

BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of the License of:

Dr. Russell Marz, ND

Case No. 22-02-06

**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. Russell Marz, N.D. (Licensee) is a licensed naturopathic physician in Oregon and is subject to the jurisdiction of the Board. Dr. Russell Marz has been a licensed naturopathic physician in the State of Oregon since April 3, 1985.

2.

Pursuant to OAR 850-050-0010(1)(c)(C) and ORS 685.110(23), 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.

Individual A, Individual B and Licensee know each other outside of a doctor patient relationship. In late December 2021, Individual A and B were exposed to Covid and went to Licensee's clinic to purchase supplements.

4.

On or about January 2, 2022, Licensee called in a prescription for Ivermectin to a pharmacy, stating it was for Individual B. Licensee left voicemails and sent text message to Individual A stating the prescription he submitted to the pharmacy under the name of Individual B was not for Individual B, but for Licensee to have on hand at the clinic. Individual A and B did not ask for or consent to Licensee prescribing Ivermectin under Individual B's name.

Licensee calling in a prescription for Ivermectin to Pharmacy, stating it was for Individual B, when it was intended for use in Licensee's clinic is a violation of the following:

- 850-050-0190 - Discipline or Denial of License: (5) Fraud or misrepresentation related to naturopathic medicine
- 850-050-0190 - Discipline or Denial of License: (3) Engaging in conduct or practice contrary to the Code of Ethics of the American Association of Naturopathic Physicians as adopted by the Board. (in relevant part)
 - Section 1: Honesty: Naturopathic physician shall conduct himself in an honest manner, shall not represent himself to patients or the public in an untruthful, misleading, or deceptive manner.
 - Section 10: Improper conduct: A naturopathic physician shall not prescribe, provide, or seek compensation for medical services that are not specially indicated for an individual patient.
- 685.110 Grounds for discipline; penalties: (10) Prescribing or dispensing drugs outside the scope of practice.

5.

Licensee told a Board Investigator that he called in an Ivermectin prescription to Pharmacy for Individual B as a preventive measure for Individual B after Individual B was exposed to COVID-19. Licensee denied he used Individual B's name to prescribe Ivermectin for use in Licensee's clinic. This was a false statement to the Board Investigator, in violation of the following:

- 850-050-0190 - Discipline or Denial of License: (3) Engaging in conduct or practice contrary to the Code of Ethics of the American Association of Naturopathic Physicians as adopted by the Board. (in relevant part)
 - Section 1: Honesty: Naturopathic physician shall conduct himself in an honest manner, shall not represent himself to patients or the public in an untruthful, misleading, or deceptive manner.

6.

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

- Probation – 12 months; with the following conditions:
 - Civil Penalty - \$2500 (Two Thousand Five Hundred)
 - Continuing Education - Four (4) hours –focused on ethical behavior and principles, in addition to annual continuing education renewal requirements per 850-040-0210 completed within the first three months of probation.

7.

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.

8.

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.

9.

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.

10.

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 become 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 _____ day of _____ 2022. (COPY – Original Signed
10/31/22)

BOARD OF NATUROPATHIC MEDICINE
State of Oregon

/S?

Mary-Beth Baptista, Executive Director

