

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

IN THE MATTER OF a hearing directed
by the Inquiries, Complaints and Reports Committee of
the College of Naturopaths of Ontario
pursuant to Section 26(1) of the Health Professions Procedural Code
being Schedule 2 of the *Regulated Health Professions Act, 1991*,
S.O. 1991, c. 18, as amended.

B E T W E E N:

**COLLEGE OF NATUROPATHS OF ONTARIO
- and -
KARIM DHANANI**

**DECISION AND REASONS
File DC22-02**

A panel of the Discipline Committee of the College of Naturopaths of Ontario (the “Panel”) held a hearing on November 8, 2022. The hearing proceeded electronically pursuant to the *Regulated Health Professions Act, 1991*, Schedule 2, the Health Professions Procedural Code (the “Code”), the *Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020* and the Discipline Committee Rules.

Rebecca Durcan was counsel to the College of Naturopaths of Ontario (the “College”). Andrew Parr attended on behalf of the College. Karim Dhanani (the “Registrant”) was represented by Robert Barbiero. Lonny Rosen acted as independent legal counsel (“ILC”) to the Panel.

ALLEGATIONS

The Notice of Hearing, dated July 12, 2022, was filed as Exhibit 1 and set out the following:

The Registrant

1. The Registrant registered with the Board of Directors of Drugless Therapy – Naturopathy on or about April 8, 2002. The Registrant then became registered with the College on July 1, 2015.
2. The Registrant has not met the Standards of Practice for Therapeutic Prescribing and/or Compounding.

3. At all relevant times, the Registrant worked at and/or owned Centre for Biological Medicine in Richmond Hill, ON (the “Clinic”) and/or Pathways DNA.

Failure to co-operate fully with Investigators

2020 Investigation

4. It is alleged that in or around November 2020 the investigator asked the Registrant to attend for an interview. The Registrant agreed but subsequently refused to attend. As a result of the Registrant’s failure to co-operate fully, the investigator had to serve a summons on the Registrant to attend for an interview on or about January 8, 2021.
5. It is alleged that during the interview on or about January 8, 2021, the Registrant did not answer all questions posed by the investigator and/or failed to co-operate fully with the investigator.

2021 Investigation

6. It is alleged that despite being provided with an appointment of an investigator on or about July 9, 2021, and/or a summons on or about September 14, 2021, the Registrant refused to provide requested patient records to the investigator and/or delayed delivering requested patient records to the investigator and/or failed to co-operate fully with the investigator.
7. It is alleged that the investigator asked the Registrant to attend for an interview and the Registrant asked that the investigator submit questions in writing.
8. It is alleged that the investigator sent the Registrant questions in writing on or about March 2, 2022, and that the Registrant refused to answer certain questions.

Performing unauthorized controlled acts

9. It is alleged that the Registrant administered substances by inhalation and/or prescribed Vitamin D to their patients over 1,000 IU.
10. It is alleged that the Registrant did not inform their patients and/or ensure that their patients understood that they were not authorized to administer substances by inhalation and/or prescribe Vitamin D over 1,000 IU.
11. It is alleged that the Registrant did not advise their patients to consult with a health professional who was authorized to administer substances by inhalation and/or prescribe Vitamin D over 1,000 IU.

Consent

12. It is alleged that the Registrant did not obtain informed consent from their patients when they administered inhalation therapy and/or prescribed Vitamin D over 1,000 IU as they failed to advise patients that they were not authorized to engage in such acts.
13. It is alleged that the Registrant provided consent to treatment forms to their patients for signature that stated "Centre for Biological Medicine has a Registered Naturopathic Doctor/Assistant who is certified to perform intravenous therapy" and that this was false. It is alleged that as a result, the Registrant did not obtain consent from patients to administer IVIT.

Advertising

14. It is alleged that the Registrant posted or permitted the posting on the Clinic website that they were authorized to administer substances by inhalation.

Fees and Billing

15. It is alleged that the Registrant sold packages and/or blocks of treatments.
16. It is alleged that the Registrant issued or permitted the issuance of invoices that did not record their name as the treating naturopath.

Record Keeping

17. It is alleged that the Registrant failed to include the following in their patient records:
 - a. Evidence that the patient provided informed consent;
 - b. Assessment and/or treatment plan; and/or
 - c. Intake form and/or Health History.

Acts of Professional Misconduct

18. It is alleged that the above noted conduct constitutes professional misconduct pursuant to section 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,

including but not limited to the following:

- i. Core Competencies;
 - ii. Advertising;
 - iii. Consent;
 - iv. Fees and Billing;
 - v. Inhalation;
 - vi. Performing Authorized Acts;
 - vii. Prescribing;
 - viii. Record Keeping
 - ix. Scope of Practice; and/or
 - x. Sections 3(1) paras 3, 6, 5(1) para 1, 5(2), 5(4), 9(2) para 3, 5, 9(4), and/or 9(5) of the General Regulation 168/15;
- b. **Paragraph 3** – Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic or other health-related purpose except,
- i. with the informed consent of the patient or the patient’s authorized representative, or
 - ii. as required or authorized by law;
- c. **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;
- d. **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;
- e. **Paragraph 10** – Performing a controlled act that the member is not authorized to perform;
- f. **Paragraph 23** – Failing to keep records in accordance with the standards of the profession.
- g. **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;

- h. **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 including but not limited to;
 - i. Section 4(2) of the *Naturopathy Act, 2007*;
 - ii. Sections 2, 3(1), 5(1), 9(1) of the General Regulation 168/15; and/or
 - iii. Section 76 of the Code;
- i. **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; and/or
- j. **Paragraph 47** – Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

19. It is also alleged that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007*.

ADMISSION AND PLEA INQUIRY

The Registrant admitted to the allegations of professional misconduct set out the Notice of Hearing. The Panel conducted an oral plea inquiry and was satisfied that the Registrant's admissions were voluntary, informed and unequivocal.

AGREED STATEMENT OF FACTS

The College advised the Panel that the evidence would be provided by way of an Agreed Statement of Facts (the "ASF"), which was filed as Exhibit 2 and set out the following:

The parties hereby agree that the following facts and attachments may be accepted as true by the Discipline Committee of the College:

The Registrant

1. The Registrant registered with the Board of Directors of Drugless Therapy – Naturopathy on or about April 8, 2002. The Registrant then became registered with the College of Naturopaths of Ontario (the "College") on July 1, 2015. A printout from the College's Naturopathic Doctor Register was attached to the ASF.
2. The Registrant has not met the Standards of Practice for Therapeutic Prescribing.
3. At all relevant times, the Registrant worked at and/or owned the Clinic and/or Pathways

DNA.

4. Between January 2016 to April 2019, the Registrant was an elected member of the College Council and sat on various College committees including but not limited to the Inquiries, Complaints and Reports Committee.
5. At the time of the events giving rise to this disciplinary prosecution, the Registrant had no prior history before the College's discipline committee.

Failure to co-operate fully with Investigators

6. Regulated health professionals are accountable to their regulator. Regulated health professionals are subject to a complaints and investigation system which allows investigations to commence when there is concern that a registrant is engaging in professional misconduct or incompetence. It is agreed that regulators are expected to conduct these investigations in a fair manner so that relevant and necessary information can be obtained.
7. Registrants are required to co-operate fully with a College investigator. It is agreed that s. 76(3.1) of the *Health Professions Procedural Code* states that "a member shall co-operate fully with an investigator."

2020 Investigation

8. It is agreed that in or around November 2020 a College investigator asked the Registrant to attend for an interview. The Registrant agreed but subsequently refused to attend. Rather, the Registrant asked that the College investigator put any questions to the Registrant in writing and that the Registrant be permitted to answer those questions in writing. As a result of the Registrant's refusal to attend an interview, the investigator had to serve a summons on the Registrant to attend for an interview on or about January 8, 2021.
9. The Registrant did attend the interview on January 8, 2021. However, during the interview, it is agreed that the Registrant did not answer some of the questions posed by the investigator.

It is agreed that during the 2020 investigation, the Registrant failed to co-operate fully with the investigator.

2021 Investigation

10. It is agreed that despite being provided with an appointment of an investigator on or about July 9, 2021, and a summons on or about September 14, 2021, the Registrant initially refused to provide requested patient records to the investigator. Despite being

provided with the statutory information about the authority of the College by the College Investigator and despite having a summons and notwithstanding the fact that the Registrant was a former member of the ICRC where such matters are discussed in detail the Registrant wished to take an opportunity to scrutinize the jurisdiction of the College to proceed with the 2021 investigation. After satisfying himself that the College indeed had the jurisdiction to proceed with the 2021 investigation, the Registrant was delayed delivering requested patient records to the investigator.

11. It is agreed that the investigator asked the Registrant to attend for an interview and the Registrant asked that the investigator submit questions in writing.
12. It is agreed that the investigator sent the Registrant questions in writing on or about March 2, 2022, and that the Registrant refused to answer certain questions.

Performing unauthorized controlled acts

Administering Substances by Inhalation

13. The performance of controlled acts by registrants, including but not limited to prescribing drugs and administering substances by inhalation, is governed by Part II of Ontario Regulation 168/15 (the “General Regulation”) made under the *Naturopathy Act, 2007*.
14. Subsection 5(4) of the General Regulation requires that in order to administer a specified substance by inhalation, a registrant must have met both:
 - a. A course on Prescribing that has been approved by Council; and
 - b. An examination on prescribing that is administered or approved by the Council.
15. It is agreed that the Registrant did not meet the requirements as set out in s. 5(4) and therefore was not authorized to administer substances by inhalation. Despite this, the Registrant proceeded to administer substances by inhalation to patients between 2015 and 2021.
16. Further, it is agreed that the Registrant did not inform patients or ensure that patients understood that the Registrant was not authorized to perform this controlled act.
17. Further, it is agreed that the Registrant did not advise patients to consult with a health professional who was authorized to perform this controlled act.

Prescribing Vitamin D

18. Table 3 of the General Regulation sets out the drugs that registrants are authorized to prescribe if they meet the prescribed standards. Vitamin D, in oral dosage containing more than 1,000 International Units per dosage, is a drug.
19. Subsection 9(5) of the General Regulation requires that in order to prescribe a drug, a

registrant must have met both:

- a. A course on Prescribing that has been approved by Council; and
 - b. An examination on prescribing that is administered or approved by the Council.
20. It is agreed that the Registrant did not meet the requirements as set out in s. 9(5) and therefore was not authorized to prescribe drugs. Despite this, the Registrant proceeded to prescribe Vitamin D over 1,000 IU to patients between 2015 and 2021.
21. Further, it is agreed that the Registrant did not inform patients or ensure that patients understood that the Registrant was not authorized to perform this controlled act.
22. Further, it is agreed that the Registrant did not advise patients to consult with a health professional who was authorized to perform this controlled act.

Consent

23. It is agreed that the Registrant did not obtain informed consent from patients when they administered inhalation therapy or prescribed Vitamin D over 1,000 IU as they failed to advise patients that they were not authorized to engage in such acts.
24. It is agreed that as of January 1, 2016, the Registrant was not authorized to administer IVIT. Despite this, it is agreed that the Registrant did so. The Registrant provided patients with a consent to treatment form that stated "Centre for Biological Medicine has a Registered Naturopathic Doctor/Assistant who is certified to perform intravenous therapy." It is agreed that this was false. It is agreed that as a result, the Registrant did not obtain consent from patients to administer IVIT from January 1, 2016 onwards.

Advertising

25. It is agreed that the Registrant posted and permitted posting on the Clinic website that they were authorized to administer substances by inhalation.

Record Keeping

26. It is agreed that the Registrant failed to include the following in patient records:
- a. Evidence that the patient provided informed consent;
 - b. Assessment and treatment plan; and
 - c. Intake form and Health History.

Standards and Guidelines

27. During the relevant periods of time, it is agreed that the following College standards and policy applied to the Registrant and amounted to standards of the profession (all of which were attached to the ASF):

- a. Core Competencies;
- b. Advertising;
- c. Consent;
- d. Inhalation;
- e. Performing Authorized Acts;
- f. Prescribing;
- g. Record Keeping; and
- h. Scope of Practice.

28. It is also agreed that the following standards of practice of the profession, as set out in the General Regulation, were contravened or were not maintained as a result of the above noted conduct:

- a. Section 3(1): - A member shall not perform any controlled act under the authority of paragraph 1, 2, 3¹, 4 or 6 of subsection 4 (1) of the Act unless he or she performs it in accordance with all of the following standards of practice of the profession:

Para 3 - Before performing the controlled act, the member must receive an informed consent from the patient or his or her authorized representative.

Para 6 - The member must have the knowledge, skill and judgment,

- i. to perform the controlled act safely and ethically, and
- ii. to determine whether the patient's condition warrants performance of the controlled act.

- b. Section 5(1) - For the purposes of paragraph 3 of subsection 4 (1) of the Act, a member who meets all of the standards of practice of the profession in this section and section 3 of this Regulation is authorized to perform the following controlled acts:

Para 1 - Administering a substance specified in Table 1 by inhalation to a patient, in accordance with any limitations respecting the substance set out in the Table.

- c. Section 5(2) - It is a standard of practice of the profession that a member who performs the controlled act referred to in paragraph 1 of subsection (1) and who, in doing so, mixes, prepares, packages or labels two or more substances specified in Table 1 for the purpose of administering a customized therapeutic product to a patient by inhalation must comply with all the standards of practice set out in

¹Administering, by injection or inhalation, a prescribed substance.

subsection 11 (2), with any necessary modifications.

- d. Section 5(4) - It is a standard of practice of the profession that a member may only perform a controlled act described in subsection (1) if he or she has successfully completed, (a) a course on prescribing that has been approved by the Council; and (b) an examination on prescribing that is administered or approved by the Council;
- e. Section 9(2) - The following are standards of practice for the purposes of subsection (1)²⁹:

Para 3 - The member must possess sufficient knowledge, skill and judgment respecting the drug and the patient's condition to prescribe the drug for the patient.

Para 5 - The member must give a written prescription for the drug to the patient or his or her authorized representative.

- f. 9(4) It is an additional standard of practice of the profession that a member who prescribes a drug under this section must maintain a patient record that includes details of the member's rationale for his or her decision to prescribe the drug to the patient and the following information, if applicable:
 - 1. A copy of the prescription that the member gave to the patient or the patient's authorized representative.
 - 2. A record of the results of any laboratory or other tests that the member considered in making the decision to prescribe the drug.
 - 3. The names and addresses of the patient's other primary health care providers, the date on which the member notified those other providers about the prescription and the method by which the notification occurred.
- g. 9(5) It is an additional standard of practice of the profession that a member may only perform the controlled act described in subsection (1) if he or she has successfully completed,
 - i. a course on prescribing that has been approved by the Council; and
 - ii. an examination on prescribing that is administered or approved by the Council.

Acts of Professional Misconduct

29. It is agreed that the above noted conduct constitutes professional misconduct pursuant to section 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*:

²⁹9. (1) For the purposes of paragraph 7 of subsection 4 (1) of the Act, a member may prescribe a drug designated in Table 3 only if all of the standards of practice of the profession in this section are met.

- 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, including but not limited to the following:
 - i. Core Competencies;
 - ii. Advertising;
 - iii. Consent;
 - iv. Inhalation;
 - v. Performing Authorized Acts;
 - vi. Prescribing;
 - vii. Record Keeping
 - viii. Scope of Practice; and
 - ix. Sections 3(1) paras 3, 6, 5(1) para 1, 5(2), 5(4), 9(2) para 3, 5, 9(4), and 9(5) of the General Regulation 168/15;
- b. **Paragraph 3** – Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic or other health-related purpose except,
 - i. with the informed consent of the patient or the patient’s authorized representative, or
 - ii. as required or authorized by law;
- c. **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;
- d. **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;
- e. **Paragraph 10** – Performing a controlled act that the member is not authorized to perform;
- f. **Paragraph 23** – Failing to keep records in accordance with the standards of the profession.
- g. **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;

- h. **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 including but not limited to;
 - i. Section 4(2) of the *Naturopathy Act, 2007*;
 - ii. Sections 2, 3(1), 5(1), 9(1) of the General Regulation 168/15; and
 - iii. Section 76 of the Code;
 - i. **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; and
 - j. **Paragraph 47** – Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.
30. It is also agreed that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007*.

Acknowledgements

31. By this document, the Registrant states that:

- a. He understands fully the nature of the allegations made against him;
- b. He has no questions with respect to the allegations against him;
- c. He admits to the truth of the facts contained in this document and that the facts constitute professional misconduct;
- d. He understands that by signing this document he is consenting to the evidence as set out in this document being presented to the Discipline Committee;
- e. He understands that by admitting the allegations made against him, he is waiving his right to require the College to prove the allegations against him at a contested hearing;
- f. He understands that the decision of the Discipline Committee and a summary of its reasons, including reference to his name, will be published in the College's annual report and any other publication or website of the College;
- g. He understands that if there is any agreement between him and the College with respect to the penalty proposed does not bind the Discipline Committee; and
- h. He understands and acknowledges that he is executing this document voluntarily, unequivocally, free of duress, and free of bribe and that he has been advised of his

right to seek legal advice.

DECISION AND REASONS ON LIABILITY

The Panel accepted as correct all of the facts set out in the ASF. The Panel found that the evidence contained in that document proved, on a balance of probabilities, the allegations set out in the Notice of Hearing (NOH) and admitted to in the ASF.

The following section reviews the allegations under each heading set out in the NOH and the paragraphs from the ASF which prove each of the allegations of professional misconduct.

Failure to co-operate fully with investigators

The Registrant failed to fully co-operate with investigators, in connection with the 2020 investigation, the Registrant initially refused to attend for an interview and then, once served with a summons, attended the interview but refused to answer some questions posed by the investigator. In connection with the 2021 investigation, the Registrant initially challenged the College's jurisdiction to proceed, and then proposed to answer questions in writing instead of attending an interview, but then did not answer the investigator's questions and was delayed in delivering requested patient records to the investigator. Registrants are required to co-operate fully with a College investigator. Paragraphs 6 – 12 of the ASF establish that the Registrant did not cooperate fully with investigators. These facts establish the allegations set out in paragraphs 4, 5, 6, 7, and 8 and the allegations of professional misconduct set out in paragraph 18(h), (i) and (j) of the NOH.

Performing unauthorized controlled acts

These allegations relate to the Registrant's administration of a substance outside their scope of practice and not informing the patient. Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 of the ASF establish that the Registrant prescribed Vitamin D, in oral dosage containing more than 1,000 International Units per dosage and administered specified substances by inhalation when he had not met the requirements to be authorized to do so. Further, the Registrant neither informed patients that he was not authorized to prescribe or administer such substances nor advised patients to consult with a health professional who was authorized to perform this controlled act. These facts establish the allegations set out in paragraphs 9, 10, and 11 and the allegations of professional misconduct set out in paragraphs 18 (a), (c), (d), (e) and (h) and 19 of the NOH.

Consent

The Registrant agrees that he did not obtain informed consent, verbal or written, from the patient to administer IVIT or inhalation therapy or to prescribe Vitamin D over 1,000 IU as they failed to advise patients that they were not authorized to engage in such acts. Paragraphs 23 and 24 of

the ASF establish that the Registrant failed in these acts. These facts establish the allegations set out in paragraphs 12 and 13 and the allegations of professional misconduct set out in paragraphs 18 (a), (c), (d), (e) and (h) and 19 of the NOH.

Advertising

This allegation relates to the Registrant posting unauthorized material on their website. Paragraph 25 of the ASF establishes that the Registrant posted and permitted posting on the Clinic website that they were authorized to administer substances by inhalation. These facts establish the allegation set out in paragraph 14 and the allegations of professional misconduct set out in paragraph 18 (a) and (g) of the NOH.

Record Keeping

This allegation relates to the Registrant's lack of appropriate records in patient files. Paragraph 26 of the ASF establishes that the Registrant failed to include necessary information in his patient records. These facts establish the allegation set out in paragraph 17 and the allegations of professional misconduct set out in paragraph 18 (a) and (f) of the NOH.

Standards and Guidelines

The ASF established in paragraphs 27 and 28 that the Registrant failed to adhere to the standards of the profession relating to core competencies, advertising, consent, inhalation, performing authorized acts, prescribing, record keeping and scope of practice, as well as standards set out in the General Regulation relating to performance of controlled acts. These facts establish the allegations set out in paragraphs and the allegations of professional misconduct set out in paragraphs 18 (a), (h), (i) and (j) and 19 of the NOH.

Acts of Professional Misconduct

The forgoing facts and admissions in paragraphs 29 and 30 of the ASF established that the Registrant engaged in the acts of professional misconduct alleged in paragraphs 18 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and 19 of the NOH.

POSITION OF THE PARTIES ON PENALTY AND COSTS

The parties made a joint submission as to an appropriate order for penalty and costs (the "Proposed Order"), which was filed as Exhibit 3 and included the following:

The College and the Registrant agree and jointly submit that the Discipline Committee make an order:

1. Requiring the Registrant to appear before the Panel to be reprimanded immediately

following the hearing of this matter.

2. Directing the Chief Executive Officer to suspend the Registrant's certificate of registration for a period of twelve (12) months, to commence December 10, 2022, four (4) months of which shall be remitted if the Registrant complies with the provisions of paragraphs 3(a) through 3(d) no later than August 9, 2023.
3. Directing the Chief Executive Officer to impose the following specified terms, conditions and limitations on the Registrant's certificate of registration, all of which shall be at the expense of the Registrant, to the satisfaction of the Chief Executive Officer, prior to February 29, 2024:
 - a. Requiring that the Registrant unconditionally pass the PROBE ethics course;
 - b. Requiring that the Registrant review the College's advertising resources, including:
 - i. Standard of Practice;
 - ii. Guideline for Advertising;
 - iii. Professional Misconduct Regulation;
 - iv. Advertising Do's and Don'ts; and
 - v. Social Media Tips;
 - c. Requiring that the Registrant meet with a Regulatory Expert selected by the College a minimum of one (1) and a maximum of three (3) times, at the discretion of the Regulatory Expert, to discuss the Registrant's completion of paragraphs 3(a) and (b) and the Decision and Reasons of the Discipline Committee;
 - i. The Registrant shall undertake to have the Regulatory Expert deliver a report to the Chief Executive Officer, that is deemed to be satisfactory to the Chief Executive Officer, setting out the Regulatory Expert's opinion as to whether the Registrant has developed insight into the Discipline Committee's findings and whether the Registrant will incorporate the learnings of paragraphs 3(a) and (b) into his practice, within one month of the final meeting or at any other time that the Regulatory Expert feels is appropriate;
 - d. Requiring that the Registrant prepare an essay, to the satisfaction of the Chief Executive Officer, that sets out what the Registrant has learned from items 3(a) through 3(c) above and how he has and/or will implement his learnings into practice.
4. Requiring the Registrant to pay a fine of \$500 to the Minister of Finance, within two (2) months of the date of the hearing of this matter.
5. Requiring the Registrant to pay the College's costs fixed in the amount of \$6,000 on a schedule to be set by the Chief Executive Officer.
6. The Registrant acknowledges that this Joint Submission as to Penalty and Costs is not binding upon the Discipline Committee.

7. The Registrant acknowledges and understands that he is executing this document voluntarily, unequivocally, free of duress, free of bribe, and that he has been advised of his right to seek legal advice.

DECISION AND REASONS ON PENALTY AND COSTS

The Panel accepted the Proposed Order, finding it to be in the public interest, proportionate to the misconduct and consistent with previous orders of this Discipline Committee in cases involving similar misconduct.

In accepting the Proposed Order, the Panel was mindful that a penalty should, first and foremost, achieve the goal of public protection, while also accounting for other generally established sanctioning principles, which this joint submission would achieve. As such, the Panel found no reason to depart from the Proposed Order, accepting the College's argument that joint submissions should not be interfered with lightly and may be rejected only if accepting it would be contrary to the public interest or bring the administration of justice into disrepute.

The Panel found that the proposed penalty achieves public protection by temporarily removing the Registrant from practice so that he can reflect on the consequences of his misconduct and refine his understanding of the College's expectations, through completion of additional training.

The Panel was also satisfied that a reprimand and a 12 month suspension would discourage the Registrant and other registrants from engaging in similar misconduct, and demonstrate to the public that this Committee takes such conduct seriously and will sanction practitioners who engage in such conduct accordingly, including with a temporary removal from practice.

The suspension, in combination with a reprimand and the required extensive continuing education (including completion of the PROBE ethics course, a review of the College's advertising resources, meeting with a regulatory expert and preparation of an essay), would achieve remediation and specific deterrence by affording the Registrant an opportunity to improve his understanding of the College's standards and the fact that they are in place to protect the public, which should discourage similar misconduct when he returns to practice. The proposed courses were appropriate to remediate the misconduct given their focus on professional standards and guidelines. The requirement for additional training and remediation would promote public confidence in the College's ability to regulate the profession and to ensure that registrants adhere to established standards of practice.

The Panel accepted the Proposed Order as being proportionate to the severity of the misconduct, while also reflecting aggravating and mitigating factors present in this case.

The following mitigating factors were considered:

- a) the Registrant's cooperation with the College throughout the investigation and prosecution of the allegations, which saved the College the time and expense of a

- contested hearing; and
- b) the Registrant's acceptance of responsibility, signaled by his admitting to the conduct and entering into a joint submission with respect to penalty. This indicated that he was serious about returning to practice in an ethical manner and committed to improving his practice.

Among the aggravating factors considered were the nature of the conduct itself, and the fact that members of the public could have been harmed by the Registrant's conduct.

The Panel also noted the Registrant's absence of a prior discipline history.

The Proposed Order was within the range of penalties that have previously been ordered by this Discipline Committee for similar conduct.

With respect to costs, the Panel accepted that it has the authority to award costs under section 53.1 of the Code to ensure that the entire financial burden of investigating and prosecuting registrants who engage in professional misconduct does not rest on the general membership of this profession. The proposed amount of \$6,000 appropriately reflected the Registrant's cooperation through the investigation and prosecution of this matter. It also fell within the range of costs awarded by previous panels in similar matters.

ORDER

The Panel stated its findings in its written order of November 8, 2022 (the "Order"), in which the Panel directed as follows on the matter of penalty and costs:

1. Requiring the Registrant to appear before the Panel to be reprimanded immediately following the hearing of this matter.
2. Directing the Chief Executive Officer to suspend the Registrant's certificate of registration for a period of twelve (12) months, to commence December 10, 2022, four (4) months of which shall be remitted if the Registrant complies with the provisions of paragraphs 3(a) through 3(d) no later than August 9, 2023.
3. Directing the Chief Executive Officer to impose the following specified terms, conditions and limitations on the Registrant's certificate of registration, all of which shall be at the expense of the Registrant, to the satisfaction of the Chief Executive Officer, prior to February 29, 2024:
 - a. Requiring that the Registrant unconditionally pass the PROBE ethics course;
 - b. Requiring that the Registrant review the College's advertising resources, including:
 - i. Standard of Practice;
 - ii. Guideline for Advertising;
 - iii. Professional Misconduct Regulation;
 - iv. Advertising Do's and Don'ts; and

- v. Social Media Tips;
 - c. Requiring that the Registrant meet with a Regulatory Expert selected by the College a minimum of one (1) and a maximum of three (3) times, at the discretion of the Regulatory Expert, to discuss the Registrant's completion of paragraphs 3(a) and (b) and the Decision and Reasons of the Discipline Committee;
 - i. The Registrant shall undertake to have the Regulatory Expert deliver a report to the Chief Executive Officer, that is deemed to be satisfactory to the Chief Executive Officer, setting out the Regulatory Expert's opinion as to whether the Registrant has developed insight into the Discipline Committee's findings and whether the Registrant will incorporate the learnings of paragraphs 3(a) and (b) into his practice, within one month of the final meeting or at any other time that the Regulatory Expert feels is appropriate;
 - d. Requiring that the Registrant prepare an essay, to the satisfaction of the Chief Executive Officer, that sets out what the Registrant has learned from items 3(a) through 3(c) above and how he has and/or will implement his learnings into practice.
4. Requiring the Registrant to pay a fine of \$500 to the Minister of Finance, within two (2) months of the date of the hearing of this matter.
5. Requiring the Registrant to pay the College's costs fixed in the amount of \$6,000 on a schedule to be set by the Chief Executive Officer.

Dated in Ontario on February 13, 2023

DISCIPLINE PANEL

Dr. Jacob Scheer, ND – Chair, professional member
Lisa Fenton - public member
Paul Phillion - public member
Dean Catherwood - public member



Signed: _____
Dr. Jacob Scheer, ND, Chair