

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

PANEL: Dr. Jordan Sokoloski, ND, Chair  
Dr. Denis Marier, ND  
Ms. Lisa Fenton, Public Member

BETWEEN:

COLLEGE OF NATUROPATHS OF ONTARIO	) REBECCA DURCAN and
	) JUSTINE WONG for the College of
- and -	) Naturopaths of Ontario
	)
	)
MICHAEL UM	) URI KOGAN for the Member
	)
	)
	) LUISA RITACCA, Independent
	) Legal Counsel
	)
	) Heard: March 25, and 31, 2025

**DECISION AND REASONS ON REGISTRANT’S MOTION &  
DECISION AND REASONS ON PENALTY AND COSTS**

After an eight-day hearing, which took place between January and September 2024, on November 14, 2024, this Panel released its Reasons for Decision, wherein it found that Dr. Um, ND (“the Registrant”) engaged in professional misconduct in several different ways. Among other things, this Panel found that the Registrant contravened the standards of practice of the profession, recommended or provided treatment that he knew or ought to have known was unnecessary or ineffective, and provided or offered services that he knew or ought to have known were beyond his knowledge, skill or judgement.

In addition, in our Reasons for Decision, this Panel addressed several motions the Registrant brought at the outset of the hearing. In brief, the Registrant argued that the College breached his rights under sections 7, 8, and 11 of the Charter and further argued that the Appointment of

Investigator, dated October 7, 2019, was “*ultra vires*”. The Panel denied the Registrant’s motions. Our reasons for doing so are set out in the body of our Reasons for Decision.

Following the release of our Reasons for Decision, the parties were invited to schedule a further hearing to address the issue of penalty and costs. Shortly after the release of our Reasons for Decision, the Registrant, through his paralegal, served two Notices of Motion (marked Exhibit 64 and 65, respectively). In one motion, the Registrant raised concerns of a reasonable apprehension of bias on the basis that: (1) the Panel appeared to not be paying attention at the hearing; (2) the Panel issued a decision which appears to be copied from another decision without actual consideration of this Panel, thus it appears that this Panel did not exercise its own independent decision making; (3) the Panel repeatedly misapprehended evidence and submissions beneficial to the Registrant; and (4) the Panel issued a decision which does not provide adequate reasons. The Registrant argued that as a result of the Panel’s conduct there was a reasonable apprehension of bias raised, such that the full Panel ought to be recused from taking any further part in this matter.

In his other motion, the Registrant argued that the Panel made findings “in excess of its jurisdiction on multiple points” such that the decision should be declared a nullity and the proceedings stayed.

At the direction of the Chair of this Panel, the parties were advised that the Panel would consider the Registrant’s motions, together with the parties’ submissions on penalty and costs on the resumption of the hearing. The Chair directed the parties as to the order of the hearing of the submissions. The Registrant did not dispute the order of the proceedings.

The Registrants’ motions and the parties’ submissions on penalty and costs were heard on March 25 and 31, 2025. The Panel reserved its decision on the motions and on the issue of penalty and costs.

Below, we set out our decision and reasons. In Part I, we address the Registrant’s motions and in Part II we address penalty and costs.

## Part I – The Registrant’s Motions

### *Motion #1 – Reasonable Apprehension of Bias*

#### *The Law*

The test for reasonable apprehension of bias is well established: “the apprehension of bias must be a reasonable one, held by a reasonably informed person with knowledge of the relevant circumstances. The question to be answered is ‘what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude.’”<sup>1</sup>

The obligation to approach a decision free from bias is an element of the duty of procedural fairness, and thus applies to administrative decision-makers, like this Panel.<sup>2</sup> There is a strong presumption of impartiality on the part of the decision-maker. Consequently, the threshold for establishing a reasonable apprehension of bias is high and requires “substantial grounds.”<sup>3</sup>

The obligation to avoid a reasonable apprehension of bias includes the decision-maker’s duty to consider matters before it impartially and with an open mind. “It is not sufficient that the decision-maker be impartial in his or her own mind, internally, to the satisfaction of his or her own conscience. It is also necessary that the decision-maker appear impartial in the objective view of a reasonable and well-informed observer.”<sup>4</sup>

The test for reasonable apprehension of bias and the issue before us on this motion is to consider “whether reasonable people, having informed themselves of the facts and thought the matter through in a practical manner, would conclude that there is a real likelihood” we prejudged the allegations and the matter involving the Registrant that was before us in the first phase of this hearing.<sup>5</sup>

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<sup>1</sup> *Exeter v. Canada (Attorney General)*, 2012 FCA 119, at para. 16, citing *Committee for Justice & Liberty v. Canada (National Energy Board)*, [1978] 1 S.C.R. 369, at 394.

<sup>2</sup> *Newfoundland Telephone Co. v. Newfoundland (Public Utilities Board)*, [1992] 1 S.C.R. 623, at para. 22.

<sup>3</sup> *Ontario Provincial Police Commissioner v. MacDonald*, 2009 ONCA 805, at para. 44.  
*Exeter v. Canada (Attorney General)*, 2012 FCA 119, at para. 16.

<sup>4</sup> *Imperial Oil Ltd. v. Quebec (Minister of the Environment)*, 2003 SCC 58, at para. 28.

<sup>5</sup> *Taylor v. Canada (Attorney General)*, 2003 FCA 55, at para. 92; see also *Northshield Asset Management (Canada) Ltd., Re.*, 2011 ONSC 4685, at para. 26.

The Panel accepts that if its conduct during the hearing or if its Reasons for Decision reveal a reasonable apprehension of bias, each member of the Panel must be recused, which would mean that the Panel could not render a decision on penalty and costs.

Below, we have attempted to address each of the examples the Registrant has raised in support of his motion.

### ***Preliminary Comment***

The Panel notes that a significant complaint raised by the Registrant in support of his motion is that the decision and reasons released by this Panel uses similar language as is found in a decision from another panel, released on November 7, 2024. That decision was made about Dr. Michael Prytula, ND, the Registrant's colleague. At the material times, the Registrant and Dr. Prytula, ND practiced together at the same Clinic (described in our Reasons for Decision) and were both responsible for the Clinic's website. As we understand it, the allegations against Dr. Prytula, ND were nearly identical to the allegations made against the Registrant. Dr. Prytula, ND was represented at his hearing by the same paralegal who represented the Registrant before us, and we now understand that Dr. Prytula, ND, brought virtually the same motions on his hearing as Dr. Um, ND did on his hearing. In addition, we note that during the Registrant's hearing, his paralegal filed transcripts from Dr. Prytula, ND's hearing and called Dr. Prytula, ND to testify. We now understand that this led to a significant overlap in the evidence presented at both hearings, as well as overlap with respect to the parties' submissions on the various legal issues raised. We also note that College counsel was the same for both hearings, as was independent legal counsel, who provided editing assistance to the Panel during the decision writing process.

However, contrary to the suggestion made by the Registrant's paralegal throughout his submissions, this Panel did not have access to the decision released in Dr. Prytula ND's case prior to receiving a copy of it on this motion. This Panel has never seen any of the materials filed exclusively in Dr. Prytula ND's case and is not familiar with the evidence presented there, except for the excerpts of the evidence shared by the Registrant's paralegal in the course of this hearing.

*#1 Panel Appears to not pay attention at the hearing*

On January 26, 2024, on the third day of the hearing and during the cross-examination of the College CEO and Registrar, Andrew Parr, the Panel Chair, stated: “I’m not clear what you are referring to in the last 10 minutes of Mr. Parr’s testimony yesterday regarding cancer as well, I don’t recall that.” The Registrant’s paralegal then confirmed that there had been earlier testimony on the issue.

The Registrant argues that the comment by the Panel Chair revealed that he was not paying attention to the issues in the hearing, as he was unable to recall testimony from the previous day. The Registrant points to this incident as evidence of conduct giving rise to a reasonable apprehension of bias.

The Panel rejects this suggestion. First, there was no concern raised at the time of the hearing regarding the Panel Chair’s comment. Second, the Panel does not agree that the Chair’s comment suggests that he was not “paying attention”. The Chair simply noted that at that moment he could not recall whether the subject of cancer had been discussed with the witness earlier. The Panel members take notes, and they have access to the transcripts, should they require them. It is unreasonable to suggest that unless a decision-maker can recall (without reference to their notes) precisely every question asked and answered during a two-day examination that it must mean the decision-maker is not paying attention. In fact, the Chair’s interjection made clear that he was paying attention and that he was trying to ensure that he was following the Registrant’s paralegal’s line of questions. We are not satisfied that an observer considering this matter objectively would find the Chair’s interjection to give rise to a reasonable apprehension of bias.

*#2 Both this Panel and the Panel in Dr. Prytula’s matter made the same or similar errors of law and/or fact*

In his written submissions, the Registrant raises several instances where he argues that both this Panel and the Panel in Dr. Prytula’s matter made the same or similar errors in their assessment of the law, the facts or in their understanding of the Registrant’s position. For example, the Registrant points to the fact that both panels treated the Standards of Practice of this College as binding on him and Dr. Prytula, ND without stating any authority for the conclusion. Similarly,

the Registrant argues that both panels misapprehended or misrepresented the law, and arguments advanced in support of the section 11 motions that were brought in both proceedings.

With respect, the Registrant's submission in this regard amounts to an attack on the Panel's decision itself. The Registrant is free to disagree with the Panel's findings on both issues relating to the merits (i.e. the applicability of the Standards of Practice) and on the motions (i.e. whether s. 11 of the Charter applies to these proceedings). The fact that the Panel in Dr. Prytula ND's matter reached the same or similar conclusions on these issues does not mean that this Panel did not reach its own decision based on the evidence filed and the submissions presented. We note further, as was discussed in our Reasons for Decision, section 3(1) of the General Regulation, promulgated under the *Naturopathy Act*, provides specific standards and requirements for several of the authorized controlled acts allowed for members of the profession. The Registrant's suggestion that this Panel misapprehended or erred in concluding that the College's standards applied to him is not reasonable.

*#3 Both this Panel and the other Panel mischaracterized/alterd the position of the Registrant regarding the scope of practice for naturopaths*

The Registrant argues that both panels failed to correctly state the position of the Registrant and Dr. Prytula, ND, respectively with regard to the relevant scope of practice. As we understand the Registrant's argument, he suggests that this Panel was wrong to conclude that he "agreed" or "admitted" that treating cancer is out of scope for naturopaths in Ontario. The Registrant further argues that this error by the Panel – which he says is the same error made by the panel in the Dr. Prytula, ND matter – reveals that this Panel was improperly influenced by the other panel, such that their conduct gives rise to a reasonable apprehension of bias.

We do not agree. A reasonably informed person, viewing this matter objectively, would determine that it was open for this Panel to conclude that the Registrant made certain admissions. We say this for several reasons:

- In cross-examination, Dr. Um, ND said that he agreed that he was not allowed to treat or say that he could "cure" cancer.
- Further, Dr. Um, ND agreed that the College has not approved any formal training for the treatment of cancer.

- In its closing submissions, at paragraph 155, point 7(a), the College noted that the Registrant admitted that the treatment of cancer is outside of the scope of the profession.
- Further, in its closing submissions, from paragraphs 145 through to 151, the College highlighted several admissions made by the Registrant regarding the treatment of cancer.

It is certainly open to the Registrant to argue that the Panel misapprehended the evidence, but even if that were true, that does not give rise to a reasonable apprehension of bias. We are not aware of the admissions – if any – made by Dr. Prytula, ND during his hearing, however, we do note that during his testimony before us, Dr. Prytula, ND, acknowledged that “we do not have the qualifications, nor are we allowed by the regulator” to diagnose cancer, and that “we do not treat cancer”, but do offer treatments for the “mechanisms that cause cancer”.

*#4 Both this Panel and the Panel in the Dr. Prytula, ND matter misapprehended their arguments regarding the effect of the Pastoral Medical Association (PMA)*

Similar to his argument regarding the findings that there were admissions regarding the treatment of cancer, the Registrant appears to argue that both panels misapprehended the registrants’ arguments regarding the effect of their PMA contracts. The Registrant’s paralegal suggests that regardless of the evidence provided by the Registrant, the Panel erred and revealed a bias, in not accepting the legal submissions made by the paralegal and instead accepting the evidence of the Registrant himself.

This Panel does not agree that its findings in relation to the PMA contracts give rise to a reasonable apprehension of bias. We are not aware of the evidence before the other panel, however, we note that there was ample evidence before us to support our conclusion that the Registrant believed that he could offer services to patients, outside of the regulatory structure of the College, if they joined the PMA. For example, we note:

- The Registrant conceded that his Clinic website advised the public that if they joined the PMA, they would enjoy certain privileges, including the ability to provide services outside of the services allowed by the College;
- The Registrant admitted that he told patients that if they became members of the PMA, the College and the Ministry of Health could not access their files;
- The Registrant admitted that he believed membership in the PMA permits him to administer controlled acts that he is not permitted to do as a naturopath in Ontario.

The Registrant may not agree with our findings and is free to seek to appeal our decision. Even if the Panel erred in its conclusions regarding the PMA and the Registrant's admissions, such an error does not give rise to a reasonable apprehension of bias.

*#5 The Registrant argues that the Panel used language in its decision that is the same or similar to the language used by the other panel in the Dr. Prytula, ND's matter*

The Registrant points to a few instances where it appears that this Panel used language in its decision that is similar to the language used by the panel in Dr. Prytula, ND's matter. He says this demonstrates that this Panel simply copied the decision of the other panel, instead of undertaking its own consideration of the evidence and arguments. In turn, the Registrant argues that this conduct gives rise to a reasonable apprehension of bias.

The Panel does not agree that a reasonable person viewing this matter objectively would conclude that the Reasons for Decision released by this Panel gives rise to a reasonable apprehension of bias. We have now had the benefit of reviewing the decision released by the other panel in the Dr. Prytula, ND matter. It is clear from that decision that much of the evidence and legal arguments presented to that panel was virtually the same as the evidence and arguments raised before us. As noted above, Dr. Prytula, ND testified in both proceedings, as did Andrew Parr, and the investigator, Dean Benard, among others. The Registrant's paralegal (who is also Dr. Prytula ND's representative) brought identical motions in both proceedings and as a result, College counsel appears to have made similar arguments in response to those motions. In the circumstances, we are not satisfied that the Registrant has established on substantial grounds that a reasonable person, having informed themselves of the facts and thought the matter through in a practical manner, would conclude that there is a real likelihood that this Panel prejudged the allegations against the Registrant during the first phase of this hearing or that we did so during our deliberations and reasons-writing phase.

Most of the examples of similar language that the Registrant complains about can be found in submissions filed by the parties in this hearing on the argument of the motions and in closing submissions. Again, this Panel does not know if the same or similar submissions were filed in Dr. Prytula, ND's hearing, however that may explain why some of the language in the two decisions are similar. For example, the Registrant points to the following paragraph in this Panel's decision:



“Further, the Registrant offered or provided treatment that he knew or ought to have known was unnecessary or ineffective. The Registrant offered treatment for cancer, which is outside of the scope of practice and therefore unnecessary and/or ineffective. While the Registrant may be trained to offer certain treatments for cancer in other jurisdictions, he is not allowed to do so in Ontario and therefore is not qualified here with the necessary skill or judgment. For this reason, the Panel finds that the Registrant provided or attempted to provide treatment beyond his knowledge, skill or judgment”

The Registrant argues that virtually the same paragraph is found in the Dr. Prytula ND reasons for decision. The Panel notes that the allegation contained in this paragraph was the subject of much evidence and submission during the hearing. This same language is referred to in the Notice of Hearing setting out the allegations against Dr. Um, ND, at paragraphs 7 and 8(b). Also, this allegation, using the same language, is found at paragraph 181 of the College’s Closing Submissions. The Registrant points to the fact that there appears to be a suggestion in this paragraph that the Panel believed that the Registrant was trained or registered in other jurisdictions. However, with respect, that is not what the paragraph says. The paragraph simply suggests that the Registrant “may be trained” elsewhere. The Panel does not make any finding of fact in that regard.

The Registrant complains that elsewhere in the Panel’s decision there is reference to the fact that Mr. Benard (the investigator) denied that he “threatened” the Registrant with “violence or arrest” during his interaction with Dr. Prytula, ND. The Registrant says that this same description of Mr. Benard’s evidence is found in the other panel’s reasons for decision and says further that the description does not accurately reflect Mr. Benard’s evidence. In support of this argument, the Registrant relies on an email from Mr. Benard, which was filed into evidence, where Mr. Benard says that his “mention of possible arrest is a tactic to gain cooperation”. Despite the Registrant’s argument, the Panel notes that its statement about Mr. Benard’s evidence is not inconsistent with the statement in the email. The Panel accepted Mr. Benard’s evidence that he did not “*threaten*” the Registrant or Dr. Prytula, ND with “violence or arrest”. This is consistent with the submission made by the College in its Responding Factum (Charter, section 8 Motion), at paragraph 22. The Registrant is free to disagree with the Panel’s factual findings, however, the Panel is not satisfied that this example would cause concern to a reasonably informed person.

The Registrant alleges further that the Panel concluded that he “admitted to performing controlled acts that he is not authorized to perform and further admitted to compounding

blood/plasma EDTA...” He says that the same statement is found in the reasons for decision in the Dr. Prytula ND matter. He says the statement is incorrect because while he admitted to performing some of the controlled acts, he did not admit to performing all of those listed. The Panel reached this decision based on the information before it, including the summary provided by the College, at paragraph 155, section 5(c), of its Written Closing, as well as the evidence provided by Dr. Um, ND in response to questions asked by the Panel regarding the process he undertakes in performing 10-pass ozone therapy. Again, the Panel is not satisfied that a reasonable, well-informed person, viewing this matter objectively, would conclude that the Panel’s actions give rise to an apprehension of bias.

We wish to address two additional concerns raised by the Registrant’s paralegal in his submissions. First, the Registrant takes issue with the fact that both this Panel and the panel in the Dr. Prytula, ND matter concluded that the words “killing cancer cells” as found on the Clinic website, were unclear and could be confusing to the public. The Registrant argues that there was no expert evidence before this Panel or the other panel to confirm or refute a claim that the therapies described on the website kill cancer cells. The Registrant is free to dispute the Panel’s findings regarding the clarity of his Clinic’s website, however, the Panel is not satisfied that our finding would reasonably give rise to an apprehension of bias. The Panel had access to the website, was presented with all the materials linked to the website and formed the conclusion that the information could be confusing and misleading. An appellate court may well find that the Panel’s conclusion was wrong or not supported by evidence, but such an error (if one is found to exist) does not give rise to an apprehension of bias.

Second, the Registrant argues that this Panel’s rejection of his argument that the allegations against him were vague and/or overly broad was in error and again evidence of the Panel having simply adopted the same finding as was made by the panel in the Dr. Prytula, ND matter. The Panel rejected the Registrant’s argument after receiving his paralegal’s submissions and considering all the circumstances. The Registrant disagrees with the rejection of his argument, but he has not established that the rejection of the argument would give rise to an apprehension of bias. Further, the Registrant takes issue with the fact that both panels used the phrase “the Panel finds that the Registrant engaged in professional misconduct as alleged in the Notice of Hearing”. The Panel is not persuaded that the decision it made regarding the Registrant’s arguments on vagueness and overbreadth, or the use of the phrase set out above would

reasonably give rise to an apprehension of bias. The phrase complained of is commonly used by Discipline Committee panels to describe their decision.

Ultimately, having considered the Registrant's allegations of apprehension of bias and the application of the legal test, the Panel is not persuaded by any of the arguments raised that its conduct during the hearing or its reasons for decision amount to "substantive evidence" that could give rise to a reasonable apprehension of bias. The Registrant does not agree with our factual or legal findings. It is his right to pursue relief through the appellant process as set out in the governing legislation. As such, the Registrant's motion for recusal because of a reasonable apprehension of bias is dismissed.

### ***Motion #2 – The Proceedings are a Nullity because of Excess Jurisdiction***

In his second motion, the Registrant relies on all the same arguments he made in support of his motions during the first phase of this hearing and the same arguments he raised in the motion described above to argue that the Panel made findings in excess of our jurisdiction on "multiple points".

With respect, the arguments raised by the Registrant are repetitive and appear to be an attempt by the Registrant to reargue submissions he made at earlier stages of these proceedings. As set out above, the Registrant has a right of appeal and if he believes that this Panel erred in its findings – including its findings regarding the treatment of cancer by naturopaths, the College's standards of practice, or with respect to the Registrant's complaints about the Notice of Hearing – he can appeal the decision.

The Panel is not persuaded by the written submissions filed or by the oral submissions made that there are any grounds to support a request for a stay of proceedings.

### **Correcting an Error**

At the outset of the hearing of the Registrant's motions, the Panel was advised that it had made one finding in its Reasons for Decision in error. The Panel mistakenly concluded that the Registrant contravened, among other standards of practice, the Compounding Standard of Practice. We correct our error here and would ask that the parties ensure that the error is not repeated in the draft order provided at the end of these proceedings.

The parties also raised a concern regarding the comment made by the Panel about the possibility of the Registrant being allowed to perform treatments in another jurisdiction. We have dealt with this concern above.

## **Part II– Penalty and Costs**

Having denied the Registrant’s motions, the Panel has gone on to consider the question of penalty and costs.

### ***The Panel’s Jurisdiction***

Section 50(2) of the *Health Professions Procedural Code* (the “Code”) provides in part that where a panel of the Discipline Committee finds a Registrant has committed an act of professional misconduct, it may direct the Registrar to, among other things:

- Revoke the registrant’s certificate of registration;
- Suspend the registrant’s certificate of registration for a specified period of time;
- Direct the CEO to impose specified terms, conditions and limitations on the registrant’s certificate of registration for a specified or indefinite period of time; and
- Require the registrant to appear before the panel to be reprimanded.

With respect to costs, section 53.1 of the Code provides, in part, that in an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act or acts of professional misconduct to pay all or part of the College’s legal costs and expenses, costs and expenses incurred in investigating the matter, and/or costs and expenses incurred in conducting the hearing.

### ***Overview***

In reaching its decision with respect to an appropriate penalty, the Panel considered the written submissions of the parties, the parties’ oral submissions presented during the penalty and costs hearing, as well as the Reasons for Decision for the hearing on the merits.

The Panel also considered the basic principles relating to the imposition of penalties. The goal of a penalty is to protect the public from naturopaths who have committed professional misconduct and to maintain public confidence in the profession and in its ability to self-regulate. A penalty must serve as a measure of general deterrence, in that it sends a message to all registrants of the profession that this type of conduct will not and cannot be tolerated. It must also serve as a

measure of specific deterrence with respect to the individual naturopath concerned. An appropriate penalty should also provide for remediation or rehabilitation of the naturopath concerned, where possible and appropriate. Lastly, the Panel must consider both mitigating and aggravating factors when assessing the appropriateness of the penalty in the circumstances.

With respect to costs, the Panel considered first whether an order for costs was appropriate in the circumstances of the case and if so whether the amount sought by the College was appropriate or whether some other amount was more appropriate. The Panel understands that cost awards are not intended to be punitive. Rather, they are intended to indemnify the College for costs it has incurred as a result of a registrant's misconduct.<sup>6</sup>

### ***The College's Position on Penalty and Costs***

The College seeks an order that includes

- a. Requiring the Registrant to appear before the discipline Panel to receive a reprimand immediately following the conclusion of the hearing;
- b. Directing the Chief Executive Officer (CEO) to suspend the Registrant's certificate of registration for eighteen months, to commence one month after the date of the order, four months of which shall be remitted if the Registrant complies with the provisions in subparagraph 3(d) below, no later than twelve months from the date of the order;
- c. Directing the CEO to impose the following specified terms, conditions and limitations ("TCLs") on the Registrant's certificate of registration indefinitely and all of which the Registrant shall complete at the Registrant's expense and to the CEO's satisfaction:
  - i. The Registrant shall not perform, delegate, or accept a delegation (except in accordance with Part III of the General Regulation, O. Reg. 168/15) of the authorized act of administering, by injection or inhalation, a prescribed substance on any person unless the substance is specified in Tables 1 or 2 of the General Regulation made under the Naturopathy Act, 2007;
  - ii. The Registrant shall not perform, delegate, or accept a delegation (except in accordance with Part III of the General Regulation, O. Reg. 168/15) of the authorized act of administering, by injection or inhalation, a prescribed substance on any person unless the route of administration is specified in Tables 1 or 2 of the General Regulation made under the Naturopathy Act, 2007;
  - iii. The Registrant shall not perform, delegate, or accept a delegation (except in accordance with Part III of the General Regulation, O. Reg. 168/15) of the authorized act of prescribing, dispensing, compounding or selling a drug designation in the regulation to any person unless the drug is specified and in

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<sup>6</sup> *Reid v College of Chiropractors of Ontario*, 2016 ONSC 1041 (CanLII), aff'd 2016 ONCA 779

compliance with any limitations listed on Tables 3, 4, 5, or 6 of the General Regulation made under the Naturopathy Act, 2007;

- iv. The Registrant shall not recommend any product to any person unless the product has been approved by Health Canada for patient use and does not contain any restriction (e.g., for research purposes, etc.);
- v. The Registrant shall ensure that no injections to any person, other than injections using substances, in accordance with the limitations, specified in Table 2 of the General Regulation made under the Naturopathy Act, 2007, are advertised by the Registrant and/or his clinic;
- vi. The Registrant shall post a sign, acceptable to the College, in a prominent and visible location in the waiting room and each of the examination/treatment rooms of the Registrant's place(s) of practice, and on the Registrant's professional website, that states that:
  - 1. The Registrant is not authorized to perform, delegate, or accept delegation (except in accordance with Part III of the General Regulation, O. Reg. 168/15) for the controlled act of administering a substance by injection to any person, other than a substance, in accordance with the limitations, specified in Table 2 of the General Regulation made under the Naturopathy Act, 2007; and
  - 2. The Registrant shall ensure that every patient he treats or offers to treat, sign a form, acceptable to the College, confirming that they are made aware that the Registrant is not authorized to perform, delegate or accept delegation (except in accordance with Part III of the General Regulation, O. Reg. 168/15) for the controlled acts of administering a substance by injection to any person, other than a substance, in accordance with the limitations, specified in Table 2 of the General Regulation made under the Naturopathy Act, 2007;
- d. Directing the CEO to impose the following specified TCLs on the Registrant's certificate of registration, all of which the Registrant shall complete at the Registrant's expense and to the CEO's satisfaction within twelve months of the date of the order:
  - i. Requiring the Registrant to unconditionally pass the PROBE ethics course;
  - ii. Requiring the Registrant to successfully complete the College's Jurisprudence course;
  - iii. Requiring the Registrant to review, and confirm same with the CEO, the following:
    - 1. All standards of practice (as set out in the General Regulation, O. Reg. 168/15, and issued by the College) that were determined to have been contravened by the Discipline Committee;
    - 2. All College guidelines related to the above noted standards of practice; and
    - 3. Professional Misconduct Regulation (O. Reg. 17/14);
  - iv. Requiring the Registrant to meet and cooperate with a Regulatory Expert selected by the College for a minimum of one and a maximum of three

times, at the discretion of the Regulatory Expert, to discuss the Registrant's completion of subparagraphs 3(d)(i) through 3(d)(iii) above and the Decision and Reasons of the Discipline Committee:

1. The Registrant shall undertake to have the Regulatory Expert deliver a report to the CEO, that is deemed to be satisfactory to the CEO, 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 learnings from the hearing and subparagraphs 3(d)(i) through 3(d)(iii) above into his practice, within one month of the final meeting or at any other time that the Regulatory Expert feels is appropriate; and
- v. Requiring the Registrant to send a letter, subject to the approval of the CEO, to all clients of the Registrant who were/are members of the Pastoral Medical Association (PMA), that states:
  1. The Registrant erred in advising that:
    - a. The College could not access PMA member records; and
    - b. The Registrant was authorized to provide the services provided to them pursuant to the PMA agreement;
  2. The Registrant has been found to have engaged in professional misconduct; and
  3. Neither the Registrant nor his clinic will be providing the unauthorized services on a go forward basis;
- e. Directing the CEO to impose the following specified TCLs on the Registrant's certificate of registration, all of which the Registrant shall complete at the Registrant's expense and to the CEO's satisfaction, and shall commence once the Registrant completes his suspension as set out in subparagraph 3(b) and shall continue indefinitely until the Practice Monitor and the CEO determine that the TCLs in subparagraph 3(c) above are no longer required:
  - i. Requiring the Registrant to meet and cooperate with a Practice Monitor selected by the College, for a minimum of one and a maximum of three times every two months, at the discretion of the Practice Monitor, to allow the Practice Monitor to inspect and observe the Registrant's clinic, clinic website, client charts and the Registrant's interaction with clients in light of the findings made by and the reasons issued by the Discipline Committee:
    1. The Registrant shall undertake to have the Practice Monitor deliver a report to the CEO, that is deemed acceptable by the CEO, after each visit setting out:
      - a. The Practice Monitor's opinion as to whether the Registrant is:
        - i. Complying with the findings of the Discipline Committee; and

- ii. Complying with the TCLs as set out in subparagraph 3(c);
- b. A summary of the client charts reviewed; and
- c. Any recommendations provided to the Registrant and whether the Registrant implemented such recommendations.

The College argues that its proposed penalty order is appropriate as it meets the four principles of sanctioning, namely (1) maintenance of public confidence; (2) remediation; (3) specific deterrence; and (4) general deterrence. In addition, the College argues that the proposed penalty addresses the aggravating and mitigating factors in this case, as well it is consistent with prior decisions and proportional in all the circumstances.

With respect in particular to the mitigating and aggravating factors in this case, the College submits that it is a mitigating factor that the Registrant made a number of admissions in the course of the hearing, including admissions related to providing treatments he was not authorized to provide as a naturopath. As for aggravating factors, the College argues that the nature and scope of the conduct itself is an aggravating factor. He engaged in very serious misconduct repeatedly, since July 1, 2015, over an extensive period. The College argues that this resulted in an increased risk to the public.

With respect to the other penalty considerations, the College argues:

1. **Public Confidence:** The penalty demonstrates the College's commitment to regulating its registrants and addressing misconduct appropriately, thereby enhancing public confidence in the profession.
2. **Remediation:** The terms, conditions and limitations are designed to ensure the Registrant has the necessary tools to practice safely and ethically upon returning to practice.
3. **General and Specific Deterrence:** The penalty serves as a deterrent to both the Registrant and other members of the profession, signaling that serious consequences will follow professional misconduct.



4. **Consistency and Proportionality:** The proposed penalty is consistent with previous discipline decisions involving similar conduct and is proportionate to the seriousness of the findings.<sup>7</sup>

With respect to the issue of costs, the College seeks an order requiring the Registrant to pay two thirds of all investigative, legal and hearing costs and expenses, which amounts to **\$189,993.49**, payable within 24 months on the following schedule: (i) **\$7,916.29** due one month from the date of the order; and (ii) **\$7,916.40** due every month thereafter until paid in full. The College provided the Panel with affidavit evidence to confirm its actual costs and expenses.

The College submits that its request for costs is appropriate and reasonable in the circumstances. The Registrant's misconduct was serious, repeated and longstanding. It involved numerous patients and put the public at risk. The Registrant's misconduct shows a serious and intentional disregard for his regulatory regime and as such his conduct erodes public confidence in the integrity of the profession and the regulatory process. The College was wholly successful in proving all of the allegations of misconduct it advanced against the Registrant, save for the allegation relating to the Compounding Standard. The College was also wholly successful in defending against the Registrant's four motions brought during the merits phase of this hearing.

The College also submits in support for its requests for costs that the Registrant's defence strategy unnecessarily prolonged the discipline proceedings. While he was entitled to mount a defence to the allegations, he must understand that there is a consequence to doing so, particularly where he made choices in his defence strategy which protracted the proceedings. Further, the College argues that the motions brought during the merits phase were unfounded in that the Registrant's paralegal engaged in errors of law by applying cases that do not apply to the discipline context. The Registrant chose to maintain this strategy, despite the College's efforts to explain the correct application of the law in advance of the hearing.

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<sup>7</sup> *Ontario (College of Traditional Chinese Medicine Practitioners & Acupuncturists of Ontario) v Xu*, 2020 ONCTCMPO 12 ["Xu"], *College of Physiotherapists of Ontario v Luo*, 2020 CanLII 80248 ["Luo"], *College of Naturopaths of Ontario v Dhanani*, 2022, File DC21-01 ["Dhanani No. 1"], *College of Naturopaths of Ontario v Dhanani*, 2022, File DC22-02 ["Dhanani No. 2"]

Finally, in support of its request for costs, the College submits that the quantum sought is in keeping with orders made by other tribunals and courts in similar circumstances.<sup>8</sup>

### **The Registrant's Position on Penalty and Costs**

With respect to the issue of penalty, the Registrant argues that because he does not understand exactly what misconduct was found by this Panel, he is not in a position to respond to the College's submission on penalty. In oral submissions, the Registrant's paralegal argued that the only appropriate remedy is recusal of the Panel and further stated that "I cannot defend this case, as I do not know what your decision means". While he was invited to provide further submissions on the issue of penalty, he declined.

With respect to the issue of costs, the Registrant argued that this was not an appropriate case for costs to be ordered against him, but that the Panel should exercise its power under s. 53 of the *Code*, which provides that there a panel is of the opinion that the commencement of proceedings was unwarranted, it may make an order requiring the College to pay all or part of the Registrant's legal costs. The Registrant did not provide the Panel with the amount he is seeking, but his paralegal argued that even though the College was the "successful" party, given that it had engaged in "bad faith", which led to an unnecessarily long proceeding, it ought to be ordered to pay the Registrant's legal costs.

### **The Panel's Decision on Penalty and Costs**

Having considered the submissions of the College, as well as the position articulated by the Registrant, the Panel finds that the penalty order as proposed by the College is appropriate and reasonable in all the circumstances. The suspension, reprimand, and thorough terms, conditions and limitations, adequately address the public interest, and meet the important goals of deterrence and rehabilitation.

This Panel made serious findings of professional misconduct against the Registrant. The misconduct involved, among other things, contravening several standards of practice of the

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<sup>8</sup> *Walia v. College of Veterinarians of Ontario*, 2021 ONSC 4023; *Clokier v. Royal College of Dental Surgeons of Ontario*, 2017 ONSC 2773

profession and performing controlled acts that the Registrant is not authorized to perform. This conduct increased the risk of harm to the public and brought disrepute to the profession. As we set out in our Reasons for Decision, we found that the Registrant believed he was entitled to advertise and perform treatments he is not authorized to perform by virtue of the private contract the PMA members signed. The Registrant failed in his obligations as a member of the College. His efforts to circumvent the College's regulations or the professional standards are troubling and put the public at risk and are therefore worthy of a significant penalty.

The Panel expects that the Registrant will now recognize that it is a privilege to practice naturopathy in Ontario within the authorized scope of practice and that in order to ensure safe and transparent care for patients, members of the College must abide by the rules and regulations set out by the College. Failure to do so is misleading and puts patients and the public at risk.

The suspension and reprimand will act as significant deterrents for both the Registrant and the membership at large, and the terms, conditions and limitations will ensure that once the Registrant is ready to return to practice, he will be able to do so with greater oversight and deference for the regulations to which he is beholden.

Finally with respect to penalty, the Panel is satisfied that the proposed order is proportional and in line with other cases of this College as well as from other health colleges.

On the issue of costs, the Panel does not agree with the Registrant's suggestion that this is a case where costs should be ordered against the College. With respect, the College succeeded in satisfying the Panel that the Registrant engaged in professional misconduct. In addition, the College successfully responded to the Registrant's Charter and abuse of process motions, brought at the outset of the hearing. There was nothing in the conduct of this prosecution to suggest that the proceedings were unwarranted. Further, having made findings of professional misconduct, it does not make sense for us to then also find that the proceedings were unwarranted.

With respect to the College's request for costs, we agree that this is an appropriate case under s. 53.1 of the *Code* to make an order for costs. The Panel has considered the evidence of the actual costs and expenses incurred by the College. The costs are reasonable and in alignment with what one would expect of a multi-day hearing, with several witnesses, and numerous motions. It is the Registrant's right to challenge the College's allegations and to mount a defence in any manner of his choosing, but he cannot do so without bearing some risk and understanding that the costs of the proceedings cannot be borne entirely by the other members of the College, where the College is successful in proving allegations of professional misconduct. In this case, we note that the Registrant advanced numerous motions, which on their face appeared inconsistent with settled case law and chose to make admissions only at the hearing, which was a mitigating factor considered on penalty, but which did not have the effect of significantly decreasing the time and expense of the hearing itself.

We are also satisfied that the amount sought by the College – being two-thirds of its actual costs and expenses – is consistent with what other colleges' discipline committees have ordered and what the Ontario Divisional Court has upheld as reasonable.<sup>9</sup> The schedule for payment provides the Registrant with a reasonable amount of time to pay.

We ask the parties to provide a draft order consistent with this decision for our consideration.

I, Dr. Jordan Sokoloski, ND, sign these reasons for the decision as Chairperson of this Discipline Panel and on behalf of the members of the Discipline panel as listed below:



May 1, 2025

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Chairperson

Date

Dr. Denis Marier, ND  
Ms. Lisa Fenton, Public Member

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<sup>9</sup> *Clokier v. Royal College of Dental Surgeons of Ontario*, 2017 ONSC 2773