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INFORMED

NEWSLETTER OF THE COLLEGE OF NATUROPATHS OF ONTARIO

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Cannabis Update

Cannabis Update

There has been a fair amount of conversation about cannabis among College Members recently and what the upcoming legal changes mean for naturopathic practice in Ontario. We want to take this opportunity to update you about what we know and our ongoing work in this area.

This is a complex issue that involves the federal and provincial governments, multiple pieces of legislation and regulations, and a number of organizations that are involved in the regulation of prescription drugs in Canada.

KEY TAKEAWAYS:

For naturopathic doctors in Ontario, nothing has changed in the regulatory framework surrounding the use of cannabis in their practice and October 17th is only an important date when it comes to non-medical use of cannabis.

The bottom line is that in a health care setting, the federal legislation will not permit an ND to “prescribe” cannabis. While it may allow using it within health care practices, including naturopathy, legislative changes at the provincial level would be required before these changes could be made. Any such changes would require extensive consultation, including specific steps that must be followed. Changes would need approval from both the provincial regulatory College as well from the Ontario Ministry of Health and Long-Term Care.

The College will continue to liaise with government and other key stakeholders as this topic evolves over the coming months and will keep Members informed of upcoming changes that may impact the use of cannabis in naturopathic practice.

CANNABIS UPDATE

WHAT WE KNOW

At the time of writing this article (September 2018), what we know is that the Federal *Cannabis Act* will come into force on October 17, 2018 along with its regulations. This will make the non-medical use of cannabis legal in Canada. This change will have no immediate impact on what naturopathic doctors in Ontario can administer, prescribe, dispense, or sell to their patients.

We also know that in July 2018, at the time the *Cannabis Act* and Regulations were published, the listing of cannabis on the Government of Canada's *Prescription Drug List* (PDL) was amended to read:

"Phytocannabinoids produced by, or found in, the cannabis plant and substances that are duplicates of such phytocannabinoids".

[Phytocannabinoids](#) are, by definition, "cannabinoids that occur naturally in a cannabis plant", of which there are apparently 66. The two most commonly referred to are THC and CBD.ⁱ

Cannabis is defined in the *Cannabis Act* as meaning "a cannabis plant and anything referred to in Schedule 1 but does not include anything referred to in Schedule 2."ⁱⁱ It would seem therefore that cannabis as set out under the *Cannabis Act*, remains a drug, although a new regime to decriminalize it makes it legal for an individual to possess, distribute, and sell it in various quantities.

Because it is listed on the Federal *Prescription Drug List*, cannabis is considered a drug that requires a prescription, with the following exceptions to the prescription requirement set out in the PDL:

- a) derivatives of cannabis as defined in subsection 2(1) of the *Cannabis Act* that are exempt from the application of the *Cannabis Act* under the Industrial Hemp Regulations and that do not contain an isolated or concentrated phytocannabinoid or a synthetic duplicate of that phytocannabinoid [**hemp or hemp products created by organizations authorized under the Industrial Hemp Regulations**], or
- b) anything referred to in Schedule 2 to the *Cannabis Act* that contains no more than 10 µg/g delta-9-tetrahydrocannabinol (THC) and that does not contain an isolated or concentrated phytocannabinoid or a synthetic duplicate of that phytocannabinoid [**a non-viable seed, a mature stalk without any leaf, flower, seed or branch of such a plant, fibre derived from a stalk, the root, or any part of a root of the plant**].

CANNABIS UPDATE

Even though cannabis is a drug that requires a prescription, the *Cannabis Act* sets out an alternate means of obtaining cannabis for the purposes of non-medical use. In doing this, the Federal Government has essentially created two types of cannabis in Canada, medical and non-medical. Nonetheless, we have heard through the College of Naturopathic Physicians of British Columbia (CNPBC) that Health Canada has indicated that the two types of cannabis are exactly the same.

We also know that cannabis is currently listed on Schedule 1 (drugs that require a prescription) by the [National Association of Pharmacy Regulatory Authorities](#) (NAPRA). NAPRA lists cannabis as a Schedule 1 drug but it is footnoted with "N" which means it is listed in the *Controlled Drugs and Substances Act* (CDSA) and the Narcotic Control Regulations (NCR). For all intent and purposes, this was the former regime before the introduction of the *Cannabis Act* and it is clear that NAPRA will have to make changes to this schedule (presumably by October 17, 2018) to reflect the new way cannabis is being regulated by the Federal Government. It is anticipated that

NAPRA will duplicate the manner in which the Federal Government has listed cannabis on the Prescription Drug List.

Additionally, we know that the way in which "medical marijuana" is currently regulated, under the Access to Cannabis for Medical Purposes Regulation (made under the *Food and Drug Act*), will be repealed on October 17, 2018 and will be incorporated into the *Cannabis Act* regime. In fact, this structure remains in place in Section 14 of the Cannabis Regulations (made under the *Cannabis Act*) which comes into force on October 17, 2018. Under both the old and the new structure, authorized healthcare practitioners only include physicians and nurse practitioners in provinces and territories where supporting dried marijuana for medical purposes is permitted under their scope of practice. With the medical documentation provided by a physician or nurse practitioner, individuals can register with one of the licensed producers identified on Health Canada's website.

FAQS

Can other health practitioners "prescribe" cannabis?

According to Health Canada's publication "Health products containing cannabis or for use with cannabis: Guidance for the *Cannabis Act*, the *Food and Drugs Act*, and related regulations", the answer is no.

CANNABIS UPDATE

According to Health Canada, the intent of section 8 of the Cannabis Regulation was to permit health practitioners other than medical doctors and nurse practitioners, who have the authority granted by their Provincial Government to use prescription drugs in their practice, to be permitted to possess, administer and distribute cannabis, assuming the provincial government also authorizes the use of that drug by the profession(s).

Prescribing cannabis remains limited under the *Cannabis Act* to medical doctors and nurse practitioners who can provide medical authorization through a “medical document”.

What about NDs in Ontario?

The *Cannabis Act* and Cannabis Regulation permit other regulated health care providers to possess, distribute and sell cannabis.

However, this is subject to the Province of Ontario and the regulatory Colleges making legislative and regulatory changes to actually authorize it at the provincial level before these health care providers could legally do so.

What would specifically have to change to allow Ontario NDs to incorporate cannabis into their practice?

A number of changes would have to occur.

1. The Government of Ontario would need to amend the Ontario drug schedules to make cannabis a prescription drug, similar to the changes made to the Prescription Drug List. Currently, there is an outright prohibition, except with respect to the medical marijuana process.
2. The Council of the College of Naturopaths of Ontario would have to determine whether the profession should be permitted to administer, dispense, compound or sell cannabis as a part of its practice.
3. Upon a decision from the Council, the College would need to draft and circulate for a mandatory 60-day consultation an amendment to the General Regulation (made under the *Naturopathy Act, 2007*) adding cannabis to the relevant tables.
4. Finally, after receiving feedback from the consultation and making any changes the Council believes to be necessary, the draft regulation amendment would be submitted to the Ministry of Health and Long-Term Care for consideration and eventually, if accepted, Cabinet approval.

CANNABIS UPDATE

How we got here

It has been just over a month since the Federal Government released all of these changes. Frankly, there are pages upon pages of legislation, regulations and guidance documents to review. As a result, we caution our readers that this is our understanding today. We may not have fully understood the materials available or, alternatively, things can change.

That said, this has been a collaborative effort on the part of many. Considerable thanks goes to our colleagues at the College of Naturopathic Physicians of British Columbia who, like us, have worked hard to come to a mutual understanding of what we think the legislation says. Thanks also goes to our colleagues at the Ontario Association of Naturopathic Doctors, and the Canadian Association of Naturopathic Doctors, for reviewing this article in draft, offering additional information and clarification along the way. It is very refreshing to again realize that although we do and will have our differences, the associations and regulator can

and will work cooperatively to benefit both Members of the profession and the public to create an understanding of the new system.

Summary and next steps

Clearly, this is not over yet. We still have work to do.

First, it must be determined what the Government of Ontario will do with the provincial Drug Schedules.

Second, the College Council must determine what it would like to do in the context of Ontario NDs incorporating cannabis into their practice. As it is not yet clear whether this is important to the profession, one way that you, our readers, can assist us is by [completing this short survey](#) about NDs' interest in prescribing cannabis. Understanding the desires of both the public and the profession will help the Council chart its course forward.

As an interim step, because this entire process will take some time and any possible changes relating to naturopathic practice will not be made by October 17, 2018, the Council will be asked to consider a guidance document about cannabis for Ontario NDs at its October Council meeting.

Andrew Parr, CAE
Registrar & CEO

CANNABIS UPDATE

References:

[Health products containing cannabis or for use with cannabis: Guidance for the Cannabis Act, the Food and Drugs Act, and related regulations \(Health Canada\)](#)

[Cannabis Legalization and Regulation](#) (Department of Justice, Government of Canada)

[Regulations to support coming into force of the Cannabis Act](#) (Health Canada)

[Cannabis laws and regulations](#) (Health Canada)

[National Association of Pharmacy Regulatory Authorities](#) (NAPRA)

[National Drug Schedules](#) (NAPRA)

ⁱ Phytocannabinoids, News-Medical.net, Dr. Ananya Mandal, MD

ⁱⁱ Cannabis Act (Canada), S.C. 2018, c.16, section 2(1)



NDs and members of the public are invited to take our brief, anonymous survey about medical cannabis in naturopathic practice.

[CLICK HERE](#)

Purpose of the *Cannabis Act*

A number of people are suggesting that the *Cannabis Act* sets out that cannabis is no longer a drug. This is not true. Cannabis is a drug and it remains restricted. What the *Cannabis Act* does, in summary, is as follows.

- Makes it **legal** for individual Canadians to have certain amounts of cannabis at certain potency, in their possession.
- Makes it **legal** for individuals licensed under the Act and in concert with Provincial regulations, to possess higher amounts, and to distribute and sell cannabis subject to a large number of restrictions.

There are a number of caveats contained in the legislation; however, a key take away is that the intent is to make it legal to possess the drug, subject to many different conditions. Prior to these changes, it was illegal to possess it in any amount or to distribute or sell it, except if it was for a medical purpose as set out in the regulations.

REGISTRAR'S MESSAGE

Professionalism and the Social Contract

In regulatory circles, a great deal of time and attention is given to the topic of professionalism.

In this article I will explore why professionalism is something that the College would concern itself with and why there is a public interest in naturopaths being “professional”.

THE HOW

Before I go there, I would like to point out briefly how the College regulates professionalism. We do this in a number of ways.

1. First, there are many standards of practise that speak to professional issues. These include, among others, standards on advertising, fees and billing, and therapeutic relationships and professional boundaries.
2. Second, the College pays attention to the background and history of individuals making an application to become a Member of the College through a series of good character questions.
3. Third, the provisions of the *Professional Misconduct Regulation* (Ontario Regulation 17/14) set out what constitutes professional misconduct, which for all intent and purposes describes the opposite of what is professional. Some provisions that clearly speak to professionalism include:

- not acting in a conflict of interest (s.17);
- signing a document that contains a false or misleading statement (s.24);
- making a claim about a drug, substance, remedy or treatment that is false or misleading (s.26); and
- permitting the advertising of a Member's practice that is false or misleading (s. 27).

One final provision worth noting is “Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.” (s. 46). This provision, known as a basket clause and referred to as “DDU” by regulators, really sets out that the College on behalf of the Members of the profession must concern itself with unprofessional, dishonourable or disgraceful conduct.

REGISTRAR'S MESSAGE

THE WHY

So if that is how, the question is why? Why is the College required to care about professionalism? The answer lies within the very foundation of the regulatory model. Regulation is established by legislation. Legislation is approved by Members of Provincial Parliament (MPPs) who are elected to represent the views of their constituents (this differs from elected members of College Council who are not beholden to the views of their constituent Members). When MPPs pass legislation it is essentially the people of Ontario passing legislation.

It has long been held that in approving the regulatory model we work within today, the people of Ontario (as expressed by their MPPs) have entered into a “social contract” with the profession to whom they have given the privilege of self-regulation. Like any contract, it benefits both (or all) parties to the contract.



THE WHAT

So what did the people of Ontario give to NDs when their MPPs approved the *Naturopathy Act, 2007* and by extension, what benefits did Ontario NDs get?

The benefits to NDs include:

- access to the title Naturopathic Doctor and any derivation or abbreviation thereof;
- ability to use the title Doctor (Dr.) before their name;
- permission to perform high risk procedures or acts (controlled acts) provided the ND has the knowledge, skill and judgment to do so;
- permission to prescribe, dispense, compound and sell drugs and permission to inject drugs and perform IVIT; and
- a restricted pool of qualified individuals (by restricting who can do these things, anyone who does not meet the requirements cannot be a naturopath, which by definition, lowers the number of people who are registered).

The next question is what did the people of Ontario (as expressed by their MPPs) demand from Ontario NDs? In other words, what benefit do the people of Ontario have from this social contract with NDs and what did NDs have to give up?

REGISTRAR'S MESSAGE

The benefits to Ontarians include:

- assurance that those who are NDs and who are performing the restricted acts have the knowledge, skill and judgment to do so (based on entry to practise requirements);
- the ability to hold the Members of the profession accountable for their actions (through the complaints and discipline processes);
- assurances of quality care and maintenance of competency of NDs (through the Quality Assurance Program); and
- assurances of professionalism among NDs (through the standards and through the Professional Misconduct Regulation, as well as through the establishment of the College who maintains the standards and applies the regulation).

One of the benefits of having been with the College from almost the very beginning (the first Council meeting was in November 2009 and I joined the College in August 2010) is that I have seen and heard the dialogue about the value of this social contract. I've heard many say that the benefits do not balance the costs to the profession. For some this may be true and for others, it may not. Some, over time, will change their mind. It is still early days given it is only three years since the new regulations came into effect.

There can be no doubt that the "social contract" comes at a high cost to the profession...new and stricter rules, higher fees, a more robust regulatory body (by design of the legislation). Be that as it may, it is the social contract into which "the profession" entered when it sought regulation under the *Regulated Health Professions Act, 1991*. The people of Ontario demanded (and still demand) a high price for providing NDs with the privilege of being among a small and select group of people who make up Ontario's regulated health professions.

Andrew Parr, CAE
Registrar & CEO

Peer & Practice Assessments

Each year the Quality Assurance Committee (QAC) randomly selects a group of practising naturopaths to undergo an objective review of their knowledge and performance by College-trained assessors who are also practising naturopaths. Last year, 39 naturopaths were assessed.

This positive learning experience is relevant to each naturopath's practice and gives them an opportunity to meet and discuss practice issues with a peer. The process is designed to be transparent, educational and supportive.

Naturopaths are assessed every five years, with those who offer Intravenous Infusion Therapy (IVIT) being assessed every three years due to the higher risk associated with providing this service.



In this issue of *iNformed*, we share naturopaths' experiences about undergoing an assessment as well as some of the benefits of volunteering as a Peer and Practice Assessor. We also highlight what Members can expect and how to make the most of the experience.

Helping NDs in practice

The assessors we spoke with, as well as the ND who was assessed, appreciate the benefits of talking with their colleagues about how they practice. Dr. K.S, ND was thankful for the advice and guidance provided by her assessor.

"Reviewing my files with a peer also gave me confidence that I was adhering to all the

ND PERSPECTIVES

On reflection, I felt the peer and practice assessment to be a great learning experience, and I do believe it has helped me in practice.”

– Dr. K.S., ND

College rules. The assessment helped me to be even more detailed and conscientious in my file and record keeping than I already was,” she said.

Assessors benefit too

All assessors are practising NDs who have received specialized training to fulfill their role. The assessors we spoke with for this article said that one of the things they like most about their role is being exposed to different approaches and techniques that their peers use in practice. They say their role also gives them opportunities for self-reflection to ensure they too are offering the highest standard of care possible.

One assessor commented, “After many years in practice, we tend to work in our own ‘silos’ and get disconnected from each other. This is a great way to meet other NDs, learn about each other’s practices and build a strong network of care for referrals.”

Another assessor, Dr. N.A., ND spoke about how the role has made her more mindful of the requirements, which puts her at ease and helps her ensure she is meeting those requirements in her own practice.

Tips to help you prepare

Most assessors reach out to the ND one to three weeks before the assessment date. They describe the process and requirements so the ND is fully aware of what will be expected of them.

“There was very open communication throughout the process,” said Dr. K.S., ND “My assessor called me and outlined exactly what I should expect from our meeting and how I could best prepare. I appreciated that. She assured me that it was very much a learning experience with a peer. Overall, I found the correspondence to be very positive and useful.”

Dr. K.S., ND also offers four tips based on her experience to help colleagues prepare for an assessment:

1. Read the checklist from the College early on to ensure you have everything you need for your clinic.
2. Start to prepare and organize your portfolio a couple of weeks before your assessment.
3. If possible, avoid booking the assessment during a busy month in your practice.
4. Clear your day of patients.

ND PERSPECTIVES

“In general, if you follow the guidelines you are given to help you prepare, there won’t be any surprises and you will feel a lot less anxiety surrounding the whole process.”

Note that most assessments take an average of half a day to complete.

Bearing in mind that all assessors have had their own practices assessed, Dr. M.R., ND urges Members who have been selected to take a deep breath and relax.

“I am coming as a colleague and peer. I’ve been in your shoes and I understand you might feel vulnerable. This is a requirement of our profession and I want to make it as supportive an experience as possible.”

– Dr. M.R., ND

Post-assessment

Based on the results of the onsite assessment, the assessor writes a report to the College outlining the ND’s knowledge, skill and judgment. They will give the ND an overview of the report and the chance to discuss any issues or clarify any information. The College will send the ND a copy of the final report.

The results of all assessments remain confidential. They are shared only with the ND, Quality Assurance staff, and the Quality Assurance Committee (QAC). If the ND demonstrates the appropriate knowledge, skill and judgment, no further action is required. If the QAC identifies concerns, they will identify recommendation(s) for improvement that the ND must adhere to.

After the review is complete, the assessor sends a confidential questionnaire to the ND to evaluate the Peer and Practice Assessment process and the skills of the assessor. In closing, undergoing a Peer and Practice Assessment can be educational, rewarding, collegial and supportive for the participating ND as well as the assessor. The aim is to help our Members enhance their practice with the end goal of providing patients with safe, competent and ethical naturopathic care.

Resources

More information about Peer and Practice Assessments is available on our website, including:

- Our blog post: [Peer & Practice Assessments – Separating Fact from Fiction](#)
- [Peer & Practice Assessment Overview](#)
- [Peer and Practice Assessment Handbook, plus forms and charts](#)

Regulatory Guidance

Obligations to patients when changing or closing a practice location

When a Member moves to a new practice location, or retires, sells, or closes a practice, there are certain College requirements for notifying patients and maintaining patient files.

NOTIFYING PATIENTS

The [*Code of Ethics*](#) states that a Member is to continue to provide services until another suitable practitioner has assumed responsibility or until the patient has been given reasonable notice of termination of care. If a Member will no longer be available to continue treating their patients, then patients are to be provided with either the names of other naturopathic doctors (ND) in the area or resources that will help them find another ND.

The College does not specify how far in advance a Member must notify patients that they are moving or closing their practice. The expectation is that reasonable notice is given to patients depending on the Member's circumstances and how far in advance the Member knows when they will be leaving the clinic. In some cases notification will be given weeks ahead while in other situations it may be months.

The College also expects Members to notify patients in writing for whom they have current contact information. Written notification may be through a letter that is mailed to the patient or an email (provided the patient has consented to this form of communication). For those patients whom the Member has not treated for some time and may not have reliable contact information, other notification methods, such as website and social media posts, as well as a notice in the newspaper, may be used.

The [*Standard of Practice for Record Keeping*](#) states that patients are to be notified in writing as to how they can obtain access to their patient record when a Member relocates or the practice ceases operation. So, along with patients being informed that a Member is moving, patients must also be made aware of where their original patient file is located in the event they would like to access a copy.

NOTIFYING THE COLLEGE

When a Member relocates or closes their practice, the College is to be notified and provided with a forwarding address for a minimum of 10 years. In the case of the sale of a practice or where the Member has transferred the care of the files to another party, the Member is to inform the College of the sale or transfer, and in whose care and control the original records will be maintained.

It is also a Member's duty to update their practice location within 30 days of a change of address. To do this, the Member needs to [sign in](#) to the College's website and make the necessary changes to their account page.

For Members who perform IVIT, the College must also be notified of any change of practice location. To do this, the designated member is required to complete the [Change of IVIT Members or Health Profession Corporations](#) form indicating the name of the Member who is leaving the location. Designated members are also responsible for submitting the form when a Member who will be performing IVIT procedures joins a premises.

MAINTAINING ORIGINAL PATIENT FILES

It is the Member's responsibility to ensure their patient files are maintained and retained according to the expectations outlined in section 8 of the *Standard of Practice for Record Keeping*.

If a Member dies, the responsibility for the maintenance and transfer, if applicable, of the records lies with the estate. If the practice is sold to another Member, all original records are transferred to the purchasing Member and maintained according to the standards of the College.

When a Member leaves a clinic, the question about who owns the original patient files often arises. If there is a written agreement identifying the owner of the files (i.e., the clinic owner or the Member), then the Member is expected to abide by that agreement. If a written agreement was not created, then it is the responsibility of all parties to act professionally and come to an agreement to ensure patient records are transferred and retained in accordance with College standards. Regardless of who is the designated owner of the patient records, Members must keep in mind that the records must be maintained as outlined in the *Standard of Practice for Record Keeping*.

Please note that the College does not provide legal advice and naturopaths should consult with a lawyer before entering or executing any contracts or agreements.

It is important to remember that when a practice arrangement between two or more health care practitioners comes to an end, each practitioner is responsible for ensuring that disputes between them do not in any way impact the ongoing care of patients.

The contract should not, however, provide any terms which would in any way prejudice the future treatment of patients, restrict patients' rights to choose the naturopathic doctor of their choice, or limit the access of the patient to their naturopathic medical records.

While the original patient record remains in one location, the patient has the right to choose their naturopathic doctor.

COPIES OF THE PATIENT FILE

A patient has the right to access a copy of their patient record. When the patient record is to be provided to a person other than the patient or their authorized representative, the Member must obtain express consent from the patient or their authorized representative. This written consent includes access to the patient record by a naturopathic doctor who takes over the care of the patient, even if the new ND is in the same clinic that the other ND left.

A clinic owner may not make copies of patient files prior to the departure of a Member who is taking the originals to a new location without express consent from the patient.

A Member may charge a reasonable fee to reflect the actual cost of reproduction, the time required to prepare the material, and the direct cost of sending the material to the authorized party. The Member shall not require prepayment of this fee. Non-payment of the fee is not a reason for the Member to withhold the information.

A Member never provides any information about a patient to anyone other than the patient or their authorized representative without the express consent of the patient or an authorized representative. Members may be required to provide patient information by law, such as when requested by the regulatory College, when there is a risk of harm to the patient or other persons, or the health care professional is within the patient's circle of care.

When changing practice locations, for whatever reason, there are many things to take care of and it is typically a busy time. As a Member of the College, it is an ND's responsibility to ensure that patients and the College are fully informed of the changes and that patients will have continued access to their records and to naturopathic care.

CHECKLIST

- ✓ Notified patients in writing that you are moving or are no longer available to provide naturopathic care.
- ✓ Provided patients with names of other naturopathic doctors in the area or resources that will help them find another ND.
- ✓ Provided written notification to patients as to how they can obtain access to their patient record.
- ✓ Updated practice location information in your profile on the College's website.
- ✓ Submitted the *Change of IVIT Members and Health Profession Corporations form* for Members who perform IVIT.
- ✓ Ensured that the original patient records are being maintained according to the *Standard of Practice for Record Keeping*.

RESOURCES

- Blog post: [*Until Death Do Us Part*](#)
- [Practice Standards, Guidelines and Policies](#)
- [Inspections Handbooks, Tools and Forms](#)



For additional guidance, contact our Regulatory Education Specialist Dr. Mary-Ellen McKenna, ND (Inactive)
maryellen.mckenna@collegeofnaturopaths.on.ca or 416-583-6020.

NEW



Students' Corner

The College is pleased to introduce Students' Corner as a new regular feature in each issue of *iNformeD* with information for students who may be interested in practising in Ontario. Our inaugural column includes tips and guidelines for successful externships. It also includes information for NDs who will be graduating in 2019.

EXTERNSHIP GUIDELINES

Completing an externship provides students with the skills and learning opportunities they need to gain meaningful insight into real-world clinical situations.

Here are some guidelines surrounding the use of titles, advertising, and controlled acts that students need to consider and abide by.

USE OF TITLES

The use of ND, naturopath or Dr. in a title is restricted to naturopathic doctors who are registered with the College of Naturopaths of Ontario (the College). The unauthorized use of a title is considered to be professional misconduct, and although students and new graduates are not yet registered with the College, the act itself could affect your registration application in the future.

STUDENTS' CORNER

Instead, when working for an ND during your externship, consider using the term “Student” followed by the name of your institution if your information is to appear on your supervising ND’s website, or any other public domain or accounts such as your social media profiles.

For new graduates, we do not recommend using titles such as “ND candidate” or any title incorporating “ND” as it becomes a derivation of the protected titles set out in the [Registration Regulation](#). The same would apply to any title using “naturopath”. It is imperative that any patient receiving care understands the new graduate’s status and has consented to all assessments and treatments. Of course, titles are important in today’s world so consider using “intern”, “CCNM Graduate”.

For more information about Standards of Practice, please [visit our website](#).

ADVERTISING & ONLINE PROMOTION

Have you ever thought about how our Members are regulated when it comes to advertising, including their websites? As opposed to a consumer product or commercial service that can be marketed in a way that implies life-changing results, NDs are strictly regulated when it comes to how they promote themselves and their practice. Information that NDs promote must be both true and accurate. The same rules apply to students. As future Members of the College, students and new graduates should review the [Advertising Standards and Guidelines](#) and ensure that they, and the Member supervising them, are complying with these standards. The Regulatory Guidance section of our website

also includes infographic-style [do’s and don’ts for bios and websites](#).

ACCEPTING PATIENTS

Neither students nor new graduates may say they are “accepting patients” as this constitutes false advertising. Only individuals who have received their certificate of registration from the College may accept patients. Moreover, since graduates are not able to accept patients until they have passed their Entry-to-Practise Exams and become a Member of the College, they must be aware of any and all advertisements that are created by another person on their behalf. This includes advertisements on their supervising ND’s website that reference either a student or a new graduate working for them. In this case, you are responsible for taking reasonable steps to ensure that any advertising about you meets the *Standard of Practice for Advertising*.

By the same token, students who are still completing their externship are not allowed to claim patients as their own. This is especially important when discussing informed consent. As in practice, when completing your externship, the emphasis must always be on the patient. As a result, the patient has the right to consent to who is providing the service. [Learn more](#) about the College’s *Standard of Practice for Consent* as well as the *Informed Consent Guideline* that apply to practising NDs.

CONTROLLED ACTS

While completing your externship, it is up to you as the student to assess the degree to which you feel comfortable exhibiting certain

STUDENTS' CORNER

skills - whether that be an observation, or being able to take a patient's health history. Your supervising ND is also expected to make an informed judgment on whether you are capable of performing certain assessments and treatments.

Regarding performing controlled acts, section 29(1) of the [*Regulated Health Professions Act, 2001*](#) (RHPA) allows for students to perform a controlled act "if it is done in the course of fulfilling the requirements to become a member of a health profession and the act is within the scope of the practice of the profession and is done under the supervision or direction of a member of the profession."

Students therefore, may perform a controlled act during an externship under the supervision or direction of a Member. While a formal delegation is not required, it is in the best interest of everyone that the Member considers the criteria for making a delegation as outlined in the [*General Regulation and Standard of Practice for Delegation*](#).

The controlled acts that a Member may delegate are:

- putting an instrument, hand or finger beyond the labia majora but not beyond the cervix;
- putting an instrument, hand or finger beyond the anal verge but not beyond the rectal-sigmoidal junction;
- administering, by injection or inhalation, a prescribed substance;
- performing prescribed procedures involving moving the joints of the spine beyond the

individual's usual physiological range of motion using a fast, low amplitude thrust;

- taking blood samples from veins or by skin pricking for the purpose of prescribed naturopathic examinations on the samples; and
- prescribing, dispensing, compounding or selling a drug designated in the regulations.

However, once a student has graduated and is waiting to complete the examinations or become registered, this provision of the RHPA is no longer available as the student is no longer enrolled in the program. When working with a Member of the College after graduation, controlled acts can only be performed when proper delegations are in place.

For more information on controlled acts, please visit our [website](#) or check out our [YouTube](#) channel.

Completing an externship should be both rewarding and valuable. That is why we aim to ensure you have the information you need in order to succeed.

If you have questions or concerns about doing an externship with a College Member, please do not hesitate to reach out to our Regulatory Education Specialist, [Dr. Mary-Ellen McKenna](#), ND (Inactive) at 416 583-6020. She's available to answer questions and provide support to naturopathic students and NDs. Note that we do not track information about callers other than topic-related statistics.



Update: New Entry-to-Practise Exams

In conjunction with Yardstick Assessment Strategies, the College and its committees are diligently working to finalize the new Clinical Sciences exam, set to launch in the summer of 2019.

Information about 2019 exam dates, important deadlines, and what the Clinical Sciences exam will test, will be shared with students, Members, and stakeholders starting this November. Communication will be ongoing to ensure students, educators and others are fully up-to-speed.

Work on the Biomedical exam, set to launch in autumn of 2020, continues and Members of the profession interested in helping to set the course of this exam are encouraged to contact us about different ways to volunteer.

The College Council will review the Exam Transition Policy at its October meeting. This policy will address when the College will stop recognizing NPLEX I and II exams as part of the entry-to-practise exams for registration in Ontario.

College Successfully Protects Quality Assurance Records

In September 2016, a Member of the College of Naturopaths of Ontario filed a claim against the College with the Human Rights Tribunal of Ontario (HRTO) wherein it was alleged that the College's Quality Assurance Committee (QAC) discriminated against the Member on the basis of their disability when it granted only a six-month extension to complete the required Continuing Education Credits. The Member had sought a 12-month extension.

In its submissions to the HRTO, the College took the position that neither the applicant to the HRTO nor the College could provide any evidence pertaining to the matter due to the confidentiality provisions contained in the Health Professions Procedural Code, which is Schedule 2 of the *Regulated Health Professions Act, 1991*.

In a nutshell, these confidentiality provisions are intended to protect Members who may disclose information about areas where they may need to further hone their skills within the QA program from being prosecuted before the courts. It is intended to protect QA information in order to provide Members with the ability to participate fully, openly and honestly without

fear of reprisal. Without this protection, the concern is that Members would not participate in a meaningful way, which would essentially invalidate the entire program.

To paraphrase the full legal context, paragraphs 4 through 6 of section 83.1 of the Code prohibit any person from disclosing quality assurance information as defined in the Code except as permitted in the Code. It also prohibits any person or any court or other body conducting a proceeding to permit or require the disclosure of quality assurance information except as permitted under the Quality Assurance Program.



Although both the Member of the College and the College agreed that the QA information could not be used, the Member challenged the constitutionality of these provisions citing that the provisions themselves prohibited the Member from exercising their rights. These are, admittedly, very complex legal arguments; however, the Member relied on section 15(1) of the *Charter of Rights and Freedoms* which establishes that every individual is equal under the law and has the right to the equal protection and benefit of the law without discrimination on a number of grounds, including disability.

The Member took the position that disabled members of the majority of vocational associations regulated by the Province have recourse to the protection of the Human Rights Code; however, the restrictive treatment imposed on the Member by the confidentiality provisions of the RHPA are discriminatory as the Member does not have equal protection under the law.

In its ruling, the HRTTO indicated that “the effect of the confidentiality provisions contained in Schedule 2 [of the RHPA] is to require the applicant to take [their] issues arising from any decision or proceeding

undertaken by the College to the appeal bodies provided for under the RHPA. It is these appeal bodies which have the authority and jurisdiction to consider and apply the Code.” The HRTTO also indicated that “the confidentiality provisions contained in Schedule 2 impose no disadvantage on the Member and so this is not an issue of substantive equality for the purposes of section 15 of the Charter.”

The HRTTO ruled that “the [Member’s] challenge to the confidentiality provisions contained in Schedule 2 under the RHPA is without merit. Explaining that “all persons who are members of the various health professions are subject to the RHPA and its Schedule 2, and are identically situated to the applicant irrespective of any of their personal characteristics. That is, all of them, regardless of their personal characteristics, including all of the protected grounds under the Code, are similarly limited in the manner in which they can vindicate the protections in the Code.”

The College is very pleased with the outcome on this matter. Had the HRTTO ruled contrary to the College, it would have meant that the confidentiality provisions of the Code surrounding quality assurance information could no longer be used. As such, quality



assurance information could have been used by both Members of regulatory Colleges and the Colleges themselves before the HRTO and a variety of other tribunals and court proceedings. In turn, this would have placed a significant damper on Members' participation in the QA program because of fear of potential reprisal from identifying areas where they may need to improve their skills, knowledge or practise.

The QA Program is a supportive program that is intended to enable Members to evaluate their skills, identify areas where they need improvement, and get the support of their peers through peer assessments. Losing the integrity of this program would have been a significant blow to the regulatory system in Ontario.

In the interests of transparency, the costs to the College for this matter were \$23,060, excluding staff time in reviewing information and submissions. It is important to note that while the ruling is public information, the College has elected not to include the Member's name in this summary article. While transparency requires release of information

about costs, there is no compelling public or professional interest in naming the Member. The Member raised important issues about the confidentiality provisions of the Code and the potential that they were discriminatory. While this was ultimately found not to be the case, no Member should ever be criticized for availing themselves of the right to review College actions if they feel they have been harmed or discriminated against.



IVIT Advertising

In this edition of the newsletter, we present and analyze a scenario based on a Registrar's Report that illustrates the importance of maintaining the Standards of Practice of the profession. The intent is to help Members identify areas of potential concern within their practice. By law, cases under investigation are confidential; therefore, details of the case below have been altered to respect confidentiality.



SUMMARY OF THE REPORT

The College of Naturopaths of Ontario received information from another health regulator suggesting that a Member might be performing Intravenous Infusion Therapy (IVIT) prior to having met the [*Standard of Practice for IVIT*](#). A thorough review of the Member's advertising confirmed that the Member appeared to be offering IVIT and mesotherapy to their patients, and therefore, might be using substances that are not listed in [*Table 2 of the General Regulation*](#). As a result of the concerns surrounding the nature of the services advertised on the Member's website, and considering the potential risk to the public, the Registrar, with the approval of the Inquiries, Complaints and Reports Committee (ICRC), started an investigation into the Member's conduct.

The Registrar appointed a formal investigator who attended the Member's clinic; randomly inspected a number of patient files and conducted interviews with the Member, staff and the owner of the clinic where the Member worked; and reviewed the records provided by the reporting regulatory college. The investigator found no evidence to support the allegations, apart from the Member's advertising.

ICRC CORNER

It was confirmed that the Member was previously authorized to provide IVIT treatments under the former regulator and stopped performing IVIT when the College of Naturopaths of Ontario was proclaimed. The Member failed, however, to amend the clinic's website and continued advertising services they were no longer authorized to perform. As a result, when the Member was hired by a multidisciplinary clinic, the Member's erroneous advertising was copied by their employer and posted on the clinic's website. The Member stated that the information was out of date and they were not aware that this information was publicly available.

OUTCOME

Based on the lack of information to support the allegations that the Member contravened the College's *Standard of Practice for IVIT* and the *General Regulation* under the [Naturopathy Act, 2007](#), the ICRC did not refer this matter for a discipline hearing. The ICRC did however issue a Letter of Counsel reminding the Member that it is the professional responsibility of every Member to ensure that all advertisements are accurate, professionally appropriate, and in compliance with the standards of practice and guidelines of the profession.

ANALYSIS

Compliance with Standards of Practice for IVIT and Injections

At the time of proclamation of the *Naturopathy Act, 2007*, the Member held an active IVT (intravenous therapy) certification from the Board of Directors of Drugless Therapy - Naturopathy and, therefore, had six months following the date of proclamation to successfully complete a College-approved course and an examination in Therapeutic Prescribing in order to maintain their IVIT certification. The [Standard of Practice for Prescribing](#) was also required for the Member to be able to administer intramuscular or subcutaneous (under the patient's skin) injections using substances listed in table 2 of the *General Regulation*.

As the Member did not meet the *Standard of Practice for Prescribing* within the timeline specified in the regulation, they were required to cease providing injection therapy, including IV Infusion Therapy to their patients. The ICRC was satisfied that the Member was aware of this requirement and, as confirmed by the investigation, stopped administering substances by injection as of July 1, 2015. The Member, nevertheless, failed to amend their advertising at the time, which led the College to believe that they were performing a controlled act that was outside the Member's scope and potentially injecting unapproved substances while providing mesotherapy treatments to the patients.

ICRC CORNER

Allegations of this nature are always very concerning to the ICRC. Providing services that a Member is not authorized to perform, or does not have sufficient knowledge and skills to perform, puts the public at risk of harm and demonstrates the Member's potential disregard for the legislation governing the profession. It is important to note that if, in a similar situation, the College had evidence confirming that the Member was practising outside the scope, the ICRC could decide that the matter warrants more serious action, including a potential referral to the Discipline Committee for a hearing.

Advertising

As noted above, once the Member had stopped performing IVIT, they failed to amend their biography and the list of the services offered to patients on their clinic website. In addition, the same information was then published on the website of the Member's new employer. This resulted in an inaccurate portrayal of the nature of the Member's practice and, as a consequence, might have been both misleading and confusing to the public and other health care professionals.

In response to the investigation, the Member stated they were not aware that their advertising related to IVIT and/or mesotherapy was publicly available, and that they were not responsible for the advertising posted by their employer.

The ICRC noted that the Member's actions contravened the [*Standard of Practice for Advertising*](#), which requires that advertising of one's practice must, among other things, be accurate, true and not misleading. According to the Standard, a Member is always responsible for advertisements about their practice, regardless of whether or not the advertisement is made by the individual Member. The Member should take reasonable steps to ensure that advertisements placed by others about their services meet the professional standards.

One of the purposes of the *Standard of Practice for Advertising* is to protect the public from being misled by how a Member describes or advertises their practice. When advertising naturopathic services to the public, a Member must be vigilant that all information conforms to the standards of the College that are in place at the time, including the *Standard of Practice for Advertising*. This is especially important in an age where the public is inundated by advertising, both online and in social media.

BOTTOM LINE

The information reviewed and considered by the ICRC in regard to this matter constituted a significant concern. As described above, the ICRC issued a Letter of Counsel to the Member to remediate the concerns and emphasize the importance of complying with the College's Regulations and Standards of Practice at all times.

ICRC CORNER

Additionally, the ICRC noted that the Member's actions inadvertently resulted in unnecessary use of College resources, including the time invested in this investigation by staff and the costs incurred by the College. The ICRC emphasized that this investigation could have been avoided or minimized if the Member had taken appropriate steps to amend the advertising of their practice, and advertising IVIT in particular, when they ceased providing IVIT to their patients.

Under the [*Regulated Health Professions Act, 1991*](#), the College is required to investigate all concerns about the practice, conduct or health of naturopathic doctors where their ability to practise according to the standards of the profession may be at risk.

The average cost of an investigation in the previous year was \$2,400, with the highest cost of almost \$10,000, paid for by Members' registration fees. As self-regulated health professionals, naturopaths must always remember that by acting in the best interest of the patient and practising in accordance with the standards of practice, they may help to lower or even eliminate costs associated with complaints and Registrar's Investigations.



We want your input:

Take our Member communications survey by Sept. 12

In 2016, we surveyed Members about College communications. We received a lot of valuable feedback and have made some significant changes over the last two years. We are surveying Members now to ask if those changes have made a difference and to better understand what matters most to you. Help us improve how we communicate and connect with you.

The anonymous survey will only take 5-10 minutes. [Click here](#) to complete the survey.

Want to learn more about the College?

Visit us at the 2018 OAND Convention and Tradeshow!

The OAND Convention and Tradeshow is one of the largest naturopathic events in Canada. Both members and non-members are welcome to attend. Come connect with the College at our tradeshow booth and ask us questions about regulation, standards of practice, or registration to practise! Our on-site staff can help you find answers and share information about the topics we are asked about the most.

Date: November 9-11, 2018

Learn more [here](#).

Volunteer with us!



We are looking for ND volunteers in two areas*.

Examination question writers for our new Biomedical exam: two in-person training days in Toronto, and additional “at home” item writing to be completed within a month of the in-person training. Time per week to meet targets will be at the question writer’s discretion.

Investment Advisory Committee Members: this is a newly-created operational committee that is appointed by the Registrar and will meet at least twice each year. Its main role is to review, report on, and make recommendations to the Registrar about the College’s investment portfolio and related asset protection policies as well as other investment-related matters.

If you are interested in either opportunity, [email us](#) by September 20 to learn more.

*Volunteer time is eligible for per diem coverage in accordance with College policies, and meal and travel expenses are covered for in-person meetings/training. Time is also eligible for Category B CE credits.

NEWS AND EVENTS

Upcoming exam dates

Ontario Prescribing and Therapeutics Examination

Exam Date: October 28, 2018

- Registration Opens: September 17, 2018
- Registration Closes: October 9, 2018

Ontario Intravenous Infusion Therapy Examination

Exam Date: December 2, 2018

- Registration Opens: October 22, 2018
- Registration Closes: November 12, 2018

Thinking of running for College Council?

Members of our governing Council and its committees act in the public interest and further the College's mandate of regulating naturopathic doctors in Ontario. By running for election, you have the opportunity to join a committed group of naturopaths and public members working together to safeguard the public interest. We will initiate 2019 elections for Districts 1, 3 and 5 in November/December by issuing a Call for Nominations to College Members in these Districts. Nominations will close right after the new year.

Coming soon: our Annual Report!

Each year, the College creates an Annual Report that highlights the important trends from our most recent fiscal year, while focussing on regulation, standards, and key issues within the profession. This year's report will cover a wide range of topics, including the results of our programs in providing safe, competent, and ethical healthcare. It will be distributed to Members and stakeholders this Fall.

