

BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of the License of:

David Geller, ND

Licensee.

Case No. 21-02-07

**NOTICE OF PROPOSED DISCIPLINARY
ACTION AND
OPPORTUNITY FOR HEARING**

1.

The Board of Naturopathic Medicine (Board) is the State agency responsible for licensing, regulating, and disciplining naturopathic physicians in the State of Oregon, pursuant to Oregon Revised Statutes (ORS) chapter 685 and Oregon Administrative Rules (OAR) chapter 850. Dr. David Geller N.D. (Licensee) is a licensed naturopathic physician in Oregon and is subject to the jurisdiction of the Board.

2.

Pursuant to 850-050-0190(4)(b) and (c) the Board hereby proposes to take disciplinary action against Licensee's license to practice naturopathic medicine, on the grounds described in the following paragraphs. For each violation, the Board may impose a civil penalty up to \$5,000, a term of probation, a letter of reprimand and license limitation, suspension, or revocation.

3.

Dr. David Geller has been licensed as a naturopathic physician in the State of Oregon since October 4, 2017. Licensee and Patient established a doctor patient relationship in October 2019.

4.

September 2019, during a treatment provided by Patient, Licensee appeared to look at the area between their legs, making Patient uncomfortable.

5.

During an October 2019, medical appointment Licensee asked for and received permission to perform energy work on Patient. Licensee touched Patient between their legs without getting explicit consent from Licensee to touch their private parts over their clothing.

6.

During a medical appointment in November 2019, without context or relevance, Licensee asked Patient about their sexual relationships, including questions regarding their sexual partner and their sexual behavior.

7.

During a November 2019, at an event at the mutual workspace of both Licensee and Patient, Licensee brought up the position of Patient's legs / private area during a September 2019, treatment that Licensee had received from Patient. Licensee explicitly stated Patient's "crotch was right there!!" as he pointed to where Patient's private area was in relation to him as he received treatment.

8.

On that same day, Licensee made a comment to Patient about slapping Patient's butt.

9.

Based on the conduct described above, both individually and collectively, Licensee violated OAR 850-050-0190(4)(b): Engaging in any conduct with a patient that is sexual, or may be reasonably interpreted as sexual, whether initiated by the patient or not.

10.

Based on the conduct described above, both individually and collectively, Licensee violated OAR 850-050-0190(4)(c): Any behavior, gesture, or expression that is sexually seductive or sexually demeaning to a patient, or any action that shows a lack of respect for the patient's privacy.

11.

For the violations described above; the Board proposes the following discipline:

A. Probation – 36 Months.

B. Civil Penalty - \$7,500

C. Twelve (12) hours of continuing education in addition to hours required for annual renewal per 850-040-0210, to be completed within the first six (6) months of probation.

(i) Eight (8) hours of continuing education – focused on appropriate doctor / patient boundaries, concepts of boundaries, boundary crossings, and boundary violations.

(ii) Four (4) hours of continuing education – focus on ethics and professional conduct and ethical decision making.

12.

NOTICE OF OPPORTUNITY FOR HEARING

Licensee is entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183). If you want a hearing, you must file a written request for hearing with the Board within 21 days from the date this notice was mailed. You must submit request for hearing to either via email Naturopathic.Medicine@obnm.Oregon.gov or U.S. Mail to Oregon Board of Naturopathic Medicine, 800 NE Oregon Street, Suite 407, Portland, OR 97232. The request for hearing must be received by the Board within 21 days from the date of mailing of this notice and must be accompanied by a written answer to the charges contained in this Notice. If a request for hearing is not received within 21 days, the right to hearing is waived.

13.

If you request a hearing, you will be notified of the time and place of the hearing. Before the hearing, you will receive information on the procedures, right of representation, and other rights of parties related to the conduct of the hearing. An administrative law judge from the Office of Administrative Hearings will preside at any hearing. ORS 183.635.

14.

An answer is required to this Notice, pursuant to OAR 850-001-0015, due to the complexity of the matters alleged above. The answer shall be made in writing to the Board and shall include an admission or denial of each factual matter alleged in this Notice, and a short plain statement of each relevant affirmative defense Licensee may have. Except for good cause, factual matters alleged in this 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; and new matters

alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency and evidence shall not be taken on any issue not raised in the Notice and answer.

15.

If you fail to request a hearing within 21 days, withdraw a request for a hearing, notify the Board or administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Board may issue a final order by default revoking your license. If the Board issues a default order, the contents of the Board's file automatically becomes part of the evidentiary record of this disciplinary action for the purpose of proving a prima facie case.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

DATED this 22 day of August 2022.

BOARD OF NATUROPATHIC MEDICINE
State of Oregon



Mary-Beth Baptista, Executive Director