BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of the License of: Susan Allen, N.D., Licensee.	Case No. N16-10-32 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. Susan Allen, N.D., (Licensee) is a licensed naturopathic physician in the State of Oregon, and is subject to the jurisdiction of the Board.

2.

The Board conducted an investigation based on a complaint received in regards to Licensee. Based on the results of the investigation and pursuant to ORS 685.110(8), OAR 850-050-0010(1)(a)(B), OAR 850-050-0010(1)(c)(A) and OAR 850-050-0010(1)(c)(B) on or about October 9, 2017, the Board proposed to take disciplinary action against Licensee's license to practice naturopathic medicine, on the grounds described in the following paragraphs.

3.

Licensee was provided the Board's proposed discipline through correspondence between the Executive Director, and her attorney, Frank A. Moscato on or about November 8, 2017. Licensee, understanding that she had an opportunity to request a hearing in this matter, wishes to resolve this matter informally, without 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.

4.

SETTLEMENT AGREEMENT
The Board and Licensee stipulate to the following:

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.

5.

Patient A. Patient A is a 36 year old female. Historical records from other providers dating back to 2006 report Patient A having episodes of abdominal pain, insomnia, anxiety, depression. Licensee began treating Patient A in March 2008 for chronic pancreatitis pain. Licensee saw Patient A on October 24, 2012 and May 9, 2013, for anxiety and obesity.

5.

According to Patient A's PDMP report, Licensee wrote Patient A a prescription on October 7, 2013 for Clonazepam 2mg, 60# which was filled on November 8, 2013 and December 4. 2013. Licensee also wrote a prescription for Alprazolam 2mg, 180# following an October 14, 2013 office visit.

6.

During an office visit on October 14, 2013. Licensee made a chart note during an October 14, 2013 appointment that Patient A stop taking Clonazepam and increase Alprozolam. According to Patient A's PDMP report, Licensee prescribed Alprozolam 2mg, 180#

7.

On October 30, 2013, Patient A advised Licensee that Patient A takes 280mg Methadone daily but wants more due her pancreatic pain but her counselor at the clinic advises against it. Licensee notes she will reduce Patient A's anxiety medication once Patient A moves residences. According to Patient A's PDMP report, Licensee wrote Patient A a prescription for Alprazolam 2mg, 180# on December 4, 2013 with an additional refill that was filled on December 30, 2013. In addition, according to Patient A's PDMP report, on December 30, 2013, Licensee wrote Patient A prescription for Clonazepam 2mg, 60# with two (2) additional refills.

8.

On January 24, 2014 Licensee received a note from Patient A's treatment center regarding their concern over ND's prescribing of benzodiazepines in combination with their prescribing of Methadone and requested ND lower her dosage. Licensee responded stating she reduce the dosage in April 2014. On January 26, 2014, according to Patient A's PDMP report, she was dispensed one her of refills for Clonazepam 2mg, 60#.

9.

On January 27, 2014, Licensee spoke with Patient A about her medication combination and the need to lower the benzodiazepines after Patent A moved. According to Patient A's PDMP report, NE wrote Patient A, a prescription for Alprazolam 2mg, 180# with an additional refill.

10.

According to Patient A's PDMP report Licensee prescribed Patient A the following: on February 23, 2014, she was dispensed her second refill for Clonazepam 2mg, 60# as well as for the Alprazolam 2mg, 180#; on March 21,2014, Alprazolam 2mg, 180# with an additional refill that was filled on April 22, 2014. In addition, per Patient A's PDMP licensee wrote Patient A, a prescription for Clonazepam 2mg, 60# with two (2) additional refills on March 24, 2014 with one of the refills dispensed to Patient A also on April 22, 2014 and on May 18, 2014 was dispensed her second refill of Clonazepam 2mg, 60#. Also according to Patient A's PDMP report, Licensee wrote her a prescription for Alprazolam 2mg, 180# with an additional refill on May 19, 2014. The additional refill was dispensed on June 17, 2014 on the same date Licensee reportedly wrote Patient A a prescription for Clonazepam 2mg, 60#. Further, on July 16, 2014 Licensee wrote a prescription for Alprazolam 2mg, 180# and Clonazepam 2mg, 60# both with two (2) additional refills, which were dispensed to Patient A on August 15, 2014 and September 14, 2014.

11.

On November 17, 2014, Licensee received the second note from the treatment center requesting Licensee lower Patient A's benzodiazepine dosage.

14.

On December 12, 2014, according to Patient A's PDMP report, she was dispensed her second refill for Clonazepam 2mg, 60# as well as for the Alprazolam 2mg, 180#. In addition on December 30, 2014, Licensee wrote Patient A, a prescription for Hydrocodone-Acetaminophen 5-325, #16 by a dentist.

15.

According to Licensee's records, she responded to Patient A's treatment center request from the past November on January 6, 2015, stating she would taper Patient A. According to Patient A's PDMP report, ND wrote Patient A prescriptions on January 9, 2015 for Alprazolam 2mg, 180# and Clonazepam 2mg, 60# and Alprazolam 2mg, 180#, Clonazepam 2mg, 60#, and Zoloft 50mg, 30# with two (2) additional refills on February 6, 2015.

16.

On February 17, 2015, Patient A sent an email to Licensee requesting that she communicate to the treatment center about Patient A's new Zoloft medication and informed her that Patient A and the Treatment Center are working on a taper. Licensee sent a new prescription for Patient A to take five (5) per day but work down to four (4) with instructions to increase the Zoloft when Patient A is down to four (4). Licensee wrote a chart note stating the Clonazepam dosage should remain the same until Patient A is lowered on her Methadone and Alprazolam. According to Patient A's PDMP, ND wrote her prescriptions for Alprazolam 2mg, 150# and Clonazepam 2mg, 60#. On April 1, 2015, Patient A emailed ND stating she is still taking the five (5) Alprazolam per day due to high stress and pain. According to Patient A's PDMP, ND wrote her prescriptions for Alprazolam 2mg, 150# and Clonazepam 2mg, 60#.

17.

During an office visit on December 8, 2015, Patient A reported she is having inconsistent urinary drug screen (UDS) and her Alprazolam level had gone up. Patient A also reported her last UDS showed there was alcohol in her system and her creatinine level was at 15. Patient A reported that she no longer wanted to engage with the treatment center. ND made a chart note regarding a treatment plan to prescribe Oxycodone for cramps and self-detox for Methadone. According to Patient A's PDMP report, ND wrote her a prescription for Oxycodone 10mg, 20#. Also on this same date, Patient A filled the additional refill for Alprazolam and Clonazepam.

18.

Patient A was seen by ND again on December 15, 2015, Patient A reported not taking any Methadone for two (2) days. ND notes she will give Patient A enough Oxycodone to continue detox until her next appointment and they discussed they may need to reduce the Oxycodone dosage at the next visit and Patient A should try only taking it when needed and not every day. ND also notes Patient A is to reduce the anxiety medication as she can handle and to start with the Alprazolam. According to Patient A's PDMP, ND wrote her a prescription for Oxycodone 10mg, 30#.

19.

Patient A was seen by ND on March 31, 2016 and stated she is taking 10mg Oxycodone three (3) times a day. Patient A also requested an increase in the Oxycodone to 30mg due to her insurance won't cover the 5mg. ND notes they discussed her need to get into primary care and get a referral for gynecology to assess what aspects are contributing to her pain and that her pancreatitis could be gone and that she may be just subbing the Oxycodone for Methadone out of habit and fear. ND challenged her to plan a time for withdrawal when she can handle it and discussed ways to help her with the withdrawal and pain. ND notes she will refill the Oxycodone 10mg, 90# for today and pick up on April 27, 2016 and cautioned her to save some since she may not be able to pick the medication up until April 31, 2016. Patient A's PDMP reports ND also wrote a prescription for Alprazolam 2mg, 90# with an additional refill as well as prescription for Clonazepam 1 mg, 30# with two (2) additional refills.

20.

By engaging in the conduct described above, Licensee committed negligence related to the practice of naturopathic medicine, in violation of ORS 685.110(8), and engaged in conduct that constituted a danger to the health and safety of her patients, in violation of ORS 685.110(14). This conduct also constitutes a violation of OAR 850-050-0010(1)(c)(A) – Negligent Prescribing, OAR 850-050-0010 – Negligent Treatment, OAR 850-050-0010(1)(c)(C) – conduct contrary to the recognized standards of ethics.

21

Patient B: Licensee began prescribing to Patient B in September 2016. Licensee saw Patient B weekly for Bowen treatments associated with his diagnoses of Sciatica, Lumbago, pain in Thoracic Spine, and Cervicalgia. Medical records indicate that Patient B was seeing other

providers at the same time B was seeing Licensee. Records also note diagnoses anxiety disorder and schizophrenia. Records also state Patient B uses marijuana.

22.

In February 2015, Licensee had a telephone conversation with another care provider regarding their policy of not giving narcotics to patients who use marijuana. The other provider also informed Licensee that Patient B had threatened to bring a gun to their office.

23.

During a March 2016 office visit, Patient B reported that he had spotted using marijuana, however during an office visit in June 2016, Patient B reported that he was using marijuana again. During a subsequent visit on June 27, 2016, Patient B reported not smoking cigarettes or using marijuana again.

24.

In September 2016 Patient B reported to ND that he has an appointment with a pain clinic. Licensee wrote Patient B a prescription for Hydrocodone-Acetaminophen 5-325, 120# for a 30 day supply. Chart notes indicate that Licensee discussed with patient B to try to not mix medication and marijuana. During a subsequent visit on September 28, 2016 Licensee wrote patient B another prescription for Hydrocodone-Acetaminophen 5-325, 120# for a 30day supply, with two refills. According to Patient B's PDMP report, he filled the initial prescription on October 19, and then refilled on November 21 and December 19, 2016.

25.

Licensee saw Patient B on October 28, 2016. Patient B reported to Licensee that he switched the strain of marijuana that he was using due to adverse side effects, and stated he uses marijuana for insomnia or mild pain relief when not taking the Hydrocodone-Acetaminophen.

26.

During the treatment of Patient B, Licensee did not screen for drug abuse potential or multi-drug use. Licensee prescribed the aforementioned medications without routine urine drug monitoring. Licensee did not review PDMP to determine what other medications were being prescribed to Patient B.

27.

The aforementioned conduct involving Patient B constitutes a violation of ORS 685.110(8) – Committing negligence related to the practice of naturopathic medicine and OAR 850-050-0010(1)(c)(B) – Negligent Treatment.

28.

Licensee saw Patient C on April 19, 2016 for pain associated with five (5) neck surgeries and thyroid issues among other complaints. Prior to being seen by Licensee, per Patient C's PDMP report she had been regularly prescribed Morphine Sulfate ER 60mg, 90# for a 30 day supply for several months. Patient C's MED was 180.

29.

Licensee began prescribing for Patient C in June 2016. At that time Licensee increased the dosage of Patient C medication, resulting in a MED increase to 240. There is no documentation to support the increase or record of Licensee making objective findings for pain for Patient C to that support the increase in dosage.

30.

The aforementioned conduct involving Patient C constitutes a violation of OAR 850-050-0010(1)(c)(A) – Negligent Prescribing.

31.

Patient D: Licensee initial saw Patient D on December 16, 2010, and continued to see Patient D periodically until November 2012 for diagnoses of anemia, abdominal pain, and fatigue. Chart notes indicate that Patient D saw other providers weekly.

32.

Chart notes indicate that in August 2012 Licensee wrote Patient D three (3) months of prescriptions for Oxycodone, but did not chart the dosage or quantity.

33.

During a November 2012 office visit chart notes indicate that a physical exam was deferred due to a volume of questions stemming from Patient D's

5.

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

1.

6.

NOTICE OF OPPORTUNITY FOR HEARING

Licensee is entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183). A written request for hearing must be filed with the Board within 21 days from the date this notice was mailed and must be accompanied by a written answer to the charges contained in this Notice. A request for hearing must be mailed to Oregon Board of Naturopathic Medicine, 800 NE Oregon Street, Suite 407, Portland, OR 97232. If a request for hearing is not received within 21 days, the right to hearing is waived.

7.

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.

8.

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.

9.

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 _____day of _____ .

BOARD OF NATUROPATHIC MEDICINE
State of Oregon

COPY – ORIGINAL SIGNED ON / ABOUT 1/15/2018

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Mary-Beth Baptista, Executive Director