

## **BOARD OF DIRECTORS OF DRUGLESS THERAPY - NATUROPATHY**

**PANEL:**

# Patricia Rennie

## Panel Chair

# Belinda Clarke

Sheila Jaggard

**BETWEEN:**

# BOARD OF DIRECTORS OF DRUGLESS THERAPY - NATUROPATHY

Bonni Ellis for the Board of Directors of  
Drugless Therapy - Naturopathy

- and -

FATEH SRAJELDIN, ND (#0744)

Robert Cosman for the Registrant

Luisa Ritacca

## Independent Legal Counsel

Heard: November 24, 2014

## DECISION AND REASONS

This matter came on for hearing before a panel of the Board of Drugless Therapy - Naturopathy (the “Board”) on November 24, 2014 at the Board office at Toronto.

## **The Allegations**

The allegations against Fateh Srajeldin, ND (the “Registrant”) as stated in the Notice of Hearing dated April 9, 2014 are as follows.

1. *Withdrawn*;
2. You have committed an act or acts of misconduct as provided by subsection 30(1) of Ontario Regulation 278, R.R.O. 1990, as amended, and as defined in paragraph 2(w) of the definition of Professional Misconduct/Incompetence established by the Board of Directors of Drugless Therapy-Naturopathy in that, you contravened standards of practice or guidelines of practice set by the Board of Directors of Drugless Therapy-Naturopathy, and, in particular, you:
  - (a) Failed to deal honestly with Green Shield Canada and/or failed to refrain from giving Green Shield Canada false, incomplete or misleading information with respect to the naturopathic and/or other healthcare services provided to KM, SE and/or ST at the Naturopathic and Allergy Clinic;
  - (b) *Withdrawn*;
3. You have committed an act of misconduct as provided by subsection 30(1) of Ontario Regulation 278, R.R.O. 1990, as amended, and as defined in paragraph 2(r) of the definition of Professional Misconduct/Incompetence established by the Board of Directors of Drugless Therapy-Naturopathy in that, you committed conduct or an act relevant to the practice of naturopathic medicine that, having regard to all the circumstances, would reasonably be regarded by naturopathic doctors as unprofessional or incompetent and, in particular, as the owner/operator and/or Naturopath in charge of the Naturopathic and Allergy Clinic, you:
  - (a) *Withdrawn*;
  - (b) *Withdrawn*;
  - (c) provided inaccurate information to Green Shield Canada with respect to the healthcare services provided to KM, SE and/or ST at the Naturopathic and Allergy Clinic;
  - (d) used or failed to take reasonable steps to prevent others from using the names and/or professional credentials of Dr. GP, DC and LBF, RMT on receipts issued under the name of the Naturopathic and Allergy Clinic;
  - (e) *Withdrawn*;

- (f) failed to take reasonable steps to investigate and/or address concerns brought to your attention regarding irregularities with receipts involving KM, a patient and member of your staff; and/or
  - (g) *Withdrawn.*
4. You have committed an act or acts of misconduct as provided by subsection 30(1) of Ontario Regulation 278, R.R.O. 1990, as amended, and as defined in paragraph 2(w) of the definition of Professional Misconduct Incompetence established by the Board of Drugless Therapy-Naturopathy in that, you contravened standards of practice or guidelines of practice set by the Board and, in particular, between approximately 2007 and 2009, you failed to:
- (a) *Withdrawn;*
  - (b) obtain an appropriate and/or sufficient history, conduct an appropriate and/or sufficient examination, undertake an appropriate and/or sufficient assessment, formulate a reasonable and/or appropriate treatment plan, and/or implement a reasonable and/or appropriate treatment plan in relation to patient SK; and /or
  - (c) *Withdrawn.*
5. *Withdrawn.*
6. You have committed an act or acts of misconduct as provided by subsection 30(1) of Ontario Regulation 278, R.R.O. 1990, as amended, and as defined in paragraph 2(a) of the definition of Professional Misconduct/Incompetence established by the Board of Directors of Drugless Therapy-Naturopathy in that, you failed to maintain adequate records in accordance with Board policy, and, in particular, between approximately 2007 and 2009:
- (a) you failed to maintain adequate records in relation to treatment, care and/or payment of naturopathic services provided to KM;
  - (b) you failed to maintain adequate records in relation to treatment, care and/or payment of naturopathic services provided to SE; and/or
  - (c) you failed to maintain adequate records in relation to treatment, care and/or payment of naturopathic services provided to ST.
7. You have committed an act or acts of misconduct as provided by subsection 30(1) of Ontario Regulation 278, R.R.O. 1990, as amended, and as defined in paragraph 1 of the definition of Professional Misconduct/Incompetence established by the Board of Directors of Drugless Therapy-Naturopathy in that, you contravened a provision of an act regulating the practice of Drugless Therapy-Naturopathy, and in particular, you contravened section 3.1 of the *Ontario Business Corporations Act*, by incorporating *Naturopathic and Allergy Clinic Inc. (Etobicoke)* and/or *Naturopathic and Allergy Clinic Caledon Inc.*, for the purpose of *inter alia*, practicing naturopathy.

8. *Withdrawn.*

### **Registrant's Plea**

The Registrant admitted the allegations set out in paragraphs 2 (a), 3 (c)(d)(f), 4 (b), 6 and 7, in the Notice of Hearing. The panel also conducted an oral plea inquiry and was satisfied that the Registrant's admission was voluntary, informed and unequivocal. At the request of the Board and on the consent of the Registrant, the panel granted an order withdrawing the remaining allegations.

### **Agreed Statement of Facts**

Counsel for the Board and the Registrant advised the panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which reads as follows.

#### **The Member**

1. Fateh Srajeldin, ND ("the Registrant") has been registered with the Board of Directors of Drugless Therapy - Naturopathy ("the Board") as an ND since October 1, 1992.
2. At the time of the incidents described below, the Registrant owned and operated two multi-disciplinary clinics, one at 5468 Dundas Street West in Etobicoke (NAC Etobicoke) and one at 16135 Airport Road in Caledon (NAC Caledon). Both clinics are named the *Naturopathic and Allergy Clinic*.
3. Both locations of the *Naturopathic and Allergy Clinic* offered various healthcare services including naturopathy, chiropractic and registered massage therapy. NAC Etobicoke also provided aesthetic services, including facials and laser hair removal.

#### **The Complaints/Initiating Information**

##### *(i) Complaint #1 - File #10-013*

4. In late April 2010, the Board received a complaint regarding the Registrant from Janice Finlay ("Ms. Finlay"), Supervisor, Benefit Utilization Analysis at Green Shield Canada (GSC).
5. Ms. Finlay's complaint related to various receipts for naturopathic, massage therapy and chiropractic treatments issued under the banner of NAC Etobicoke and submitted to GSC by three of its plan members seeking reimbursement.
6. Specifically, Ms. Finlay advised the Board that the massage therapy and chiropractic treatments listed on the receipts had not been provided.

##### *(ii) Complaint #2 - File #12-009*

7. In the context of reviewing the information gathered during the investigation of Complaint #1, the Complaints Resolution Committee (CRC) forwarded materials to an External Reviewer for consideration.
8. On July 19, 2012, the Board received the External Reviewer's formal complaint against the Registrant. This second complaint raised concerns that had not been identified by Ms. Finlay, but which arose in relation to patient files provided by the Registrant to the CRC during its investigation of the first complaint.
9. Specifically, the External Reviewer identified several areas in which the Registrant's practice was alleged to contravene various Board practice standards, policies and guidelines, as set out below.

### **COMPLAINT #1 - The GSC Complaint #10-103**

10. Ms. Finlay's April 2010 complaint related to the Registrant and his practice at NAC Etobicoke. According to Ms. Finlay, NAC Etobicoke was a corporation (1792108 Ontario Inc.) with the Registrant listed as the sole corporate officer.
11. In support of this claim, Ms. Finlay attached a copy of the corporation profile report for NAC Caledon, which demonstrated that this entity had been incorporated since February 27, 2009 (Appendix "A"<sup>i</sup>).
12. In her complaint, Ms. Finlay also explained that she had been contacted by two registered health professionals, who she described as former employees of NAC Etobicoke, Dr. GP, D.C. ("Dr. P") and Ms. LBF, R.M.T. ("Ms. F").
13. Both Dr. P and Ms. F contacted Ms. Finlay in December 2009, several months after they had left NAC Etobicoke, after discovering that their direct billing privileges with GSC had been terminated.
14. According to Ms. Finlay, neither Dr. P nor Ms. F was aware that their direct billing privileges had been terminated even though GSC had sent each of them a registered letter to this effect in January 2009, care of NAC Etobicoke. Both Ms. F and Dr. P denied having received the termination letters from GSC.
15. When Ms. Finlay explained that their billing privileges had been terminated over concerns regarding questionable receipts relating to NAC Etobicoke, both practitioners expressed concern that their credentials may have been used inappropriately.

### **The GSC Review**

16. Following these conversations, GSC compiled all of the receipts relating to NAC Etobicoke where either Dr. P or Ms. F was listed as the service provider.

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<sup>i</sup> The Appendices have not been included in the panel's reasons for decision.

17. Dr. P and Ms. F were then asked to review and authenticate these receipts by confirming whether the GSC plan member was a client, whether they had rendered the services listed on the receipt and whether they had authorized the receipt. (Appendices "B" and "C", respectively).
18. Of the receipts that Dr. P and Ms. F reviewed, there were eight for which both practitioners answered "no" to all three questions. The eight invoices related to the same three patients/plan members, S.E., K.M., and S.T.
19. The details recorded on each of the eight invoices are as follows:

Plan Member	Date of Rcpt	Rcpt #	Provider	Treatment	Pymt
S.E.	Dec	244304	P	7 x Chiro treatments @ \$20	Cash
	15/07		F	7 x 1 hr msg treatments @ \$20 (Nov 3, 10, 17, 24, Dec 1, 8, and 15, 2007)	\$296.80
S.E.	Mar 13/08	233691	P	21 x Chiro treatments @ \$20 (Jan 2, 5, 9, 12, 16, 19, 23, 26, 30, Feb 2, 6, 9, 13, 16, 20, 23, 27, Mar 1, 5, 8, and 12, 2008)	Cash \$420.00
K.M.	Nov 17/07	241260	P F Srajeldin	6 x chiro treatments @ \$20 6 x 30 min msg treatments @ \$20 6 x Naturopathic treatments @ \$20 (Sept 2, 16, 30, Oct 14, 28 and Nov 10, 2007)	
K.M.	Feb 28/08	233540	P F Srajeldin	7 x Chiro treatments @ \$20 7 x 30 min msg treatments @ \$20 7 Naturopathic treatments @ \$20 (Dec 1, 15, 29, 2007 and Jan 12, 26, Feb 9 and 23, 2008)	Visa \$434.00
K.M.	May 27/08	234603	P F Srajeldin	7 x Chiro treatments @ \$20 7 x 30 min msg treatments @ \$20 7 Naturopathic treatments @ \$20 (Mar 1, 15, 29, Apr 12, 26, May	Visa \$434.00

				10 and 24, 2008)	
K.M.	July 15/08	235115	P F Srajeldin	7 x Chiro treatments @ \$20 4 x 30 min msg treatments @ \$20 4 Naturopathic treatments @ \$20 (Dec 1, 15, 29, 2007 and Jan 12, 26, Feb 9 and 23, 2008)	Visa \$248.00
S.T.	May 08/08	234379	P F Srajeldin	7 x Chiro treatments @ \$45 7 x 30 min msg treatments @ \$45 7 Naturopathic treatments @ \$75 (Feb 9, 23, Mar 8, 22, Apr 5, 19 and May 3, 2008)	Visa \$1197.00
S.T.	July 7/08	235381	P F Srajeldin	7 x Chiro treatments @ \$45 7 x 30 min msg treatments @ \$45 7 Naturopathic treatments @ \$75 (May 10, 24, June 7, 21, July 5, 19 and Aug 2, 2008)	Visa \$1197.00

20. Through this process, GSC confirmed that Dr. P had worked at NAC Etobicoke from October 2004 to June 2009 but that she denied having provided the 66 chiropractic treatments listed on the invoices in relation to S.E., K.M., and S.T.
21. Similarly, GSC confirmed that Ms. F had worked at NAC Etobicoke from August 2007 to September 12, 2009 and she also denied having provided any of the 45 massage therapy treatments attributed to her on the same invoices.
22. In her initial complaint to the Board, Ms. Finlay outlined this information and suggested that the Registrant, as sole owner and operator of the clinic, must have had some involvement with or knowledge of the receipts.
23. When, in response to her complaint, the Registrant denied any such knowledge or involvement, Ms. Finlay expressed her concern in subsequent correspondence to the Board as follows:

*Regardless of **who** perpetuate the fraud, there can be no question that Mr. Srajeldin, as the sole owner/operator, and himself a regulated health professional, bears some degree of responsibility. It is not relevant whether he prepared the invoicing himself - it is only relevant that as the owner, he ultimately **controlled or should***

*have controlled the business processes of his Clinic, including issuing of invoices.* (Emphasis in original.)

### **The CRC's Investigation**

#### *(i) Information provided by Janice Finlay*

24. As part of its investigation into the GSC complaint, the CRC's Investigator interviewed Ms. Finlay who indicated that she had previously spoken to the Registrant directly about the invoices appended to her complaint.
25. Specifically, Ms. Finlay stated that GSC wrote to the Registrant in January 2009, as per their protocol, to advise him that they would no longer accept assignment of accounts (direct billing) where he was identified as the service provider. The letter went on to explain that GSC patients would have to pay NAC Etobicoke for their services directly and then submit a claim to GSC with proof of payment before their claims would be assessed for reimbursement. (Appendix "D").
26. Similar letters were sent to Dr. P and Ms. F as well as three other health care providers associated with NAC Etobicoke. All of the letters were sent care of NAC Etobicoke via registered mail and were signed for by front desk staff.
27. The letters were sent after GSC had flagged numerous claims submitted for reimbursement in relation to NAC Etobicoke. Specifically, GSC noted that they had received claims from several patients, all of whom showed similar usage patterns deemed suspicious. For example, there were receipts submitted from young patients, aged 18-22, who were all receiving chiropractic, massage therapy and naturopathic treatments at NAC Etobicoke, often on the same day.
28. In addition, many claimants had exhausted their full allowance of benefits for each service category in very short order with no prior history of using such services.
29. GSC also noted that many of the student claimants had waited several months to submit their invoices just before the end of their claim year.
30. The claims submitted by S.E., K.M. and S.T., all of whom were students at York University at the time, were among those GSC flagged in January 2009, leading to the termination of direct billing privileges for NAC service providers, including the Registrant, Dr. P and Ms. F.
31. The Registrant called Ms. Finlay directly after receiving her January 2009 correspondence advising him of this result.
32. According to Ms. Finlay, she reviewed the flagged claims with the Registrant, during that conversation.
33. Ms. Finlay also stated that the Registrant advised her that all of the claims were legitimate and therapeutically required. In the context of discussing the legitimacy of the



treatments, the Registrant suggested that conditions such as asthma and diabetes could explain why young patients would have exhausted their maximum for multiple benefits in such a short period of time.

34. According to Ms. Finlay, the Registrant also confirmed that each of the patients at issue was familiar to him and/or under his care.
35. In light of the Registrant's insistence that the claims were authentic, GSC abandoned further investigation and paid some of the claims.
36. During her interview with the CRC's Investigator, Ms. Finlay expressed her opinion that the Registrant was not the "mastermind" behind the fraudulent invoices. She further clarified that GSC had not had any issues with the Registrant either prior to these issues coming to light or since then.
37. If the Registrant were to testify, he would say that he did not have the receipts in front of him during his discussion with Ms. Finlay. He would also say that he assumed that Ms. Finlay was referring to legitimate receipts as he knew that all of the receipts issued from his clinic were accurate and appropriate. The Registrant would state that his conversation with Ms. Finlay and the information he provided her reflected that state of mind and this was why he insisted that the receipts and any care listed on them was legitimate and appropriate. The Registrant would state that he had no idea that the receipts Ms. Finlay was referring to were, in fact, fraudulent, which is something he only discovered a year later.
38. Ms. Finlay did not speak to the Registrant again until January 2010, after learning from Dr. P and Ms. F that they had not provided any of the services listed on the receipts for S.E., K.M. and S.T.

*(ii) Information provided by S.E., K.M. and S.T.*

39. As part of its investigation of Ms. Finlay's complaint, the CRC's Investigator attempted to interview S.E., K.M. and S.T.
40. When the investigator contacted K.M., she advised him that she was unable to speak to him at the time but would return his call.
41. K.M. did not return the Investigator's call and did not respond to follow-up voicemail messages.
42. The Investigator was unable to compel K.M. to speak to him because the Board does not possess statutory powers of investigation.
43. The Investigator was able to speak to S.E., who confirmed that she had received naturopathic services from the Registrant but denied receiving any chiropractic treatments from Dr. P or massage therapy from Ms. F.

44. S.E. further indicated that she "observed" and "shadowed" the Registrant for two or three years on a part-time basis while she was a student at York University because she had become interested in naturopathic medicine as a career path.
45. According to S.E. she received a receipt when she paid for naturopathic visits, which she sometimes paid for in advance, but did not recall details about those documents.
46. S.E. also stated that more detailed receipts itemizing the services she received and paid for were subsequently mailed to her home, where her mother took care of submitting the receipts to GSC.
47. S.E. did not recall looking at the itemized receipts and was not aware whether they accurately reflected the services she received or the monies she paid.
48. The Investigator was also able to speak to S.T.
49. During her interview, S.T. was specifically asked to confirm whether she had received the services listed on the receipts she submitted to GSC for reimbursement, to which she responded "[y]es, I'm pretty sure I did. I was there very, very regularly".
50. S.T. could not recall the names of the practitioners who provided her with massage therapy or chiropractic treatments.
51. S.T. indicated that she knew K.M. from NAC Etobicoke, but not personally.

*(iii) Information provided by the Registrant*

52. As part of the CRC's investigation, the Registrant provided written answers to questions posed by the Investigator, including the following information:
  - The Registrant denied having any knowledge of the fraudulent invoices until 2010: they were not issued from NAC Etobicoke's accounting program and, as a result, did not show up in the clinic's books or accounting system;
  - The Registrant confirmed that K.M. worked at NAC Etobicoke as a receptionist from May 2007 until July 2010;
  - It was not until he received a copy of Ms. Finlay's complaint from the Board in June 2010 that the Registrant commenced his own investigation into the matter; and
  - Through his investigation, the Registrant learned that the fraudulent receipts had been created by K.M. and, upon coming to this realization, he terminated her employment in July 2010.
53. Following his investigation, the Registrant implemented changes at NAC Etobicoke to prevent such events from recurring, including:

- invoices are now printed during transaction rather than pre-printed;
- a more secure version of accounting software is being used;
- separate passwords were created for each person working at the front desk to access the computer and to access the Interac system;
- the receipt number and the staff member's ID are now printed on Interac receipts;
- a lock was installed on the accounting room;
- books are kept current (bookkeeper was previously 6 months behind in reconciliations);
- an un-erasable back-up of computer is run on a second drive so that information erased from the main computer is not lost from the back-up; and
- he started checking all entries in the accounting system.

## **COMPLAINT #2 - The External Reviewer's Complaint #12-009**

54. Based on the documents and other information obtained by the CRC as part of its investigation into Complaint #1, additional concerns outside the "four corners" of the original complaint were identified regarding the Registrant's practice.
55. These concerns then became the subject a second, formal complaint against the Registrant, which was filed with the Board on July 19, 2012 and subsequently investigated by the CRC.
56. This second complaint alleged that the Registrant had contravened various Board standards, policies and guidelines in relation to:
  - maintaining adequate records;
  - appropriate assessments, case histories and treatment plans; and
  - the incorporation of his clinics.

## **Information Obtained During CRC's Investigation into Complaint #1**

57. As part of its investigation into complaint #1, the CRC's Investigator asked the Registrant to provide the CRC with his original patient records, consisting of his appointment record, patient chart and financial records, for S.E., K.M. and S.T.
58. The Registrant provided the CRC with his original patient files in relation to K.M. (Appendix "E"), S.E. (Appendix "F"), and S.T. (Appendix "G").

59. The Registrant also provided the CRC with select pages from the appointment book for NAC Etobicoke (Appendix "H").

*(i) Information provided by the Registrant*

60. In September 2012 the Registrant provided the CRC with the following information related to Complaint #2:
- On the issue of incorporation, the Registrant confirmed that both NAC Etobicoke and NAC Caledon had been incorporated.
  - On the issue of record-keeping generally, the Registrant expressed his intention to make all of his records consistent with Board policies.

**THE BOARD'S STANDARDS, POLICIES & GUIDELINES**

*(i) Standards of Practice*

61. The Board's Standards of Practice ("Appendix I"), in place at the time, set out several case-specific standards to be applied by the Naturopathic Doctor to each patient. Paragraph 4.2 of the case-specific standards sets out the expectation that the ND will identify the extent of the patient's problem in each case, by going through several steps, including:
- (a) obtaining a relevant and complete case history to the need of the specific case and presentation; and
  - (b) performing a relevant and complete physical examination.
62. Paragraph 4.3 confirms the further requirement for NDs to:
- Formulate a relevant assessment and/or diagnosis where possible, based on the history, examination findings, data collected, training and expertise of the naturopathic doctor and the legal scope of practice of the profession.
63. Paragraphs 4.5 to 4.7 require the ND to formulate, implement and amend a treatment plan.
64. NDs are required, by virtue of paragraph 2.6 of the standard, to deal honestly with all patients, colleagues, public institutions and legal bodies and to "refrain from giving any false, incomplete or misleading information".

*(ii) Record Keeping*

65. Paragraph 2 of the Board's standard, Record Keeping Procedures for Use by All Registrants (Appendix "J"), in place at the time of the conduct described above, sets out the requirement that,

[s]eparate patient financial records shall be kept for naturopathic services provided, either as a written record or as a computerized file. Financial records must contain the date of service, payment received from all sources, and balance of accounts to date. The patient's name, address, and telephone numbers shall be permanently inscribed on this record.

66. Paragraph 4 of the same policy sets out what must be included in each patient health record, including:

- (a) all office consultations, telephone consultations, examinations, treatment and progress notes, including the date, and the name of the patient on each page;
- (b) chief complaints and secondary complaints, relevant medical history, diagnostic tests, and relevant physical exam findings;
- (c) assessment; and
- (d) treatment plan.

(iii) Incorporation

67. The Board first created a policy regarding the incorporation of naturopathic practices in 1998, which was subsequently revised in 2006. The Incorporation of Practice of Naturopathic Medicine (Appendix "K") provides the following directive:

The Ontario Business Corporations Act does not permit Registrants of the BDDT-N to incorporate. It is therefore currently in contravention of the Ontario Business Corporations Act and the Drugless Practitioners Act for naturopathic doctors to incorporate their naturopathic practice.

## **THE BOARD'S EXPERT**

68. The Prosecution obtained an expert opinion from a Naturopathic Doctor ("the Expert"), based on a set of hypothetical facts that reflect the information set out above.
69. With respect to the Registrant's initial phone call with Janice Finlay, the Expert made the following observations:
- A call from an insurance company should be taken seriously (i.e., treated like a call from the Board).

- The Registrant should have documented the insurance company's concerns and taken steps to verify whether everything on the receipts was accurate and appropriate.
70. According to the Expert, the Registrant breached the standards of practice when he confirmed to Ms. Finlay that the invoices were accurate without having taken any steps to verify whether that was the case.
71. Specifically, the Expert stated that the Registrant's conduct was in contravention of section 2.6 of the Standards of Practice, which requires registrants to "deal honestly with all patients, colleagues, public institutions and legal bodies and refrain from giving false information".
72. With respect to the Registrant's treatment of S.E., the Expert provided the following opinion:
- A treatment plan flows from the diagnosis, which flows from the assessment, which is based on the symptoms. There should be a rationale to link the symptoms, assessment, diagnosis and treatment.
  - The information contained in the records suggests that the Registrant went straight from the patient's history to the treatment: that he took the patient's chief complaint as the diagnosis without a more detailed assessment, diagnosis or explanation of the symptoms or the treatment.
  - In S.E.'s record there is no clear diagnosis and the treatment plan is confined to notes indicating that homeopathies/supplements were prescribed.
  - Without a clear diagnosis and a treatment plan it is difficult to assess what level of assessment was required but would have expected something more in the records regarding the Registrant's initial assessment (e.g., labs, a food intolerance panel, a more fulsome physical exam, a diet diary).
73. On the issue of records, the Expert came to the same conclusion regarding the adequacy of the Registrant's records for all three patients. Specifically, the Expert opined:
- Overall the records are not very fulsome.
  - There should be complete appointment book information and a comprehensive financial statement, which should match with the clinical records. These requirements are outlined in Board standards but also help to ensure continuity of care and are important for insurance requirements.
  - Here there is almost no financial documentation and the dates in the appointment book and clinical records don't match. It is also not clear that all of the clinical notes apply to the ND.

- With respect to K.M. and S.T. the Expert noted that there are pages with no dates, no initials/signature and/or patient name.

## ADMISSIONS

74. The Registrant acknowledges that he unknowingly provided inaccurate information to GSC in January 2009 when he advised Ms. Finlay that all of the treatments on the receipts submitted by S.E., K.M. and S.T. had been provided and were legitimate when, in fact, that was not the case.
75. The Registrant also acknowledges that a reasonable naturopathic doctor, when confronted with the concerns raised by Ms. Finlay during their call in January 2009, would have taken steps to investigate those concerns and, specifically, to confirm what services had been provided to S.E., K.M. and S.T. before representing that the receipts were accurate.
76. The Registrant further acknowledges that, had he investigated the concerns raised by Ms. Finlay in January 2009, the fraudulent nature of the receipts could have been discovered earlier.
77. The Registrant also acknowledges that, as owner/operator of NAC Etobicoke he was responsible for having appropriate and sufficient administrative procedures in place to prevent fraudulent activity. The Registrant acknowledges that the processes he had in place prior to 2010 were insufficient and allowed an employee to use the credentials of Dr. P and Ms. F as well as NAC Etobicoke for fraudulent purposes.
78. The Registrant admits that he committed an act or acts of misconduct as set out in subparagraph 2(a) of the Notice of Hearing when he contravened paragraph 2.6 of the Board's *Standards of Practice* by failing to deal honestly with GSC when he provided inaccurate information with respect to the healthcare services provided to K.M. S.E., and S.T. at NAC Etobicoke.
79. The Registrant admits that he engaged in conduct, relevant to the practice of naturopathic medicine that, having regard to all the circumstances, would reasonably be regarded by naturopathic doctors as unprofessional as set out in subparagraph 3(c), 3(d) and 3(f) of the Notice of Hearing when he, as the owner/operator and/or Naturopath in charge of the NAC Etobicoke:
  - (i) provided inaccurate information to GSC with respect to the healthcare services provided to K.M., S.E., and S.T. at NAC Etobicoke;
  - (ii) failed to take reasonable steps to prevent others from using the names and/or credentials of Dr. P and Ms. F on receipts issued under the name of NAC Etobicoke; and
  - (iii) failed to take reasonable steps to investigate and/or address concerns brought to his attention regarding irregularities with receipts relating to patients K.M., S.E. and S.T.

80. The Registrant admits that he committed an act or acts of misconduct as set out in subparagraph 4(b) of the Notice of Hearing by contravening the Board's Standards of Practice when he failed to obtain a sufficient history, conduct a sufficient examination, undertake a sufficient assessment, formulate and implement an appropriate treatment plan, in relation to patient S.E.
81. The Registrant admits that he committed acts of misconduct as set out in subparagraphs 6(a) to (c) of the Notice of Hearing by contravening the Board's *Record Keeping Procedures for Use by All Registrants* when he failed to maintain adequate records in relation to treatment, care and/or payment of naturopathic services provided to:
- (i) K.M.;
  - (ii) S.E.; and
  - (iii) S.T.
82. The Registrant admits that he committed acts of misconduct as set out in paragraph 7 of the Notice of Hearing by contravening section 3.1 of the Ontario Business Corporations Act when he incorporated NAC Etobicoke and NAC Caledon for the purpose of, *inter alia*, practicing naturopathy.

## **LEAVE TO WITHDRAW**

83. The prosecution seeks leave to withdraw allegations 1(a) to (h), 2(b), 3(a) (b),(e) and (g), 4(a) and (c), 5 and 8.

## **Decision**

The panel finds that the Registrant committed acts of professional misconduct as alleged in paragraphs 2 (a), 3 (c) (d)(f), 4 (b), 6 and 7 of the Notice of Hearing.

## **Reasons for Decision**

The panel considered the Agreed Statement of Facts and the Registrant's plea and finds that the evidence contained therein supports findings of professional misconduct as alleged in the Notice of Hearing. The facts in this case support the allegations that Mr. Srajelden is guilty of professional misconduct under a number of headings. In particular he:

- failed to deal honestly with Green Shield Canada and/or failed to refrain from giving them false, incomplete or misleading information;
- provided inaccurate information to Green Shield Canada with respect to healthcare services provided to patients KM, SE and/or ST at his clinic;
- failed to take reasonable steps to prevent others from using the names and/or professional credentials of other healthcare practitioners on receipts issued by his clinic;
- failed to take reasonable steps to investigate and/or address concerns brought to his attention regarding irregularities with receipts involving KM;



- failed to obtain an appropriate and/or sufficient history, physical examination and assessment for patient SE and failed to formulate and implement an appropriate treatment plan for the patient's care;
- failed to maintain adequate records in relation to treatment, care and/or payment for several patients; and
- contravened the *Ontario Business Corporations Act* and Board standards by incorporating his practice.

### **Penalty Order**

Counsel for the Board and the Registrant advised the panel that a Joint Submission on Order and Costs had been agreed upon (Exhibit #3). The Joint Submission requests that this panel make an order as follows:

The Registrant shall pay to the Board the sum of \$20,000.00, representing partial reimbursement of the legal costs and expenses incurred by the Board in relation to this matter. The payment of costs shall be made by a cheque for \$2000 payable on the date of the hearing and 9 post-dated cheques, each in the amount of \$2000, payable on the 24<sup>th</sup> of the month commencing on December 24, 2014.

The Joint Submission on Order and Costs indicates that Mr. Srajelden had agreed to an Undertaking with the Board whereby he would, among other things:

- receive an oral reprimand from the hearing panel at the end of the hearing;
- successfully complete the ProBE Program on professional/problem based ethics for healthcare professionals;
- meet with an Expert in the practice of naturopathic medicine to review his understanding of Board publications, the impact of his conduct and strategies to prevent the conduct from recurring;
- participate in a random inspection of his practice and records; and
- advise the Board if any insurance company advises him of their intention not to honour claims submitted for treatments he provides

### **Penalty Submissions**

Submissions were made by the Board's Counsel and the Registrant's Counsel.

The parties agreed that the mitigating factors in this case were:

- this is Mr. Srajelden's first time before a disciplinary panel of the Board;

- the Agreed Statement of Facts outlines the steps he has already taken to prevent future fraud;
- the Undertaking contains significant remedial activities to be completed at Mr. Srajelden's expense and indicates a willingness to remediate deficiencies in his practice. Mr. Srajelden's admission to the above allegations is an expression of his remorse; and
- the admission alleviates the Board's obligation to prove the allegations and saves the Board considerable resources which would have been expended if this matter went to a contested hearing.

The parties agreed that the aggravating factor in this case was:

- the profession relies heavily on third party insurance and Mr. Srajelden needs to be proactive and attuned to questions posed by insurers as part of his professional role.

The proposed penalty provides for general deterrence through;

- the \$20,000.00 reimbursement to the Board is significant; and
- the publication of the details of this case.

The proposed penalty provides for specific deterrence through;

- The general deterrents above will also be specific deterrents, particularly having his name published with the details of the case. In addition, Mr. Srajelden has signed an Undertaking with the Board which requires that he complete a number of remedial activities including meeting with a practice Expert, attending a comprehensive course on ethics and boundaries in healthcare, and allowing a random inspection of his practice and records by the Board. He also agreed to receive an oral reprimand from the discipline panel which was delivered by the panel chair.

The proposed penalty provides for rehabilitation and remediation through:

- The Undertaking Mr. Srajelden has agreed to which provides multiple avenues for remediation and rehabilitation. The ProBE program which Mr. Srajelden has agreed to take focuses on professional ethics and boundaries in the healthcare setting with individualized attention paid to the specific needs of each attendee. Mr. Srajelden has agreed to meet with an Expert in naturopathic practice to review his understanding of Board publications, the impact of his conduct, and strategies to prevent similar conduct in the future. He has also agreed to a random inspection of his practice and his patient and financial records. Mr. Srajelden has agreed to pay the fees incurred for these meetings.

Overall, the public is protected because Mr. Srajelden has admitted to his wrongdoings and agreed to an appropriate and significant penalty which includes remedial and rehabilitative activities to ensure his behaviour henceforth is appropriate and that he complies with all Board standards, policies and guidelines. Publication of the outcome of this hearing will send a strong message to other members of the profession, the public and in particular insurance companies that the Board takes this kind of behaviour very seriously.

### **Penalty Decision**

The panel accepts the Joint Submission as to Order and accordingly orders:

That the Registrant pay the Board the sum of \$20,000.00, representing partial reimbursement of the legal costs and expenses incurred by the Board in relation to this matter. The payment of costs shall be made by a cheque for \$2,000 payable on the date of this hearing and 9 post-dated cheques, each in the amount of \$2,000, payable on the 24th of the month commencing on December 24, 2014.

### **Reasons for Penalty Decision**

The panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the Board to regulate its registrants. This is achieved through a penalty order that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation and remediation. The panel also considered the penalty in light of the principle that joint submissions should not be interfered with lightly.

The panel concluded that the proposed penalty is reasonable and in the public interest. The Registrant has co-operated with the Board and, by agreeing to the facts and a proposed penalty, has accepted responsibility. The panel finds that the penalty satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection.

The panel agreed that these criteria have been met via the Registrant's agreement to a rigorous Undertaking in addition to the penalty decision. The undertaking which Mr. Srajelden has agreed to provides multiple avenues for remediation and rehabilitation. The ProBE program which Mr. Srajelden has agreed to take focuses on professional ethics and boundaries in the healthcare setting with individualized attention paid to the specific needs of each attendee. Mr. Srajelden has agreed to meet with an Expert in naturopathic practice to review his understanding of Board publications, the impact of his conduct and strategies to prevent similar conduct in the future. He has also agreed to a random inspection of his practice and his patient and financial records. Mr. Srajelden has agreed to pay the fees incurred for these meetings. Finally, he agreed to receive an oral reprimand from the discipline panel which was delivered by the panel chair. A copy of this reprimand is attached below.

The panel also considered the penalty in light of the principle that joint submissions should not be interfered with lightly.

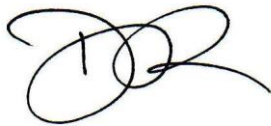
The panel concluded that the proposed penalty is reasonable and in the public interest. The Registrant has co-operated with the Board and, by agreeing to the facts and a proposed penalty,

has accepted responsibility. The panel finds that the penalty satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection.

The panel also agreed that the penalty is in line with what has been ordered in previous cases.

At the conclusion of the hearing, Mr. Srajelden waived his right to appeal and was administered his reprimand, a copy of which is attached to the end of these reasons.

I, Patricia Rennie, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:

A handwritten signature in black ink, appearing to be 'PR' with a large loop and a trailing flourish.

Chairperson

February 9, 2015

Date

Belinda Clarke

Sheila Jaggard

## Oral Reprimand - Fateh Srajelden

Mr. Srajelden the panel appreciates that you have come before us today with an Agreed Statement of Fact. We are well aware that as a contested hearing this case would have consumed considerable resources - yours and the Board's including the personal and professional time of board members, staff, legal counsel and witnesses. We understand that by coming before us as you have today you have saved all of us that trouble.

However, we are disturbed by the facts that led to the findings in this case which you have admitted to today. We are concerned that such unprofessional behaviour erodes the profile of this profession in the minds of the public, other regulated health care providers and insurance providers. There is a very real risk that a professional which relies largely on third party insurance would be crippled by the withdrawal of that coverage. For that reason we hope that your case will serve as a caution to you and the others in the profession.

We remind you that a call from an insurer should be taken very seriously and we believe that should you have done your due diligence at the time it would have saved you and this Board a great deal of time and money.

On behalf of the panel I would like to share that we are extremely disappointed in your conduct. We recognize that you have been practising for more than two decades and this is the first time you are before us. We also recognize that you have already made changes to your business processes upon learning of your transgressions. We trust that you will fully comply with the current undertaking and will continue to practise in compliance with all Board and College standards/policies and guidelines from this point on.

While the penalty imposed today was reasonable we expect that should you come before a discipline panel of this profession again the penalty will likely be much more severe.

It is our desire that a strong message is sent to the public, other Registrants and insurers that we consider this conduct to be unethical and unprofessional. We sincerely hope that the lessons of this experience will remain with you as long as you are a member of our profession.