BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of the License of: **Tyler Keliiheleua, N.D.,** Licensee.	Case No. N16-12-35 **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 or Oregon Revised Statutes (ORS) chapter 685 and Oregon Administrative Rules (OAR) chapter 850. Tyler Keliiheleua, N.D. (Licensee) is a licensed naturopathic physician in Oregon, and is subject to the jurisdiction of the Board.

2.

The Board conducted an investigation based on a complaint received regarding Licensee's prescribing practices. Based on the results of the investigation and pursuant to ORS 685.110(8), OAR 850-050-0010(1)(c)(A), and OAR 850-050-0010(1)(c)(B), 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.

Opiates are commonly prescribed for short-term, acute conditions. Long term opiate use carries a risk of patient harm due to abuse or addiction. Long term prescription of opiates requires a higher degree of assessment, screening, documentation, and record keeping to mitigate this risk. Patients should be pre-screened for risk of opioid abuse, multi-drug use, and other risk factors. Pain progress should be monitored and re-assessed on a monthly basis. Periodic

physical exams and blood chemistry should be performed to assess toxicity risks. Patients should be screened monthly for compliance and for multi-drug use through exam and drug screening.

4.

The Oregon Health Authority maintains a Prescription Drug Monitoring Program (PDMP) for monitoring and reporting prescription drugs dispensed by pharmacies in Oregon that are classified in schedules II through IV under the federal Controlled Substances Act, 21 USC §§ 811, 812, as modified under ORS 475.035. ORS 431.962. The PDMP became fully operative and accessible to naturopathic practitioners in September 2011.

5.

Patient EH sought treatment from Licensee on or about May 15, 2015. Licensee took over prescribing from another Naturopathic Physician at that time. Patient EH was managing his pain with weekly pulsed electromagnetic field therapy and 15mgs of Oxycodone 6 times per day and 10mg of Valium once a day. At the initial visit, Licensee prescribed 30 days of Oxycodone 15mg, 150# count and Valium 5mg, 30# count. Licensee refilled Patient EH's Valium prescription on June 4, 2015, and July 5, 2015, and increased the Oxycodone prescription on June 9, 2015, to 15mg, 180# count for 30 days. On July 7, 2015, Licensee wrote prescriptions for Oxycodone 15mg, 168# count for 28 days.

6.

Licensee treated patient EH for pain and noted prescriptions of varying dosages for both Valium and Oxycodone from May 2015, through December 2016. Based on calculations of Oxycodone prescribed to patient EH between October 6, 2015, and November 5, 2015, patient EH's MED was at 225. Licensee noted different combinations of PEMFT and anti-inflammatory nutrients, neural therapy, physical therapy, and medications to manage pain.

7.

Licensee saw patient EH after patient was hospitalized in October 2016, for COPD and required multiple oxygen and steroid treatments. Licensee counseled patient EH to seek oxygen therapy from his primary care physician and prescribed him Oxycodone 30mg, 143# count for 21 days and Valium 10mg, 23# count for 23 days.

8.

Licensee saw patient EH on or about December 23, 2016, and noted seeking alternate solutions to reduce need of pain medications and increase function. Licensee also noted discussing with patient EH finding a doctor closer to his residence due to the large amount of medication, dosage variations and supportive therapies.

9.

Licensee's chart notes fail to show that licensee adequately screened for drug abuse potential or multi-drug use. Licensee increased doses of oxycodone without routine drug monitoring.

10.

Patient AM sought treatment from Licensee on or about June 15, 2016. Patient AM's PDMP report notes at that time, and for the preceding 10 months, patient was being prescribed Oxycodone 10mg, 100# count every 30 days. On June 17, 2016, Licensee wrote patient AM a prescription of Oxycodone 20mg, 110# count for 19 days. On June 27, 2016 patient AM's PDMP report states she received another Oxycodone 5mg, 60# count for 30 day prescription from another provider.

11.

According to patient AM's PDMP report, patient AM continued to receive Oxycodone from Licensee as well as a different provider in July 2016, and August 2016.

12.

Licensee's chart notes fail to show that licensee adequately screened for drug abuse potential or multi-drug use. Licensee increased doses of oxycodone without routine drug monitoring. Licensee did not check the PDMP to determine if patient AM was being prescribed medications by another provider.

13.

Patient LP sought treatment from Licensee on May 24, 2016, for hypothyroidism, hyperlipidemia, knee pain, arthritis, and hypertensive disorder. Patient LP reported being on several medications since a November 2015, surgery. Patient LP also reported being on arthritis pain medication for eight (8) years.

14.

Licensee saw patient LP on June 7, 2016, and licensee prescribed Xanax 1mg, 30# count for 30 days, Oxycodone 20mg, 180# count for 30 days, and Ambien 10mg, 30# count for 30 days. Licensee wrote another prescription for Oxycodone 180# count for 30 days at a follow up visit regarding patient LP's insomnia and anxiety on June 28, 2016.

15.

Licensee treated patient LP from June 2016, through February 2017. During that time period Licensee continued to prescribe patient LP Oxycodone in various dosages and amounts. Licensee also prescribed varying dosages and amounts of Ambien and Xanax. In January 2017 patient LP's MED increased to 372.41.

16.

Licensee's chart notes fail to show that licensee adequately screened for drug abuse potential or multi-drug use. Licensee increased doses of oxycodone without routine drug monitoring.

17.

Patient JS sought out Licensee on or about March 21, 2013, to be patient's primary care provider. Patient JS's medical records state that he took Adderall, 30 mg, daily. At the initial visit, Licensee prescribed patient JS Adderall 30mg, 60# count. Licensee charted a conversation with patient JS regarding too frequent refills from two (2) different doctors from June 2013, through October 2013. Licensee noted he would monitor the PDMP. Licensee prescribed Adderall to patient JS approximately every 22 days with no office visits between October 21, 2013, and June 12, 2014.

18.

Licensee saw patient JS on June 12, 2014, and increased his dosage to 30mg, 36# count every 30 days. This dosage continued through August 10, 2014, with a refill occurring on average every 26 days. Patient JS did not have office visits from June 12, 2014, through August 10, 2014.

19.

Licensee increased patient JS prescription for Adderall to 45# count in August 2014, and it remained at that dose from August 2014, through February 13, 2015, with refills occurring on average every 26 days.

20.

Licensee increased patient JS's Adderall prescription to 50# count every 25 days in March of 2015. Licensee saw patient JS on July 7, 2015, and prescribed Adderall 10mg, 120# count for a 30 day supply. Licensee saw patient again on July 15, 2015, and again prescribed Adderall 10mg, 28# count, totaling 118# count for 28 day period.

21.

The PDMP report also stated that Licensee continued to write prescriptions for Adderall and Testosterone through December 14, 2015, without seeing patient JS. Between December 15, 2015, and April 1, 2016, Licensee wrote five (5) prescriptions for Adderall 20mg, 60# count for a 30 day supply. Per patient JS's PDMP refills occurred, on average, every 27 days.

22.

On or about September 20, 2016, Licensee was alerted by two different pharmacists regarding alleged forgeries of Patient JS's Testosterone and Adderall prescriptions. Licensee confirmed Adderall prescriptions written on May 23, 2016; August 22, 2016; and all Adderall prescriptions written in September and October 2016, were forgeries. Licensee notified the DEA and is working with law enforcement.

23.

Licensee's chart notes fail to show that Licensee adequately screened for drug abuse potential or multi-drug use. Licensee increased doses of Adderall without routine drug monitoring. Licensee did not check the PDMP, after initial signs of tampering, to determine if patient JS was being prescribed medications by another provider or engaging in forgery to tamper with Licensee's prescriptions.

24.

Patient AT sought treatment from Licensee on August 8, 2016, for low back pain and hypertensive disorder. Licensee prescribed patient AT Oxycodone 15mg, 180# count for a 30 day supply on September 7, October 5, November 2 and 28, 2016. Licensee also prescribed Ambien 10mg, 30# count also a 30 day supply on the aforementioned dates.

25.

Licensee chart notes fail to show that licensee adequately screened for drug abuse potential or multi-drug use. Licensee did not check the PDMP, to determine if patient AT was being prescribed medications by another provider.

26.

VIOLATIONS:

Licensee records for patients EH, AM, LP and AT do not contain objective findings to support the prescription of controlled substances to patients EH, AM, LP and AT, the dosage, nor the continued chronic use. Licensee's prescribed these controlled substances without routine urine drug monitoring consistent with the standard of care in chronic pain management.

27.

Licensee did not account for the risk factors for opioid abuse for patients EH, AM, LP and AT while he prescribed and continued to refill prescriptions. There are several standardized and validated tools available and in common use to streamline and quantify the assessment of pain and the assessment of opioid abuse risk, including but not limited to the Opioid Risk Tool, the Screener and Opioid Assessment for Patients with Pain-Revised, the Screening Tool for Addiction Risk and the Screening. There are no chart notes indicating that Licensee used any such tools.

28.

Licensee's conduct in treating patients EH, AM, LP and AT, was below the standard of care, he was negligent in the treatment of patients EH, AM, LP, and AT, including his prescribing practices with patients EH, AM, LP and AT and inadequate charting regarding EH, AM, LP, and AT. This conduct constitutes a violation of ORS 685.110(8), OAR 850-050-0010(1)(c)(A) and 850-050-0010(1)(c)(B).

29.

Licensee's failure to monitor patient JS PDMP reports after early concerning indications of potential tampering, for an almost three year period constitutes a violation of ORS 685.110(8).

30.

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

1. Civil penalties in the total amount of five thousand dollars ($5,000);
2. One year of probation, with the following conditions:
    a. In addition to the Board's regular continuing education requirements, during the first year of probation, Licensee shall complete (a) 10 continuing education hours that are pre-approved by the Board on responsible prescribing practices of opioids.

    b. Licensee shall provide a PDMP report to the Board within 15 days of the end of each quarter.

    c. Licensee shall comply with the statutes, rules and orders of the Board.

31.

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.

32.

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.

33.

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.

34.

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

DATED this 3 day of Oct 2017.

BOARD OF NATUROPATHIC MEDICINE
State of Oregon

Mary-Beth Baptista, Executive Director