

BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of the License of:

Kim, Hyo-Shin ND,

Licensee.

Case No. 20-06-15

**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. Kim, Hyo-Shin 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(21), OAR 850-050-0010(1)(c)(E), 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.

In June 2020, the Board received a complaint alleging that Dr. Kim engaged in, but not limited to; negligent conduct. Board investigator began the complaint investigation in September of 2020.

4.

In preparing to send Licensee a subpoena for medical records related to the complaint, Board investigator learned the address listed for Licensee in the OBNM database, was not the same clinic address on Licensee's website contact information. The OBNM website listed 11515 SW Durham Rd Suite E-9; as his primary address, while his website listed 11545 SW Durham Rd Suite B-9.

5.

On September 21, 2020, Board investigator sent a subpoena via certified mail to both addresses requesting medical records from Licensee pertaining to the investigation. Licensee did not correspond or contact the Board regarding either of certified mailings.

6.

On October 27, 2020, Board investigator sent an email to Licensee at the email listed in the OBNM database; requesting he respond to the subpoena sent to him on or about September 21, 2020. Dr. Kim did not respond to investigator's email.

7.

On February 23, 2021, Board investigator sent Licensee a subpoena via certified mail to two home addresses found on a publicly available database. Dr. Kim did not contact the Board or respond to the either of the mailings.

8.

On April 8, 2021, Board investigator returned to Suite E-9 and personally served Licensee a subpoena requesting documents pertaining to the complaint. The subpoena designated an April 22, 3pm deadline to submit the documents to Board.

9.

On April 21, 2021, Licensee sent the Board investigator an email from Dr. Kim requesting an extension to submit the subpoenaed medical records to the Board to May 21, 2021. Board investigator responded to the email stating the Board would extend the deadline to May 7, 2021.

10.

On May 11, 2021, Dr. Kim sent Board investigator another email, asking for an extension to submit the subpoenaed medical records to May 21, 2021. Board investigator responded to the email and declined the extension.

11.

To date, Dr. Kim has not submitted to the Board the medical records requested in the subpoena by the deadline provided in the document, or the extension provided via email by the Board investigator. Licensee has not initiated any further contact with the Board since on or about May 11, 2021.

12.

Licensee's failure to timely respond with the information requested in the subpoena is in violation of ORS 685.110(21), OAR 850-050-0010(1)(c)(E), and the Board hereby proposes to take disciplinary action against Licensee's license to practice naturopathic medicine, on the grounds described above.

13.

For the foregoing violations, the Board proposes to suspend Licensee's license until Licensee provides the requested information and then for an additional six months after the requested information is provided.

14.

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@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.

15.

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.

16.

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.

17.

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 June 2021.

BOARD OF NATUROPATHIC MEDICINE
State of Oregon



Mary-Beth Baptista, Executive Director