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**BEFORE THE ARIZONA NATUROPATHIC PHYSICIANS
MEDICAL BOARD**

In the Matter of:

Colleen Huber, N.M.D.,

Holder of License No. 06-948
To Practice as a Naturopathic Physician
in the State of Arizona.

Case No. 22-216-NMB

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER
(License Revocation)**

9 A hearing was held before Velva Moses-Thompson, Administrative Law Judge
10 ("ALJ"), at 1740 West Adams Street, Lower Level, Phoenix Arizona, on July 25, 2022.
11 Justin Larson, Assistant Attorney General appeared on behalf of the State. Dr. Colleen
12 Huber (Respondent) appeared along with Counsel, Mr. Steve Mahaffy.

13 On October 13, 2022, the State of Arizona Naturopathic Physicians Medical Board
14 met to consider the ALJ's recommendations relating to the matter of case no. 22-216-
15 NMB. Colleen Huber, N.M.D. ("Respondent") was present, along with Counsel Steve
16 Mahaffy. Assistant Attorney General Mr. Justin Larson represented the State. Assistant
17 Attorney General Lynette Evans was available to provide independent legal advice to the
18 Board. After hearing from the parties and discussing the recommended decision, the Board
19 vote to adopt the ALJ's Findings of Facts and Conclusions of Law.

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FINDINGS OF FACT

22 1. Respondent Colleen Huber, N.M.D. holds license number 06-948
issued by the Arizona Naturopathic Physicians Medical Board (the Board).

23 2. Dr. Huber is the owner and Medial Director of Nature Works Best Medical
24 Clinic (the clinic).

25 3. On May 25, 2022, the Board issued a Complaint and Notice of Hearing
26 (Notice) to Dr. Huber.

1 4. The Notice provided that the issue set for determination was “whether
2 grounds exist to revoke or take other action regarding your license number 06-948.” The
3 matter was set for hearing on July 25, 2022.

4 5. A hearing was held on July 25, 2022. At hearing, the Board presented the
5 testimony of Gail Anthony, the Board’s Executive Director and Jessica Mitchell, N.M.D.
6 Dr. Huber testified on behalf of herself.

7 6. Dr. Mitchell has been the Dean of Southwest College of Naturopathic
8 Medicine (Southwest) in Tempe, AZ since 2019. *See* Exhibit P. Prior to 2019, Dr. Mitchell
9 held various leadership positions with the Southwest since 2015. Dr. Mitchell was
10 professor at Southwest from 2011 to 2013. *See id.*

11 7. Dr. Huber obtained her Doctor of Naturopathic Medicine degree from
12 Southwest College of Naturopathic Medicine in 2006. *See* Exhibit 9.

13 8. At all times relevant to this matter, Patient A was Dr. Huber’s patient.

14 9. On August 3, 2020, Patient A first presented to Dr. Huber with a history of
15 thyroid cancer.

16 10. Dr. Huber administered therapeutic intravenous treatments to Patient A
17 several times from August 3, 2020 to August 22, 2020. *See* Exhibit A, NAT-007 to NAT-
18 017.

19 11. On August 8, 2020, Patient A inquired with a doctor at the clinic for the
20 amounts of “bicarb and other nutrients.” *See* Exhibit D, NAT-055

21 12. On August 10, 2020, Patient A requested the quantities of nutrients
22 administered to her in the IVs. *See* Exhibit D, NAT-055

23 13. Subsequently, one of the clinic’s doctors provided Patient A with a
24 handwritten note that included abbreviations of the nutrients in the IVs administered to
25 Patient A. However, the note did not include the amounts of the nutrients. *See* Exhibit A,
26 NAT-003 and 005.

1 14. On August 29, 2020, Patient A requested from the clinic the ingredients and
2 amounts in her IVs. See Exhibit D, NAT-078-079. Patient A also requested that the clinic
3 provide her with the ingredients and the amounts in her IVs. However, a clinic
4 representative denied Patient A's request because clinic considered the information to be
5 proprietary. *See id.*

6 15. On August 29, 2020, Dr. Huber responded by e-mail to Patient A's request
7 for the amount of the nutrients in her IVs. *See* Exhibit D, NAT-077. Dr. Huber informed
8 patient A that she would not give her the amounts of the nutrients because the information
9 was proprietary. Dr. Huber asserted that Patient A had never informed her that she
10 required a list of all components and the amounts in her IV. The e-mail provided, in
11 relevant part, as follows:¹

12 "We have met several times in person, including your first consults at the clinic. You
13 never said to me at any of those times, or at any other time, either in writing or orally, that
14 you required a list of all components and amounts in your IV, in order to be willing to
15 receive them at our clinic. If you had said that, I would have told you emphatically that I
16 do not agree to those terms, and what I have told others who ask the same." "That
17 information is and has always been proprietary for the entire history of our clinic. We do
18 not give 'recipes' to other doctors. That has been defended successfully by our attorney
19 every time that it has been demanded, if necessary it will again be so defended."
20 "Furthermore, the IVs that you received from us are no longer necessarily applicable to
21 your health condition, pending daily health updates at out consults. I ate at a Payson
22 restaurant the other day. However, I did not demand of the proprietor the recipe for the
23 delicious meal that I had. Nor would I." "Clearly, you will be receiving health care at a
24 different clinic from now on, and not at our clinic. For your future doctor to not commit

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26 ¹ *See id.*

malpractice, that doctor must know how to use nutrients effectively for your particular health condition. This will likely change day to day, as it has during your time with us.”

16. On or about September 8, 2020, Patient A filed a complaint with the Board alleging that Dr. Huber failed to disclose the amounts and the ingredients in her IVs.

17. The Board conducted an investigation into the allegation.

18. The Board subpoenaed Patient A’s medical records as part of the investigation. The Board received copies of the original hand-written notes for Patient A that were illegible. As a result, the Board requested that Dr. Huber provide a typed version of the chart notes. The Board later received the typed version from Dr. Huber.

19. The Board met on January 14, 2021 and discussed the complaint. *See Exhibit G.* The Board decided to table the matter for 90 days. The Board requested that Dr. Huber provide additional patient charts and that she complete continuing medical education (CME) in recordkeeping. *See id.*

20. Dr. Huber utilized a standard Subjective, Objective, Assessment and Plan (SOAP) format in her chart notes.

21. Dr. Mitchell explained that the Subjective section usually contains the information that the patient tells the provider, the Observation section includes information such as a physical exam, the Assessment section includes a diagnosis code, and the Plan section details the actions that the provider takes at the time of the visit.

22. Dr. Huber failed to provide information such as current medication, allergies, and supplements in several of the chart notes.

23. Dr. Huber failed to include Patient A’s medications, allergies, and supplements in Patient A’s August 6, 2020 and August 30, 2020 chart notes. *See Exhibit D, NAT-041-043 and NAT-047.* Dr. Huber included a diagnosis in in the August 30, 2020 chart notes. *See Exhibit D, NAT-041-042.* However, Dr. Huber combined the Diagnosis and Plan section in the August 30, 2020 chart notes. *See id.*

1 24. Dr. Huber administered an IV to Patient A on August 6, 2020. *See Exhibit*
2 *D, NAT-047.* However, Dr. Huber failed to document Patient A's vitals in the chart notes.
3 Dr. Huber failed to include dosage information in the August 6, 2020 chart notes. The
4 chart notes also include a "post-it" note. The August 6, 2020 chart note did not include the
5 type of nutrients that would be administered in the IV to allow for continuity of care. *See*
6 *id* and Dr. Mitchell's testimony on the Hearing Audio Record (HAU) (1047 2022-07-25).
7 AAC at 22:39 – 24:50 minutes.

8 25. Dr. Huber failed to include the dosage or strength amounts for the IVs
9 administered to Patient A in the August 3, 2020 Working Protocol sheet. *See Exhibit D,*
10 *NAT-045-046.*

11 26. Dr. Huber failed to include the medication, allergies, and supplements for
12 Patient 1 in Patient 1's February 4, 2021, February 13, 2021, February 20, 2021, March
13 1, 2021 and March 11, 2021 chart notes. *See Exhibit I, NAT-115, 117, 120, 123, and 127.*

14 27. Dr. Huber failed to include the dosage or strength amounts for the IVs
15 administered to Patient 1 in the February 4, 2020 Working Protocol sheet. *See Exhibit I,*
16 *NAT-127-129.*

17 28. On January 17, 2021, Dr. Huber completed a continuing medical education
18 course in medical recordkeeping. *See Exhibit H.*

19 29. Dr. Huber failed to include the ingredients in the IVs administered to Patient
20 1 in the February 13, 2021 and February 20, 2021 chart notes. *See Exhibit I, NAT-123*
21 *and 120.*

22 30. Dr. Huber combined the Assessment and Plan sections in the February 13,
23 2021 and February 20, 2021 chart notes for Patient 1. *See Exhibit I, NAT-120 and 123.*

24 31. Dr. Huber failed to include the ingredients in Patient 1's IVs in the February
25 13, 2021 and February 20, 2021 chart notes. *See Exhibit I, NAT-120 and 123.*
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1 32. Although Dr. Huber administered an IV to Patient 1 on February 13, 2021,
2 February 20, 2021, and March 1, 2021, Dr. Huber did not document in the chart notes that
3 she took vitals for Patient 1. *See* Exhibit I, NAT-117, 120, and 123.

4 33. Dr. Huber did not include a diagnosis in the February 20, 2021, March 1,
5 2021, March 6, 2021, and March 8, 2021 chart notes for Patient 1. *See* Exhibit I, NAT-
6 115-117 and 120.

7 34. On February 20, 2021, Dr. Huber reduced the amount of nutrients that she
8 administered in the IV to Patient 1. *See* Exhibit I, NAT-120-122. However, Dr. Huber did
9 not include the reason for the reduction in the chart note. *See id* at NAT-120.

10 35. On March 6, 2021, Dr. Huber included in Patient 1's chart note, "Consider
11 Tramadol vs. Tylenol on Monday." *See* Exhibit I, NAT-116. However, there is no reason
12 provided for the suggestion for Tramadol.

13 36. On March 8, 2021, Dr. Huber listed in the diagnosis section of the chart note
14 for Patient 1 the sole expression, "Yay!!! Progress". *See* Exhibit I, NAT-115.

15 37. On March 20, 2021, Dr. Huber listed in the diagnosis section of the chart
16 note for Patient 1 the sole expression, "Yay!!" *See* Exhibit I, NAT-120.

17 38. Dr. Huber listed in the March 11, 2021 chart note plan section that the IV
18 amount would be doubled, however, there is no indication of the actual ingredient that
19 would be doubled. *See* Exhibit I, NAT-115. In addition, the March 11, 2021 chart note
20 did not include an ICD-10 diagnosis code.

21 39. In the February 9, 2021, February 18, 2021, and February 22, 2021 chart
22 notes, Dr. Huber failed to include the following information for Patient 3:² Current
23 medication, allergies and supplements, vitals, and diagnosis.

24 40. Dr. Huber failed to include amounts of the nutrients in the IV for Patient 4
25 in the December 21, 2021 chart note. *See* Exhibit L, NAT-201.

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² *See* Exhibit K, NAT-160, 161, and 164

1 41. Dr. Huber failed to include a complete history for Patient L in the January
2 19, 2021 chart note. *See* Exhibit L, NAT-196. The assessment section consists of the word,
3 “Yay”. An IV is included in the plan section but the nutrients are not listed. The chart note
4 explains that the visit is “procedural only”, however, doctors are required to provide a
5 complete chart note. *See* Dr. Mitchell’s testimony on the HUA (1047 2022-07-25.) AAC
6 at 55:15 to 55:36 minutes.

7 42. On or about June 25, 2021, Dr. Huber sent a memo to the Board in response
8 to the Board’s notification that a complaint had been filed. The memo provided, in relevant
9 part as follows:³ “In short, all that you and other Board members need to know on that
10 topic is this: The Board and Board members have and will always have ZERO editorial
11 authority over my chart notes. I alone decide what I write every day in patient consult,
12 primarily because of the First and Fifth Amendments to the US Constitution, but also for
13 the following reasons: 1) because the chart notes are written to serve the patients, not the
14 serve you, and 2) the chart notes are legally the patients’ property, not yours, and 3)
15 because the chart notes are written up to the standards of my clinic, not lowered to the
16 demands of the Board, and 4) because of two people actually present in the consult, I am
17 the one who takes notes documenting the events of the visit.”

18 43. Dr. Huber further alleges in the memo that the following statements were
19 made in a conversation between Dr. Huber and a patient on June 21, 2021: “[Patient}”: “I
20 am still NOT okay with that! Those are MY medical records, and they are being used for
21 wrong purposes. As my son says, ‘that is NOT working for me.’ [Dr. Huber]: “You know,
22 I agree with you, and these Board members are violating the Fourth Amendment to the
23 US Constitution, which prohibits unreasonable search and seizure.”

24 44. At hearing, Dr. Huber argued that the amounts and nutrients included in her
25 IVs consisted of protected trade secrets under A.R.S. § 44-401(4). Therefore, Dr. Huber
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³ See Exhibit N, Bates NAT-232.

1 contended that she was not required to disclose the nutrients and the amounts to her
2 patients. Dr. Huber testified that another physician could use the nutrients provided in the
3 IVs and an osmolality chart to determine the amounts that should be given to a patient.

4 45. Dr. Huber testified to the effect that not all patients require that their blood
5 pressure be taken before an IV is administered. Dr. Huber stated that she used the phrase,
6 “Yay” in the chart notes to reflect the patient’s positive progress. Dr. Huber also stated
7 that the patient’s history including medications, allergies, and supplements is always kept
8 in the patient file even if the information is not provided in the chart.

9 46. Dr. Mitchell explained that a doctor would not be able to adequately assume
10 care for a patient based on Dr. Huber’s chart notes. Dr. Mitchell explained that a patient
11 must know the ingredients and amounts provided in an IV to provide informed consent
12 for care. Dr. Mitchell explained that the amount of the nutrients provided can affect
13 patients differently. Dr. Mitchell explained that a post-it note is inappropriate for medical
14 record keeping because it can be easily lost. Dr. Mitchell explained that an ICD-10 is a
15 classification system used amongst doctors and with insurance companies to identify
16 medical conditions.

17 CONCLUSIONS OF LAW

18 1. This matter lies within the Board’s jurisdiction.⁴

19 2. The Board bears the burden of proof and must establish cause to
20 discipline Dr. Huber’s license by a preponderance of the evidence.⁵

21 3. A preponderance of the evidence is such proof as convinces the trier of
22 fact that the contention is probably more true than not.”⁶ A preponderance of the
23 evidence is “evidence which is of greater weight or more convincing than evidence
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25 ⁴ See A.R.S. § 32-1501 *et seq.*

26 ⁵ Pursuant to A.R.S. § 41-1092.07(G)(2); A.A.C. R2-19-119; and *Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P. 2d 837 (1952).

⁶ *Morris K. Udall, ARIZONA LAW OF EVIDENCE* § 5 (1960).

1 which is offered in opposition to it; that is, evidence which as a whole shows that the
2 fact sought to be proved is more probable than not.”⁷

3 4. Arizona Revised Statutes (A.R.S.) § 44-401(4) provides:
4 “Trade secret” means information, including a formula, pattern, compilation, program,
5 device, method, technique or process, that both (a) Derives independent economic value,
6 actual or potential, from not being generally known to, and not being readily
7 ascertainable by proper means by, other persons who can obtain economic value from its
8 disclosure or use. (b) Is the subject of efforts that are reasonable under the circumstances
9 to maintain its secrecy.

10 5. The Arizona Uniform Trade Secrets Act “displaces conflicting tort,
11 restitutionary and other laws of this state providing civil remedies for misappropriation
12 of a trade secret.: See A.R.S. § 44-407.

13 6. The labels of dietary supplements offered for sale shall include the serving
14 size. See 21 Code of Federal Regulations 101.36.

15 7. Arizona Administrative Code R4-18-802 applies to conduct with regard to
16 experimental medicine and “research subjects.”

17 8. A.R.S. § 32-1501 (3) provides: “Adequate medical records” means
18 legible medical records containing, at a minimum, sufficient information to identify the
19 patient, support the diagnosis, describe the treatment, accurately document the results,
20 indicate advice and cautionary warning provided to the patient and provide sufficient
21 information for a similarly qualified practitioner to assume continuity of the patient’s
22 care at any point in the course of treatment.

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⁷ BLACK’S LAW DICTIONARY at page 1182 (6th ed. 1990).

9. The Administrative Law Judge has considered the entire hearing record including the testimony and the admitted exhibits.⁸

10. The preponderance of the evidence does not show that the nutrients and the amounts included in the IVs administered to Patient A, Patient 1, Patient 3, and Patient 4 were trade secrets Under A.R.S. § 44-401 (4).

11. The Board has established by a preponderance of the evidence that Dr. Huber committed unprofessional conduct as defined by A.R.S. § 32-1501 (31)(I), A.R.S. § 32-1501(31)(r), and A.R.S. § 32-1501(31)(b)).

12. The Board has therefore established cause under A.R.S. § 32-1551 (H) to discipline Ms. Huber's license.

ORDER

Based on the Findings of Fact and Conclusions of Law, and pursuant to the authority granted to the Board under A.R.S. § 32-1551(H):

IT IS HEREBY ORDERED that upon the effective date of this Order, Respondent's license (License Number 06-948) which enables her to practice naturopathic medicine in the State of Arizona is **REVOKED**.

NOTICE OF APPEAL RIGHTS

Respondent is hereby notified that he/she has the right to request a rehearing or review of the Decision and Order by filing a motion with the Board's Executive Director within 30 days after service of this Decision and Order. Service of the Decision and Order is effective five days after the date of mailing to Respondent. A.R.S. § 41-1092.09. The motion must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-18-106. If a motion for rehearing or review is not filed, the Board's Decision and Order becomes final 35 days after it is mailed to Respondent.

⁸ The Administrative Law Judge has read and considered each page of each admitted exhibit, even if not mentioned in the Decision. The Administrative Law Judge has also considered the testimony of every witness, even if the witness is not specifically mentioned in the Decision.

Respondent is further notified that failure to file a motion for rehearing or review has the effect of prohibiting judicial review of the Decision and Order, pursuant to A.R.S. § 41-1092.09(B) and A.R.S. § 12-904, *et seq.*

ARIZONA NATUROPATHIC PHYSICIANS MEDICAL BOARD

By: Gail Anthony
GAIL ANTHONY, Executive Director
Arizona Naturopathic Physicians
Medical Board

10/19/2022
Date

ORIGINAL OF THE FOREGOING FILED
this 19th day of October, 2022 with:

Arizona Naturopathic Physicians Medical Board
1740 W. Adams, Ste. 3002
Phoenix, AZ 85007

EXECUTED COPY OF THE FOREGOING
BY USPS TRACKED MAIL, and ELECTRONICALLY
this 19th day of October, 2022 to:

Attorney Steve Mahaffy
3111 N. Central Ave., Ste. A222
Phoenix, AZ 85012

Colleen Huber
1250 E. Baseline Rd., Ste. 205
Tempe, AZ 85283
And electronically

Justin Larson
Assistant Attorney General
1275 W. Washington Street, SGD/LES
Phoenix, Arizona 85007
Attorney for the Arizona Naturopathic Physicians Medical Board

