

**DISCIPLINE COMMITTEE OF
THE COLLEGE OF NATUROPATHS OF ONTARIO**

B E T W E E N :

COLLEGE OF NATUROPATHS OF ONTARIO

- and -

YELENA DESHKO

NOTICE OF HEARING

The Inquiries, Complaints and Reports Committee of the College of Naturopaths of Ontario (the “College”) has referred specified allegations against you to the Discipline Committee of the College. The allegations were referred in accordance with section 26 of the *Health Professions Procedural Code* which is Schedule II to the *Regulated Health Professions Act, 1991*. The statement of specified allegations is attached to this notice of hearing. A discipline panel will hold a hearing under the authority of sections 38 to 56 of the *Health Professions Procedural Code*, as amended, for the purposes of deciding whether the allegations are true. A **pre-hearing conference** will be held at a date and location to be set by the Presiding Officer. A discipline panel will convene at the offices of the College at 150 John Street, 10th Floor, Toronto, Ontario at **9:30 a.m. on a date to be set by the Registrar**, or as soon thereafter as the panel can be convened, for the purposes of conducting the **discipline hearing**.

IF YOU DO NOT ATTEND ON THE DATE FOR THE HEARING IN ACCORDANCE WITH THE PRECEDING PARAGRAPH, THE DISCIPLINE PANEL MAY PROCEED IN YOUR ABSENCE AND YOU WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDINGS.

If the discipline panel finds that you have engaged in professional misconduct, it may make one or more of the following orders:

1. Direct the Registrar to revoke your certificate of registration.
2. Direct the Registrar to suspend your certificate of registration for a specified period of time.
3. Direct the Registrar to impose specified terms, conditions and limitations on your certificate of registration for a specified or indefinite period of time.
4. Require you to appear before the panel to be reprimanded.
5. Require you to pay a fine of not more than \$35,000 to the Minister of Finance.
6. If the act of professional misconduct was the sexual abuse of a patient, require you to reimburse the College for funding provided for that patient under the program required under section 85.7 of the *Health Professions Procedural Code*.
7. If the panel makes an order under paragraph 6, require you to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 6.

The discipline panel may, in an appropriate case, make an order requiring you to pay all or part of the College's costs and expenses pursuant to section 53.1 of the *Health Professions Procedural Code*.

You are entitled to disclosure of the evidence against you in accordance with section 42(1) of the *Health Professions Procedural Code* and Rules 17-20 of the *Rules of Procedure of the Discipline Committee of the College of Naturopaths of Ontario*.

You or your representative may contact Rebecca Durcan, the solicitor for the College in this matter:

Steinecke Maciura LeBlanc
Barristers & Solicitors
401 Bay Street

Suite 2308, P.O. Box 23
Toronto, ON M5H 2Y4

Telephone: (416) 644-4783
Facsimile: (416) 593-7867

Note that, Rules 17-20 of the *Rules of Procedure of the Discipline Committee of the College of Naturopaths of Ontario* also apply to you. Rules 18-20 state as follows:

RULE 18. Documentary Disclosure

- 18.1 Each Party to a Proceeding shall deliver to every other Party (a) a list of, and (b) if not previously produced, copies of, all documents and things that the Party intends to produce or enter as evidence at the Discipline Hearing, in the case of the College, as soon as is reasonably practicable after the Notice of Hearing is served, and in the case of any other party, as soon as is reasonably practicable after disclosure by the College under this Rule, but in any case at least ten (10) days before the commencement of the Pre-Hearing Conference.
- 18.2 A Party who does not disclose a document or thing in compliance with sub-rule 18.1 may not refer to the document or thing or introduce it in evidence at the Discipline Hearing without leave of the Panel, which may be on any conditions that the Panel considers just.
- 18.3 Where a party discovers a document or thing that it will refer to or give in evidence at the hearing after the disclosure date specified in subrule 18.1, the party shall make the disclosure immediately after the discovery.

RULE 19. Fact Witness Disclosure

- 19.1 A Party to a Proceeding shall serve every other Party a list of the witnesses the Party intends to call to testify on the Party's behalf at the Discipline Hearing, in the case of the College, as soon as is reasonably practicable after the Notice of Hearing is served, and in the case of any other Party, at

least ten (10) days before the commencement of the Pre-Hearing Conference.

- 19.2 If no affidavit has been served in accordance with Rule 45 (Evidence by Affidavit), and material matters to which a witness is to testify have not otherwise been disclosed, a Party to a Proceeding shall provide to every other Party a summary of the evidence that the witness is expected to give at the Discipline Hearing on the merits, in the case of the College, as soon as reasonably practicable after the Notice of Hearing is served, and in the case of any other party, as soon as is reasonably practicable after disclosure by the College under this Rule, but in any case at least ten (10) days before the commencement of the Discipline Hearing.
- 19.3 The disclosure obligations set out in Rule 19.2 shall not apply to witnesses called in Reply that the College had no reasonable expectation of calling in-chief.
- 19.4 A witness summary shall contain:
- (a) the substance of the evidence of the witness;
 - (b) reference to any documents to which that witness will refer; and
 - (c) the witness's name and address or, if the witness's address is not provided, the name and address of a person through whom the witness can be contacted.
- 19.5 A Party who does not include a witness in the witness list or provide a summary of the evidence a witness is expected to give in accordance with these rules may not call that person as a witness without leave of the Panel, which may be on any conditions as the Panel considers just.
- 19.6 A witness may not testify to material matters that were not previously disclosed without leave of the Panel, which may be on any conditions that the Panel considers just.

RULE 20. Expert Opinion Disclosure

- 20.1 A Party who intends to call an expert to give expert opinion evidence at a Hearing shall:

- (a) inform the other Parties of the intent to call the expert;
 - (b) identify the expert and the issue(s) on which the expert's opinion will be tendered;
 - (c) serve the other Parties with a copy of the expert's written report or, if there is no written report, an affidavit in accordance with RULE 45 (Evidence by Affidavit), or a witness summary in accordance with sub-rule 19.3; and
 - (d) file an "Acknowledgement Form – Expert's Duty" signed by the expert, in the form appended to these rules.
- 20.2 The College shall serve any expert report or affidavit or witness summary upon which the College intends to rely at the Hearing at least sixty (60) days before the commencement of the Hearing.
- 20.3 The Member shall serve any expert report upon which he or she intends to rely at least thirty (30) days before the commencement of the Hearing.
- 20.4 The College may serve a reply expert report at least fifteen (15) days before the commencement of the Hearing.
- 20.5 Where an expert report is filed, it shall at a minimum include the following information:
- (a) qualifications of the expert;
 - (b) the instructions provided to the expert;
 - (c) the nature of the opinion being sought;
 - (d) the factual assumptions upon which the opinion is based; and
 - (e) a list of documents reviewed by the expert.
- 20.6 A Party who fails to comply with sub-rule 20.1 may not call the expert as a witness or file the expert's report or affidavit without leave of the Panel, which may be on any conditions that the Panel considers just.

Date: _____

September 12, 2019



Andrew Parr, CAE
Registrar & CEO
College of Naturopaths of Ontario

TO: **Dr. Yelena Deshko, ND**
Timeless Health Clinic
25 Wood Street, Unit #1 Lower Level
Toronto, ON M4Y 2P9
Telephone: 416-966-4106

and

Jessyca Greenwood
Principal Lawyer
120 Carlton St. Unit 204
Toronto, ON M5A 4K2
Telephone: 416-686-4612
Fax: 416-362-3612

Counsel for the Member

STATEMENT OF SPECIFIED ALLEGATIONS

The Member

1. At all relevant times, Dr. Yelena Deshko, ND (the “Member”) has been a member of the College of Naturopaths of Ontario (the “College”).
2. The Member met the Therapeutic and IVIT Standards in or about October 2015.
3. At all relevant times, the Member worked at and/or owned Timeless Health Clinic in Toronto, Ontario (the “Clinic”). The Clinic is not a laboratory or a specimen collection centre pursuant to the *Laboratory and Specimen Collection Centre Licensing Act*.

Improper Delegation

4. It is alleged that since July 1, 2015, the Member delegated the act of administering a substance by injection (via IVIT and/or intramuscularly) and/or performing a procedure on tissue below the dermis (drawing blood) to a nurse and/or nurses.
5. It is alleged that since July 1, 2015, the Member delegated the act of compounding to a nurse and/or nurses and did not record information as required in s. 19 of Regulation 168/15.
6. It is alleged that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”) as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007*:
 - a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;
 - b. **Paragraph 23** - Failing to keep records in accordance with the standards of the profession;

- c. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts; and/or
 - d. **Paragraph 46** - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
7. It is also alleged that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007*.

Charging Block Fees

8. It is alleged that since July 1, 2015, the Member sold packages or blocks of treatment to patients.
9. It is alleged that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007*:
- a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;
 - b. **Paragraph 23** - Failing to keep records in accordance with the standards of the profession; and/or
 - c. **Paragraph 46** - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Laboratory Compliance

10. It is alleged that since July 1, 2015, the Member:
- a. Ordered specimens to be sent and/or sent specimens to laboratories not licensed by the *Laboratory and Specimen Collection Centre Licensing Act*; and/or

- b. Requisitioned the collection of urine, and/or saliva, and/or blood for tests:
 - i. At the Clinic and/or
 - ii. That are outside the scope of a naturopath.
11. It is alleged that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007*:
- a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;
 - b. **Paragraph 8** - Providing or attempting to provide services or treatment that the member knows or ought to know to be beyond the member's knowledge, skill or judgment;
 - c. **Paragraph 9** - Failing to advise a patient or the patient's authorized representative to consult another member of a health profession within the meaning of the Regulated Health Professions Act, 1991, when the member knows or ought to know that the patient requires a service that the member does not have the knowledge, skill or judgment to offer or is beyond his or her scope of practice;
 - d. **Paragraph 10** - Performing a controlled act that the member is not authorized to perform;
 - e. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts; and/or
 - f. **Paragraph 46** - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
12. It is also alleged that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007*.

Advertising and Administration Concerns

13. It is alleged that since July 1, 2015, the Clinic offered and/or the Member administered to and/or the Member recommended to and/or the Member ordered and/or the Member delegated the following treatments to patients:

- a. Lipotropic B12 injection that includes choline, inositol, chromium and/or methionine;
- b. Immune Boost injection that includes Vitamin C;
- c. Immune Boosting IV that includes anti-viral botanicals;
- d. Gluthathione injection that includes procaine and/or Procaine injection;
- e. Iron IV that includes iron;
- f. Fresh Start Detox that can “help reset your metabolism.”

14. It is alleged that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007*:

- a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;
- b. **Paragraph 8** - Providing or attempting to provide services or treatment that the member knows or ought to know to be beyond the member’s knowledge, skill or judgment;
- c. **Paragraph 9** - Failing to advise a patient or the patient’s authorized representative to consult another member of a health profession within the meaning of the Regulated Health Professions Act, 1991, when the member knows or ought to know that the patient requires a service that the member does not have the knowledge, skill or judgment to offer or is beyond his or her scope of practice;
- d. **Paragraph 10** - Performing a controlled act that the member is not authorized to perform;
- e. **Paragraph 23** - Failing to keep records in accordance with the standards of the profession;

- f. **Paragraph 27** - Permitting the advertising of the member or his or her practice in a manner that is false or misleading or that includes statements that are not factual and verifiable;
 - g. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts; and/or
 - h. **Paragraph 46** - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
15. It is also alleged that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007*.

Falsification and Misleading Records

16. It is alleged that since July 1, 2015:

- a. the Member issued and/or permitted to be issued, invoices that indicated the Member provided treatment when she did not do so; and/or
- b. the Member charted in patient records that she treated patients when she did not do so.

17. It is alleged that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007*:

- a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;
- b. **Paragraph 18** - Issuing an invoice, bill or receipt that the member knows or ought to know is false or misleading;
- c. **Paragraph 23** - Failing to keep records in accordance with the standards of the profession;

- d. **Paragraph 25** - Falsifying a record relating to the member's practice;
- e. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts; and/or
- f. **Paragraph 46** - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Testimonials

- 18. It is alleged that since July 1, 2015, the Clinic's FaceBook page included a testimonial of the Member's and/or Clinic's service.
- 19. It is alleged that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007*:
 - a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;
 - b. **Paragraph 27** - Permitting the advertising of the member or his or her practice in a manner that is false or misleading or that includes statements that are not factual and verifiable;
 - c. **Paragraph 28** - Using or permitting the use of a testimonial from a patient, former patient or other person in respect of the member's practice;
 - d. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts; and/or
 - e. **Paragraph 46** - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Health Track-Pro

20. It is alleged that on or about December 12, 2018 an undercover investigator of the College ordered "Health Track-Pro" from the Clinic's website. Health Track-Pro included a blood work requisition and one hour appointment with a naturopath from the Clinic.
21. The undercover investigator was not a patient of the Member.
22. It is alleged that once the undercover investigator paid \$270 she was provided the following via email:
- a. An electronic requisition signed by the Member. The electronic requisition ordered the following blood tests:
 - i. Lipid Profile
 - ii. CBC
 - iii. Ferritin
 - iv. Glucose Fasting
 - v. Chemistry Panel M
 - vi. Chemistry Panel N
 - vii. TSH
 - b. An invoice from Health Track Pro for a Basic Check-Up.
23. It is alleged that after the undercover investigator had her blood drawn at a laboratory (with the electronic requisition as described in paragraph 22) she was contacted by the Clinic and offered an appointment to meet with another naturopath at the Clinic. It is alleged that the undercover investigator asked to meet with the Member.
24. It is alleged that on or about January 23, 2019 the undercover investigator had a 30 minute appointment with the Member.
25. It is alleged that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007*:

- a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;
 - b. **Paragraph 8** - Providing or attempting to provide services or treatment that the member knows or ought to know to be beyond the member's knowledge, skill or judgment;
 - c. **Paragraph 18** - Issuing an invoice, bill or receipt that the member knows or ought to know is false or misleading;
 - d. **Paragraph 23** - Failing to keep records in accordance with the standards of the profession;
 - e. **Paragraph 27** - Permitting the advertising of the member or his or her practice in a manner that is false or misleading or that includes statements that are not factual and verifiable;
 - f. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts; and/or
 - g. **Paragraph 46**- Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
26. It is also alleged that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007*.

APPENDIX

1. The documents to be tendered in evidence at the hearing have been sent with this Notice of Hearing.
2. The *Rules of Procedure of the Discipline Committee* have been sent with this Notice of Hearing.
3. Take notice that the documents that have been and may later be disclosed to you will be tendered as business documents pursuant to the *Evidence Act* of Ontario.
4. All documents that are disclosed to you in this matter are disclosed on the basis that they are to be used solely for the purpose of this proceeding and for no other purpose.

COLLEGE OF NATUROPATHS OF ONTARIO

- and -

YELENA DESHKO

DISCIPLINE COMMITTEE
OF THE COLLEGE OF
NATUROPATHS OF ONTARIO

**NOTICE OF HEARING
(DC19-05)**

STEINECKE MACIURA LEBLANC

Barristers & Solicitors
401 Bay Street, Suite 2308
P.O. Box 23
Toronto, ON M5H 2Y4

Rebecca Durcan

Telephone: (416) 644-4783
Facsimile: (416) 593-7867
Email: rdurcan@sml-law.com

Lawyers for the College of
Naturopaths of Ontario