

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

|                                   |   |  |
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| PANEL:                            |   | Dianne Delany (Chair)<br>Deborah Haswell<br>Tara Gignac<br>Shelley Burns |
| BETWEEN:                          |   |  |
| COLLEGE OF NATUROPATHS OF ONTARIO | ) | REBECCA DURCAN for the<br>College of Naturopaths of Ontario              |
| - and -                           | ) |  |
|                                   | ) | BRIAN WHITWHAM for<br>HELEN COHEN  |
| HELEN COHEN                       | ) |  |
|                                   | ) |  |
|                                   | ) | Heard: March 22, 2017  |

**DECISION AND REASONS**

This matter came on for hearing before a panel of the Discipline Committee on March 22, 2017 at the College of Naturopaths of Ontario ("the College") at Toronto.

The Allegations

The allegations against Helen Cohen (the "Member") as stated in the Notice of Hearing (Exhibit #1) dated August 16, 2016, are as follows.

1. Dr. Helen Cohen, ND ("Dr. Cohen, ND") was initially registered with the Board of Directors of Drugless Therapy – Naturopathy on or about January 1, 1991. Dr. Cohen, ND became a member of the College of Naturopaths of Ontario (the "College") in the General class of registration on or about July 1, 2015 as a result of the proclamation of the *Naturopathy Act, 2007*.
2. On or about September 25, 2015, Dr. Cohen, ND was suspended by the College for non-payment of fees. Dr. Cohen, ND was reinstated to the General class of registration on or about October 26, 2015.
3. It is alleged that Dr. Cohen, ND practised naturopathy while suspended for non-payment of fees from on or about September 25, 2015 to on or about October 26, 2015. More particularly, it is alleged that Dr. Cohen, ND provided naturopathy treatment at a clinic in Toronto, Ontario to

approximately 49 patients while her certificate of registration was suspended.

4. It is alleged that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007*:
  - a. Paragraph 36 (contravening, by act or omission, a provision of the *Act*, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts, more specifically, practising illegally pursuant to subsection 13(2) of the *Health Professions Procedural Code*, being Schedule 2 of the *Regulated Health Professions Act, 1991* and section 8 of the *Naturopathy Act*); and/or
  - b. Paragraph 39 (practising the profession while the member's certificate of registration has been suspended); and/or
  - c. *Allegation Withdrawn*; and/or
  - d. Paragraph 46 (engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as (*withdrawn*), dishonourable or unprofessional).

#### Member's Plea

The Member admitted the allegations set out in paragraph 10 of the Agreed Statement of Facts, as described below.

The panel conducted an oral plea inquiry and was satisfied that the Member's admission was voluntary, informed and unequivocal.

The College sought, with the consent of the Member, to withdrawn allegations set out at paragraph 4(c) and 4(d) (to the extent that it refers to "disgraceful" conduct). The panel granted the request.

#### Agreed Statement of Facts (Exhibit #2)

### **BACKGROUND**

#### ***The Member***

1. Dr. Helen Cohen, ND ("Dr. Cohen, ND") was initially registered with the Board of Directors of Drugless Therapy – Naturopathy (the "BDDT-N") on January 1, 1991.
2. Dr. Cohen, ND became a member of the College of Naturopaths of Ontario (the "College") in the General class of registration on or about

July 1, 2015 as a result of the proclamation of the Naturopathy Act, 2007. A copy of Dr. Cohen, ND's registration history from the College's public register is attached as Exhibit "A".

3. All members of the College were required to pay registration fees to the College by August 14, 2015. Dr. Cohen, ND had paid her registration fees to the BDDT-N in 2015. Her fees owing to the College were therefore reduced by the amount she had already paid to the BDDT-N. Accordingly, Dr. Cohen, ND was required to pay additional registration fees to the College in the amount of \$575.00 by August 14, 2015.
4. Dr. Cohen, ND failed to pay the additional registration fees to the College by August 14, 2015. As a result, she was required to pay a penalty fee to the College in the amount of \$260.00. On August 24, 2015, the Registrar of the College notified Dr. Cohen, ND that if she did not pay the additional registration fees and the penalty fee within 30 days, her certificate of registration would be suspended for non-payment of fees. A copy of the Registrar's letter to Dr. Cohen, ND dated August 24, 2015 is attached as **Exhibit "B"**<sup>1</sup>.
5. Dr. Cohen, ND paid the additional registration fees to the College on August 25, 2015. However, Dr. Cohen, ND disputed the penalty fee and did not pay it within 30 days as required.
6. Accordingly, on September 25, 2015, Dr. Cohen, ND was suspended by the College for non-payment of fees. The Registrar of the College provided Dr. Cohen, ND with notice of her suspension on September 25, 2015. The notice included the following statement in bold font:  
  

**"As of the date of this letter you are no longer authorized to practise naturopathy, see or treat patients, or use the title "Naturopath", "Naturopathic Doctor", or "ND" or any abbreviation or variation in the province of Ontario."**

A copy of the Registrar's notice letter dated September 25, 2015 is attached as **Exhibit "C"**.
7. Dr. Cohen, ND paid the penalty fee on September 25, 2015 and subsequently met the College's other requirements for the reinstatement of her certificate of registration, including obtaining appropriate professional liability insurance. Dr. Cohen, ND was reinstated to the General class of registration on October 26, 2015.
8. It is agreed that Dr. Cohen, ND continued to practise naturopathy while her certificate of registration was suspended for non-payment of fees from

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<sup>1</sup> The Exhibits have not been included in the Panel's Decision and Reasons.

September 25, 2015 to October 26, 2015. More particularly, it is agreed that Dr. Cohen, ND provided naturopathy treatment at a clinic in Toronto, Ontario to approximately 49 patients while her certificate of registration was suspended.

9. The Member is currently in significant financial difficulty and has provided information to the College confirming this to be accurate.
10. It is agreed that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 1 of Ontario Regulation 17/14 made under the Naturopathy Act, 2007:
  - a. Paragraph 36 (contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts, more specifically, practising illegally pursuant to subsection 13(2) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* and section 8 of the *Naturopathy Act*); and
  - b. Paragraph 39 (practising the profession while the member's certificate of registration has been suspended); and
  - c. [withdrawn]; and
  - d. Paragraph 46 (engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as [withdrawn] dishonourable and unprofessional).

#### **ADMISSION OF PROFESSIONAL MISCONDUCT**

11. By this document, Dr. Cohen, ND admits to the truth of the facts referred to in paragraphs 1 to 9 above (the "Agreed Facts").
12. Dr. Cohen, ND hereby admits that the Agreed Facts constitute professional misconduct pursuant to Ontario Regulation 17/14 made under the Naturopathy Act, 2007, section 1, paragraphs 36, 39 and 46 (as amended).
13. By this document Dr. Cohen, ND states that:
  - (a) she understands fully the nature of the allegations against her;
  - (b) she has no questions with respect to the allegations against her;

- (c) she understands that by signing this document she is consenting to the evidence as set out in the Agreed Facts being presented to the Discipline Committee;
  - (d) she understands that by admitting the allegations, she is waiving her right to require the College to prove the case against her and the right to have a hearing;
  - (e) she understands that depending on the penalty ordered by the Discipline Committee, the decision of the Committee and a summary of its reasons, including reference to her name, may be published in the College's annual report and any other publication or website of the College;
  - (f) she understands that any agreement between her and the College with respect to the penalty proposed does not bind the Discipline Committee;
  - (g) she understands and acknowledges that she is executing this document voluntarily, unequivocally, free of duress, free of inducement or bribe, and that she has been advised of her right to seek legal advice and that she has received such advice.
14. In light of the Agreed Facts and the admission of professional misconduct, the College of Naturopaths of Ontario and Dr. Cohen, ND submit that the Discipline Committee should find that Dr. Cohen, ND has committed professional misconduct.

#### Decision

The panel considered the Agreed Statement of Facts and finds that the facts support a finding of professional misconduct and, in particular, finds that the Member committed an act of professional misconduct as alleged in paragraphs 4(a), 4(b), and 4(d), in that the Member's conduct would reasonably be regarded by member's of the profession as dishonourable and unprofessional.

#### Reasons for Decision

Failure to maintain registration for non-payment of fees and continuing to represent oneself as a naturopathic doctor is conduct that cannot be taken lightly. Registration is a fundamental component of practising as a naturopathic doctor in the province of Ontario. The public trusts that those who hold themselves out to be naturopathic doctors are in actuality registered with the College and practising within the established standards. Those who practice as a naturopathic doctor without valid registration erode the public trust and reflect poorly on the profession as whole.

The rules governing naturopaths are clear. Pursuant to Ontario regulation 17/14 made under the *Naturopathy Act, 2007* (the "Act"), section 1, paragraphs 36, 39, 46 (as amended), members may not practice while suspended. Further, the Act makes clear that individuals are not entitled to practise illegally, that is, without a valid certificate of registration. Dr. Cohen was explicitly told

that she should not be practising while under suspension in a letter from the Registrar, dated September 25, 2015. She chose to ignore that letter and to continue practising for over a month before her registration was reinstated.

The panel finds that this deliberate decision to ignore the Registrar's warnings would reasonably be regarded by members of this profession as dishonourable and unprofessional. The failure to abide by clear directions from the College brings disrepute on the membership. The profession and the public have a right to expect members of this College to abide by the legal requirements governing the profession and to adhere to directions provided by the College's Registrar.

#### Penalty

Counsel for the College advised the panel that a Joint Submission on Order and Costs had been agreed upon (Exhibit #3). The Joint Submission provides as follows:

1. Requiring Dr. Cohen, ND to appear before the panel to be reprimanded immediately following the hearing.
2. Suspending Dr. Cohen's, ND certificate of registration for a period of two (2) months, commencing on a date to be approved by the Registrar, one (1) month of which shall be remitted if Dr. Cohen, ND complies with the provisions of paragraph 3 of this Joint Submission as to Penalty and Costs by no later than April 21, 2017.
3. Imposing a term, condition and limitation on Dr. Cohen's, ND certificate of registration requiring that Dr. Cohen, ND successfully complete by August 31, 2017, to the satisfaction of the Registrar and at her own expense, a course in ethics and/or jurisprudence.
4. For greater certainty, Dr. Cohen's, ND obligation to comply with the proposed term, condition and limitation on her certificate of registration contained in paragraph 3 is not relieved by serving the entire suspension referred to in paragraph 2 above.
5. Dr. Cohen, ND shall pay the College's costs fixed in the amount of \$6,500 within twelve (12) months of the date of this order.
6. Dr. Cohen, ND acknowledges that this Joint Submission as to Penalty and Costs is not binding upon the Discipline Committee.

#### Penalty Decision

The panel accepts the Joint Submission and accordingly orders:

1. That Dr. Cohen, ND to appear before the panel to be reprimanded immediately following the hearing.

2. That the certificate of registration of Dr. Cohen, ND be suspended for a period of two (2) months, commencing on a date to be approved by the Registrar, one (1) month of which shall be remitted if Dr. Cohen, ND complies with the provisions of paragraph 3 of this Joint Submission as to Penalty and Costs by no later than April 21, 2017.
3. Imposing a term, condition and limitation on Dr. Cohen's, ND certificate of registration requiring that Dr. Cohen, ND successfully complete by August 31, 2017, to the satisfaction of the Registrar and at her own expense, a course in ethics and/or jurisprudence.
4. For greater certainty, Dr. Cohen's, ND obligation to comply with the proposed term, condition and limitation on her certificate of registration contained in paragraph 3 is not relieved by serving the entire suspension referred to in paragraph 2 above.
5. Dr. Cohen, ND shall pay the College's costs fixed in the amount of \$6,500 within twelve (12) months of the date of this order.

#### Reasons for Penalty Decision


The panel concluded that the proposed penalty is reasonable and in the public interest. This penalty provides for specific and general deterrence, rehabilitation and monitoring. The Member has co-operated with the College, and, by agreeing to the facts and the proposed penalty, has accepted responsibility for her actions.

The panel acknowledges the work of both the College and the Member and agrees that the joint submission should be accepted. The panel agrees and is satisfied that this penalty meets the public interest. With respect to specific deterrence, the penalty of suspension and associated expenses of such will likely ensure that this will not happen again. As will the reprimand, which makes clear to the Member the panel's concern with respect to her conduct.

With respect to remediation – the course in Ethics and Jurisprudence will ensure that the Member clearly understands the importance of following the regulations. The panel is also satisfied that the penalty ensures public confidence in the College's discipline process, as the penalty is neither too harsh nor too lenient, and is in fact reflective of penalties rendered in similar cases by other regulated health professions.

I, Dianne Delany, 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:

  
Dianne Delany, Chairperson

  
Date

Deb Haswell  
Tara Gignac  
Shelley Burns