

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
BOARD OF NATUROPATHY

In the Matter of

RICHARD A. MARSCHALL
Credential No. NATU.NT.00000532

Respondent

No. M2017-857

**STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
AGREED ORDER**

The Board of Naturopathy (Board), through Michael J. Weisman, Department of Health Staff Attorney, and Respondent, represented by counsel, if any, stipulate and agree to the following:

1. PROCEDURAL STIPULATIONS

1.1 On September 27, 2018, the Board issued a Statement of Charges against Respondent.

1.2 Respondent understands that the Board is prepared to proceed to a hearing on the allegations in the Statement of Charges.

1.3 Respondent understands that if the allegations are proven at a hearing, the Board has the authority to impose sanctions pursuant to RCW 18.130.160.

1.4 Respondent has the right to defend against the allegations in the Statement of Charges by presenting evidence at a hearing.

1.5 Respondent waives the opportunity for a hearing on the Statement of Charges provided that the Board accepts this Stipulated Findings of Fact, Conclusions of Law and Agreed Order (Agreed Order).

1.6 The parties agree to resolve this matter by means of this Agreed Order.

1.7 Respondent understands that this Agreed Order is not binding unless and until it is signed by the Board and served by the Adjudicative Clerk Office.

1.8 If the Board accepts this Agreed Order, it will be reported to the National Practitioner Databank (45 CFR Part 60) and elsewhere as required by law. It is a public document and will be placed on the Department of Health's website and otherwise disseminated as required by the Public Records Act (Chap. 42.56 RCW) and the Uniform Disciplinary Act. RCW 18.130.110.

1.9 If the Board rejects this Agreed Order, Respondent waives any objection to the participation at hearing of any Board members who heard the Agreed Order presentation.

2. FINDINGS OF FACT

Respondent and the Board stipulate to the following facts:

2.1 On August 26, 1986, the State of Washington issued Respondent a credential to practice as a naturopathic physician. Respondent's credential is currently suspended.

2.2 On or about September 26, 2011, Respondent was convicted of Causing the Introduction of a Misbranded Drug, a federal felony crime, in United States District Court. The charges resulted from the introduction of Human Chorionic Gonadotropin (hCG), manufactured in China and distributed by a company in India, and Respondent's distribution of hCG as a weight loss drug, a use for which the drug is not approved by the Food and Drug Administration.

2.3 On or about November 13, 2013, based upon the 2011 conviction, and the underlying conduct, the Board entered Stipulated Findings of Fact, Conclusions of Law and Agreed Order in Case M2010-1493. The November 13, 2013 Agreed Order suspended Respondent's license to practice naturopathic medicine for at least one (1) year, and placed his license on probation for seven (7) years upon reinstatement.

2.4 On or about September 23, 2015, the Secretary of Health entered Stipulated Findings of Fact, Conclusions of Law and Agreed Order to Cease and Desist in Case M2015-742. In that case, Respondent stipulated that he engaged in the unlicensed practice of naturopathy and medicine after his license to practice was suspended under the November 13, 2013 Agreed Order by representing himself as a naturopathic physician, advertising as a naturopathic physician, and prescribing for patients. The September 23, 2015 Agreed Order to Cease and Desist required Respondent to cease and desist from engaging in all conduct constituting the practice of medicine, unless Respondent had obtained a credential from the Department of Health.

2.5 On or about June 20, 2017, Respondent was charged in United States District Court with one count of importing with the intent to deliver hCG, a felony. According to the federal charges, in October 2016, Respondent attempted to send hCG to

a patient located in Portland, OR for the purpose of weight loss. The patient was an undercover federal agent. Respondent corresponded with the "patient" and provided her with detailed explanations of the drugs involved, how to use them, what the effects would be, and the costs. Respondent also furnished the "patient" with vitamins and other supplements, including substances not approved for use by the FDA. Respondent prescribed or dispensed hCG to approximately sixty (60) individuals between February 2014 and February 2017.

2.6 Respondent was found guilty in US District Court on July 21, 2017. Respondent was sentenced to sixty (60) days in a federal penitentiary and served his sentence beginning on January 15, 2018. As a condition of his sentence, Respondent was required to remove his web site. As of the date of these charges, Respondent still had a web site soliciting new patients.

2.7 On or about February 7, 2018, the State of Washington filed a complaint against Respondent in Thurston County Superior Court for the unlicensed practice of medicine, Docket No. 18-2-00809-34. An Agreed Order and Judgment was entered on April 20, 2018. In the Agreed Order, Respondent stipulated to findings that he had continued to practice naturopathic medicine despite the fact that he has not had a license since 2013. In the April 20, 2018 Agreed Order, Respondent was permanently enjoined from the practice of naturopathic medicine, and from representing himself as a naturopathic physician or using the initials 'ND', the title 'doctor' or 'naturopath', of any other similar title, without the requisite health care credential.

3. CONCLUSIONS OF LAW

The Board and Respondent agree to the entry of the following Conclusions of Law: _____

3.1 The Board has jurisdiction over Respondent and over the subject matter of this proceeding.

3.2 Respondent has committed unprofessional conduct in violation of RCW 18.130.180(1), (3), (6), (7), (9), (13), and (17), 21 U.S.C. § 331(a), 21 U.S.C. § 333(a)(2) and RCW 69.41.320

3.3 The above violations provide grounds for imposing sanctions under RCW 18.130.160.

3.4 Based on the Findings of Fact, the Secretary of Health finds that Respondent cannot be rehabilitated, nor can he regain the ability to practice with reasonable skill and safety.

4. COMPLIANCE WITH SANCTION RULES

4.1 The disciplining authority applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. WAC 246-16-800(2)(c) requires the disciplining authority to impose terms based on a specific sanction schedule unless "the schedule does not adequately address the facts in a case."

4.2 Respondent's conduct falls in Tier C of the "Criminal Convictions" schedule, WAC 246-16-810. The sanction range associated with that tier does adequately address the alleged facts of this case.

4.3 The disciplining authority considered the following aggravating factors:

- A. Gravity of the unprofessional conduct.
- B. Failure to comply with multiple Agreed Orders, and state and federal court orders.
- C. Number or frequency of the acts of unprofessional conduct.

4.4 The disciplining authority considered the following mitigating factors:

- A. None.

5. AGREED ORDER

Based on the Findings of Fact and Conclusions of Law, the Board and Respondent agree to entry of the following Agreed Order:

5.1 Respondent's credential to practice as a naturopathic physician in the state of Washington is permanently **REVOKED** with no right to reapply.

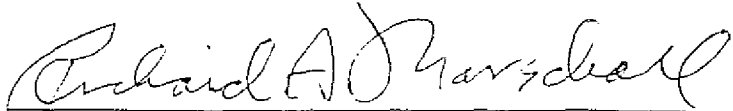
5.2 Any documents required by this Agreed Order shall be sent to Department of Health Compliance at PO Box 47873, Olympia, WA 98504-7873.

5.3 Respondent is responsible for all costs of complying with this Agreed Order.

5.4 The effective date of this Agreed Order is the date the Adjudicative Clerk Office places the signed Agreed Order into the U.S. mail. If required, Respondent shall not submit any fees or compliance documents until after the effective date of this Agreed Order.

6. ACCEPTANCE

I, RICHARD A. MARSCHALL, have read, understand and agree to this Agreed Order. This Agreed Order may be presented to the Board without my appearance. I understand that I will receive a signed copy if the Board accepts this Agreed Order.



RICHARD A. MARSCHALL
RESPONDENT

10-9-18

DATE

_____, WSBA #
ATTORNEY FOR RESPONDENT

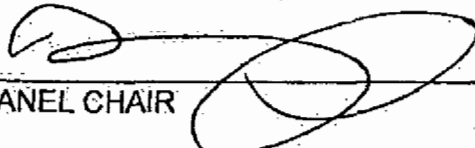
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7. ORDER

The Board accepts and enters this Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

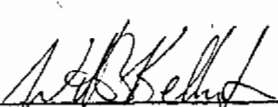
DATED: October 19, 2018

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
BOARD OF NATUROPATHY



PANEL CHAIR

PRESENTED BY:

#16908


MICHAEL WEISMAN, WSBA #17758
DEPARTMENT OF HEALTH STAFF ATTORNEY

October 19, 2018
DATE