



# iNformed

*Newsletter of the College of Naturopaths of Ontario*

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# Registrar's Message

## "The Big Bad College – Not Really . . ."

Like many members of the profession, I too have had a professional career before becoming the Registrar of the College. Many of those years were spent working on behalf of health professional associations and their members.

In that role, it is easy for people to think that the health regulatory Colleges are some "evil force" that is out to get them and put them out of business. Of course, nothing could be further from the truth. If you think about it for a moment, if there were no Naturopathic Doctors in Ontario, why would we need a regulatory College? In a way, the College represents the presence, the force and the collective will of Naturopaths to be participants in the professional healthcare system in Ontario.

It is an interdependent relationship, Naturopaths and the College. Our work is distinct, but at the same time we work in connection. We are a synergy of sorts. At our best, we bring out the best in each other.

Regulators are in the business of protecting the public. Although there is a great deal of speculation among the media and the general public, the regulators certainly take this responsibility seriously. That said, not every program of the College is about imposing penalties.

This edition of *iNformeD* focuses many of its articles on the Quality Assurance program. That

program is designed to assist members of the College to maintain their competencies. Sure, like every program there are reporting requirements and obligations placed on members, but overall, the program is intended to help.

Through the QA program, members of the College have an opportunity to openly assess their own skills, have peers look at the work that they have done over the past several years and target individual areas of growth.

As Registrar, my ideal world is one where every member works towards better individual performance, high levels of competency and continuous learning. The QA program will help us achieve this lofty goal.

Sure, there are other programs that may, on their surface, seem less so; however, I can say with 100% certainty, members who have as their goal the ideals of serving the public, complying with rules and continuous learning and professional growth, will have no issue with the College.

I hope you enjoy this issue of *iNformeD*. We would love to hear from you. Tell us what you like, dislike and what you want to hear about from us. Together, we can make Ontario a better place to work, live and seek health care services.

Andrew Parr, CAE  
Registrar & CEO

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# Quality Assurance: Wrapping up the First Continuing Education Reporting Cycle

Over the next few months, the College's first Continuing Education (CE) reporting cycle will be wrapping up. From now until September 30, 2016, members in Group II should be actively working towards finishing all of their requirements for the first CE reporting cycle. There have been, and continue to be, a variety of learning opportunities available for members in order to comply with the mandatory CE requirements.

Any CE activities obtained on or after April 1, 2014 can be used towards a member's first reporting period. This applies to the first reporting cycle for all members required to report their CE to the College. This means that members have had an additional six months to complete the required number of credits for their first cycle.

Members who hold an Inactive Certificate of Registration with the College are not required to participate in any component of QA. However, all members are always encouraged to participate in Continuing Education and Professional Development learning opportunities throughout their careers.

## Requirements and Reporting

By September 30, 2016, members in Group II will be required to submit their Continuing Education and Professional Development (CE & PD) Log to the College. The Log is a summary of your CE activities over the previous three years. The CE & PD Log consists of three forms, one for Category A, one for Category B and one for IVIT.

For this current cycle, every member in Group II is required to participate in and report the following number of Continuing Education credits by September 30, 2016:

- 20 credits of Category A activities (core activities)
  - Jurisprudence - 2 credits
  - Pharmacology - 4 credits (if prescribing)
  - IVIT - 4 additional credits (if performing IVIT)
- 26 credits of Category B activities (self directed activities).

By now, members should:

- ✓ Be in the process of completing their required Category A and Category B activities for this cycle.
- ✓ Be recording their CE activities in their Log Forms in order to report their CE to the College.
- ✓ Be retaining their CE activity proof of completion documentation in their Professional Portfolio.

For each activity you complete, you will record the course provider, the name and a brief description of the course, the activity date, the number of credits you have earned and the outcome (i.e., how you plan to modify your practice based on what you learned). You may submit your completed log by mail or by email. You can download the CE & PD log at [www.collegeofnaturopaths.on.ca](http://www.collegeofnaturopaths.on.ca).



# Quality Assurance: Your Professional Portfolio

If you are a Naturopathic Doctor holding a General Certificate of Registration with the College of Naturopaths of Ontario (CONO), you are required to participate in the College's Quality Assurance activities and maintain a Professional Portfolio.

Your Professional Portfolio is an organizational tool that contains all the information relating to your ongoing participation in the Quality Assurance (QA) program. It is divided into three mandatory sections, one of them being Continuing Education and Professional Development. Continuing Education and Professional Development activities should reflect the results of your Self-Assessment and your practice. This is in addition to any other educational activities related to your professional interests. All of your CE activities will strengthen your professional skills as an ND.

The Professional Portfolio, which must be retained for a minimum of six years, is divided into three mandatory sections:

1. Self-Assessment.
2. Continuing Education and Professional Development.
3. Peer & Practice Assessment.

In addition to the required sections, you may wish to include an additional section with other information that highlights your ongoing competence. Although the College has developed the overall structure of the Professional Portfolio, you are encouraged to individualize and customize your own portfolio.

## Self-Assessment

Every member is required to complete CONO's Self-Assessment process annually. This involves identifying if your practice meets the competencies of the profession or requires improvement, identifying your resulting learning needs, and documenting those needs in a Learning Plan (including specific learning goals and timelines).

## CE Reminders

- All members are required to participate in a minimum of 70 hours of Continuing Education over a three-year cycle, as determined by the College.
- The required 70 hours of CE is considered the minimum standard for the three-year cycle.
- The cycle for all members began on April 1, 2014.
- CE activities must relate to a member's clinical practice and enhance a member's professional knowledge and skill.
- Members are not permitted to bank credits that they have acquired in one three-year reporting period and use them in a subsequent reporting period.  
The required 70 hours of Continuing Education and Professional Development must be claimed in the reporting period in which they are earned.
- CONO encourages members to undertake additional credits that further their professional development, and encourages any learning that better serves the public interest.



In your Professional Portfolio, you must retain documents related to all three parts of the Self-Assessment:

1. Core Competency Practice Reflection.
2. Standards of Practice Questionnaire.
3. Learning Plan.

You don't have to submit your Self-Assessment to the College; however, it will be reviewed during a Peer and Practice Assessment for completeness if you are selected.

## Continuing Education and Professional Development

Continuing Education and Professional Development activities should reflect the results of your Self-Assessment and Peer and Practice Assessment. This is in addition to any other educational activities related to your professional interests. All of your CE activities will strengthen your professional skills as an ND.

For this year, members have modified CE requirements based on their cycle end date. For subsequent years, every member is required to participate in 70 credit hours of Continuing Education and Professional Development over a three-year period as below:

- ★ 30 credits of Category A Activities (Core-Activities), and
- ★ 40 credits of Category B Activities (Self-Directed Activities).

Additionally, you must maintain all documents related to the completion of the required credits in your Professional Portfolio. These include the following:

- Education and Professional Development Logs for Category A and Category B (ongoing summary of completed learning activities).
- Proof of attendance/completion of learning activities (i.e., a certificate of completion from a course or lecture you attended, a letter confirming

your participation as a supervisor in a student clinic, a copy of a published article you authored, etc.).

- Materials gathered while fulfilling the Continuing Education and Professional Development requirements (i.e. course outlines, brochures, receipts, etc.)
- Proof of valid Health Care Provider Level CPR.

## Peer and Practice Assessment

One way of helping members improve their practice is by giving them the opportunity to meet and discuss practice issues with a peer. Each year, the QA Committee will select up to 20% of the profession to participate in a Peer and Practice Assessment. You will be provided with a report from the peer assessor that will identify any areas for improvement and provide suggestions on how to address potential practice issues.

In your Professional Portfolio you are required to retain the following:

- ★ Your most recent Assessor Report.
- ★ Disposition Report.
- ★ Documentation to support ways to address areas identified for improvement (if applicable).

## Personal Additions (Optional)

The Personal Additions section can showcase achievements or items that support competency and ongoing learning but do not necessarily fit into any of the above sections. Examples may include awards, certificates of achievement, volunteer service with a community organization, feedback

**The Quality Assurance Program helps members to improve their practice. One way is by giving them the opportunity to meet and discuss practice issues with a peer.**



from patients or peers, copies of College registration documents, lists of useful resources, etc.

### Tips to Maintaining and Enhancing Your Professional Portfolio

- ★ Update your Professional Portfolio at your discretion, but you may want to do so each time you complete a new CE activity or another learning activity.
- ★ Use your preferred learning style to document your learning. As such, you may choose to maintain a hard copy version of your Professional Portfolio or an electronic version, depending on which you find more effective for your practice.
- ★ You must keep mandatory items in your Professional Portfolio for six years. Optional items will likely reflect your practice and development and may date back as far as you like. You may choose to include certain items that you consider significant regardless

of their age (i.e., certificates, references, published papers, etc.).

- ★ Add personal additions to your Professional Portfolio to showcase achievements or items that support competency and ongoing learning, but do not necessarily fit into any of the sections outlined above. Examples could include awards, certificates of achievement or volunteer service.
- ★ You can use your Professional Portfolio for purposes unrelated to the College, as it can be used for both personal and professional purposes. For example, your portfolio may be helpful to showcase your skills to potential employers, business partners or patients

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*For more information on your CE reporting requirements, please visit our website at [www.collegeofnaturopaths.on.ca](http://www.collegeofnaturopaths.on.ca).*





# Sexual Abuse of a Patient

This is an overview for NDs of this significant area. We include a discussion of NDs mandatory reporting obligations should they learn of the possibility of an ND or another health care professional sexually abusing a patient.

Naturopathic Doctors, along with all health care practitioners, are expected to ensure Ontarians receive health care in a safe and professional environment. Reflecting this expectation, all regulatory health colleges under the *Regulated Health Professions Act, 1991* (RHPA) have zero tolerance for client/patient abuse.

This College, like the others, has zero tolerance for sexual abuse and will investigate and take appropriate action when it receives complaints or information where it appears that a member may have engaged in this type of behavior.

Incidents of sexual abuse of patients by health care practitioners do occur and the RHPA mandates severe sanctions against members who are found guilty of professional misconduct in connection with sexually abusing patients. The law recognizes the significant harm that results from the sexual abuse of a patient by a health care professional.

It is important for NDs to remember that while the patient-practitioner relationship is based on mutual trust and respect, there is also an inherent power imbalance in favour of the Naturopathic Doctor. As such it is the ND's responsibility to establish and maintain appropriate professional boundaries with patients. This includes refraining from any conduct that is or could be perceived as sexual abuse.

The College has developed a number of standards

and guidelines that set out its expectations of members. The standards and guidelines are also intended to assist NDs in providing their services in a way that not only fosters in their patients feelings of trust and safety, but to assist NDs in providing services that are completely professional and place the best interests of their patients as primary.

## Legislation and Definition of Sexual Abuse

Sexual abuse of a patient is defined in the *Health Professions Procedural Code* (Schedule 2 of the RHPA), or *the Code*, as it is generally known. Sexual abuse is described as the following:

- Sexual intercourse or other forms of physical relations between the member and the patient
- Touching of a sexual nature of the patient by the member;
- Behaviour or remarks of a sexual nature by the member towards the patient.

“Sexual nature” does not include touching, behaviour, or remarks of a clinical nature appropriate to the service provided.

As required by *the Code*, if a panel of the College's Discipline Committee finds a member has committed an act of professional misconduct by sexually abusing a patient, it may,

- Reprimand the Member, or
- Revoke the Member's certificate of registration for a minimum of five years if the sexual abuse consisted of, or included any of the following:
  - Sexual intercourse;
  - Genital to genital, genital to anal, oral to genital, or oral to anal contacts;
  - Masturbation of the Member by, or in the presence of, the patient;



- Masturbation of the patient by the Member;
- Encouragement of the patient by the Member to masturbate in the presence of the Member.

In addition to the above penalties, the panel may,

- Require the Member to pay a fine of up to \$35,000 to the Minister of Finance of Ontario.
- Require the Member to pay all or part of the College's legal costs and expenses, the College's costs and expenses incurred in investigating the matter, and the College's costs and expenses incurred in conducting the hearing.
- Require the Member to reimburse the College for funding provided for therapy and counseling for patients who were sexually abused by the Member.

### Treating a Spouse

The definition of sexual abuse in the RHPA includes the treatment of spouses, even if there was a pre-existing spousal relationship prior to naturopathic treatment.

The Code defines spouse as a:

- person who is the Member's spouse as defined in section 1 of the *Family Law Act*, or
- person who has lived with the Member in a conjugal relationship outside of marriage continuously for a period of not less than three years.

Even though the spouse may have consented to be a patient and receive treatment it is always the responsibility of the Naturopathic Doctor to be aware of the applicable laws. In this case, according to the definition in the legislation, providing naturopathic care to a spouse is considered sexual abuse.

However, in emergency situations where there is no one else available who is qualified to provide the necessary care, Naturopathic Doctors may treat a spouse. The College considers this acceptable

because the benefits of providing the required care in emergency situations outweighs the challenges posed by the personal relationship.

### Prevention of Sexual Abuse

Along with holding members who commit acts of sexual abuse accountable, as we mentioned above, the College also provides NDs with resources intended to prevent the sexual abuse of patients. One such resource, [the Guideline for the Prevention of Sexual Abuse](#), can be found on the [College's website here](#).

Preventing sexual abuse includes establishing the appropriate professional boundaries with patients. Proper boundaries include not only respecting a person's personal physical space, but also taking into account verbal, emotional and cultural matters.

Naturopathic Doctors should be very aware of

how they communicate to patients by paying attention to the ways information is conveyed and the words selected. They must be compassionate listeners and sensitive to the concerns and needs of patients. Being aware of language or cultural, and physical barriers that may interfere with clear communications can help Naturopathic Doctors practise in a responsive and responsible manner.

If touching is required during the examination or treatment of a patient, explain what is involved and what the patient can expect beforehand in order to avoid any misinterpretation or misunderstanding. Follow the principles of informed consent at all times.

Patients may feel particularly vulnerable in a health care setting and may not always express their concerns. Therefore, use your professional judgment to determine the patient's comfort level and whether the presence of an additional person is advisable in certain circumstances.





# Mandatory Reporting of Sexual Abuse of a Patient

**A**s stated in the College's Mandatory Reporting Guideline, all health care practitioners have a responsibility to report sexual abuse.

If you have reasonable grounds, obtained in the course of practicing the profession, to believe that a ND or a member of another college has sexually abused a patient, you are required to report it to the appropriate college. *Information regarding the College's complaints and reports process can be found on the website here.*

The legislation also states that the patient's name is to be included in the report only if the patient gives consent.

Should you become aware that a patient might have been sexually abuse by a health care professional you need to explain to the patient that you are legally obligated to report this to the provider's regulatory college. Explain that you can only provide the patient's name in the complaint if they consent, however, not providing it may make it more difficult for the college to fully process the complaint.

If the patient does not consent to including their name then the ND must still make the complaint but leave the patient's name out. If the patient consents to including their name this consent should be obtained in writing and kept on file.

The ND should also explain to the patient how they can make a complaint and why they should consider doing so.

A report does not need to be made if the Member does not know the name of the alleged abuser, however best efforts should be made to obtain the abuser's identity.

Members need to take this reporting obligation seriously as the College relies on this information to fulfill its mandate. It is important to understand what sexual abuse is and to be able to identify when it may be happening, keeping in mind that sexual

abuse often does not start with overt actions on the part of the abuser.

The seriousness of the mandatory reporting requirement is reflected in the timeframes for reporting as stated in the *Code* as follows:

**“The report must be filed within 30 days after the obligation to report arises unless the person who is required to file the report has reasonable grounds to believe that the member will continue to sexually abuse the patient or will sexually abuse other patients, or that the incompetence or the incapacity of the member is likely to expose a patient to harm or injury and there is urgent need for intervention, in which case the report must be filed forthwith.”**

The RHPA specifically addresses sexual abuse of patients by members. There may be other types of sexual behavior that, while not triggering a mandatory report to the College, would still be considered professional misconduct. For example, sexual harassment in the workplace is never appropriate and would be considered unprofessional; however, it does not require a mandatory report. A person who is the subject of or witness to sexual harassment by a member may voluntarily report that behavior to the College.

## Patient Relations Program

Under the RHPA, the College of Naturopaths of Ontario, like every other health regulatory college in



Ontario, is required to have a Patient Relations Program. The program provides education and resources to help patients and Naturopathic Doctors to understand proper professional behaviour, and to prevent the sexual abuse of patients.

One component of the program is for the College to maintain a fund intended to cover the costs of any therapy or counseling that patients need as a result of sexual abuse by a Naturopathic Doctor. Patients can request funding from the College and which may be provided following a review of eligibility by the Patient Relations Committee.

As regulated health professionals, Naturopathic Doctors have a responsibility to do all that they can to prevent the sexual abuse of patients and to assist health regulatory colleges fulfill their mandate to protect the public and to hold members accountable for their actions.

### Resources:

Member Guide: Guideline for the Prevention of Sexual Abuse; and, Patient Guide: Understanding Sexual Abuse

*Mandatory Reporting Guideline*

*Standard of Practice for Therapeutic Relationships and Professional Boundaries*

*Professional Misconduct Regulation; and, Regulated Health Professions Act (Health Professions Procedural Code)*

### Afterward

NDs have other mandatory reporting obligations under legislation that is not covered in this article. For example, the February 2016 Issue of iNformed spoke to reporting obligations under the *Child and Family Services Act*.

It is an ND's responsibility to ensure that she or he understands all of the legal obligations associated with her or his practice.

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*For practice related questions, or to suggest issues to cover in future editions of the newsletter, contact - Dr. Mary-Ellen McKenna ND (Inactive), the College's Professional Practice Advisor, at 416-583-6020 or by email at [practice.advisor@collegeofnaturopaths.on.ca](mailto:practice.advisor@collegeofnaturopaths.on.ca)*



# Professional Conduct: ICRC Corner

The College takes its role of protecting the public interest seriously. One way that the College protects Ontarians is by investigating complaints about Naturopathic Doctors. It is the role of the College's Inquiries, Complaints and Reports Committee (ICRC) to investigate and consider the complaints received.

In each edition of iNformeD, we will present and analyze a complaint scenario based on facts from real cases. These scenarios are intended to assist NDs to recognize areas of potential concern in their own naturopathic practices to enhance members' knowledge of the professional standards and regulations that apply to their practices and to gain an understanding of the College's complaints process.

This complaint scenario relates to advertising and engaging in public education activities. By statute, the complaints process is confidential. In this summary the participants are not identified and details of the case are altered slightly to respect confidentiality.

## Summary of the complaint

The College received a complaint from a health care professional (the complainant) who expressed concerns about the content of an article authored and published online by a Naturopathic Doctor. In the article, the ND (the member) suggested that a certain fruit could regulate blood sugar levels in a way similar to a pharmaceutical drug controlling diabetes and insulin resistance. The complainant also stated that the article contained "health tip" statements that were not factual or verifiable. For example, the member stated that anti-oxidant properties of the fruit described in the article prevented free radical damage to the cells of a human body and acted to protect the body from cancer growth and carcinogens.

The ICRC noted that the member had included a disclaimer in the article at issue, stating that the fruit is not a replacement for any medication and that the readers should never self-prescribe or change their medication without supervision of a medical doctor. The Committee considered how the member's statements measured up against the College's Standards and commonly accepted naturopathic practices, and determined that the article had the potential to be misleading to the public and that publishing such an article could be considered unprofessional conduct. The Committee reflected that making a claim about

the effectiveness of a fruit in regulating diabetes based on statements from a single research study concerning the treatment of an animal with fruit flavanones is inappropriate. In addition, eating a fruit is not equivalent to using isolated fruit flavanones. While the ICRC expressed a hope that the member understood the difference, it was concerned that the public might not, even with the provision of references or disclaimers.

## Outcome

The ICRC identified serious concerns regarding the member's evident lack of good judgement and professionalism in publishing educational or advertising materials for public consumption, and decided to issue an oral caution to the ND.

An oral caution is not a disciplinary action, but an opportunity for the ICRC to educate a member on the

**An oral caution is not a disciplinary action, but an opportunity for the ICRC to educate a member on the College's expectations in relation to the codes of ethics and standards of the profession.**



College's expectations in relation to the codes of ethics and standards of the profession.

According to the College's by-laws, a notation and a summary of a caution are published on the public register for the Naturopathic Doctor for 24 months after the member appears before a panel of the ICRC to receive the caution.

## Analysis

### Professional Misconduct Regulation

The Professional Misconduct Regulation defines parameters of naturopathic practice and identifies specific professional activities that constitute misconduct and may result in a referral to the Discipline Committee of the College. The Regulation covers a wide range of professional activities, including advertising. It is a professional misconduct for naturopaths practising in Ontario to,

- Make a claim respecting a drug, substance, remedy, treatment, device or procedure other than a claim that can be supported as a reasonable professional opinion (section 26 of the Professional Misconduct Regulation);
- Permit the advertising of the member or his or her practice in a manner that is false or misleading or that includes statements that are not factual and verifiable (section 27 of the Professional Misconduct Regulation).

In this matter the ICRC determined that the article could be considered as misleading to the public, not supported by reasonable professional opinion and containing statements that are not factual or verifiable.

### Core Competencies

The College Standard for Core Competencies articulates the knowledge, skill and judgment required of Naturopathic Doctors practising in Ontario. According to the Standard, a competent naturopath,

- Develops, maintains and respects a comprehensive naturopathic medical knowledge base.
- Promotes the principles and philosophy of naturopathy to patients and the community.
- Ensures professional competence through ongoing self-assessment and professional development.

- Supports the advancement of naturopathy through the development, critical assessment and dissemination of research and information.

The ICRC noted that the member attempted to fulfil a public education role and promote principles of healthy living and preventative medicine. However, the Committee had concerns that, notwithstanding the member's inclusion of the disclaimer, the wording used in the article had the potential to mislead the public and could lead to life threatening consequences especially when such information is presented in a public domain where the member doesn't have knowledge of the individual reader's health circumstances or the opportunity to assess the reader's understanding of the information provided.

### Advertising

Advertising in health care is different from advertising in a business or commercial context. Regulated health professions are held to specific standards outlined by their college with respect to advertising in order to protect the public interest.

The College's Advertising Standard of Practice states that members are required to ensure the information in advertisements is,

- accurate,
- true,
- verifiable by the member,
- not misleading by either omitting relevant information or including non-relevant information,
- professional,
- comprehensible to its intended audience,
- in accordance with the generally accepted standards of good taste.

A member is always responsible for advertisements about his or her practice regardless of whether or not the advertisement is made by the individual member. The member is responsible for taking reasonable steps to ensure that any advertising that references their services meets the Standards of Practice for Advertising. This includes advertising that is done by another person on their behalf.

In its Verbal Caution, the ICRC cautioned the member that promotional or educational information that



[he/she] made publicly available must be scientifically accurate, unbiased, professional in the interest of the public's safety and compliant with applicable standards and guidelines.

### **Bottom line**

The College recognizes that public media plays an important role in advertising, promoting professional services and educating the general public. However, when engaging in use of public media, members of the College are expected to comply with the existing professional expectations, including those set out in the *Regulated Health Profes-*

*sions Act, 1991, Naturopathy Act, 2007* and all College regulations and standards of practice.

Naturopathic Doctors should exemplify the principle of “Doctor as Teacher” in their professional practice and be aware that information presented by a Naturopath may have serious implications for some members of the public who may tend to put their blind faith in the word of a health professional.

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# Professional Conduct: Discipline Decision

The Discipline process is one of the ways that the College maintains the high standards of practice of the profession of naturopathy in order to protect Ontarians' rights to safe, competent and ethical naturopathic care.

When there are reasonable and probable grounds to believe that a Naturopath may have breached the College's Professional Misconduct Regulation or might be incompetent, the Discipline Committee holds a hearing into the allegations. In the interests of transparency and public protec-

tion, the hearings are open to the public, except for certain special circumstances, where for example, there might be safety and security concerns, or where the privacy of a witness must be protected. All Discipline decisions are made in the best interests of the public.

Publishing summaries of the decisions in this newsletter is part of the further transparency of the discipline process, and is intended to assist members of the College in understanding what may constitute professional misconduct.

## Discipline Decision

Member: Dr. Robert Allan Price, ND  
(Registration #0934)

At an uncontested hearing on April 1, 2016, a Panel of the Discipline Committee of the College made findings of professional misconduct against Dr. Robert Allan Price, ND with respect to the following allegations:

- Contravening standards of practice or guidelines of practice set by the Board of Directors of Drugless Therapy – Naturopathy, the former professional regulator, with respect to,
  - treating a family member contrary to the Standards of Practice, Guide to the Ethical Conduct of Naturopathic Doctors and/or Guidelines on Conflict of Interest,
  - failure to obtain a valid consent prior to administering an injection, contrary to the Standards of Practice, Guide to the Ethical

Conduct of Naturopathic Doctors and/or the Standards of Practice and Performance Expectations for Consent, and,

- failure to create a patient record and document treatment, contrary to the Standards of Practice and/or Record Keeping Standards of Practice for Naturopathic Doctors.
- Engaging in 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 with respect to,
  - administering an injection to a family member contrary to their stated wishes,
  - failure to advise the family member what substance was administered to them before and/or after the administration,
  - failure to advise the parent of the family



member what substance was administered when they asked for this information,

- providing treatment in circumstances where the relationship with the patient could influence professional judgment and the duty to act in the patient's best interests,
- failing to obtain a valid consent prior to administering an injection, and,
- failing to document treatment.

Dr. Price, ND admitted to these allegations that were set out in the notice of hearing. He signed an Undertaking with the College whereby he would do the following:

- maintain an active certificate of registration throughout the duration of the Undertaking,
- receive an oral reprimand from the Discipline Panel at the end of the hearing,
- during the period while his certificate of registration is suspended he would,
  - not engage in the practice of naturopathy,
  - not use the title ND, any variation or

abbreviation of the title,

- not hold himself out as an ND or someone who is entitled to practise naturopathy,
  - advise his staff that his certificate of registration is under suspension,
  - ensure that any patient who inquires about his absence from practice relating to the suspension, is informed about the reasons for his absence,
  - not supervise any students or graduates of naturopathy.
- successfully and unconditionally complete the ProBE Program on professional/problem based ethics for health care professionals, at his own expense and within twelve months of the date of the discipline hearing,
  - attend two meetings with an Expert in the practice of naturopathy to review his understanding of the College's regulations, standards of practice, guidelines and the Code of Ethics; the impact of his conduct on his patients, colleagues, the public and the profession; and strategies to prevent the conduct from recurring.





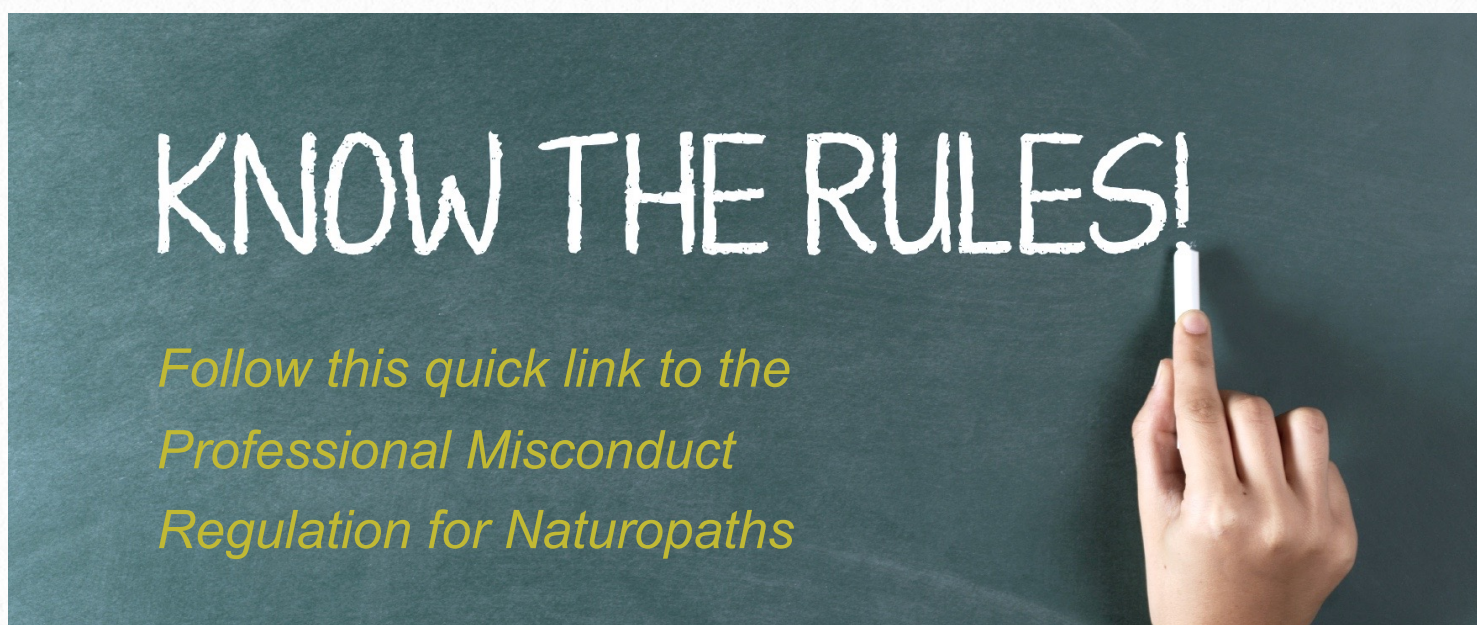
*The Discipline Panel ordered* the Registrar of the College to suspend the Member's certificate of registration for a period of four weeks, with two weeks of the suspension remitted on condition that the Member successfully completes the remedial components of his Undertaking.

*The Discipline Panel also ordered* the Member to pay the College the sum of \$5,000 within 30 days of the Panel's order, or \$6,250 within 30 months of the Panel's order. This amount represented a partial reimbursement of the legal costs and expenses incurred by the College in relation to this matter.

At the conclusion of the hearing, the Member confirmed that he was waiving his right to appeal the decision and so the Panel delivered its reprimand.

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*Copies of the full discipline decisions are available on the public register in the members' profiles. You can also review all decisions in the [Resources](#) section of the College's website.*





# Volunteer Spotlight: Dr. Sylvi Martin, ND

ICRC Member likes to try to have her knowledge and expertise used to benefit the public and the profession.

**W**hen she was 16 and foraging in the woods for mushrooms and native plants, Sylvi Martin was dreaming of being a Naturopath. Now Dr. Sylvi Martin, ND, is a member of two regulated health colleges and works as an investigator for a third. She has her own private practice as a Naturopathic Doctor, is a Registered Nurse, and conducts investigations for the College of Physicians and Surgeons of Ontario

At CONO Dr. Martin is currently an ND member (professional practicing, non-council) of the Inquiries, Complaints and Reports Committee (ICRC). Prior to this, she was a member of the BDDT-N's Complaints and Reports Committee, and before that, she worked on some smaller working groups, such as, carrying out acupuncture exam reviews.

Dr Martin also finds the time to give talks on jurisprudence for the OAND. Without blinking, she goes on to say that Naturopaths are “go-getters... you have to be a go-getter to be a student at the CCNM (the Canadian College of Naturopathic Medicine) and to practice Naturopathy.” She states with pride that Naturopaths are highly motivated and highly educated professionals.

**“This is the playing field that we are on now –it’s not just about us. It’s about everybody working together for patients - kind of like we’re the Olympics of healthcare!”**

Dr. Martin describes her motivation for volunteering for CONO as,

“A way that I can use my clinical knowledge and regulatory experience to contribute to and benefit the public and the profession...I think we as NDs - we have a duty to become involved in the issues that affect our profession. I want to be part of the solution, to ensure that our profession practices to a high standard.”

She says that volunteering on the ICRC requires a commitment of about two days a month, depending on the amount of materials for review and preparation. She says it is not as much time as a chair of a committee or as a Council member.

Dr. Martin describes the work on the ICRC as,

“Very interesting to me. ICRC members work as a team to come up with decisions and solutions to the matters that are before us. There are so many complexities in issues that come before the Committee. Is it easy? No. There are difficult decisions to make, but at the end of the day I feel like I’m contributing in a way that ultimately makes the profession better. If I didn’t feel this way, I wouldn’t continue to volunteer my time and energy.”

Dr. Martin believes that volunteering with CONO has enriched her life and helped her to grow, professionally and personally.

“Honestly? It’s raised the standards of how I manage my own naturopathic practice. My



documentation is more detailed and to the point, even though as a nurse it was very cohesive and clear to start with, I better understand how little nuances in documentation can really clearly provide relevant information about the care and education that was provided to patients. My communication with patients has continuously improved, and I've learned so much in terms of different approaches to treatment. Personally? I feel like I contribute to ensuring that the standards of the profession stay high.

At the end of the day I'm an advocate for the public when I'm on the Committee, but I feel like our profession's doing quite well and that we're all contributing to that."

Dr. Martin says she has "always been one to dive into research and regulations," since her days of undergrad nursing, which preceded her studies in Naturopathy. She commented that some of the most important benefits she has gained in volunteering is learning how legislation and regulations can be interpreted by decision makers and developing a better understanding of what it means to be a regulated health professional.

"I have a better appreciation of how all stakeholders have a say. As a profession we can't just ask for anything that we want, other professions get a say in how we practice too, just as we now have a say in the standards and policies that govern the other regulated health professions in Ontario.

It's neat! Because the professions all down the line get a say – we get a say in policies for MD, Nurses, Pharmacists - whether or not people get engaged and respond to consultations, it's up to them.

This is the playing field that we are on now –it's not just about us. It's about everybody working together for patients - kind of like, we're the Olympics of healthcare!"

Reflecting about the importance of self-regulation for

### **When asked about her biggest achievement, Dr. Martin responded -**

**" My Biggest achievement? Next to becoming a Naturopath! Feeling like my professional and personal lives finally have that good balance, and that I can focus my professional times on things that interest and challenge me, while spending my down time with the people I love, traveling and just generally getting the most I can out of life.**

**Since I was 16 years old, and following through to that huge professional goal, it doesn't end when you get the license. Keeping up with professional development and keeping increasing my knowledge base. Continuously learning as ND.**

**I love the profession, I'm obviously biased as an ND, but I have my toes in a few other ponds so I can realize that we can truly have a profession and a life that is just wonderful - living a healthy lifestyle and teaching and leading our patients to that as well. I don't think it gets any more rewarding than that at the end of the day."**

Naturopaths, Dr. Martin spoke emphatically about its value to the profession -

"It truly is a privilege to be a self-regulated profession, I'm not sure if this is appreciated enough in our profession. In the UK for example, physicians have lost the ability to regulate themselves and the government is now doing it for them. I'd hate to see this sort of scenario occur in Ontario. We



need our profession to continue to rise to the challenge of getting involved in regulatory efforts.

At the end of the day, who is in the best position to assess the quality and standard of care provided by NDs? NDs. Who is in the best position to come up with a plan to remediate an ND whose care has been found to be below the standard? NDs.”

**“It truly is a privilege to be a self-regulated profession, I’m not sure if this is appreciated enough in our profession.”**

Dr. Martin believes that all NDs have experience that can benefit the profession.

“We all bring to the table our unique perspectives and styles of practice. Collectively, we learn and benefit from everyone’s knowledge.

For anyone wondering whether or not to apply for a certain volunteer role, pick up the phone and call a colleague or CONO to learn more about it. The College is currently looking for peer practice

assessors and independent opinion providers. Don’t forget that there are Category B CE credits that can be earned this way!”



Dr. Sylvi Martin, ND

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*For more information about volunteering with CONO, check out this [link for current positions](#), or ask for information about volunteering at 416.583.6010 or by email [info@collegeofnaturopaths.on.ca](mailto:info@collegeofnaturopaths.on.ca)*



# Legal Corner: Mandatory Referral to Emergency Services

Welcome to the legal corner of iNformed. Here, we will focus on various parts of the regulatory framework that governs Naturopaths in Ontario as a means of increasing everyone's understanding - helping both the public and profession to understand the obligations that the various regulatory pieces place upon NDs.

As front line health care providers, Naturopathic Doctors will encounter a broad range of conditions in their clinics. In some instances, a patient may present with serious conditions. What are your obligations?

Ontario Regulation 168/15, the General Regulation made under the *Naturopathy Act, 2007* includes a specific provision to protect both patients and NDs. Section 13(1) of the Regulation includes the following provision:

“If a patient's life is or may be at risk, it is a standard of practice of the profession that the member shall immediately call emergency services to transfer the patient to a hospital.”

From a legal perspective, the language of this provision is interesting and informative for the following reasons:

- The use of “is or may be at risk” in reference to a patient's life allows the ND some latitude. The ND need not know with absolute certainty if the patient's life is at risk. If the patient's life “may” be at risk, the threshold has been met.
- The use of “shall” and “immediately” are also very interesting. The term “shall” removes any discretion from the part of the ND. He or she must make the call if the patient's life “is or may be at risk.” The term “immediately” communicates the urgency of the call. It must be made immediately.

- The use of “call emergency services to transfer the patient” is also indicative of the desired outcome, namely to ensure that the patient is admitted to hospital so that he or she can have access to necessary care.

Taken in totality, this provision reassures Ontarians that they will be transferred to a hospital when their life is or may be at risk while seeing their ND.

What is also interesting about this provision is the notable absence of a consent provision. Even if a patient does not consent to the calling of emergency services or the transfer to a hospital, the provision requires that the call and transfer take place. In most cases where a referral to another practitioner is anticipated, such referrals can only occur with the consent of the patient. Section 13(1) is notable for the obligation to make the call and transfer care, regardless of the patient's position, in circumstances where a life is or may be at risk.

This ability to affect a transfer without seeking consent would also apply in circumstances where a patient has an alternate decision maker, or in a situation where the patient whose life is or may be at risk is a minor.

For the ND, this is an important provision. Section 13(1) allows you to explain to your patients that when the necessary threshold is reached (namely that their life is or may be at risk), you have no option but to immediately call an ambulance. This is in their interest. To do otherwise is a breach of your obligations as a member of the College.

For the public, this provision ensures that patients whose lives are or may be at risk, in all and any circumstances, receive necessary emergency care.

Rebecca Durcan, LLB, LLM  
Barrister & Solicitor  
Steinecke Maciura LeBlanc



# Grey Areas

This article discusses an interesting aspect of mandatory reporting obligations. It looks at a very specific subject area currently under debate in Quebec. Should regulators give immunity to practitioners who come forward to report on misconduct in which they may have been a participant?

## Protect the Informant?

by Erica Richler

June 2016 - No. 207

In school yards and other circles, disclosing the bad behaviour of others is frowned upon. However, for regulated practitioners there is an expectation that they will make disclosure, where necessary, to protect the public.



In fact, most professions have mandatory reporting duties. These duties vary but generally include a duty to disclose adverse information about oneself (e.g., a criminal charge or finding) and about other practitioners (e.g., events that demonstrate a risk of harm to the public such as sexual abuse).

An interesting debate is going on in Quebec right now over a proposal to allow regulators to give immunity to practitioners who come forward to report on miscon-

duct in which they may have been a participant. Bill 98 contemplates that such immunity may assist regulators in gathering difficult to obtain evidence in cases where there may have been a conspiracy to harm the public. This tool might be particularly valuable where the client is a willing participant in the misconduct (e.g., various forms of financial misconduct like automobile insurance fraud).

The June 10th issue of the Lawyers Weekly presents different perspectives on the debate within Quebec (“Questions raised over Quebec ethics bill flowing from Charbonneau Commission”). One observer noted the benefit to regulators (and the public) of being able to obtain evidence to prove misconduct that might not otherwise be available. Another observer commented on the disconcerting picture of Bill 98 offering absolute immunity to practitioners while offering no protection to members of the public who complain about practitioners.

More generally, the debate raises a number of issues. Certainly concerns have been raised in the criminal law arena with “immunity deals”. Perhaps the biggest issue, from a policy perspective, is the perception created by taking no action against practitioners who admit they have acted unprofessionally. This concern is aggravated by the active, ongoing registration of the practitioner which creates a continuing, public “seal of approval” by the regulator. Perhaps this concern could be mitigated by ensuring that the regulator can post relevant



information in the public register about the “immune” practitioner.

Another issue is whether the evidence of the person granted immunity will carry much weight in the ensuing proceeding. In criminal cases it is common to challenge the testimony of a witness who has received an “immunity deal” on the basis that the person is exaggerating, or even “making up” the evidence in order to obtain that immunity.

Another practical issue is the timing of the offer of immunity to a practitioner. If the immunity is offered before the regulator knows the details of the misconduct, the regulator may unwittingly be offering immunity to the most culpable party (along the lines of the Karla Homolka “deal with the devil”). However, the practitioner is unlikely to reveal much to the regulator before obtaining the assurance of immunity.

A related practical issue is that there may be a race to get to the regulator by participants in the misconduct to obtain the immunity. The person who approaches the regulator first may, in fact, be the most culpable participant in the event. If so, that person may provide the least reliable information in order to make it appear that the other practitioners deserve prosecution while the informant should receive immunity.

Another practical problem is that the immunity agreement would typically have a provision that the immunity protection can be withdrawn if the person applying for immunity is not completely candid and forthright. This creates a delicate relationship between the regulator and the practitioner during the remainder of the process. There may be ongoing anxiety as to whether new information will nullify the deal resulting in the practitioner not being candid when new information arises. Of course, it is not a simple matter for the regulator to cancel the agreement for lack of candour because that would amount to an admission that the witness was not honest and credible (which will jeopardize his or her credibility in the ensuing hearing).

Another challenge in offering immunity to practitioners by regulators is that the offer can only apply to regulatory proceedings like complaints and discipline. Regulators cannot offer immunity from civil, criminal or human rights liability.

A proposal to enact a provision in legislation allowing the granting of immunity raises the question of what prevents a regulator from offering immunity under current legislation. In fact, similar kinds of arrangements have existed in the past. The challenge at the present time is that immunity offers cannot be absolute. The regulator has to warn the practitioner that while the regulator might not initiate proceedings on its own, others might. For example, if someone were to make a formal complaint against the practitioner, the screening committee would have to consider the complaint on its own merits and likely could not dismiss the complaint solely because an immunity arrangement had previously been reached between the practitioner and regulator. In addition, any decision made by the screening committee is reviewable, sometimes by another tribunal and always by the courts.

It is for these reasons that regulators are reluctant to offer immunity to practitioners who come forward with concerns, even concerns relating to serious misconduct.

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*Grey Areas is a Legal Commentary on Issues Affecting Professional Regulation, published regularly by Steinecke Maciura LeBlanc, Barristers and Solicitors. It is reprinted here with their permission.*



# News and Events

## *Upcoming Examinations*

### ONTARIO PRESCRIBING AND THERAPEUTICS EXAMINATIONS

October 23, 2016

### ONTARIO CLINICAL EXAMINATIONS

September 25, 2016

### ONTARIO INTRAVENOUS INFUSION THERAPY EXAMINATIONS

November 27, 2016

## *CE Reporting*

### GROUP II – CE LOG FORM

September 30, 2016

## *Upcoming Council*

### COUNCIL MEETINGS

October 27, 2016





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