

WHEREAS in lieu of the proposal for suspension of license stated in the notice, the respondent is agreeable to the Board's entry of order as follows:

1. The respondent's license to practice as a naturopath in the State of Oregon is suspended for a period of two months commencing September 16, 1985 and ending November 15, 1985.

2. The respondent shall thereafter be licensed as a naturopath in the State of Oregon in a probationary status until November 15, 1995, upon the following terms and conditions:

(a) Respondent shall not administer any substance by the penetration of the skin or mucous membrane of the human body for a therapeutic purpose, including but not limited to, administration of I.V. therapy, I.V. chelation therapy or injections for appetite control unless and until such time as the board or the State of Oregon by legislation or adjudication determines that any or all such procedures are within the scope of a license to practice naturopathy in the State of Oregon and upon such finding, the board has modified or rescinded this condition consistent with such determination.

(b) The respondent shall cooperate fully with the board in any inquiry seeking to determine respondent's compliance with the terms and conditions of the probation.

3. In the event that the respondent engages in practice during the period of suspension stated above or violates the terms and conditions of said probation, the board may, after

notice and opportunity to be heard pursuant to ORS chapter 183, suspend or revoke as the Board may determine appropriate, the respondent's license to practice naturopathy in the State of Oregon.

4. Nothing herein shall be construed so as to prevent the hiring of a third-party physician to provide for part-time on-site emergency and counseling care, independent of the respondent and within the scope of such third-party physician's license, for patients of the Thompson Clinic so the patients will not be abandoned.

5. Nothing herein precludes other disciplinary action by the board under authority of chapter 685 after notice and opportunity for hearing arising from conduct of the respondent not addressed by this order.

DATED this 10TH day of September, 1985.

Signature on file
Brian McCoy, N.D. N.C.D.

Signature on file
C. Richard Noble
Attorney at Law

IT IS SO ORDERED this 24 day of September, 1985.

Signature on file
Board President

RIGHT TO HEARING - RIGHT TO COUNSEL

You have the right to a hearing before the board and a right to be represented by counsel at such hearing as provided for by the Administrative Procedures Act, ORS ch 183. If you desire a hearing, you must notify the undersigned in writing of such request within 20 days of this notice. If a hearing is requested, a written "Answer" to this notice must also be received with your request for hearing. A written "Answer" shall include an admission or denial of each factual matter alleged herein and shall affirmatively allege a short, plain statement of each relevant affirmative defense you may have.

Except for good cause, factual matters alleged in the notice and not denied in the answer shall be presumed admitted; failure to raise a particular defense in the answer will be considered a waiver of such defense; new matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency and evidence shall not be taken on an issue not raised in the notice and the answer.

If a request for hearing and answer are submitted, you will be notified of the date, time and place of hearing.

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OTHER PROCEDURAL MATTERS REGARDING HEARINGS

You have the right to also be advised of other procedural matters regarding board hearings which are set forth in Exhibit A attached to this order.

DATED this 29th day of April, 1985.

FOR THE NATUROPATHIC
BOARD OF EXAMINERS

By: _____

Signature on file

Bruce Canvasser
Secretary

NOTICE GIVEN UNDER ORS 183.413

Pursuant to ORS 183.413 you, as a party, are hereby given notice of the following matters relating to the hearing which you requested:

You have the right to be represented by an attorney.

The matter set for hearing by the accompanying notice is defined by ORS 183.310 as a "contested case." Therefore, the hearing will be conducted in accordance with the provisions of ORS ch 183 and the Attorney General's Model Rules of Procedure.

The general procedure and conduct of the hearing will be similar to a court proceeding, but not as formal. The purpose of the hearing is to obtain facts from which a proper determination can be made.

A witness must testify under oath or affirmation to tell the truth. A party may subpoena witnesses. The agency will issue subpoenas to a party upon request upon a showing of general relevance and reasonable scope of the evidence sought. If a party is represented by an attorney, that attorney may issue subpoenas for the party. Payment of witness and mileage fees to the person subpoenaed is the party's responsibility.

A presiding officer will conduct and control the hearing. Unless unusual circumstances are presented, the order of presentation of evidence will be as follows:

(a) Statement and evidence of the agency in support of its action.

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(b) Statement and evidence by the party disputing the agency action.

(c) Rebuttal testimony.

The burden of presenting evidence to support a fact or position rests on the proponent of the fact or position. You must approach the hearing prepared to present the testimony of witnesses and other evidence that will support your position. You have the right to present evidence through witnesses, or your own testimony, about the matter in dispute. Any witness testifying is subject to cross-examination by other parties, the hearing officer or members of the board or commission which may be hearing the matter.

There are four kinds of evidence which are admissible:

(1) Knowledge of the agency. The agency may take "official notice" of conclusions developed as a result of its intensive experience in its specialized field of activity. This includes notice of technical or scientific facts. You will be informed at the hearing should the agency take "official notice" of any fact and will be given the opportunity to contest any facts so noticed.

(2) Testimony of witnesses. This includes your own testimony.

(3) Writings. This includes letters, maps, diagrams and other written material offered as evidence.

(4) Experiments, demonstrations and similar means used to prove a fact.

Objections to the admissibility of evidence may be made generally on one of the following grounds:

(1) Irrelevant. The evidence has no tendency to prove or disprove any issue involved in the proceeding.

(2) Immaterial. The evidence is offered to prove a proposition which is not a matter in issue.

(3) Unduly repetitious. The evidence is merely repetitive of what has already been offered and admitted.

ORS 183.450(1) provides in part that:

"[E]vidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible * * * *" (Emphasis added.)

This provision in the statute will govern questions on the admissibility of evidence. Hearsay evidence is not automatically excluded. Objection to hearsay evidence generally relates to the weight to be given to the evidence. In reaching a decision, the agency will only consider evidence which has been admitted.

If at any time during the course of the proceedings you determine that representation by an attorney is necessary, a request for recess may, in the agency's discretion, be granted to allow you to secure an attorney.

A record will be made of the entire proceeding. This will be done by use of a tape recorder or court reporter. Except when a petition for judicial review is filed with the Court of Appeals, the record will not be transcribed. A copy of any tape recording will be made available to you upon payment of the costs of making a copy of the tape. Transcribing the record made by a court

reporter will be at your expense should you desire a transcript. However, a transcript will be provided without charge to a party filing an appropriate affidavit of indigency.

The agency may be represented by an assistant attorney general at the hearing. Parties are ordinarily and customarily represented by an attorney in contested cases such as this.

The presiding officer will rule on all matters at the hearing.

A majority of the board or a hearing officer appointed by the board will hear the case. If a hearing officer hears the case a proposed determination will be made to the board and if the board has not heard the case or considered the record you will have opportunity to present exceptions or arguments to the proposed decision to the board. The board will render the final determination, and there will ordinarily be no opportunity after the board issues its order for you to appear before it to object to the order or present additional arguments.

There will be no continuance or reopening of the hearing to offer additional evidence unless you can show that the additional evidence was not known to you at the time of the hearing or that reasonable diligence would not have discovered the evidence prior to the hearing.

You may appeal the final order if it is adverse to you. It is not necessary to file a petition for rehearing or reconsideration with the agency before filing a petition for judicial review. A petition for judicial review must be filed with the

Court of Appeals in Salem within 60 days following the date the order is served upon you.

The record made of the hearing will be used by the Court of Appeals in considering any appeal of the agency's decision. The record will include all testimony, rulings on objections, evidence and exhibits presented at the hearing, and will be reviewed by the court to determine if the agency's order should be upheld.