

FALL 2019

INFORMED

NEWSLETTER OF THE COLLEGE OF NATUROPATHS OF ONTARIO

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ICRC CORNER

This complaint scenario focuses on Members' obligations with respect to using medical devices in their practice. By law, cases under investigation are confidential; therefore, details of the case below have been altered to respect confidentiality.

PREAMBLE

The term Medical Devices, as defined in the *Food and Drugs Act*, covers a wide range of health or medical instruments used in the treatment, mitigation, diagnosis or prevention of a disease or abnormal physical condition. In Canada medical devices are licensed in accordance with the [Medical Devices Regulation](#) (MDR). The MDR sets out the requirements governing the sale, importation and advertisement of medical devices.

SUMMARY OF THE COMPLAINT

The College received a complaint from a member of the public regarding the services, in particular, electrodermal screening, advertised by a College Member. The heading of the emailed complaint was "Illegal scheme to defraud patients using EAV¹". The complainant stated that EAV testing was illegal and that no EAV device was approved to diagnose or treat patients in Canada.

In response to the complaint, the Member acknowledged that the Health Canada license for the marketing and sale of the device used in their practice had expired in 2017 and that the device was bought in 2018. However, the

Member noted that Health Canada does not regulate the use of such devices, only the sale of them, therefore, the Member was eligible to use the device. The Member further confirmed that the device was not used as a stand-alone tool for diagnostic purposes.

OUTCOME

Having completed its investigation into this matter, the Inquiries, Complaints and Reports Committee (ICRC) issued a Letter of Counsel to the Member regarding the need to exercise due diligence in confirming beforehand the licensing status of any medical device used in their practice.

The ICRC also informed the Member of the concern around their EAV Screening advertising to ensure that it is in compliance with the [Standard of Practice](#) and [Guideline for Advertising](#).

ANALYSIS

In arriving at its decision, the ICRC recognized that according to the Health Canada Medical Devices Active Licence Listing (MDALL) database, the EAV device used by the Member was no longer licensed for sale as a medical device in Canada. The Panel further noted that the Medical Devices Bureau regulates the importation and sale, and

1. Electroacupuncture according to Voll

ICRC CORNER

not the use, of medical devices. Consequently, only parties such as manufacturers, importers and distributors, not health care professionals, are subject to the MDR.

Nevertheless, the ICRC noted that while it is ultimately the manufacturer's responsibility to ensure that valid licences for the marketing and sale of medical devices are in place, Health Canada advises that medical devices that are not licensed for sale in Canada should not be purchased by health care practitioners or health care facilities.

The ICRC also considered this issue in light of the College's [Code of Ethics](#) and Standards of Practice. In contrast to licensed devices, unlicensed devices have not undergone any assessment by Health Canada as to their safety, quality or effectiveness. The committee expressed concerns that NDs who choose to purchase and use unlicensed devices may be placing the health and safety of their patients at risk.

Additionally, the ICRC had several concerns with the Member's advertising, arising from its review of the clinic website and in particular, the page dedicated to Electrodermal Screening. It was noted that statements like "EAV is a unique device", "highly accurate assessment" and/or "patients find swift and full recovery" may constitute an unsubstantiated claim of the effectiveness of the treatment and attribute a promise of success.

The Member was reminded that according to the [Standard of Practice for Advertising](#), naturopaths are required to ensure that advertisements do not include:

- any information that could be interpreted to be an endorsement by a naturopathic doctor including an expressed or implied endorsement or recommendation for the exclusive use of a drug, product or brand of equipment used in their practice;
- a guarantee of the success of the service provided; and
- a comparative or superlative statement about service quality, products or people.

BOTTOM LINE

It is the responsibility of each ND to be well-informed about the medical device used in their practice and to base its use on sound scientific evidence. As health care professionals, NDs must always act in a patient's best interest. It is in patients' best interests that the medical devices upon which they rely have been reviewed for their safety, effectiveness and quality.

If an unlicensed device is being used, the ND should inform the patient that the requisite Health Canada approvals are not in place, provide the patient with sufficient information to make informed decisions about the health care they receive, and obtain and document the patient's consent for the treatment. NDs must ensure that their patients' interests remain paramount in their practice and that their professional obligations are being met.

[Read our blog post](#) about the use of medical devices in naturopathic practice.

8 Social Media Tips for NDs

As health care professionals, naturopaths need to consider how they use social media channels, such as Facebook, Twitter, LinkedIn, YouTube, Instagram or Snapchat - both personally and professionally. This infographic is designed to provide general guidance and NDs are encouraged to review the resources at the bottom of this infosheet.

By design, social media is informal and easily accessible. Before posting, we recommend that Members always pause to ensure their post is verifiable, appropriate, professional, and within the standards set by the College. We urge Members to establish separate business and personal accounts and, where feasible, to “hide” or make personal feeds private.

HERE ARE 8 IMPORTANT THINGS TO CONSIDER BEFORE POSTING ANYTHING, WHETHER IT BE ON A PROFESSIONAL OR PERSONAL ACCOUNT.



1 Patient privacy and confidentiality must always be maintained. The best practice is to refrain from posting anything about a patient.

2 Consider professional boundaries and do not cross them. Do not do something online that you would not do in person.

3 Consider the requirements outlined in the *Standard of Practice for Advertising* and make sure the information you are posting is in compliance.

4 Avoid any actual or perceived conflict of interest.

5 Assume all content is public and accessible by all, including media.

6 Do not provide clinical advice to a patient through any social media platform.

7 Any post can affect both the naturopath's personal reputation as well as that of the profession. Do not post anything that could be seen to be unprofessional.

8 Others may post on your account. It is your responsibility to ensure that content on any of your social channels and website does not contravene the College's *Standard of Practice for Advertising*. Note that the standard also applies to testimonials and online reviews.

Related resources:

- [Standard of Practice for Advertising](#)
- [Advertising Guideline](#)
- [Advertising, Bio, and Website Do's and Don'ts](#)



College Exams

Frequently Asked Questions

Below we answer a few of the questions we are asked the most.

WHY DOES THE COLLEGE ONLY HAVE EXAM DATES FOR THE CURRENT CALENDAR YEAR POSTED ON THE WEBSITE? MANY OF US WOULD LIKE TO KNOW WHEN WE MIGHT BE ABLE TO SIT THE EXAM NEXT YEAR.

Exam schedules for the next calendar year are set and vetted in the summer and published in the fall of each year. The College presently runs a full roster of exams, including two sessions of IVIT, and two sessions of therapeutic prescribing in addition to the Clinical Sciences and the Clinical (practical) exams. As such, there is a lot of time, effort and planning that has to happen before we can release exam dates. This planning is essential because it allows us to do the necessary prep work and to make sure that venues, test centres, etc. are available to run each exam session.

WHY DON'T YOU ALLOW EXAM WITHDRAWALS AFTER THE EXAM REGISTRATION DEADLINE?

Our policy around exam withdrawals is set as such so that our exam preparation, which depends on the number of candidates (which in turn impacts things like booking examiners, proctors, classrooms, clinic space, and ordering supplies), can be completed to allow the exam to run as scheduled. Allowing exam withdrawals at any point before the exam would challenge our ability to do this, and would incur unnecessary fees over time which would be reflected back to candidates in the cost of the exam.

I WAS AWAY ON VACATION WITHOUT ACCESS TO THE INTERNET WHEN EXAM REGISTRATION WAS HAPPENING; CAN'T YOU JUST REGISTER ME NOW? I ONLY MISSED THE DEADLINE BY TWO DAYS!

No. The College does not allow late exam registrations. The College opens and closes registration within a timeline that is fair and transparent (these dates are published on the College website at least five months before the first exam offering of the next calendar year). As future regulated health care professionals, applicants are expected to avail themselves of all of the information put out by the College, which includes reading the provided policies, reference handbooks, and all associated web content and keeping track of dates and deadlines which may impact their livelihood.

PROFESSIONAL CONDUCT



Discipline outcome

Discipline is a critical aspect of self-regulation and maintaining public trust. The College has the responsibility and the authority to investigate the breach of a regulation or a professional standard by a naturopath, and to take action and assess a range of appropriate penalties. Any decisions are made in the best interests of the public. Publishing summaries of the decisions in this newsletter is part of the transparency of the discipline process and is intended to help readers understand what may constitute professional misconduct.

PROFESSIONAL CONDUCT

Member: Elvis Azad Ali, registration #0617

Hearing Date: April 30, 2019

SUMMARY OF ALLEGATIONS

- Falsifying records relating to the Member's practice, specifically, creating intake forms, consent forms and/or chart notes for visits he had not undertaken with patients.
- Signing or issuing, in a professional capacity, a document that the Member knew contained false or misleading statements.
- Providing false and/or misleading information to an insurer and/or the College.
- Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all circumstances, would be reasonably regarded by Members as disgraceful, dishonourable or unprofessional.

The Agreed Statement of Facts and the Joint Submission as to Penalty and Costs had been agreed upon prior to the hearing. The Discipline Panel found that the Member committed acts of professional misconduct as admitted by the Member.

CHRONOLOGY

August 2016 to January 2017: The Member agreed to create patient records for patients A, B and C. The Member had never met these patients.

March 2017: An insurer met with the Member and presented him with a chart of Patient A. The Member advised that he personally saw Patient A, that he reviewed and signed the invoice and completed the intake form. Following the meeting with the Member, the insurer was advised by the owner of the clinic that the Member did not treat Patient A. The insurer contacted the Member to schedule a follow-up interview. The Member advised the insurer that he would be retaining legal counsel.

June 2017: At the follow-up interview with the insurer, the Member admitted that he manufactured all of the treatment notes for Patient A. Further, the Member advised that he never fabricated any other treatment notes for any other patients and that he had discovered other invoices for patients he had not seen before including Patient B and Patient C.

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April 2018: The Member sent a letter to the College stating that the only time he completed a treatment plan without seeing a patient was for Patient A, that he had discovered other instances of the clinic billing inappropriately in his name. The Member also advised that he had assisted the insurer in its investigation by providing information about other instances at the clinic and other clinics.

May 2018: The insurer advised the College that the Member had not provided any “actionable intelligence” that assisted with the investigation.

July and September 2018: The Member admitted to the College that he falsified treatment notes for Patient A, B and C.

ADMISSION OF PROFESSIONAL MISCONDUCT

A Joint Submission as to Penalty and Costs had been agreed upon prior to the hearing. The parties submitted that the public was protected because the Member had accepted responsibility for his actions and had agreed to an appropriate penalty which provided for specific and general deterrence, rehabilitation and monitoring.

ORDER

The Discipline Panel imposed an order:

1. Requiring the Member to appear before the Panel to be reprimanded immediately following the hearing of this matter.
2. Directing the Registrar to suspend the Member’s certificate of registration for a period of eight months, to commence on the date that this order becomes final, two months of which shall be remitted if the Member complies with the provisions of paragraphs 3(a) and 3(b) no later than September 30, 2019.
3. Directing the Registrar to impose the following specified terms, conditions and limitations on the Member’s certificate of registration:
 - a) requiring that the Member unconditionally pass the PROBE course in ethics, at his own expense and no later than November 3, 2019;
 - b) requiring that the Member write an essay between 1,000-1,500 words in length, and provide it to the Registrar, no later than December 20, 2019, that shall be published by the College at a time and in a format determined by the Registrar, on the following issue:
 - i. the lessons he learned in completing the PROBE course.

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- c) the Member is a non-clinical naturopath and cannot engage in direct patient care within the scope of practice of the profession, cannot perform, or delegate any controlled acts authorized to the profession, nor accept the delegation of any controlled acts as set out in section 27 of the *Regulated Health Professions Act, 1991*.
4. For greater certainty, the Member's obligation to comply with the proposed terms, conditions and limitations on his certificate of registration contained in paragraph 3(a) and 3(b) is not relieved by serving the entire suspension referred to in paragraph 2 above.
5. Requiring the Member to pay a fine of not more than \$350 to the Minister of Finance within two months of the date of the hearing.
6. Requiring the Member to pay the College's costs fixed in the amount of \$3,500 payable in a schedule determined by the Registrar.

The Panel concluded that the proposed penalty was reasonable and in the public interest, and that it satisfied the principle of public protection.

Copies of the full discipline decisions are available on the [Public Register](#) in the Members' profiles. All decisions can also be reviewed in the [Resources section](#) of the College's website.

COLLEGE'S COSTS

Section 53.1 of the Health Professions Procedural Code provides that, in an appropriate case, a discipline panel may make an order requiring a Member who the panel finds has committed an act of professional misconduct, to pay all or part of the College's costs and expenses. The panel awards costs on a case-by-case basis.

The following costs and expenses were incurred by the College in regard to this matter:

- Legal costs and expenses: \$12,451
- Investigation costs: \$4,611
- Other costs: \$2,734

As previously noted, the Panel ordered the Member to pay the College's costs fixed in the amount of \$3,500.

Download the Patient Rights Handout

New resource for patients and NDs.

This one-page handout can be customized with a naturopath's practice information and logo. Three different design options are available.

[Download](#)



Aussi disponible en Français.
(Also available in French.)

CONNECT WITH US AT THE OAND FALL CONVENTION!

STOP BY OUR BOOTH TO LEARN WHAT'S NEW AND GET ANSWERS TO YOUR REGULATION-RELATED QUESTIONS.

Not attending? Email us anytime at info@collegeofnaturopaths.on.ca.

Regulatory Guidance

The Accessibility of Ontarians with Disabilities Act



This article highlights laws that may apply to NDs.

Naturopaths, as well as all health care providers and business owners, are governed by a variety of legislation. Members are aware of the *Regulated Health Professions Act, 1991* and the *Naturopathy Act, 2007* which directly govern the practice of naturopathy in Ontario.

However there are many other aspects of practising, from ensuring patient privacy to proper employment practises, which are governed by laws that are not under the direct purview of the College. The College could consider it to be professional misconduct if a Member fails to abide by those other applicable laws.

These laws include, but are not limited to the following:

- *Accessibility of Ontarians with Disabilities Act, 2005;*
- *Business Corporations Act, 1990;*

- *Employment Standards Act, 2000;*
- *Healing Arts Radiation Protection Act, 1990;*
- *Health Care Consent Act, 1996;*
- *Laboratory and Specimen Collection Centre Licensing Act, 1990;*
- *Protecting Patients Act, 2017; and*
- *Personal Health Information Protection Act, 2004.*

It is the responsibility of every Member to understand and abide by the laws that govern them, such as the *Employment Standards Act, 2000* if they have employees, and the *Business Corporations Act, 1990* if they are incorporated.

One of the laws listed above that affects many Members is the *Accessibility of Ontarians with Disabilities Act, 2005* (AODA). It is strongly recommended that all Members implement the AODA requirements in the interest of providing accessibility to all patients.

REGULATORY GUIDANCE

In addition, all organizations (public, private and not-for-profit) with one or more employees in Ontario must comply with this legislation, including naturopathic clinics. Members with one or more employees are required to comply with the [customer service, information and communications](#), and [employment](#) standards of the AODA.

The purpose of the AODA is to ensure that all Ontarians can benefit from services, programs, spaces and employment that is accessible. It is a common misunderstanding that accessibility applies only to accessibility for people in wheelchairs and those with physical disabilities. The AODA goes much further than this by addressing disabilities that are non-visible such as vision disabilities; deafness or being hard of hearing; intellectual or developmental, learning, and mental health disabilities; and reliance on a service dog.

Organizations are required under the AODA to follow the standards (rules) and ensure they are accessible to people with disabilities. Through applying the applicable standards, organizations identify barriers that prevent people with

disabilities from accessing their goods, services or facilities and determine how those barriers can be prevented or removed. The goal for the province is to be fully accessible by 2025.

The standard that addresses the design of public spaces may or may not apply to naturopaths. Organizations are not required to retrofit existing buildings under the AODA and the [Ontario Building Code](#) when no renovations are planned. However, barrier-free design requirements must be included when a new building is constructed, when an existing building undergoes an extensive renovation, or when a building is renovated because of a change to how it is used.

If an organization plans to do renovations on an office it rents, the party who is responsible for meeting accessibility requirements is the party that has the authority to undertake renovations per the legal agreement between the landlord and tenant. It is advisable to consult legal advice to determine this.

[Find more information about the AODA. Access the complete guide](#) to understanding and implementing all AODA standards.



For additional guidance, contact our Manager of Professional Practice Dr. Mary-Ellen McKenna, ND (Inactive) maryellen.mckenna@collegeofnaturopaths.on.ca or 416-583-6020.

Mutual respect & interacting with CONO

Life as a student is anything but easy. There are many challenges in learning to be a naturopath both in terms of educational content, coping with stress and strains, managing your finances, and planning for the launch of your career. We get it!

As you begin the process of becoming a Member of the College and you register for examinations and make your initial application, it might be helpful to be guided by a few important principles:

- Whether you are interacting with patients in clinic, your clinic supervisors, or with the College staff, respect, courtesy and professionalism are key. As a soon to be ND, you have to exemplify to the world the status of the profession as regulated health care practitioners. It is not a switch you turn on at registration, it is a belief system that starts early.
- Imagine you are in clinic and a patient starts swearing at you, putting you down and criticising all of the procedures you have to go through to help treat them, even though you did not make the rules you have to follow. You do not want to be treated that way... so you will not want to treat other people that way. Swearing, disparaging, and being rude to College personnel is not acceptable in the same way it would not be acceptable in clinic.
- Everybody wants to be treated equally and fairly, except of course, when they run up against a missed deadline, then everybody wants to be cut some slack. Both concepts cannot exist at the same time. Fairness, impartiality, objectivity, and transparency are vital elements in the College's processes. Dates are set and published, everyone is treated the same – regardless of who they may be or who they may know – and evaluations are objective and impartial.

For students, the objective is to become registered to practise as soon as is humanly possible. For the College, the objective is to ensure that individuals who become registered have the knowledge, skill and judgment to practise naturopathy safely, competently and ethically. What you learn in the educational program is tested at entry-to-practise by the College, which includes your knowledge, skills and judgement, as well as your professionalism and character.

2019 exam dates & deadlines

Prescribing Exam - October 20, 2019:

[Registration](#) closes October 2.

IVIT Exam - December 1, 2019:

Registration opens October 21 and closes November 8.

Next Council meeting: October 30

Meetings are open to the public and College Members. Seating is limited, so [please register in advance](#) if you would like to attend.

Check out our recent blog posts

[7 Tips for Using Electronic Records in Your Practice](#)

[Medical Devices](#)

[Succession Planning to Prevent Abandoned Records](#)

CE reminder!

September 30 is the [Group II](#) reporting deadline.



Reminder: keep your info current with CONO

[Log in to your account](#) to update any changes to your professional profile, including address, telephone number and email changes. A full list of what you must report and update is in [section 20.13 of the College by-laws](#). Read about other mandatory self-reporting requirements [here](#) and [visit this page](#) if you have recently changed your name.