

1 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
2 OF THE STATE OF OREGON
3

4 In the Matter of the Educator) DEFAULT ORDER OF
5 License of) REVOCATION OF
6 DAVID ALAN HERMAN) RIGHT TO APPLY
7
8

9 On January 8, 2015, the Teacher Standards and Practices Commission (Commission)
10 issued a Notice of Opportunity for Hearing to David Alan Herman (Herman) in which the
11 Commission charged him with Gross Neglect of Duty. The Notice was sent via U.S. First
12 Class Mail and U.S. Certified Mail Receipt 7010 2780 0000 2187 4047 to the address on file
13 with the Commission. The Notice designated the Commission file as the record for purposes
14 of proving a prima facie case. The Certified Mail receipt was returned to the Commission
15 “signed” on January 12, 2015. The first class mail was not returned to the Commission. The
16 Notice of Opportunity of Hearing, dated January 8, 2015, and signed by Victoria
17 Chamberlain, Executive Director, stated:

18 “IF A REQUEST FOR HEARING IS NOT RECEIVED WITHIN THIS 21-DAY
19 PERIOD, YOUR RIGHT TO A HEARING SHALL BE CONSIDERED WAIVED
20 UNLESS YOUR FAILURE TO REQUEST A HEARING WAS BEYOND YOUR
21 REASONABLE CONTROL. IF YOU DO NOT REQUEST A HEARING OR IF YOU
22 FAIL TO APPEAR AT A HEARING, THE COMMISSION WILL ADOPT AN ORDER
23 OF DEFAULT WHICH MAY INCLUDE THE REVOCATION OR SUSPENSION OF
24 YOUR LICENSE OR OTHER DISCIPLINE.”
25

26 Herman did not request a hearing. The Commission, therefore, finds Herman to be in
27 default and enters the following findings of fact, conclusions of law, and final order, based
28 on the files and records of the Commission concerning this matter.

29 **FINDINGS OF FACT**

- 30 1. The Commission has licensed Herman since July 14, 2004. Herman previously
31 held an Initial II Teaching License valid from March 1, 2011, through May 5,
32 2014, with endorsements in Integrated Science (HS, ML); Chemistry (HS, ML);
33 Health Science (CTE/HS); Biology (HS, ML); and Multiple Subjects (MIDLVL).
34 During all relevant times, Herman was employed by the Hillsboro School
35 District.
- 36 2. On March 13, 2014, Herman was arrested on charges stemming from an April 4,
37 2013, motor vehicle crash, where due to Herman’s continuing mismanagement of

1 his diabetes, Herman crashed his motor vehicle and killed an 11 year old child.
2 The original criminal charges included Manslaughter second degree (ORS
3 163.125) and Reckless Driving (ORS 811.140). On March 13, 2014, Herman pled
4 guilty to and was convicted of Criminally Negligent Homicide (ORS 163.145), a
5 class B Felony. Herman was sentenced to forty-eight (48) months' in prison.

- 6
7 3. This conviction arose from allegations that on or about April 4, 2013, Herman
8 failed to responsibly monitor and treat his diabetes and operated a motor vehicle
9 while experiencing a diabetic incident which caused Herman to lose control of his
10 vehicle. Herman's vehicle left the roadway, traveled through a barrier and into a
11 residential yard where Herman stuck an 11 year old child causing her death, and
12 continued to travel and crash into the residence. Responding law enforcement
13 advised that Herman was conscious and seated behind the steering wheel after
14 the crash and indicated that Herman could not recall what had happened.
15 Investigation determined that Herman recklessly and negligently failed to treat
16 his diabetes causing the incident. Herman was driving home from school, where
17 he had not tested his blood sugar when administering insulin. Additional
18 investigation determined Herman had a history of mistreatment of his diabetes
19 and initially lied to investigators and medical staff about his treatment on that
20 day.

21 22 23 **CONCLUSIONS OF LAW**

24 David Alan Herman engaged in unprofessional conduct as described in section two (2)
25 and three (3) above. Herman's criminal conviction detailed above, and the conduct
26 underlying Herman's charges and conviction constitutes gross neglect of duty in violation of
27 ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-0010(5) (*Use*
28 *professional judgment*); and OAR 584-020-0040(4)(o) as it incorporates OAR 584-020-
29 0035(3)(a) (*Maintain the dignity of the profession by respecting and obeying the law,*
30 *exemplifying personal integrity and honesty*). This conduct also constitutes gross unfitness
31 in violation of ORS 342.175(1)(c); OAR 584-020-0040(5)(c) (*Conviction of violating any*
32 *federal, state, or local law. A conviction includes any final judgment of conviction by a court*

1 *whether as the result of guilty plea, no contest plea or any other means*), and OAR 584-020-
2 0040(5)(e) (*Admission of or engaging in acts constituting criminal conduct, even in the*
3 *absence of a conviction*).
4

5 The Commission's authority to impose discipline in this matter is based upon ORS
6 342.175.

7 **FINAL ORDER**

8 The Commission hereby revokes David Alan Herman's right to apply for an Oregon
9 educator licensure.

10
11 IT IS SO ORDERED THIS 16th day of March, 2015.

12 TEACHER STANDARDS AND PRACTICES COMMISSION



13 By: _____
14 Victoria Chamberlain, Executive Director

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16 NOTICE OF APPEAL OR RIGHTS

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18 YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW
19 MAY BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM
20 THE SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE
21 PROVISIONS OF ORS 183.482 TO THE OREGON COURT OF APPEALS.

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing notice of final order, certified by me as such, by mailing U.S. First Class Mail and U.S. Certified Mail—Return Receipt Requested, addressed to:

David Alan Herman #20280242
c/o Oregon State Penitentiary
2605 State Street
Salem, OR 97310-0505

Dated this 16th day of March, 2015.

By: Patty Liddell
Patty Liddell
Investigative Assistant