

ORIGINAL

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
SECRETARY OF HEALTH  
NATUROPATHY PROGRAM

In the Matter of the License to Practice as a )	
Naturopathic Physician of: )	Docket No. 97-09-B-1045NT
	)
RICHARD A. MARSCHALL, N.D., )	STIPULATED FINDINGS OF FACT,
License No. NT 0532 )	CONCLUSIONS OF LAW AND
	) AGREED ORDER
Respondent. )	
	)

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The Naturopathy Program, by and through John F. Kuntz, Department of Health Staff Attorney and Richard A. Marschall, N.D., Pro Se, stipulate and agree to the following:

**Section 1: PROCEDURAL STIPULATIONS**

1.1 Richard A. Marschall, N.D., Respondent was issued a license to practice as a naturopathic physician by the State of Washington in August 1986 and was licensed at all times material hereto.

1.2 On April 17, 1998, the Naturopathic Board issued a Statement of Charges against Respondent.

1.3 The Statement of Charges alleges that Respondent violated RCW 18.130.180(4), RCW 18.130.180(13), RCW 18.130.180(16) and RCW 18.130.180(22).

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

1.5 Respondent understands that he has the right to defend himself against the allegations in the Statement of Charges by presenting evidence at a hearing.

REDACTED

1.6 Respondent understands that, should the State prove at a hearing the allegations in the Statement of Charges, the Secretary of Health has the power and authority to impose sanctions pursuant to RCW 18.130.160.

1.7 Respondent and the Naturopathy Program agree to expedite the resolution of this matter by means of this Stipulated Findings of Fact, Conclusions of Law, and Agreed Order (Agreed Order).

1.8 Respondent waives the opportunity for a hearing on the Statement of Charges contingent upon signature and acceptance of this Agreed Order by the Secretary of Health.

1.9 This Agreed Order is not binding unless and until it is signed and accepted by the Secretary of Health.

1.10 Should this Agreed Order be signed and accepted it will be subject to the reporting requirements of RCW 18.130.110 and any applicable interstate/national reporting requirements.

1.11 Should this Agreed Order be rejected, Respondent waives any objection to the participation at hearing of the Health Law Judge who heard the Agreed Order presentation.

## **Section 2: STIPULATED FACTS**

The State and Respondent stipulate to the following facts:

2.1 Richard A. Marschall, N.D., was issued a license to practice as a naturopathic physician in the State of Washington in August 1986 and was license at all times material hereto.

2.2 In January 1994 Respondent "met" Patient A, a resident of California, through an "on-line" computer service and they discussed Patient A's health concerns via the "on-line" service.

2.3 Soon thereafter, Respondent mailed to Patient A a Personal History form, a fee schedule, a Patient/Physician contract to read and sign, and instructions on how to take her temperatures.

2.4 After reading Patient A's completed Personal History form and temperature log, Respondent diagnosed Patient A as suffering from "functional hypothyroidism", also known as "Wilson's Syndrome", and determined treatment for that diagnosis in a telephone conversation with Patient A.

2.5 Respondent never performed a physical examination of Patient A and did not order or perform any laboratory tests during his diagnosis of her functional hypothyroidism.

2.6 On or about January 20, 1994, Respondent prescribed liothyronine, a synthetic thyroid hormone, for Patient A. The liothyronine was mailed to Patient A in California from Bellegrove Pharmacy in Bellevue, Washington.

2.7 Respondent treated and prescribed liothyronine for at least five patients (Patients A, B, C, D, and E) who reside in states other than Washington.

2.8 The standard recommended dosage of liothyronine in pill form is between 25-75 mcg per day.

2.9 Overingestion of liothyronine is hazardous and can result in the death of the patient.

2.10 Respondent prescribed liothyronine in doses as great as 300 mcg per day in capsule form to treat functional hypothyroidism; approximately twenty-five percent of his functional hypothyroidism patients received doses of greater than 200 mcg per day in capsule form.

2.11 In a letter dated March 18, 1998, from the Respondent to the Department Respondent stated he based his diagnosis of Patient A on laboratory records he obtained from the Kaiser Foundation Hospital/The Kaiser Permanente Medical Group.

2.12 On or about March 18, 1998, Respondent obtained laboratory test results from the Kaiser Foundation Hospital/The Kaiser Permanente Medical Group without the permission of Patient A by use of a records release form that was not signed by Patient A.

2.13 Respondent represented to the Naturopathy Program that he previously sent laboratory test results slips from Patient A when, in fact, he did not.

### **Section 3: CONCLUSIONS OF LAW**

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

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

3.2 The above facts constitute unprofessional conduct in violation of RCW 18.130.180(4), RCW 18.130.180(13), RCW 18.130.180(16) and RCW 18.130.180(22).

3.3 The above violations are grounds for the imposition of sanctions under RCW 18.130.160.

#### Section 4: AGREED ORDER

Based on the preceding Stipulated Facts and Conclusions of Law, Respondent agrees to entry of the following Order:

4.1 The Respondent's license to practice as a naturopathic physician is suspended for a period of thirty months (2.5 years) from the date of entry of this Agreed Order. The period of suspension will be stayed so long as the Respondent complies with the following conditions:

4.1.1 The Respondent shall not treat out-of-state patients unless he:

- a. Physically examines that patient on a regular interval consistent with the practice of naturopathic medicine in Washington; or
- b. Is treating the patient in tandem with a health care professional that is currently licensed in the state where the patient resides. Under this alternative the Respondent must obtain the treatment records of the out-of-state health care professional on a regular interval consistent with the practice of naturopathic medicine in Washington.

4.1.2 Under no circumstances does this Agreed Order grant permission to the Respondent to practice naturopathic medicine in those states or jurisdictions where it is prohibited by the law.

4.1.3 The Respondent shall pay an administrative fine in the amount of Three thousand dollars (\$3,000.00). Payment shall be made by certified check, to the order of the Department of Health and mailed to the Department of Health, P.O. Box 1099, Olympia, Washington 98504-1099. Payment shall be made at the rate of One hundred

dollars (\$100.00) a month, for thirty consecutive months, from the date of entry of the Agreed Order. Failure to remit the fine with the time allotted shall constitute a violation of this Agreed Order.

4.1.4 In addition to any other inspections that the Department of Health may make, the Respondent shall permit an investigator of the Department to audit records and review practice at the Respondent's place of employment or practice, twice a year for a two year period from the date this Agreed Order is signed by the Secretary or his designee. The department agrees to provide the Respondent with forty-eight hours (48) notice prior to conducting these audits/reviews.

4.2 Respondent shall obey all federal, state and local laws and all administrative rules governing the practice of the profession in Washington.

4.3 Respondent shall assume all costs of complying with this Order.

4.4 If Respondent violates any provision of this Order in any respect, the Secretary of Health, may take further action against Respondent's license.

4.5 Respondent shall inform the Naturopathy Program, and the Adjudicative Clerk Office in writing, of changes in his residential or business address.

I, Richard A. Marschall, N.D., Respondent, certify that I have read this Stipulated Findings of Fact, Conclusions of Law and Agreed Order in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Secretary of Health without my appearance. If the Secretary of Health accepts the Stipulated Findings

of Fact, Conclusions of Law and Agreed Order, I understand that I will receive a signed copy.

Richard A. Marschall N.D.  
RICHARD A. MARSCHALL, N.D.

Respondent

Date

7-9-98

**Section 5: ORDER**

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

DATED this 20 day of July, 1998.

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
SECRETARY OF HEALTH  
NATUROPATHY PROGRAM

Arthur E. DeBusschere  
Arthur E. DeBusschere  
Health Law Judge, Presiding Officer

Presented by:

John F. Kuntz  
JOHN F. KUNTZ, WSBA # 11661  
Department of Health Staff Attorney

Date

7/13/98

**DECLARATION OF SERVICE BY MAIL**

I declare that today, at Olympia, Washington, I served a copy of this document upon the following parties of record: Richard A. Marschall and Michael G. Luffkin by mailing a copy properly addressed with postage prepaid.

DATED THIS 21<sup>st</sup> DAY OF July, 1998

Donna Warren  
Adjudicative Clerk Office

cc: Tracy Hansen  
Traci Troutman