

BEFORE THE
BOARD OF NATUROPATHIC MEDICINE
STATE OF OREGON

In the Matter of
Jason Black, ND,
Licensee.

Case No. Consolidated Order – 16-10-30;
17-07-141; 18-08-33

**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. Dr. Jason Black, ND (Licensee) is a licensed naturopathic physician in Oregon and subject to the jurisdiction of the Board.

2.

Based on the results of an investigation into licensee's compliance with the terms of "Amended Consent Order and Settlement Agreement for cases 16-10-30; 17-07-141; 18-08-33" (consolidated order) and pursuant to ORS 685.110(13) 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.

Licensee signed a consent order and settlement in case 13-12-38 on or about August 17, 2015. The findings of facts and conclusions of law in 13-12-28 regarding those violations in are

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incorporated by reference into this Notice of Proposed Disciplinary Action in full. In relevant part, licensee agreed to twenty-four months of probation and that Licensee “shall comply with the statues rules and orders of the Board,” and that “failure to comply with any term of this order, ORS chapter 685 or OAR chapter 850 shall be grounds for additional discipline by the Board.”

4.

On / about March 2, 2018, Licensee entered into a consent order and settlement agreement in case 16-10-30, for violations of ORS 685.110(8), ORS 685.110(14), OAR 850-050-0010(1)(a)(B), OAR 850-050-0010(1)(c)(B), OAR 850-050-0010(1)(c)(C), OAR 850-060-0212(6). The findings of facts and conclusions of law in 16-10-30 regarding those violations are incorporated by reference into this Notice of Proposed Disciplinary Action in full. Licensee was found in violation of the terms of consent order and settlement agreement in case 13-12-38.

5.

The Board and licensee entered into the consolidated consent order and settlement agreement on / about February 5, 2020. The findings of facts and conclusions of law in the consolidated order regarding those violations are incorporated by reference into this Notice of Proposed Disciplinary Action in full. The consolidated order found licensee in multiple violations of OAR 850-060-0010(1)(a)(B) – Inadequate Charting. Licensee was found in violation of the terms of consent order and settlement agreement in case 16-10-30.

6.

The consolidated order placed licensee on probation through August 21, 2024. Per the consolidated order, licensee is required to complete the following probation condition (in relevant part):

Chart Review: During the probation, Licensee will quarterly submit to the Board ten patient charts for review within 15 days at the end of each quarter under the Board’s

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current chart review requirements. Licensee is responsible for following all Board instructions regarding this chart review, and for communicating with the Board if he has any questions regarding the requirements.

7.

On 01/22/21 Board Investigator sent Dr. Black a detailed set of instructions that outlined the chart review process. The instructions advised licensee when patient charts were due to the Board, in relevant part:

Your signed consent order states that you need to have 10 patient charts reviewed every three months.... you send me the list of patients you have seen for the previous 3 months; I will send you back 10 names, and dates of service. You will then send the 10 patient chart notes (from that date of service only) to your reviewer. The reviewer will complete the check sheet and send it to me. I will review it and then send a copy to you for your information/records.

Here is a schedule for the reviews:

- 1) October 2020 through December 2020 patient list to Doug Cook by February 1, 2021. Charts sent to reviewer by February 15, 2021.
- 2) January 2021 through March 2021 patient list to Doug Cook by April 7, 2021. Charts to reviewer by April 16, 2021.
- 3) April 2021 through June 2021 patient list to Doug Cook by July 7, 2021. Charts to reviewer by July 16, 2021.
- 4) July 2021 through September 2021 patient list to Doug Cook by October 7, 2021. Charts to reviewer by October 16, 2021.
- 5) October 2021 through December 2021 patient list to Doug Cook by January 7, 2022. Charts to reviewer by January 16, 2022.
- 6) And so on, pattern repeats itself.

8.

Dr. Black did not provide the Board with a patient list by October 7, 2023. Board investigator sent licensee an email on/about December 5, 2023, reminding him of his responsibility to provide the Board a patient list. Dr. Black sent a list on / about December 13, 2023.

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9.

Licensee did not provide the Board fourth quarter 2023 patient list due on January 7, 2024. Board investigator sent an email to licensee on April 2, 2024, telling him he was out of compliance. Dr. Black sent the patient list on April 3, 2024.

10.

Licensee's failure to send the Board the required patient list by October 7, 2023, and January 7, 2023, to complete his chart review probation condition is a violation of the terms of his probation as agreed to in the consolidated order: Licensee shall comply with the statutes, rules and orders of the Board. Licensee's failure to comply with the terms of the consolidated order is a violation of 685.110(13).

11.

For the violations described above, the Board proposes the following discipline:

A. Probation: Probation for twenty-four months, with the following conditions:

- a. Civil penalty: \$5,000 suspended per consolidated order.
- b. Chart Review: Licensee must submit to the Board ten patient charts for review upon signature of this order, and every 90 days thereafter. Licensee must comply with all the Board chart review requirements, including all financial responsibilities associated with the review. Licensee must follow all Board instructions regarding this chart review and is responsible for timely communication with the Board with any questions regarding the requirements.

12.

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

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days from the date this notice was mailed. You must submit request for hearing to either via email Naturopathic.Medicine@obnm.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.

13.

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.

14.

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.

15.

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 12 day of July 2024.

BOARD OF NATUROPATHIC MEDICINE

State of Oregon

A handwritten signature in black ink, appearing to read 'MB Baptista', written over a horizontal line.

Mary-Beth Baptista, Executive Director