9, 2017 will remain in effect.

FURTHER, the administrative complaint previously filed against Respondent on June 6, 2017 is hereby WITHDRAWN and replaced in full by this superseding complaint.

BILL SCHUETTE
Attorney General


Bridget K. Smith (P71318)
Assistant Attorney General
Licensing & Regulation Division
3RD Floor Williams Building
525 Ottawa
P.O. Box 30758
Lansing, Michigan 48933
Telephone: (517) 373-1146
Fax: (517) 241-1997

Dated: September 1, 2017

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
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In the Matter of

DANIEL ARMAND LOCKETT, M.T.

License No.

Complaint No. 75-17-145574

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) 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: 
Kim Gaedeke, Director
Bureau of Professional Licensing

Dated: 06/09/2017

F: 2017-0182543-B\Lockett, Daniel Armand, M.T., 145574\Pleading - Order Summary Suspension - 2017-06-07