

BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of the License of:

Deborah Rice, ND

Licensee.

Case No. 17-08-145

**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. Deborah Rice, N.D. (Licensee) is a licensed naturopathic physician in Oregon, and is subject to the jurisdiction of the Board.

2.

Pursuant to ORS 685.110 (8), 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.

On June 12, 2014, S.H. had her first appointment with Dr. Rice at Sherwood Family Medicine. Dr. Rice made a chart note that S.H. came to the clinic to establish care and discuss her fatigue and GI symptoms, and frequent urination. Dr. Rice ordered labs, including a Comprehensive Metabolic Panel, Thyroid related testing, Vitamin D and Vitamin B12, and food intolerance testing.

4.

The metabolic panel showed abnormal creatinine and blood urea nitrogen levels demonstrating failing kidneys. Dr. Rice did not make a chart note indicating the abnormal panel

results, nor did she make a chart note indicating that she discussed the lab results with S.H. In a letter addressed to the Board Investigator dated April 6, 2018, Dr. Rice stated:

The Patient returned to see me on July 8, 2014. I reviewed the test results and discussed the results with the patient. The tests results showed a 305 creatinine level and BUN of 41. I have a vague recollection of discussing the abnormal kidney values with the patient. It was my understanding from the patient that she was aware of her condition and was taking care of it.

5.

S.H. saw Dr. Rice on October 14, 2014, for urinary frequency and complaints of lower left abdominal pain. Dr. Rice ran a urinalysis that showed a low grade infection. Dr. Rice recommended S.H. start on Uristatin to help resolve her symptoms.

6.

S.H. saw Dr. Rice on January 20, 2015, to discuss possible UTI. Dr. Rice performed a urinalysis. On January 29, S.H. was informed her urinalysis showed a low lying infection and Dr. Rice sent a prescription of Bactrim to her pharmacy.

7.

Dr. Rice left the Sherwood Family Clinic in March 2015. Dr. Rice transitioned S.H. care to a physician's assistant at the clinic. On July 16, 2015, S.H. received a comprehensive lab panel; including metabolic panel, showed her kidney function was abnormal, and the PA referred her to a kidney specialist.

8.

S.H. was subsequently diagnosed with Stage V chronic kidney disease and needed an organ transplant.

9.

Upon receipt of the test results on or about June 14, 2014, showing a 305 creatinine level and BUN of 41, Licensee should have recognized that these results indicate kidney dysfunction. Licensee's failure to recognize the significance of the test result is below the minimum standard of care of a reasonably prudent, careful and skillful naturopathic physician and constitutes

negligence in the practice of naturopathic medicine, and is a basis for discipline under ORS 685.110(8).

10.

Licensee should have noted in the S.H.'s chart that the results indicated kidney dysfunction. Licensee's failure to note the significance of the test results in S.H.'s chart is itself below the minimum standard of care of a reasonably prudent, careful and skillful naturopathic physician and constitutes negligence in the practice of naturopathic medicine, and is a basis for discipline under ORS 685.110(8).

11.

The June 14, 2014, test results should have resulted in Licensee making an immediate referral to a renal specialist for S.H. to receive follow up care from a renal specialist. Licensee's failure to make an immediate referral to a renal specialist after receiving these lab results is below the minimum standard of care of a reasonably prudent, careful and skillful naturopathic physician and constitutes negligence in the practice of naturopathic medicine, and is a basis for discipline under ORS 685.110(8).

12.

Rice treated S.H. multiple times from June 14, 2014, through March 2015, for urinary frequency and infection. At no point during that time did Licensee inform S.H. of her lab June 14, 2014, results and that the results indicated kidney dysfunction. Licensee's on-going failure to inform patient of the June 14, 2014, lab results is below the minimum standard of care of a reasonably prudent, careful and skillful naturopathic physician and constitutes negligence in the practice of naturopathic medicine, and is a basis for discipline under ORS 685.110(8).

13.

Licensee failed to chart that she informed S.H. of her lab June 14, 2014, results at any time between the receipt of those results through March 2015 and that the results indicated kidney dysfunction. The failure to chart such a conversation is below the minimum standard of care of a reasonably prudent, careful and skillful naturopathic physician and constitutes

negligence in the practice of naturopathic medicine, and is a basis for discipline under ORS 685.110(8).

14.

At no point during Licensee's treatment of S.H. from the receipt of the June 14, 2014 lab results did Licensee inquire as to whether S.H. was receiving treatment for kidney failure with another doctor. Licensee's failure to make such an inquiry of S.H. is below the minimum standard of care of a reasonably prudent, careful and skillful naturopathic physician and constitutes negligence in the practice of naturopathic medicine, and is a basis for discipline under ORS 685.110(8).

15.

Licensee failed to chart that she had any conversation with S.H. where S.H. stated that she was receiving treatment for kidney failure with another doctor. Licensee's failure to chart such a conversation is below the minimum standard of care of a reasonably prudent, careful and skillful naturopathic physician and constitutes negligence in the practice of naturopathic medicine, and is a basis for discipline under ORS 685.110(8).

16.

From the receipt of the June 14, 2014 lab results to March 2015, Licensee failed to repeat metabolic panel tests to test for kidney function. Licensee's failure to do so is below the minimum standard of care of a reasonably prudent, careful and skillful naturopathic physician and constitutes negligence in the practice of naturopathic medicine, and is a basis for discipline under ORS 685.110(8).

17.

The entire pattern of conduct committed by Licensee after receipt of the June 14, 2014 lab results, including her failure to recognize the significance of the results and failure to take appropriate actions in response to the lab results is below the minimum standard of care of a reasonably prudent, careful and skillful naturopathic physician and constitutes negligence in the practice of naturopathic medicine, and is a basis for discipline under ORS 685.110(8).

18.

Discipline

For the foregoing violations, the Board proposes the following discipline:

1. Civil penalties in the total amount of five thousand dollars (\$5,000). \$3,000 of the \$5,000 civil penalty will be suspended until successful completion of probation. If probation is successfully completed, the \$3,000 suspended civil penalty will be waived. \$2,000 of the \$5,000 civil penalty is due and payable when the order in this matter becomes final by operation of law.
2. One (1) year of probation, with the following conditions:
 - a. In addition to the Board's regular continuing education requirements, Licensee shall complete a minimum of 10 hours of continuing education focused on lab work, interpretation and referral, as approved by the Board.
 - b. Licensee shall comply with the statutes, rules and orders of the Board.

19.

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 mail any request for hearing 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.

20.

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.

21.

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.

22.

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 timely 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 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

DATED this 24 day of October 2018.

BOARD OF NATUROPATHIC MEDICINE
State of Oregon


Mary-Beth Baptista, Executive Director