

1 2. Henry's license to practice naturopathic medicine was
2 suspended on September 1, 1991, by Order of the Oregon Board of
3 Naturopathic Examiners on July 1, 1991, following a duly conducted
4 hearing under the Oregon Administrative Procedures Act.

5 3. By the terms of the July 1, 1991 Order, Henry was
6 permitted to reapply for licensure upon a showing of completion of
7 two terms of full-time study at the fourth year level at a
8 naturopathic college approved by the Board in order to ensure that
9 his educational credentials came closer to the 4,000 hours
10 originally required of his license.

11 4. At its meeting of September 28, 1991, the Board specified
12 more clearly the meaning of its Order with respect to the
13 requirement that Henry complete two terms of full-time naturopathic
14 study. The Board required Henry to complete, receive a passing
15 grade for an average full-time course of study in academic and
16 clinic hours, and receive certification from National College of
17 Naturopathic Medicine (NCNM). NCNM is an approved college of
18 naturopathic medicine.

19 5. The Board sent a description of its clarification to Dr.
20 Zeff, Academic Dean at NCNM in Portland, Oregon, where Henry was
21 enrolled.

22 6. Henry enrolled in the 1991-92 fall and winter terms at
23 NCNM. Henry submitted requests to perform clinical internships
24 ("preceptorships") of up to 200 hours at each of two physician's
25 offices: Dr. Danis and Dr. MacCoy. Dr. Danis is a licensed
26 chiropractor and Dr. MacCoy is a licensed N.D.

1 7. Henry did not complete the two terms of study at NCNM. He
2 earned 10.5 credits out of a registered load of 34.5 credits for the
3 fall term. He did not complete the clinical program, Clinic VII and
4 Holiday Clinic, CLE 710, 24 credits. Henry earned 11 credits out of
5 a registered load of 26 for the winter term. He did not complete
6 the urology course, NOS 721, one credit, and Clinic VIII, CLE 720,
7 14 credits.

8 8. Henry reapplied for licensure at the Oregon Board of
9 Naturopathic Examiners' meeting on March 26, 1992, affirming orally
10 to the Board that he had completed two terms of full-time study at
11 the fourth year level.

12 9. Henry was told by the Board to supply college records
13 showing the completion of two full-time terms at the fourth year
14 level. Henry did not provide them and no license was issued.

15 10. Prior to his suspension, Henry maintained office hours at
16 the Northside Clinic, 1920 North Kilpatrick Street, Portland,
17 Oregon. Between September 1, 1991, and August 31, 1992, Henry
18 continued to see patients at his clinic. Between October 10, 1991
19 and March 5, 1992, Henry treated former patient Rachel Sue Matson at
20 least five times. Brandon Matson also received treatment from Henry
21 during this period. Henry billed five office visits for Brandon
22 Matson during this period, when his license was suspended.

23 11. On two occasions, Dr. Danis was present during Henry's
24 treatment of Sue Matson and/or her son. Matson believed Henry was
25 helping to train Dr. Danis. Henry never disclosed to Sue Matson
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1 that his license was suspended. She testified at hearing that "Dr.
2 Henry was the only one who treated" her.

3 12. Between September 19, 1991 and May 1, 1992, Henry treated
4 Loretta Danis nine times with high colonics in his office.

5 13. After issuing its suspension of Henry, the Board received
6 information that Henry was practicing without a license.
7 Accordingly, the Board undertook an investigation of Henry's
8 activities. Sarah Dehaan, an investigator working for the
9 Department of Justice, was asked to pose as a patient. On May 4,
10 1992, Sarah Dehaan went to Henry's clinic under the alias of Rebecca
11 "Becky" Edwards. Henry asked questions of the "patient" about her
12 condition, examined the "patient" personally, and made a diagnosis
13 of her condition. He then prescribed and dispensed medication,
14 Euphrobirum and Lenate. Henry signed the fee slips/ CPT Code Form
15 indicating \$52 was paid by the "patient".

16 14. Dr. Danis was physically present during the exam and
17 diagnosis of Sarah Dehaan but did not participate in any respect.
18 Henry did not disclose to the "patient" that he was an unlicensed
19 student or otherwise give her fair warning that he was under
20 supervision.

21 15. As a result of his violation of this Board's suspension
22 order, the Board sought an injunction against Henry's practicing
23 without a license. Accordingly, the Circuit Court for Multnomah
24 County issued a temporary restraining order on May 8, 1992 and a
25 permanent injunction on May 18, 1992 ordering Henry not to practice
26 naturopathic medicine unless actively licensed by the Board.

1 The record is undisputed that William Henry saw patients at
2 his medical clinic on numerous occasions during the time when this
3 Board had ordered him to cease practicing. Henry was ordered to
4 undergo additional training and to refrain from naturopathic
5 practice in our order dated July 1, 1991.

6 ORS 685.110(19) empowers the Board to revoke a license to
7 practice naturopathy for:

8 "Attempting to practice naturopathic medicine or
9 practicing or claiming to practice naturopathy
10 or any of its components in this state without
11 first complying with the provisions of this
12 chapter."

13 Henry does not dispute that, should the facts show that he
14 "practiced" naturopathic medicine during the suspension period, the
15 Board would have the authority to revoke his license.

16 Rather, Henry contends that he did not "practice" within the
17 meaning of ORS 685.110(19). He argues that his contacts with
18 patients were under the supervision of other licensed doctors. He
19 claims that he did not "treat" patients, but merely participated in
20 legitimate educational preceptorships as part of the two terms of
21 study ordered by the Board.

22 Unfortunately, the facts do not support Dr. Henry's claims
23 that he was participating in an approved preceptorship under the
24 terms of his enrollment at NCNM, or, in the alternative, he was
25 merely "practicing" under the terms of a preceptorship not approved
26 by NCNM but generally understood within the profession to be
available to any "graduated" naturopathic student.

1 First, it is clear that Henry has not possessed a license
2 since September 1, 1991. Despite this fact, Henry continued a
3 viable operating naturopathic clinic where Henry examined, treated,
4 diagnosed and prescribed as a licensed naturopath. The testimony of
5 Investigator DeHaan and Henry's own longtime patient, Sue Matson,
6 require a finding that Henry continued an unabated practice of
7 naturopathic medicine while unlicensed.

8 Moreover, Henry's treatment of patients was outside the scope
9 of the preceptorship approved by NCNM. Dr. Richard Barrett, N.D.,
10 Clinic Director at NCNM and the person responsible for approving
11 preceptorships, testified that he did not approve any preceptorship
12 for Henry which was to occur at Henry's own clinic. Indeed, as part
13 of his proposed clinic program, Henry submitted requests to perform
14 up to 200 hours at each of two physician's offices: Dr. Danis and
15 Dr. MacCoy. There is no evidence of Henry's completion of the 400
16 hours of externship clinic at the offices of Dr. Danis and Dr.
17 MacCoy. Henry's practice primarily, if not totally, took place in
18 his own clinic.

19 In addition, Henry engaged in treatment of patients far in
20 access of what students may do as part of a legitimate clinical
21 program. Clinic hours are a legitimate part of the requirement for
22 completing a naturopathic education and for licensure in the State
23 of Oregon. ORS 685.060 and OAR 850-20-000(1). However, the purpose
24 of clinic, as testified by Dr. Barrett, is for the student to learn
25 by watching and occasionally assisting, not by conducting a practice
26 which is observed by another physician.

1 To avoid the charge of practicing without a license, a student
2 must be supervised in a meaningful way. A properly licensed
3 supervising doctor must be on the premises who is readily available
4 for consultation. The supervising doctor must meaningfully
5 participate, oversee and guide the diagnosis and treatment plan.
6 The clinical activities of the student must be under the auspices
7 and within the terms of a program regulated by a licensed
8 naturopathic college. Certainly, these elements were not present
9 here. On many occasions, Henry was alone in the clinic when he
10 diagnosed and treated patients, activities beyond the scope of his
11 NCNM preceptorship.

12 In addition, the roles of the student and teacher must be
13 clearly defined in any clinical situation. It must be clear to the
14 patient that the student is not licensed and the supervising doctor
15 is in charge of the situation. Due to the location of Henry's
16 clinic, his failure to disclose his status, and his acceptance and
17 billing of fees for his services, patients believed that Henry was a
18 licensed doctor, not a student under supervision. Accordingly,
19 Henry practiced naturopathic medicine while unlicensed in violation
20 of ORS 685.110(19).

21 Thus, the evidence was abundantly clear that Henry violated
22 the Naturopathic Practice Act in several respects. The question is
23 whether the Board should impose the sanction of revocation or some
24 lesser penalty.

25 We view this matter as being within the discretion of the
26 Board. Not every case of practicing without a license should

1 necessarily result in revocation. Here, the facts support
2 revocation because Dr. Henry's conduct was nothing less than knowing
3 and wilful. Henry was under court order to cease and desist from
4 practicing medicine. He nonetheless continued his actions, in clear
5 disregard of the Board's order suspending his license.

6 By continuing to practice in violation of administrative and
7 judicial order, Dr. Henry showed an unwillingness to correct his
8 behavior. Thus, we are unpersuaded that any sanction less than
9 revocation would have the effect of bringing Henry's conduct in line
10 with expected norms. Therefore, we feel constrained to issue a
11 revocation of Henry's license.

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ORDER

Based on the above findings, the Board HEREBY ORDERS that Henry's License be revoked for the violations specified in the Notice of Proposed Disciplinary Action, pursuant to ORS 685.020, 685.110 and OAR 850-10-190(3).

DATED this 10 day of June, 1993.

Signature on file

Ba...
Bar... Board Member

Signature on file

C...
Carol Petherbridge, Board Member

Signature on file

Don Walker, Board Chair

Signature on file

Andrew Elliott, Board Member

NOTICE: You are entitled to judicial review of this Final Order pursuant to the provisions of ORS 183.480. Judicial review may be obtained by filing a petition in the Oregon Court of Appeals. The petition must be filed within 60 days from the date of service of this Final Order.

I certify that this is a true and exact copy of an original.

Signature on file

Kathleen Soderberg, Executive Secretary
Board of Naturopathic Examiners

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