



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

RE: Nooshin Darvish
Master Case No.: M2019-983
Document: Stipulation to Informal Disposition

Regarding your request for information about the above-named practitioner; attached is a true and correct copy of the document on file with the State of Washington, Department of Health, Adjudicative Clerk Office. These records are considered Certified by the Department of Health.

Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **NONE**

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center
P.O. Box 47865
Olympia, WA 98504-7865
Phone: (360) 236-4700
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Privacy Officer, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
BOARD OF NATUROPATHY

In the Matter of

NOOSHIN DARVISH
Credential No. NATU.NT.00000748

Respondent

No. M2019-983

**STIPULATION TO
INFORMAL DISPOSITION**

1. STIPULATION

1.1 The executive director of the Board of Naturopathy (Board), on designation by the Board, has made the following allegations.

- A. On September 13, 1995, the State of Washington issued Respondent a credential to practice as a naturopathic physician. Respondent's credential is currently active.
- B. Respondent provides naturopathic medical care and specializes in providing medical care to patients with cancer. Respondent has a website that provides a description of Respondent's practice, including language addressing the diagnosis and treatment of cancer. Respondent is not board-certified in integrative oncology treatment by the American Board of Naturopathic Oncology (FABNO). The initials 'FICT' imply that Respondent is board-certified.
- C. Patient A saw Respondent starting February 27, 2018. Patient A suspected she might have breast cancer due a lump discovered on a self-exam. Respondent examined Patient A and found a suspicious lump. After some discussion, Patient A agreed to thermography to see if there was evidence of cancer.
- D. The thermography was conducted at Respondent's clinic on March 12, 2018. The tests were sent out to be read and Patient A was able to read the preliminary report through an online patient portal. The thermography identified a 'disorder' in the right breast. The report said, '...there are elements consistent with degenerative

and tendencies toward future neoplastic conditions. Consider appropriate imaging, laboratory and physical examination...' It goes on to say, 'According to the established 12 breast criteria 7/12 were indicated. This leaves minimal concerns for breast problems.' The report recommended another thermography in 6 months, and listed 'hormonal cycles' as a possible source of suspicion. The report is approved by Dr. Daniel Bellin, OMD. A second report is entitled 'Infrared Breast Imaging Report.' It is undated.

Respondent states the report from Dr. Amalu was received March 19, 2018. Dr. Amalu is a chiropractor in California and not licensed in Washington. The results of the thermography were received in Respondent's clinic on March 19, 2018. Patient A obtained the second report by accessing it through the patient portal. The findings described abnormalities in the left and right breasts. The report recommended, '...that a follow up with your doctor include examination procedures leading to a diagnosis of the lump in your right breast.'

- E. Respondent's office emailed Patient A on March 19, 2018. There was some initial confusion because the mail had no attachments, and contained no instructions. After reading the reports on the portal, on March 19, 2018, Patient A called Respondent's clinic for advice. She followed the call with an email requesting advice. The next day, Patient A received a document from the clinic titled, 'Understanding Your Breast Thermogram Report.' The document states that patients with an image graded at TH5 (Patient A) are recommended to follow with a multi-modal imaging approach. The document misleadingly compares thermography to '...mammograms, ultrasounds, (or) MRI...' for diagnostic follow-up purposes.
- F. Confusion continued with a series of emails and calls between March 19, 2018, through April 3, 2018, when Patient A finally broke off her medical relationship with Respondent. These messages

were seeking to have the patient return for follow up, although Respondent's schedule did not allow the patient to be seen for at least two weeks (March 19 to April 4), or more. On April 3, 2018, Respondent sent a message that, "TH5 does not always mean cancer and hence, I don't like discussing this information over messaging because it does cause much confusion."

- G. On March 23, 2018, Patient A on her own sought out medical care for the palpable lump on her right breast. Mammogram and biopsy tests demonstrated she had a malignant ductal carcinoma. She had a surgical consultation on April 5, 2018, and prepared for a mastectomy of her right breast. Patient A did not follow-up with Respondent.

1.2 Respondent does not admit any of the allegations in the Statement of Allegations and Summary of Evidence or in Paragraph 1.1 above. This Stipulation to Informal Disposition (Stipulation) shall not be construed as a finding of unprofessional conduct or inability to practice.

1.3 Respondent acknowledges that a finding of unprofessional conduct or inability to practice based on the above allegations, if proven, would constitute grounds for discipline under RCW 18.130.180(4), (7), and (12), and WAC 246-836-210(4).

1.4 Respondent agrees that under RCW 18.130.172, any sanction as set forth in RCW 18.130.160, except subsections (1), (2), (6), and (8), may be imposed as part of this Stipulation, but the Respondent may agree to reimburse the disciplining authority the costs of investigation and processing the complaint up to an amount not exceeding one thousand dollars (\$1,000.00) per allegation.

1.5 The parties wish to resolve this matter by means of this Stipulation pursuant to RCW 18.130.172(1).

1.6 This Stipulation has no force or effect and does not bind the parties unless it is accepted by the Board.

1.7 This Stipulation is not formal disciplinary action. However, if the Board accepts this Stipulation, 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).

1.8 The Board agrees to forgo further disciplinary proceedings concerning the allegations.

1.9 Respondent agrees to successfully complete the terms and conditions of this informal disposition.

1.10 Respondent understands that a violation of this Stipulation, if proven, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

2. COMPLIANCE WITH SANCTION RULES

2.1 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." The Stipulation requires that Respondent make changes to her practice and procedures quickly, reflecting the seriousness of the issues. However, the tier is designated as Tier B, reflecting the potential harm or risk of harm from failure to communicate test results, including provider supportive consultation, in a timely manner.

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

2.3 The disciplining authority considered the following aggravating factors:

- A. Evidence of patient harm and risk of harm.
- B. The necessity for quick action to address the issues identified in the investigation.

2.4 The disciplining authority considered the following mitigating factors:

- A. No prior discipline.

3. INFORMAL DISPOSITION

The parties agree to the following:

3.1 Respondent shall reimburse costs to the Board in the amount of one thousand dollars (\$1,000.00), which must be received by the Board within six (6) months

of the effective date of this Stipulation. The reimbursement shall be paid by personal check, certified or cashier's check, or money order, made payable to the Department of Health and mailed to the Department of Health, Board of Naturopathy, at PO Box 1099, Olympia, WA 98507-1099. Credit or Debit cards can also be used for payment at the front counter of the Department of Health building at 111 Israel Road SE, Tumwater, WA 98501, during regular business hours.

3.2 Respondent shall permit a Department of Health investigator, on an unannounced basis, to audit at least three (3) patient records for compliance with record keeping and patient charting standards and rules. The audit shall include records related to ensuring Respondent is abiding by the agreed-to requirement of notifying patients of test results, specifically cancer related tests, within 24 hours or ASAP. The audit will take place at Respondent's current place of employment or practice up to two (2) times over the next two (2) years, beginning on the effective date of this Stipulation. If Respondent fails to comply with the audit or the investigator finds any deficiencies during the audit, it will be considered a violation of this Stipulation and the disciplinary authority may take further action against Respondent's credential.

3.3 Respondent agrees to submit for approval by the Board, within six (6) months, a written plan of changes to be made at her clinic regarding patient notification of test results. Test results, specifically cancer related test results, must be communicated to the patient within 24 hours or ASAP, and supported by practitioner consultation.

3.4 Respondent agrees not to use the initials 'FICT' in a way that implies it is equivalent to board-certification, for example directly after her title.

3.5 Respondent agrees to make changes and update her website to reflect the agreement of the parties to remove or changes content which may misrepresent information regarding the diagnosis or treatment of cancer. The parties have reached an agreement and Respondent has made the necessary changes to the website. This requirement is considered satisfied.

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

3.7 The Board or its designee may verify Respondent's compliance with the terms and conditions of this Stipulation, if applicable.

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

3.9 Respondent is responsible for all costs of complying with this Stipulation.

3.10 Respondent shall inform the Department of Health Office of Customer Service, in writing, of changes in Respondent's residential and/or business address within thirty (30) days of the change. The mailing address for the Office of Customer Service is PO Box 47865, Olympia, WA 98504-7865.

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

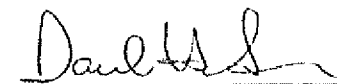
4. RESPONDENT'S ACCEPTANCE

I, NOOSHIN DARVISH, have read, understand and agree to this Stipulation. This Stipulation may be presented to the Board without my appearance. I understand that I will receive a signed copy if the Board accepts this Stipulation.



NOOSHIN DARVISH
RESPONDENT

05-28-2020
DATE



DAVID H. SMITH, WSBA #10721
ATTORNEY FOR RESPONDENT

May 29, 2020
DATE

5. BOARD ACCEPTANCE

The Board accepts this Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED: June 23, 2020, 2020

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
BOARD OF NATUROPATHY



PANEL CHAIR

PRESENTED BY:



MICHAEL WEISMAN, WSBA #17758
DEPARTMENT OF HEALTH STAFF ATTORNEY

May 29, 2020
DATE



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

RE: Nooshin Darvish
Master Case No.: M2019-983
Document: Statement of Allegations

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Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld:

The identity of the complainant if the person is a consumer, health care provider, or employee, pursuant to RCW 43.70.075 (Identity of Whistleblower Protected) and/or the identity of a patient, pursuant to RCW 70.02.020 (Medical Records - Health Care Information Access and Disclosure)

If you have any questions or need additional information regarding the information that was withheld, please contact:

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STATE OF WASHINGTON
DEPARTMENT OF HEALTH
BOARD OF NATUROPATHY

FILED
JUN 23 2020
Adjudicative Clerk Office

In the Matter of

NOOSHIN DARVISH
Credential No. NATU.NT.00000748

No. M2019-983

**STATEMENT OF ALLEGATIONS
AND SUMMARY OF EVIDENCE**

Respondent

The executive director of the Board of Naturopathy (Board), on designation by the Board, makes the allegations below, which are supported by evidence contained in case no. 2018-5414. The patient referred to in this Statement of Allegations and Summary of Evidence is identified in the attached Confidential Schedule.

1. ALLEGED FACTS

1.1 On September 13, 1995, the State of Washington issued Respondent a credential to practice as a naturopathic physician. Respondent's credential is currently active.

1.2 Respondent provides naturopathic medical care, and specializes in providing medical care to patients with cancer. Respondent has a website that provides a description of Respondent's practice, including language addressing the diagnosis and treatment of cancer. Respondent is not board-certified in integrative oncology treatment by the American Board of Naturopathic Oncology (FABNO). Certain language on Respondent's website is misleading regarding the diagnosis and treatment of cancer. The initials 'FICT' misleadingly imply that Respondent is board-certified.

1.3 Patient A saw Respondent starting February 27, 2018. Patient A suspected she might have breast cancer due a lump discovered on a self-exam. Respondent examined Patient A and found a suspicious lump. After some discussion, Patient A agreed to thermography to see if there was evidence of cancer. Patient A states the Respondent told her, "...this is not cancer" at the February 27 exam.

1.4 The thermography was conducted at Respondent's clinic on March 12, 2018. The tests were sent out to be read and Patient A was able to read the preliminary report through an online patient portal. The thermography identified a

'disorder' in the right breast. The report said, '...there are elements consistent with degenerative and tendencies toward future neoplastic conditions. Consider appropriate imaging, laboratory and physical examination...' It goes on to say, 'According to the established 12 breast criteria, 7/12 were indicated. This leaves minimal concerns for breast problems.' The report recommended another thermography in 6 months, and listed 'hormonal cycles' as a possible source of suspicion. The report is approved by Dr. Daniel Bellin, OMD. A second report is entitled 'Infrared Breast Imaging Report.' It is undated. Respondent states the report from Dr. Amalu was received March 19, 2018. Dr. Amalu is a chiropractor in California and not licensed in Washington. The results of the thermography were received in Respondent's clinic on March 19, 2018. Patient A obtained the second report by accessing it through the patient portal. The findings described abnormalities in the left and right breasts. The report recommended, '...that a follow up with your doctor include examination procedures leading to a diagnosis of the lump in your right breast.'

1.5 Respondent's office emailed Patient A on March 19, 2018. There was some initial confusion because the mail had no attachments, and contained no instructions. After reading the reports on the portal, on March 19, 2018, Patient A called Respondent's clinic for advice. She followed the call with an email requesting advice. The next day, Patient A received a document from the clinic titled, 'Understanding Your Breast Thermogram Report.' The document states that patients with an image graded at TH5 (Patient A) are recommended to follow with a multi-modal imaging approach. The document misleadingly compares thermography to '...mammograms, ultrasounds, (or) MRI...' for diagnostic follow-up purposes.

1.6 Confusion continued with a series of emails and calls between March 19, 2018, through April 3, 2018, when Patient A finally broke off her medical relationship with Respondent. These messages consisted of blame and counter-blame for missed messages, while seeking to have the patient return for follow up, although Respondent's schedule did not allow the patient to be seen for at least two weeks, or more. Respondent did not provide medical guidance to the patient, and Respondent did not phone the patient, explaining that she wanted to discuss the thermography report in person. On April 3, 2018, Respondent sent a message that, "TH5 does not always mean

cancer and hence, I don't like discussing this information over messaging because it does cause much confusion." Meanwhile, the patient was experiencing needless stress and panic, without receiving sound medical guidance and support.

1.7 On March 23, 2018, Patient A on her own sought out medical care for the palpable lump on her right breast. Mammogram and biopsy tests demonstrated she had a malignant ductal carcinoma. She had a surgical consultation on April 5, 2018, and prepared for a mastectomy of her right breast. Patient A did not follow-up with Respondent.

2. SUMMARY OF EVIDENCE

- 2.1 Patient A's medical chart from Respondent.
- 2.2 Respondent's written statement, dated August 15, 2018.
- 2.3 Patient A's medical records from subsequent providers.
- 2.4 Investigation materials consisting of but not limited to interviews with Patient A and others, correspondence.

3. ALLEGED VIOLATIONS

3.1 The facts alleged in Section 1, if proven, would constitute unprofessional conduct in violation of RCW 18.130.180(4), (7), and (12), and WAC 246-836-210(4), which provide in part:

RCW 18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

...

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

...

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

...

(12) Practice beyond the scope of practice as defined by law or rule;

....

WAC 246-836-210 Authority to use, prescribe, dispense and order.

...

(4) Naturopathic physicians may not treat malignancies except in collaboration with a practitioner licensed under chapter 18.57 or 18.71 RCW.

4. NOTICE TO RESPONDENT

4.1 The Board has determined that this case may be appropriate for resolution through a Stipulation to Informal Disposition (Stipulation) pursuant to RCW 18.130.172(2). A proposed Stipulation is attached, which contains the disposition the Board believes is necessary to address the conduct alleged in this Statement of Allegations and Summary of Evidence.

4.2 If Respondent agrees that the disposition imposed by the Stipulation is appropriate, Respondent should sign and date the Stipulation and return it within twenty-eight (28) days to the Department of Health Office of Investigative and Legal Services at PO Box 47873, Olympia, WA 98504-7873.

4.3 If Respondent does not agree that the terms and conditions contained in the Stipulation are appropriate, Respondent should contact Michael Weisman, Department of Health Staff Attorney, PO Box 47873, Olympia, WA 98504-7873, (360) 236-4811 within twenty-eight (28) days.

4.4 If Respondent does not respond within twenty-eight (28) days, the Board will assume Respondent has declined to resolve these allegations with an informal Stipulation and may proceed to formal disciplinary action against Respondent by filing a Statement of Charges pursuant to RCW 18.130.172(3).

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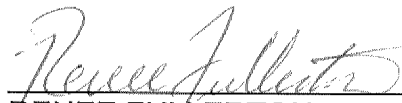
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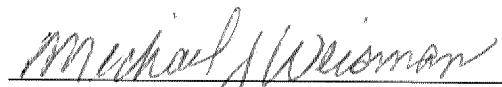
4.5 If the parties cannot resolve the allegations with an informal Stipulation, the Board may proceed with a formal Statement of Charges.

DATED: March 19, 2020

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
BOARD OF NATUROPATHY



RENEE FULLERTON
EXECUTIVE DIRECTOR



MICHAEL WEISMAN, WSBA #17758
DEPARTMENT OF HEALTH STAFF ATTORNEY

CONFIDENTIAL SCHEDULE

This information is confidential and is NOT to be released without the consent of the individual or individuals named herein. RCW 42.56.240(1)

Patient A:

