

BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of the License of:

Murczek, Anthony ND

Case Nos. 18-08-32
19-08-11

**SETTLEMENT AGREEMENT AND CONSENT
ORDER**

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. Anthony Murczek, ND (Licensee) is a licensed naturopathic physician in Oregon, and is subject to the jurisdiction of the Board.

2.

Licensee and the Board desire to settle this matter by entry of this Settlement Agreement and Consent Order. Licensee understands that he has the right to a contested case hearing under the Administrative Procedures Act (chapter 183), Oregon Revised Statutes. Licensee fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing of, and entry of, this Order in the Board's records. In lieu thereof, the parties wish to resolve this matter informally, without any hearing, appeal or judicial review, by entering this Settlement Agreement and Consent Order, pursuant to ORS 183.417(3) on the terms set forth below.

SETTLEMENT AGREEMENT

The Board finds, licensee denies, but the parties agree to enter the following agreement for the purpose of settlement:

3.

Licensee saw Patient A's two times, June 7 and 26, 2018. At the initial appointment on June 7, Patient A filled out a lengthy Patient Health History form, answering questions related to past health history, family health history, patient habits and behavior and review of systems.

4.

Chart Notes for both of Patient A appointments on June 7 and 26, 2018 did not follow the Board's "Charting Guidelines" and were below accepted standards of practice in the profession. Licensee did not follow the recognized "SOAP" format. Licensee did not chart any "subjective" findings at either appointment, rather relied solely on the on the Patient Health History. The "objective" finding consisted mostly of subjective patient complaints and did not provide the data to support "subjective" complaints. Licensee did not chart a patient "assessment" nor did he chart a discussion of the treatment options or potential side effects. Licensee wrote a minimal description of the proposed treatment plan for Patient A.

5.

Chart Notes for both of Patient A appointments on June 7 and 26, 2018 did not follow the Board's "Charting Guidelines" and were below accepted standards of practice in the profession as follows:

- Licensee's chart notes were illegible and it is not reasonable to believe another health care provider could have discerned the necessary treatment information to ensure continuity of care.
- Patient A did not complete a consent to treatment / informed consent form and / or it was not kept in the patient chart.
- Licensee did not chart all prescribed medications dose and duration, nor did he chart recommendations for return visit.

6.

The Board found the following deficiencies in Licensee charting practice for Patient A's June 7 and 26, 2018 visit, constitute a violation of OAR 850-050-0010(1)(B): Inadequate Charting.

1. Failure to follow SOAP format
2. Chart notes were illegible to the point other providers would not be able to ascertain treatment for continuity of care.
3. Patient did not complete and sign a consent to treatment / informed consent form and / or it was not kept in the patient chart.
4. Licensee did not chart all prescribed medications dose and duration, nor did he chart recommendations for return visit.

7.

Licensee saw Patient B from March 19, 2014 – December 18, 2014. Licensee stated in his Board interview he first saw Patient B on March 19, 2014, for insomnia, constipation and leg pain. He stated he went over Patient B's extensive medical history, including diagnosis and Patient B current medication. Licensee also stated he examined her at this appointment.

8.

Licensee's chart notes for Patient B's appointments from March 19– December 18, 2014, did follow the Board's "Charting Guidelines" and were below accepted standards of practice in the profession. Licensee did not follow the recognized "SOAP" format. Licensee's "subjective" findings consisted of identifying Patient B's chief complaints and lacked specificity and documentation of Patient B's symptoms. Licensee charted Patient B's vital information from the initial exam, however Licensee did not chart other "objective" findings necessary provide the data to support "subjective" complaints. Licensee patient "assessment" was limited to subjective complaints. Licensee did not chart any discussion with Patient B regarding treatment options or proposed treatment plan for Patient B.

9.

Licensee's chart notes for Patient B's from March 19 – December 18, 2014, did not follow the Board's "Charting Guidelines" and were below accepted standards of practice in the profession as follows:

- Licensee's chart notes were illegible and it is not reasonable to believe another health care provider could have discerned the necessary treatment information to ensure continuity of care.
- Licensee did not sign and date this chart note entry.
- Licensee did not consistently chart all prescribed medications dose, frequency and duration, nor did he consistently chart recommendations for return visits.

10.

Licensee stated during his Board interview he encouraged Patient B to talk to the doctor who prescribed them Neurontin / gabapentin about lowering it to the lowest effective dose at Patient B's November 19, 2014 appointment. Licensee also stated that Patient B told him at their November 26, 2014 visit that they lowered it on their own causing pain. Licensee told them to speak to the prescribing doctor before changing their dose.

11.

Licensee's chart notes for Patient B's appointment on November 19 and 26, did not meet the Board's "Charting Guidelines" and were below accepted standards of practice in the profession. Licensee did not chart all prescribed medications dose, frequency and duration. Licensee made a chart note of "Gabapentin 2/2/24" for the November 19, 2014, appointment, but did not document his recommendation for Patient B to discuss with the prescribing doctor lowering the medication to the lowest effective dose. Licensee made a chart note for the November 26, 2014 appointment stating "reduced neurotonin" but did not document Patient B's lack of compliance / cooperation from the patient and specific concerns regarding lowering the medication without speaking to the prescribing doctor.

12.

The Board found the following deficiencies in Licensee charting practice for Patient B from March 19 and 27; November 3, 12, 19; and December 18, 2014, constitute a violation of OAR 850-050-0010(1)(B): Inadequate Charting.

1. Failure to follow SOAP format.
2. Chart notes were illegible to the point other providers would not be able to ascertain treatment for continuity of care. Licensee did not consistently sign and/or date chart entries.
3. Licensee did not chart all prescribed medications dose and duration, nor did he consistently chart recommendations and referrals.
4. Licensee did not chart Licensee did not consistently document recommendations for return visits.
5. Licensee did not chart lack of compliance/cooperation from the patient and specific concerns he had regarding lack of compliance/cooperation.

13.

Licensee agrees that the Board may enter the Consent Order set forth below, including the following terms and conditions:

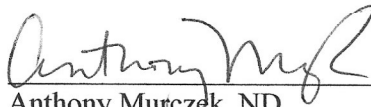
- A. Probation: One year from the signature of this order.
- B. Continuing Education: 10 hours of continuing education on patient charting within three months of signature on this order.
- C. Chart Reviews: Following the completion of the 10 hours of CEs identified above, Licensee will submit five (5) charts to the Board or a Board representative every three (3) months for a total of three (3) file pulls. Licensee is responsible for the reasonable costs related to the chart reviews. The Board will provide relevant feedback to the Licensee after each file pull.
- D. Civil Penalty: \$2,000; \$2,000 suspended and to be forgiven upon successful completion of the probationary terms referenced above. Should Licensee fail to successfully complete the conditions of the probationary terms described above, all \$2,000 in civil penalties shall become due and payable within 30 days of that determination.

E. Licensee enters into this Settlement Agreement and Consent Order voluntarily. Licensee states that the Board and Board staff have not made promises or representations not stated herein to induce him to signing this document and agreement to issuance of the Order.

F. Licensee understands that this Settlement Agreement and Consent Order is a public document.

G. This Settlement Agreement and Consent Order shall take effect on the date it is signed by the Board. Licensee understands that any failure to comply with this Settlement Agreement and Consent Order could result in further discipline, up to and including revocation of Licensee's license to practice naturopathic medicine.

IT IS SO STIPULATED:

 ND 5/29/20
Anthony Murczek, ND Date

CONSENT ORDER

The Board issues the following final order:

- A. Probation: One year from the signature of this order.
- B. Continuing Education: 10 hours of continuing education on patient charting within three months of signature on this order.
- C. Chart Reviews: Following the completion of the 10 hours of CEs identified above, Licensee will submit five (5) charts to the Board or a Board representative every three (3) months for a total of three (3) file pulls. Licensee is responsible for the reasonable costs related to the chart reviews. The Board will provide relevant feedback to the Licensee after each file pull.
- D. Civil Penalty: \$2,000; \$2,000 suspended and to be forgiven upon successful completion of the probationary terms referenced above. Should Licensee fail to successfully complete the conditions of the probationary terms described above, all \$2,000 in civil penalties shall become due and payable within 30 days of that order.

DATED this 2 day of June 2020.

BOARD OF NATUROPATHIC MEDICINE

State of Oregon



Mary-Beth Baptista, Executive Director