

Dr. David pdk@osnad.co

BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of: JOSHUA DAVID, N.D. Licensee, #1154	Agency Case N10-08-14 CONSENT ORDER
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The Oregon Board of Naturopathic Examiners (hereafter "Board") is the state agency responsible for licensing, regulating and disciplining naturopathic doctors in the State of Oregon. Joshua David, N.D., (hereafter "Licensee"), is a licensed naturopathic doctor in Oregon.

After opening an investigation, the Board issued an Emergency Suspension Order to Licensee in June 2011. That Order was subsequently withdrawn when the parties entered into a Stipulated Interim Order Limiting Prescribing Authority on June 21, 2011. Upon completion of its investigation, the Board finds it has grounds to issue a Notice of Proposed Disciplinary Action. Licensee would be provided the opportunity to request a hearing on such a Notice. In lieu thereof, the parties wish to resolve this matter informally, without any hearing, appeal or judicial review, by entering this Settlement Agreement and Consent Order, pursuant to ORS 183.417(3). This Settlement Agreement and Consent Order is the final resolution of this matter, including the right to any hearing, appeal, or judicial review.

SETTLEMENT AGREEMENT

The Board and Licensee agree to informally resolve this matter on the following terms:

- 1. Licensee stipulates that the Board may find the following facts:

a) Patient A. Licensee began treating Patient A in September 2009, without conducting a physical examination. During treatment in 2010, Licensee prescribed oxycontin and oxycodone in doses that are not supported by objective findings in Licensee's chart. Licensee did not refer Patient A to a pain or addiction specialist.

b) Patient B. Licensee began treating Patient B in April 2010 without documenting a complete physical examination or patient history. Licensee prescribed oxycodone and oxycontin in doses that are not supported by objective findings in Licensee's chart. Licensee did not refer Patient B to a pain or addiction specialist.

c) Patient C. Licensee began treating Patient C in October 2009 without documenting a complete physical examination and patient history. Licensee prescribed oxycodone and oxycontin during treatment in 2010 in doses that are not supported by objective findings in Licensee's chart. Licensee did not refer Patient C to a pain or addiction specialist.

d) Patient D. Licensee began treating Patient D in April 2010 without documenting a complete physical examination and patient history. Licensee prescribed oxycodone and oxycontin in doses that are not supported by objective findings in Licensee's chart. Licensee did not refer Patient D to a pain or addiction specialist.

2. Licensee and the Board stipulate that Licensee's conduct in treating Patients A through D was below the standard of care in violation of ORS 685.110(8). Licensee's conduct in treating Patients A through D was unprofessional and may have placed the patients at risk of harm in violation of ORS 685.110(14) and OAR 850-050-0190(3)(a).
3. Licensee is responsible for all costs incurred to comply with this Consent Order.
4. Licensee acknowledges that Licensee has read, understands, and agrees to the terms of this Consent Order. Licensee waives any and all rights to hearing, appeal or other legal challenge to this Consent Order.
5. The parties acknowledge that this Consent Order is a public document.

6. Licensee agrees the Board may enter the following order, which takes effect on the date it is signed by the Board:

ORDER

1. The Board finds as true the facts set forth in paragraph 1.a. through 1.d. in the above Settlement Agreement section.
2. Licensee shall be on probation for a period of at least (3) years during which time Licensee must comply with the following conditions:
 - a) Licensee's license to practice naturopathic medicine is hereby limited with a complete prohibition against prescribing, administering, dispensing or ordering any substance listed on the federal Drug Enforcement Agency's Schedules II and III.
 - b) The Board shall lift the license limitation in paragraph (2)(a) of this Order if Licensee provides the Board with evidence that he has completed thirty (30) continuing education hours in addition to the hours required for license renewal. The continuing education must be pre-approved by the Board and in the following subjects: three (3) hours on patient record keeping/charting, twelve (12) hours on pain management, three (3) hours on ethics, and twelve (12) hours on drug addiction;
 - c) If the Board lifts the license limitation in paragraph (2)(a) of this Order, for one calendar year following the end of the license limitation, Licensee shall submit his patient charts for every patient for whom Licensee prescribes, administers, dispenses or orders any substance listed on the federal Drug Enforcement Agency's Schedules II and III to a naturopathic physician, who is pre-approved by the Board, for review under the following terms:
 - A) The reviewing naturopathic physician shall submit a report to the Board within thirty days of the end of each quarter noting any concerns with Licensee's patient care during the prior quarter;
 - B) In each quarterly report the reviewing naturopathic physician prepares for the Board, he or she shall include a checklist for each patient chart he or she reviews that answers at least the following questions:
 - i) Does the patient chart contain an adequate objective assessment of the patient?
 - ii) Did Licensee order and evaluate appropriate laboratory tests?
 - iii) Was a physical examination necessary for a patient visit, and if necessary, did Licensee complete an adequate physical exam?
 - iv) Did Licensee adequately document and chart all prescriptions?
 - C) Licensee shall be solely responsible for any professional fees or expenses associated with the quarterly reviews required under paragraph (2)(c); and

- D) The Board may extend the term of Licensee's probation, based on its review of the reviewing naturopathic physician's reports.
- d) When providing any prescription to a patient for whom Licensee prescribes any substance listed on the federal Drug Enforcement Agency's Schedules II and III, Licensee shall use pre-numbered prescription pads in triplicate, copies of which Licensee must submit to the Board on a quarterly basis. In addition, Licensee shall maintain a log of prescriptions, and submit a copy of this log to the Board on a quarterly basis;
- e) Licensee shall comply with the statutes, rules and orders of the Board; and
- f) Licensee shall allow the Board's staff to make random, unannounced inspections of patient charts and records during regular business hours.
3. Licensee shall pay civil penalties of twenty-thousand dollars (\$20,000). Full payment shall be due five calendar years from the effective date of this order. A payment plan shall be established with the Board's executive director. Making monthly payments beginning with payment of \$300 starting no later than July 1, 2012, and increasing the monthly payment by \$50 each calendar year to a larger monthly payment until payment is complete is an acceptable payment plan.
4. The Stipulated Interim Order Limiting Prescribing Authority is hereby terminated.

IT IS SO STIPULATED.

Joshua David
Signature on file
Joshua David, N.D.

2/22/12
Date

Dated this 29th of February 2011.

BOARD OF NATUROPATHIC MEDICINE
State of Oregon

Anne Walsh
Signature on file
By: Anne Walsh
Executive Director