

BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of the License of:

Stephani K. Hayes, N.D., LAc

Licensee.

Case Nos. N15-09-16/N16-03-06

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. Stephani K. Hayes, ND, LAc (Licensee) is a licensed naturopathic physician in Oregon, was so licensed at all relevant times, and is subject to the jurisdiction of the Board.

2.

The Board conducted an investigation based on two separate complaints filed against Licensee related to her relationship and conduct with a patient (Patient). Based on the results of this investigation and pursuant to ORS 685.110(8) and (14), ORS 685.990(2), and OAR 850-050-0010(1)(c)(D), the Board hereby proposes to take disciplinary action against Licensee's license to practice naturopathic medicine and assess a civil penalty against Licensee for violations of ORS 685.110(8) and (14) and OAR 850-050-0010(1)(c)(D), as described in the following paragraphs. For each violation, the Board may impose a civil penalty up to \$5,000, and license discipline up to and including revocation, without amending its Notice.

3.

Patient established care with Licensee on or about October 2, 2012, in the state of Oregon. Patient believed Licensee was Patient's Primary Care Provider. Due to prior history and current circumstances known to Licensee, Patient was especially vulnerable psychologically and emotionally. Patient became dependent and co-dependent upon Licensee while under her care.

4.

During the summer and autumn of 2014, Licensee unethically convinced Patient to move into Licensee's home while Licensee was still in a physician-patient relationship with Patient, and Licensee allowed Patient to care for Licensee's children and make household repairs for Licensee. This living arrangement coupled with an ongoing physician-patient relationship eroded the professional boundaries between Licensee and Patient which lead to increased emotional, psychological, and psychosomatic distress and harm of Patient. Licensee thereby engaged in conduct that did or might constitute a danger to the health of a patient.

5.

Throughout at least May 23, 2015, Licensee provided treatments to Patient. These treatments included counseling, acupuncture, manual therapy and massage, and Testosterone and vitamin injections. Licensee asserts these treatments were conducted, with the exception of massage, in the clinic setting. Licensee provided Patient with massage at Licensee's residence, which was shared with Patient. These treatments were not charted. These unethical practices degraded any professional boundaries Licensee had with Patient, which led to increased emotional, psychological, and psychosomatic distress and harm of Patient. Licensee thereby engaged in practices that did or might constitute a danger to the health of a patient.

6.

On or about July 24, 2014, while Licensee was still in a physician-patient relationship with Patient, Licensee accepted a \$50,000, personal, interest-free loan from Patient. This unethical conduct further degraded any professional boundaries Licensee had with Patient, and provided Licensee with motivation to continue her professional and personal relationships with Licensee, irrespective of whether such relationships were in the best interest of Patient. Licensee thereby engaged in conduct that did or might adversely affect her ability to safely and skillfully practice naturopathic medicine.

///

///

///

7.

While Licensee was in a physician-patient relationship with Patient, Licensee became a beneficiary of Patient's will and did not disclaim her gift in the will or terminate her physician-patient relationship with Patient at that time. Licensee thereby unethically allowed herself to benefit in the case of Patient's death. By accepting a benefit from Patient's death while Patient was under Licensee's care, Licensee engaged in a serious conflict of interest which she did not resolve in favor of the best interest of Patient. Licensee thereby engaged in conduct that did or might adversely affect her ability to safely and skillfully practice naturopathic medicine.

8.

Between August 8, 2015 and August 27, 2015, Licensee verbally diagnosed Patient with stomach cancer, but did not follow up with Patient or refer Patient to an oncologist or other qualified healthcare provider for confirmation of diagnosis of cancer, or to provide treatment of cancer. Licensee thereby failed to refer Patient when referral was appropriate. On or about October 30, 2015 without a referral from Licensee, Patient was seen and tested by a physician specializing in gastrointestinal disorders. The results of the tests performed by the specialist in gastrointestinal disorders determined Patient did not have a diagnosis of cancer. Licensee's conduct in this incident does not meet the standard of care for the practice of naturopathic medicine, and was therefore negligent.

9.

Under ORS 685.110(14), the Board has authority to discipline a licensee for engaging in any conduct or practice that does or might constitute a danger to the health or safety of a patient. Under ORS 685.110(14), the Board also has authority to discipline a licensee for engaging in any conduct, practice or condition that does or might adversely affect a physician's ability to safely and skillfully practice naturopathic medicine. By engaging in conduct and practices that did or might constitute a danger to the health of safety of a Patient, Licensee violated ORS 685.110(14) on two occasions. By engaging in conduct that did or might adversely affect her ability to safely and skillfully practice naturopathic medicine, Licensee violated ORS 685.110(14) on third and fourth occasions.

10.

ORS 685.110(8) authorizes the Board to discipline licensees for committing negligence related to the practice of naturopathic medicine. OAR 850-050-0010(1)(c)(D) further specifies that the Board will take disciplinary action for failure to refer when referral is appropriate. By committing negligence in the practice of naturopathic medicine, including but not limited to failure to refer when referral was appropriate, Licensee violated ORS 685.110(8), and subjected herself to discipline on a fifth occasion.

11.

ORS 685.990(2) authorizes the Board to assess civil penalties for violations of its laws and rules, of up to \$5,000 per violation.

12.

Definitions that may be relevant to this Notice are contained in ORS 685.010 and OAR 850-010-0005.

13.

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

1. Civil penalties in the total amount of twenty five thousand dollars (\$25,000).

In addition, the following discipline is appropriate for each of the foregoing violations individually, but for all of the foregoing violations, the Board proposes:

2. Effective 45 days from the date of any Final Order, suspension of Licensee's license to practice naturopathic medicine, reactivation of license contingent upon completion of 20 hours of in-person, board-approved continuing education or training in professional ethics specifically related to the physician-patient relationship and professional boundaries, and completion of a report to the Board following this continuing education on what was learned in it, but in no case shall the suspension endure less than six months. Furthermore, the required 20 hours of continuing education or training described in this paragraph shall not be considered to satisfy Licensee's regular continuing education requirements.

3. Five years probation upon reactivation of Licensee's license to practice naturopathic medicine. Successful termination of probation conditioned upon Licensee complying with the statutes, rules, and order of the Board throughout those five years.

14.

NOTICE OF OPPORTUNITY FOR HEARING

Licensee is entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183). If Licensee would like to have a hearing, she must file a written request for hearing with the Board within 21 days from the date this notice was mailed. Licensee 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.

15.

If Licensee requests a hearing, she will be notified of the time and place of the hearing. Before the hearing, Licensee 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 Licensee fails to request a hearing within 21 days, withdraws a request for a hearing, notifies the Board or administrative law judge that she will not appear, fails to appear at a scheduled hearing, or fails to appear at a scheduled hearing on time, the Board may issue a final order by default. If the Board issues a default order, the contents of the Board's file automatically become 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 19th day of October 2016.

BOARD OF NATUROPATHIC MEDICINE
State of Oregon



Anne Walsh, Executive Director