

BEFORE THE  
BOARD OF NATUROPATHIC EXAMINERS  
STATE OF OREGON

In the Matter of the License of

BRIAN L. MACCOY, N.D.,

Licensee.

Case No. 98-00-00

FINAL ORDER:  
REVOCATION OF LICENSE AND  
IMPOSITION OF CIVIL PENALTY

**HISTORY OF THE CASE**

On June 26, 2000, the Oregon Board of Naturopathic Examiners (Board) issued a Notice of Proposed Disciplinary Action to Dr. Brian L MacCoy, ND (Licensee). The notice proposes to take disciplinary action against Licensee's naturopathic license for violation of ORS 685.110(1) and ORS 685.110(6). Licensee, by and through his attorney, Stephen E. Andersen requested a hearing and this request was received by the Board on July 18, 2000. Pursuant to the Administrative Procedures Act (ORS Chapter 183), and the Model Rules of Practice and Procedure (OAR Chapter 137), the Board referred this matter to the Employment Department Hearing Officer Panel to conduct a hearing.

Administrative Law Judge M. Smith was assigned by the Hearing Officer Panel and the hearing in this matter was conducted on December 19, 2000, in Portland, Oregon. The licensee appeared and was represented by his attorney, Stephen E. Andersen. Caren Rovics, Assistant Attorney General, represented the Board. K. R., of the Drug Enforcement Administration (DEA), testified as a witness for the Board. The hearing was concluded on December 19, 2000. However, the record was left open until January 2, 2001, for receipt of additional written evidence. An additional 17 pages of evidence was received from Ms. Rovics on December 20, 2000, marked as Exhibit #14, and admitted into the hearing record. The hearing record was closed on January 2, 2001.

**LEGAL ISSUE**

Whether the Notice of Proposed Disciplinary Action issued by the Board on June 26, 2000, should be upheld?

**FINDINGS OF FACT**

1. On May 3, 1999, the Board issued a Notice of Proposed Discipline against Licensee.
2. A hearing was scheduled on the matter for December 14, 1999.

3. On December 13, 1999, Licensee entered into a settlement agreement with the Board in order to have the revocation of his license to practice suspended.
4. In the settlement, Licensee admitted to the violations for unauthorized use of ozone therapy, IM/IV injections, Unprofessional Conduct, and Misrepresentation.
5. As part of the settlement agreement, Licensee stipulated that he was revoked but that the revocation would be suspended for 10 years, and his license would be suspended for only one year starting January 13, 2000, if he met certain conditions.
6. A \$4,000 fine was also imposed at the same time as the revocation was made, but again this fine was suspended "unless or until Licensee is held to be in violation of any condition of the Settlement Agreement."
7. The Final Order incorporating settlement agreement provided that "(I)n the event that Licensee is found to be in violation of any condition of the Settlement Agreement, or statute, rule or Board order, during the 10-year suspended revocation, the license of the Licensee will be revoked and the \$4,000 fine will be immediately imposed."
8. Licensee had the benefit of counsel throughout the negotiations for the final order and settlement agreement.
9. Both Licensee and his attorney, Mr. Andersen reviewed the final order before it was signed by the Board Chair and both signed faxed versions of the settlement agreement on December 13, 1999, as the parties wanted the hearing set for December 14, 1999, canceled.
10. The original settlement agreement was signed later by Licensee on December 17, 1999, and by his attorney on January 11, 2000.
11. The original version of the settlement agreement differs from the faxed version signed December 13, 1999, in only one respect on page 2, section 4(b), line 24, with the insertion of the word "Oregon". The full sentence within which the word "Oregon" was inserted reads as follows: "Licensee agrees to random review by Board members, or their designated agent, of Licensee's 'Oregon' patient files to ensure Licensee is not in violation of any statute, rule or order of the Board."
12. Licensee inserted the word "Oregon" to assure that his Idaho patient files would not be subject to random review by the Board.
13. The final order signed by the Board Chair on December 13, 1999 is exactly the same between the faxed and original versions.
14. On December 27, 1999, Licensee filed for renewal of his DEA license.
15. Licensee knew his license to practice in Oregon would be suspended on January 13, 2000, but a DEA license is for three years and he wanted to already have it in place when the one-year suspension of his Oregon license to practice ended January 13, 2001.
16. Page 1 of the DEA application, section 3(d) asks if the applicant has ever had a state professional license revoked or suspended and Licensee checked the box for "yes".

17. Page 1, section 4 of the DEA application asks for an explanation for answering "yes" to section 3(d), and Licensee wrote about his 1984 suspension.
18. Instructions on how to fill out the DEA application specifically direct applicants to completely answer all questions.
19. Licensee failed to mention in his DEA license renewal application anything about his 1999 revocation/suspension action.
20. The U.S. Department of Justice, Drug Enforcement Administration (DEA) conducted an investigation concerning Licensee's request for renewal, as is their practice when anyone answers affirmatively to section 3(d) of that application.
21. K. R., DEA Division Investigator, was assigned to conduct the investigation and determined that Licensee was not entitled to the renewal as he was not licensed in Oregon which is a prerequisite to having a DEA license.
22. K. R. also found in her report dated February 17, 2000, that Licensee failed to mention the 1999 revocation action when he knew about it from the settlement agreement and made a false statement in a letter to her dated February 8, 2000.
23. In the letter to K. R. dated February 8, 2000, Licensee explained his failure to mention the suspension in Oregon because "the status of my disagreement with the Board had not been clarified."

### CONCLUSIONS OF LAW

The Board seeks to revoke Licensee's license and impose the fine of \$4,000 pursuant to the settlement agreement entered into on December 13, 1999.

ORS 685.110 provides the grounds for discipline:

"The Board of Naturopathic Examiners may refuse to grant a license, may suspend or revoke a license, may limit a license, may impose probation, or may impose a civil penalty not to exceed \$1,000 for each offense for any of the following reasons:

- (1) The use of fraud or deception in securing a license.

\*\*\*\*

- (6) Any other reason that renders the applicant or licensee unfit to perform the duties of a naturopathic physician.

\*\*\*\* "

Fraud is a broad term for all kinds of acts, which have as their objective, the gain of an advantage, to another's detriment, by deceitful or unfair means. It may be (a) actual, where there is a deliberate misrepresentation or concealment; or (b) constructive, where the court implies it,

either from the nature of the contract or from the relation of the parties. *Cochran's Law Lexicon*, 5<sup>th</sup> edition. In the present case, it is characterized by the failure to completely disclose damaging information in a license application. Because fraud takes such a myriad of forms, it is necessary to state clearly for the record that fraud includes the concealment or suppression of a fact where there is a duty to disclose.

The Board finds that Licensee violated ORS 685.110(1), by failing to disclose his revocation and suspension action which he agreed to on December 13, 1999, in his license renewal application with the DEA on December 27, 1999. It can be inferred from his actions that there was an intent to deceive when he attempted to secure a renewal of his license with the DEA.

Licensee argued that he failed to mention the revocation/suspension action on December 27, 1999, because the temporary license suspension was not in effect until January 13, 2000. Yet again by inference, he had to know or should have known from the virtue of the final order that he agreed to on December 13, 1999, that his license was revoked. The language in that order is perfectly clear. The Board ordered that *his license is revoked* and that the revocation is suspended for 10 years. The order then goes on to discuss some conditions of the 10-year suspension like the one-year license suspension and the agreement to not violate any statutes. The fact that one of the conditions for the 10-year suspension did not start until January 13, 2000, does not change the fact that he was revoked effective December 13, 1999.

This inference becomes stronger when one examines closely not only the clear language of the agreement he signed twice but the time line as well. Licensee failed to mention the revocation on December 27, 1999, a mere 10 days after signing the original agreement and two weeks after signing the faxed version. This time line, clear language in the stipulated order, and the doctor's stated intention to have the DEA license in place on January 13, 2001, greatly strengthens the inference that he intended to deceive.

There is also the subsequent letter to K. R. In this letter, he states that at the time of his renewal on December 27, 1999, "the status of my disagreement with the board had not been clarified." How Licensee could believe it was not clarified is beyond comprehension. The only basis given at the hearing for his stated belief is the fact that he added one word "Oregon" to page 2 of the original version of the agreement to assure that his Idaho files were not subject to random review. This does not at all affect the substance and import of the order, which revoked his license. Therefore, his statement in the February 8, 2000, letter cannot be viewed in any other way but as false. The overwhelming inference drawn from Licensee's actions is that of an intent to deceive. Licensee failed to provide any credible explanation for his actions that would overcome this inference that he intended to defraud. Any confusion or honest doubt is not credible given his prior suspension in the early 1980's, and a several month proceeding in 1999 that cumulated in a stipulated settlement, which he signed. Licensee knew or should have known that his failure to disclose was deception. Therefore, the Board finds by a preponderance of the evidence that it is proven that Licensee has violated ORS 685.110(1), by using fraud or deception to secure a license.<sup>1</sup>

<sup>1</sup> Evidence presented also supports the finding of a violation of ORS 685.110(1) by the clear and convincing evidence standard (see *Gallant v. Board Medical Examiners*, 159 Or App 175; 1999).

The Board also finds that Licensee violated ORS 685.110(6), which provides that a license may be revoked for any reason that renders the "licensee unfit to perform the duties of a naturopathic physician." It is not necessary to discuss whether these same acts described above also render the licensee unfit to perform the duties of a naturopathic physician. Licensee has already been found to be in violation of ORS 685.110(1), and that alone is a sufficient ground to proceed with the penalty imposed by the Settlement Agreement.

The Board seeks to revoke Licensee's license and impose the fine of \$4,000 pursuant to the settlement agreement entered between Licensee and the Board on December 13, 1999. That agreement provides in a relevant portion:

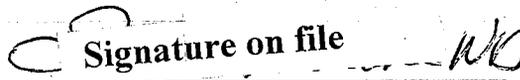
"In the event that Licensee is found to be in violation of any condition of the Settlement Agreement or statute, rule or Board order, during the 10-year suspended revocation, the license of Licensee will be revoked and the \$4,000 fine will be immediately imposed."

The 10-year suspended revocation was effective December 13, 1999. Licensee's actions in the violation of ORS 685.110(1) occurred on December 27, 1999, which is during the suspended revocation period. In light of the above, Licensee's license is revoked, and the fine of \$4,000 that was also suspended unless further violations were made is imposed.

### FINAL ORDER

Pursuant to the Notice of Proposed Disciplinary Action issued June 26, 2000, the license of Dr. Brian L. MacCoy to practice naturopathic medicine in the State of Oregon is hereby revoked. In accordance with the settlement agreement entered into by Licensee on December 13, 1999, a civil penalty of \$4,000 is hereby imposed on Licensee.

DATED this 4 day of April, 2001.

 Signature on file  
Linda Meloche, ND, Chair  
Oregon Board of Naturopathic Examiners

### RIGHT TO JUDICIAL REVIEW

You have the right to appeal this Order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days from the day this Order was served on you. If this Order was personally delivered to you, the date of service is the day you received the Order. If this Order was mailed to you, the date of service is the day it was *mailed*, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

BEFORE THE  
BOARD OF NATUROPATHIC EXAMINERS  
STATE OF OREGON

In the Matter of the License of

Case No. 98-00-00

FINAL ORDER INCORPORATING  
SETTLEMENT AGREEMENT

BRIAN L. MacCOY, N.D.,

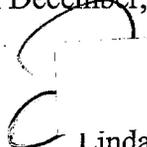
Licensee.

The Oregon Board of Naturopathic Examiners (Board) finds that Brian L. MacCoy, N.D. has violated Oregon statutes, rules and Board order as alleged in the Notice of Proposed Disciplinary Action and that no hearing is required. Accompanying this order is a Settlement Agreement that is incorporated into this final order.

Therefore, it is ORDERED that under ORS 685.110 the Oregon license of Brian L. MacCoy (Licensee) is revoked; however, this revocation is suspended for 10 years. Also, effective 30 days from the signing of the Settlement Agreement, is a one-year license suspension. Lastly, a \$4,000 fine is imposed but suspended unless or until Licensee is held to be in violation of any condition of the Settlement Agreement. In the event that Licensee is found to be in violation of any condition of the Settlement Agreement or statute, rule or Board order, during the 10-year suspended revocation, the license of Licensee will be revoked and the \$4,000 fine will be immediately imposed. Before his license is revoked or the fine imposed, Licensee will be entitled to a hearing on the question of whether he is in violation of the any term of the Settlement Agreement or any statute, law or order of the Board.

Dated this 13<sup>th</sup> day of December, 1999.

Signature on file 

  
Linda Meloche, Chair  
Oregon Board of Naturopathic Examiners



1 c) Licensee agrees to unannounced inspections at his office by Board members,  
2 or their designated agent.

3 d) Licensee agrees to meet with the Board two times a year or every six-months.

4 e) During the 10-year suspended revocation, Licensee agrees to post in a  
5 conspicuous location in his waiting room the following notice:

6 **Notice to Patients**

7 **The therapeutic use of ozone or aethezol, or the use of any ozone or aethezol**  
8 **generating device is strictly prohibited by the Oregon Board of Naturopathic**  
9 **Examiners.**

10 f) During the 10-year suspended revocation the fine of \$4,000 is suspended  
11 unless or until Licensee is held to be in violation of this agreement, or statute, rule or  
12 order of the Board.

13 **IM/IV THERAPY**

14 g) License suspension for one-year effective immediately.

15 h) Licensee agrees to random review by Board members, or their designated  
16 agent, of patient files to ensure Licensee is not in violation of any statute, rule or order of  
17 the Board.

18 i) licensee agrees to unannounced inspections at his office by Board members, or  
19 their designated agent.

20 **UNPROFESSIONAL CONDUCT**

21 j) License suspension for one-year to run concurrently with the one-year license  
22 suspension in paragraph (g).

23 k) Licensee agrees to attend class on sexual boundaries. The class will be chosen  
24 by the Board.  
25  
26

MISREPRESENTATION

1  
2 l) License is suspended for one-year to run concurrently with the one-year  
3 suspension in paragraph (g).

4 5) Licensee waives all rights to a contested case hearing or any further appeal.  
5

6 **Signature on file**

*Linda Meloche ND 12-13-99*

7 Linda Meloche, Chair  
8 Oregon Naturopathic Board of Examiners

Date

9 **Signature on file**

10 *Brian L. MacCoy, N.D.*  
11 Brian L. MacCoy, N.D.

12 Date

*12-17-99*

13 **Signature on file**

14 *Stephen E. Andersen*  
15 Stephen E. Andersen  
16 Attorney for Brian L. MacCoy

Date

*1-11-00*

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BEFORE THE  
BOARD OF NATUROPATHIC EXAMINERS  
STATE OF OREGON

In the Matter of the License of

Case No. 98-00-00

BRIAN L. MacCOY, N.D.,

Licensee.

NOTICE OF PROPOSED DISCIPLINARY  
ACTION (REINSTATEMENT OF  
REVOCATION OF LICENSE; IMPOSITION OF  
CIVIL PENALTY)

The Board of Naturopathic Examiners (Board) is the state agency responsible for licensing, regulating and disciplining naturopathic physicians in the State of Oregon. Brian L. MacCoy, N.D. (Licensee), is licensed by the Board to practice as a naturopathic physician in the State of Oregon. The Board proposes to reinstate the revocation suspended in the final order dated December 13, 1999, and reinstate the suspended \$4,000 civil penalty for the reasons that follow.

1.

On December 13, 1999 a final order was executed by the Board against Brian L. MacCoy, N.D. (Licensee) and included the following terms:

1a.

Licensee admitted the violations asserted in the Notice of Proposed Discipline dated May 3, 1999. The violations asserted in the Notice were for unauthorized use of ozone therapy, IM/IV Injections, Unprofessional Conduct, and Misrepresentation.

1b.

The Oregon license of Licensee was revoked December 13, 1999. However, the revocation was suspended for 10 years and included the following conditions:

- i) One-year suspension to commence 30-days from signing of the agreement.
- ii) \$4,000 fine suspended unless or until Licensee is held to be in violation of any condition of the Settlement Agreement.





1 the duties of a naturopathic physician. The acts and conduct of Licensee described in paragraphs  
2 1 through 8 also violates the final order of the Board, dated December 13, 1999.

3 The Board proposes to reinstate Licensee's revoked license due to the aforementioned  
4 violations. In addition, the Board proposes to impose the suspended \$4,000 civil penalty.

### 5 NOTICE OF RIGHT TO HEARING

6 10.

7 Licensee has the right, if Licensee requests, to a hearing as provided by the  
8 Administrative procedures Act (ORS Chapter 183) before the Board or its hearing officer to  
9 contest the matters set out above. At the hearing, Licensee may be represented by an attorney,  
10 and may subpoena and cross-examine witnesses. A request for hearing must be made in writing  
11 to the Board, and must be received by the Board within 21 days from the date of mailing of this  
12 notice (or if not mailed, the date of personal service), and must be accompanied by a written  
13 answer to the charges contained in this Notice. Upon receipt of a request for hearing, the Board  
14 will notify licensee of the time and place of the hearing. If Licensee requests a hearing, Licensee  
15 will be given, prior to the commencement of the hearing, information on the procedures, right of  
16 representation, and other rights of parties relating to the conduct of the hearing as required by  
17 ORS 183.413(2).

18 11.

19 The answer shall be made in writing to the Board and shall include an admission or  
20 denial of each factual matter alleged in this Notice, and a short plain statement of each relevant  
21 affirmative defense Licensee may have. Except for good cause, factual matters alleged in this  
22 notice and not denied in the answer shall be presumed admitted; failure to raise a particular  
23 defense in the answer will be considered a waiver of such defense; and new matters alleged in  
24 the answer (affirmative defenses) shall be presumed to be denied by the agency and evidence  
25 shall not be taken on any issue not raised in the Notice and answer.

26

If Licensee fails to request a hearing within 21 days, or fails to appear as scheduled at the hearing, the Board may issue a final order by default and impose the above sanctions against Licensee. Upon default order of the Board or failure to appear, the contents of the Board's file regarding the subject of this case automatically becomes part of the evidentiary record of this disciplinary action for the purpose of proving a prima facie case. ORS 183.415(6).

DATED this 26 day of June, 2000.

BOARD OF NATUROPATHIC EXAMINERS  
State of Oregon

Signature on file  
By: [Signature]  
Anne Walsh, Executive Director



- 1 h) Patient T.F., during the months February-September 1998;  
2 i) Patient R.G., during the months May-July 1996;  
3 j) Patient H.G., during the months July-December 1997; and January-June 1998;  
4 k) Patient J.H., during the months October-December 1997; and January-February 1998;  
5 l) Patient H.L., during the months April-December 1995; March-October 1996; January-  
6 August 1997; and February-September 1998  
7 m) Patient E.O., during the months October 1995; July-December 1996; January-  
8 December 1997; and March-April 1998;  
9 n) Patient D.S., during the months April-December 1996; and January-December 1997.

10 Licensee used an ozone generating device in conjunction with administering ozone (or aethozol)  
11 to his patients. Licensee did not take any action to ascertain whether or not the use of ozone  
12 generating devices or the administration of ozone therapy to patients was a method of treatment  
13 approved by the Board. Licensee administered ozone (or aethozol) to patients by intravenous  
14 (IV) injection. Licensee obtained the ozone generating device from William A. Turska, N.D.,  
15 between 1995-1996, after Dr. Turska was disciplined by the Board for using the ozone device to  
16 treat patients. The Board's final Order in the matter of Dr. Turska, Exhibit A, determined that the  
17 use of ozone generating devices by naturopathic physicians was prohibited "until the Board  
18 decides it is safe or until the United States Food and Drug Administration (FDA) approves its  
19 use." To date, neither the Board nor the FDA has approved the use of ozone generating devices.

## 20 II. IV / IM THERAPY

### 21 2.

22 On September 24, 1985, the Board issued a final "Agreement and Order" (Order) of  
23 discipline against Licensee for administering substances to a patient for a therapeutic purpose by  
24 subcutaneous, intramuscular (IM), or intravenous (IV) injections. The Order placed Licensee's  
25 license on a probationary status until November 15, 1995, and prohibited Licensee from  
26 administering any substance to a patient by "the penetration of the skin or mucous membrane of

1 the human body for a therapeutic purpose, including but not limited to administration of IV  
2 therapy, IV chelation therapy or injections for appetite control unless and until such time as the  
3 Board or the State of Oregon by legislation or adjudication determines that any or all such  
4 procedures are within the scope of a license to practice naturopathy . . .," Exhibit B.

5 3.

6 During the months of November 1987 and July 1989, Licensee administered substances  
7 (B5, B12, and Lidocaine) to patient V.B. by IM injection, prior to the time this method of  
8 treatment was approved by the Board. During the year 1990, Licensee administered substances  
9 B-12 and magnesium to patient D.S. by IM injection, prior to the time this method of treatment  
10 was approved by the Board. The Board did not approve this method of treatment until October  
11 1993.

12 4.

13 During the months of April - December 1995, and March - September 1996, Licensee  
14 administered substances including Heperin, Mucokohl, EDTA, Citrokehl, Sanuvis, GH3, and  
15 Diasporal, to patient H.L. by IV injection.

16 5.

17 During the months of October - November 1992; April - December 1993; January -  
18 September 1994; and January 1995, Licensee administered substances including Lymphaden,  
19 Heperin, GH3, and Thymus to patient D.N. by IV injection.

20 6.

21 During the months of October 1995; and January - September 1996, Licensee  
22 administered substances including EDTA and Heperin to patient E.O. by IV injection.

23 7.

24 During the months of April - September 1996, Licensee administered substances  
25 including EDTA and Heperin to patient D.S. by IV injection

26 ///

1 8.

2 The use of IV injections was prohibited by the Board until October 1996, when the Board  
3 by rule permitted the use of IV injections of vitamins and minerals for a therapeutic purpose by  
4 certified licensees. OAR 850-010-0210 (6).

5 **III. UNPROFESSIONAL CONDUCT**

6 9.

7 H.G., a female, received treatment from Licensee from approximately July 1997-June  
8 1998. During the course of treatment, Licensee proscribed progesterone cream to H.G. and gave  
9 H.G. instructions for application. During her next appointment with Licensee, H.G. inquired  
10 further about proper application of the cream, and asked Licensee to tell her where it should be  
11 applied. Licensee advised H.G. to rub the cream on her breasts, chest, and thighs, and then  
12 remarked, "if you need any volunteers, I'll gladly do it." H.G. told Licensee she did not  
13 appreciate the comment. Licensee admitted to making the comment.

14 **IV. MISREPRESENTATION**

15 10.

16 As part of his practice, Licensee offered for sale and sold various substances and  
17 supplements, including vitamins, homeopathic preparations to address various conditions such as  
18 thyroid or for weight loss, and amino acids. The substances were packaged in containers. Each  
19 container was marked with a printed expiration date. Licensee routinely instructed his staff to  
20 repackage substances that were past the expiration date, and to sell the repackaged substances to  
21 clients. Some of the substances Licensee repackaged and sold during 1998 had expired five to  
22 seven years previous, between 1991 - 1993. Licensee did not disclose to his clients that the  
23 substances he sold them were beyond the expiration date and had been repackaged

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26 ///

1 **VIOLATIONS**

2 11.

3 The Board finds that the acts and conduct of Licensee described in Section I, above,  
4 constitute a violation of ORS 685.110 (8),(16)

5 12.

6 Further, the Board finds that Licensee's practice, as described in Section II, above,  
7 constitutes a violation of ORS 685.110 (15),(19); OAR 850-010-0210 (6); and the prior Order of  
8 the Board issued against Licensee, Exhibit B, by administering IM and IV injections prior to the  
9 time such treatments were approved by the Board and prior to obtaining certifications as required  
10 by the Board. The Board finds that Licensee knew or should have known this conduct was  
11 prohibited.

12 13.

13 Further, the Board finds that Licensee's conduct as described in Section III, above,  
14 constitutes unprofessional conduct within the meaning of ORS 685.110 (15) and OAR 850-010-  
15 0190(3)(a)(C).

16 14.

17 Further, the Board finds that the conduct of Licensee as described in Section IV, above,  
18 constitutes a violation of ORS 685.110(12); OAR 850-010-0190 (3)(a)

19 15.

20 The Board proposes to revoke Licensee's license due to the aforementioned violations. In  
21 addition, the Board proposes to impose a civil penalty of \$4,000.

22 **NOTICE OF RIGHT TO HEARING**

23 16.

24 Licensee has the right, if Licensee requests, to a hearing as provided by the  
25 Administrative procedures Act (ORS Chapter 183) before the Board or its hearing officer to  
26 contest the matters set out above. At the hearing, Licensee may be represented by an attorney,

1 and may subpoena and cross-examine witnesses. A request for hearing must be made in writing  
2 to the Board, and must be received by the Board within 21 days from the date of mailing of this  
3 notice (or if not mailed, the date of personal service), and must be accompanied by a written  
4 answer to the charges contained in this Notice. Upon receipt of a request for hearing, the Board  
5 will notify licensee of the time and place of the hearing. If Licensee requests a hearing, Licensee  
6 will be given, prior to the commencement of the hearing, information on the procedures, right of  
7 representation, and other rights of parties relating to the conduct of the hearing as required by  
8 ORS 183.413(2).

9 17.

10 The answer shall be made in writing to the Board and shall include an admission or  
11 denial of each factual matter alleged in this Notice, and a short plain statement of each relevant  
12 affirmative defense Licensee may have. Except for good cause, factual matters alleged in this  
13 notice and not denied in the answer shall be presumed admitted; failure to raise a particular  
14 defense in the answer will be considered a waiver of such defense; and new matters alleged in  
15 the answer (affirmative defenses) shall be presumed to be denied by the agency and evidence  
16 shall not be taken on any issue not raised in the Notice and answer.

17 18.

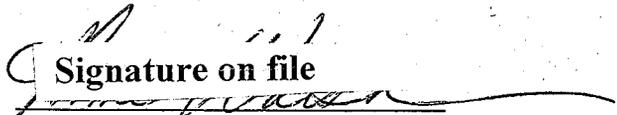
18 If Licensee fails to request a hearing within 21 days, or fails to appear as scheduled at the  
19 hearing, the Board may issue a final order by default and impose the above sanctions against  
20 Licensee. Upon default order of the Board or failure to appear, the contents of the Board's file

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1 regarding the subject of this case automatically becomes part of the evidentiary record of this  
2 disciplinary action for the purpose of proving a prima facie case. ORS 183.415(6).

3 DATED this 3<sup>rd</sup> day of May, 1999.

4 BOARD OF NATUROPATHIC EXAMINERS  
5 State of Oregon

6 By:  Signature on file  
7 Anne Walsh, Executive Director