DISCIPLINE COMMITTEE OF
THE COLLEGE OF NATUROPATHS OF ONTARIO

B E T W E E N :

COLLEGE OF NATUROPATHS OF ONTARIO

- and -

YELENA DESHKO

AGREED STATEMENT OF FACTS AND
ADMISSION OF PROFESSIONAL MISCONDUCT

The parties hereby agree that the following facts may be accepted as true by the Discipline Committee of the College of Naturopaths of Ontario:

The Registrant

1. At all relevant times, Dr. Yelena Deshko, ND (the "Registrant") has been a registrant of the College of Naturopaths of Ontario (the "College"). Attached as **Tab "A"** is a copy of the Registrant's College Register Profile.

2. The Registrant met the Therapeutic and Intravenous Infusion Therapy (IVIT) Standards of Practice in or about October 2015. Both IVIT and the compounding of drugs for the purposes of IVIT are considered a controlled act under the *Regulated Health Professions Act, 1991* and the *Naturopathy Act, 2007*.

3. At all relevant times, the Registrant worked at and owned Timeless Health Clinic in Toronto, Ontario (the "Clinic"). The Clinic employed nursing staff. The Clinic is not a laboratory or a specimen collection

centre pursuant to the *Laboratory and Specimen Collection Centre Licensing Act.*

Improper Delegation

IVIT and IM

4. It is agreed that nurses are authorized to perform several controlled acts including administering a substance by injection. However, nurses cannot perform the authorized controlled acts (including administering a substance by injection) unless (a) it is ordered by a chiropodist, dentist, physician or midwife or (b) permitted by the regulations under the *Nursing Act*.

5. It is agreed that no such regulations exist under the *Nursing Act* that permit naturopaths to order nurses to administer a substance by injection. Attached as **Tab "B"** is a copy of the relevant legislation.

6. It is, however, agreed that nurses cannot accept delegation for an act that they are already authorized to do. In this case, nurses are authorized to administer a substance by injection (albeit under strict parameters).

7. Further, it is agreed that if a registrant intends to delegate, they must record the information as required in s. 19 and s. 21 of the General Regulation. Attached as **Tab "C"** is a copy of the relevant legislation.

8. If the Registrant were to testify, she would state that she was under the impression that she was permitted to delegate the above noted acts to nurses. However, the Registrant acknowledges that she had a duty to understand and comply with the rules governing delegation and that she did not seek out advice from the either the College or the College of Nurses of Ontario to confirm her impression. It is also agreed that despite her belief that she could delegate this act to nurses, she did not

comply with the necessary reporting obligations as set out in paragraph 7.

9. It is agreed that after July 1, 2015, the Registrant improperly delegated the act of administering a substance by injection (via IVIT and intramuscularly - IM) to the nurses in her Clinic. For example, it is agreed that the Registrant improperly delegated the administration of IVIT to the nurses in her Clinic for the following patients, including to her cancer care patients:

    a. Patient 1;

    b. Patient 2;

    c. Patient 3;

    d. Patient 4;

    e. Patient 5;

    f. Patient 6;

    g. Patient 7;

    h. Patient 8; and

    i. Patient 9.

10. It is agreed that the Registrant improperly delegated IM injections to the nurses in her Clinic for the following patients:

    a. Patient 1;

    b. Patient 2;

    c. Patient 3;

    d. Patient 4;

    e. Patient 5;

    f. Patient 6;

g. Patient 7;

h. Patient 8; and

i. Patient 9.

11. It is agreed that under the College's Delegation Standard of Practice and s. 17(1)(h) of the General Regulation, it was the Registrant's responsibility to confirm that if delegation is to occur, the delegatee (in this case a nurse) has the ability to accept the delegation. In the situations described in paragraphs 9 and 10, a nurse did not have the ability to accept delegation of IVIT or IM injections. Attached as **Tab "D"** is a copy of the relevant standard and legislation.

12. It is agreed that in 2016 the College published a Regulatory Guideline on Delegation which made it clear that it was the responsibility of the Registrant to confirm that if delegation is to occur, the delegate has the ability to accept the delegation. Attached as **Tab "E"** is a copy of the Guideline.

13. It is agreed that s. 15 of the General Regulation states that "*A Registrant shall not, except in accordance with this Part, delegate a controlled act* or perform a controlled act that was delegated to him or her."

14. It is agreed that at the relevant time the Registrant did not delegate IVIT or IM injections at her Clinic in accordance with the General Regulation. Further, the Registrant did not record all of the necessary documentation as required by the General Regulation.

15. It is agreed that once her contraventions were identified as part of the investigation conducted by the ICRC, the Registrant ceased delegating the above noted acts to nurses.

16. It is also agreed that the Registrant was subject to an IVIT inspection in October 2018 and complied with all practices set out in the inspection

portion of the General Regulation and with the inspection program as established by the College as required.

Blood draws

17. It is agreed that nurses are authorized to perform several controlled acts including performing a prescribed procedure below the dermis or a mucous membrane. However, nurses cannot perform the authorized controlled acts (including performing a prescribed procedure below the dermis or a mucous membrane) unless (a) it is ordered by a chiropodist, dentist, physician or midwife or (b) permitted by the regulations under the *Nursing Act*.

18. It is agreed that no such regulations exist under the *Nursing Act* that permit naturopaths to order nurses to perform a prescribed procedure below the dermis or a mucous membrane. (See **Tab "B"** for a copy of the relevant legislation.)

19. It is agreed that nurses cannot accept delegation for an act that they are already authorized to do. In this case, nurses are authorized to perform a prescribed procedure below the dermis or a mucous membrane (albeit under strict parameters). Therefore, nurses cannot accept a delegation to perform a prescribed procedure below the dermis or a mucous membrane.

20. However, it is important to note that naturopaths are only authorized to draw blood for certain tests. These are set out in s. 8(1) of the General Regulation It is agreed that the Registrant delegated the drawing of blood for some tests that are not authorized to naturopaths including CBC, blood chemistry, glucose, food sensitivity and thyroid testing. It is agreed that at least once after July 1, 2015, the Registrant delegated the act of performing a procedure on tissue below the dermis (drawing blood) to the nurses in her Clinic for a test not authorized in the General Regulation.

21. It is agreed that:

    a. Under the College's Delegation Standard Practice and s. 17(1)(a) of the General Regulation, it was the Registrant's responsibility to ensure that she had the authority to perform the controlled act herself. In this case, the Registrant did not have authority to order certain tests and should not have drawn the blood at all for the tests; and

    b. Under the College's Delegation Standard of Practice and s. 17(1)(h) of the General Regulation, it was the Registrant's responsibility to confirm if delegation is to occur, the delegatee (in this case a nurse) has the ability to accept the delegation. In this case, a nurse did not have the ability to accept delegation of drawing blood. (See **Tab "D"** for a copy of the relevant standard and legislation.)

22. It is agreed that s. 15 of the General Regulation states that "*A Registrant shall not, except in accordance with this Part, delegate a controlled act* or perform a controlled act that was delegated to him or her."

23. It is agreed that the Registrant did not delegate the drawing blood at her Clinic in accordance with the General Regulation.

24. It is agreed that once her contraventions were identified as part of the investigation conducted by the ICRC, the Registrant ceased delegating the above noted acts to nurses.

Compounding Drugs

25. It is agreed that other than nurses in the extended class, nurses are not authorized, via the *Nursing Act*, to perform the controlled act of compounding drugs. Therefore, the only way in which a nurse could

perform this controlled act is for it to be delegated properly by a professional who is authorized to compound drugs.

26. It is agreed that the Registrant was authorized to perform the controlled act of compounding drugs.

27. It is agreed that after July 1, 2015, the Registrant delegated the act of compounding to the nurses at her Clinic but did not record information or comply with the steps as required in s. 19 and s. 21 of the General Regulation. This included the following:

    - Ensuring that a written record of the particulars of the delegation was available at the Clinic, ensuring that a written record of the particulars of the delegation was placed in the patient's record, or record the particulars of the delegation in the patient record;
    - Ensuring that the Registrant put in place a communication plan between herself and the nurses that deals with the appropriate management of any adverse events that may occur as a result of the delegation; and
    - Including the date of the delegation, the name of the delegate, and the conditions applicable to the delegation.

    (See **Tab "C"** for a copy of the relevant legislation.)

28. It is agreed that in October of 2018 the Registrant was subjected to an IVIT inspection and her compounding and record keeping practices were inspected and discussed. The Registrant passed that inspection and was fully compliant with the regulations.

29. It is agreed that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code") as set out in the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007:*

a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession, specifically:

   i. **Section 3(1) of the General Regulation** – A Member shall not perform any controlled act under the authority of paragraph 1, 2, 3, 4, or 6 of subsection 4(1) of the Act unless she performs it in accordance with all of the following standards of the profession:

      6. The Member must have the knowledge, skill and judgment,

         i. to perform the controlled act safely and ethically, and

         ii. to determine whether the patient's condition warrants performance of the controlled act.

   ii. **Section 3(3) of the General Regulation** It is a further standard of practice of the profession that a Member is prohibited from performing a laboratory test or taking blood samples or other specimens from a patient for the purpose of performing a laboratory test, unless the laboratory test that the Member performs is specified in the regulations made under the *Laboratory and Specimen Collection Centre Licensing Act* and the blood samples or other specimens taken from a patient are identified in and related to a specific test in the regulations made under that Act;

   iii. **Section 3(4) of the General Regulation** - It is a further standard of practice of the profession that a Member is prohibited from ordering a laboratory test unless the test is one specified in the regulations made under the *Laboratory and Specimen Collection Centre Licensing Act;*

iv. **Section 5(3) of the General Regulation** - It is a standard of practice of the profession that a Member who performs the controlled act referred to in paragraph 2 of subsection (1) and who, in doing so, reconstitutes, dilutes, mixes, prepares, packages or labels two or more substances specified in Table 2 for the purpose of administering a customized therapeutic product to a patient by injection must comply with all the standards of practice set out in subsection 11 (2), with any necessary modifications;

v. **S. 8(1) of the General Regulation** - For the purposes of paragraph 6 of subsection 4 (1) of the Act, a Member who meets all of the standards of practice of the profession in this section and section 3 of this Regulation is authorized to take blood samples from veins or by skin pricking for the purpose of performing one or more of the following naturopathic examinations on a patient's blood sample:

1. BTA Bioterrain Assessment.
2. Glucose.
3. Live blood cell analysis.
4. Hemoglobin – A1C.
5. Mononuclear Heterophile Antibodies (monospot).
6. Fatty acids, free.
7. Blood Group – ABO and RhD;

vi. **Section 8(2)(5) of the General Regulation** The Member is prohibited from taking a blood sample from a patient except for the purpose of performing the controlled act mentioned in subsection (1);

vii. **Delegation Standard of Practice-** The Member ensures that the delegation conforms with the delegatee's own College regulations, policies and guidelines; and

viii. **Record Keeping Standard of Practice –** The Member maintains a patient chart that is accurate, legible and comprehensive. Attached at **Tab "F"** is a copy of the relevant standard.

b. **Paragraph 23** - Failing to keep records in accordance with the standards of the profession;

c. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts;

i. **s 2(1) of the General Regulation** - A Member shall not perform a controlled act under the authority of subsection 4 (1) of the Act except in accordance with this Part;

ii. **S. 15 of the General Regulation** – it is a requirement that a Member shall not accept or delegate a controlled act except in accordance with Part III of the General Regulation;

iii. **s.17(1)(a) of the General Regulation** - A Member shall ensure, before delegating any controlled act, that he or she has the authority under the Act and its regulations to perform the controlled act himself or herself;

iv. **s. 17(1)(b) of the General Regulation** - A Member shall ensure, before delegating any controlled act, that he or she has the knowledge, skill and judgment to perform the controlled act safely and ethically;

v. **s.17(1)(h) of the General Regulation** – A Member must ensure, before delegating a controlled act, that he or she after taking reasonable steps, is satisfied that the delegatee is a person who is permitted to accept the delegation;

vi. **s. 19 of the General Regulation** – (1) A Member who delegates a controlled act shall (a) ensure that a written record of the particulars of the delegation is available in the place where the controlled act is to be performed before it is performed; (b) ensure that a written record of the particulars of the delegation, or a copy of the record, is placed in the patient's record at the time the delegation takes place or within a reasonable period of time afterwards; or (c) record the particulars of the delegation in the patient record either at the time the delegation takes place or within a reasonable period of time afterwards. (1) A record created under subsection (1) must include a copy of the communication plan required under clause 17 (1) (g); and

vii. **s. 21 of the General Regulation** – Any record of the particulars of a delegation must include, (a) the date of the delegation; (b) the delegator's name, if the controlled act was delegated to the Member; (c) the delegatee's name, if the controlled act was delegated by the Member; and (d) the conditions, if any, applicable to the delegation; and

d. **Paragraph 46** - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

30. It is also agreed that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007.* This is as a result of the Registrant failing to perform IVIT, IM, compounding and drawing blood in accordance with the General Regulation.

Charging Block Fees

31. Since July 1, 2015, the Registrant sold packages or blocks of treatment to patients.

32. As part of the Registrant's practice she had a "Package Refund Policy", which states:

    a. "At Timeless Health Clinic we strive to make Naturopathic Medicine affordable for all patients. For this reason we offer discounts for patients receiving a series of treatments. However, due to software and logistical limitations, we are unable to refund any amount on purchased packages." Attached as **Tab "G"** is a copy of the policy signed by the Registrant's patient, Patient 10.

33. The following patients purchased "packages" for block billing from the Registrant and the Clinic for weight loss and/or cancer services:

    a. Patient 1;

    b. Patient 11;

    c. Patient 3;

    d. Patient 4;

    e. Patient 5; and

    f. Patient 6.

34. It is agreed that the Registrant would accept a one-time payment from patients upfront and that invoices would be issued to the patient after each session.

35. It is agreed that registrants of the College are not permitted to block bill as stipulated in the Fees and Billing Standard of Practice. Attached as **Tab "H"** is a copy of the standard.

36. It is agreed that Registrants must ensure that processes exist for timely provision of applicable refunds as stipulated in the Fees and Billing Standard of Practice. (See **Tab "H"** for a copy of the standard.)

37. It is agreed that once these contraventions were identified as part of the investigation conducted by the ICRC, the Registrant ceased charging block fees.

38. It is agreed that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007:*

    a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession, specifically

        i. **Fees and Billing Standard**

            1. The Member

                a. Does not charge a block fee

                b. ensures that processes exist for the timely:

                    i. notification of any balance due or owing; and

                    ii. provision of applicable refunds; and

    b. **Paragraph 46 -** Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by Members as dishonourable and unprofessional.

Laboratory Compliance

39. Registrants of the College are authorized to draw blood from a patient for the purposes of performing one of seven point of care tests

authorized in the Specimen Collection Centres Regulation made under the *Laboratory and Specimen Collection Centre Licensing Act, 1990* (LSCCLA). It is agreed that the Registrant was prohibited from taking blood from a patient for testing in her Clinic for any purposes other than performing the seven point of care tests. Attached as **Tab "I"** is a copy of the relevant legislation.

40. Registrants of the College are authorized to take non-blood samples at their clinic for the purposes of performing authorized tests set out in the Specimen Collection Centres Regulation made under LSCCLA or sending the sample to a laboratory licensed under the LSCCLA.

41. It is a standard of practice of the profession that registrants cannot order a laboratory test or collect a specimen for testing unless the test is one specified in the regulations made under the LSCCLA.

42. It is a requirement that a registrant can only send authorized samples to laboratories licensed under the LSCCLA.

43. It is agreed that after July 1, 2015, the Registrant:

    a. Ordered specimens to be sent and actually sent specimens to laboratories not licensed by the LSCCLA specifically, on or about October 23, 2017, the Registrant sent specimens from patient KSO to Immuno Labs which is based in Florida and not licensed by the LSCCLA; and

    b. Requisitioned the collection of urine, saliva, and blood for tests at the clinic and that are outside the scope of a naturopath. Specifically:

        i. The Registrant collected a saliva sample from patient Patient 3 that was outside the scope of Appendix A of the Specimen Collection Centres Regulation. The Registrant admits that

she did not alert Patient 3 to this restriction and ought to have referred Patient 3 to another health care practitioner for this test;

Attached at **Tab "J"** is a copy of the relevant regulation.

ii. The Registrant collected a blood sample from patients Patient 3 and Patient 6 that was outside the scope of s. 8 of the General Regulation. The Registrant admits that she did not alert Patient 3 or Patient 6 to this restriction and ought to have referred them to another health care practitioner for this test; and

iii. The Registrant collected a urine sample from several patients, including Patient 7, Patient 11, Patient 12, and Patient 3, that was outside the scope of Appendix A of the Specimen Collection Centres Regulation. The Registrant admits that she did not alert the patients to this restriction and ought to have referred them to another health care practitioner for this test.

44. If the Registrant were to testify, she would state that she was taught, as a naturopathic student, to request dipstick urine analyses. However, the Registrant would also acknowledge that as a registered naturopath, she has an obligation to ensure that she has an understanding of and complies with the legislation, regulations, standards of practise and expectations of the College.

45. It is agreed that once these contraventions were identified as part of the investigation conducted by the ICRC, the Registrant ceased these practices and began to comply with the laboratory requirements.

46. It is agreed that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in the following

paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007:*

a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;

   i. **Section 3(2) of the General Regulation** - It is a further standard of practice of the profession that a Member is prohibited from taking or collecting a specimen from the human body for examination to obtain information for diagnosis, prophylaxis or treatment, unless the specimen that is taken or collected is identified in the regulations made under the *Laboratory and Specimen Collection Centre Licensing Act* and related to a specific laboratory test set out in the regulations made under that Act.

   ii. **Section 3(3) of the General Regulation** - It is a further standard of practice of the profession that a Member is prohibited from performing a laboratory test or taking blood samples or other specimens from a patient for the purpose of performing a laboratory test, unless the laboratory test that the Member performs is specified in the regulations made under the Laboratory and Specimen Collection Centre Licensing Act and the blood samples or other specimens taken from a patient are identified in and related to a specific test in the regulations made under that Act.

   iii. **Section 3(4) of the General Regulation** - It is a further standard of practice of the profession that a Member is prohibited from ordering a laboratory test unless the test is one specified in the regulations made under the Laboratory and Specimen Collection Centre Licensing Act;

iv. **S. 8(1) of the General Regulation** - (1) For the purposes of paragraph 6 of subsection 4 (1) of the Act, a Member who meets all of the standards of practice of the profession in this section and section 3 of this Regulation is authorized to take blood samples from veins or by skin pricking for the purpose of performing one or more of the following naturopathic examinations on a patient's blood sample:

1. BTA Bioterrain Assessment.
2. Glucose.
3. Live blood cell analysis.
4. Hemoglobin – A1C.
5. Mononuclear Heterophile Antibodies (monospot).
6. Fatty acids, free.
7. Blood Group – ABO and RhD; and

v. **Section 8(2)(5) of the General Regulation** The Member is prohibited from taking a blood sample from a patient except for the purpose of performing the controlled act mentioned in subsection (1);

vi. **Point of Care Testing Standard of Practice** – The Member ensures that Point of Care tests are performed in a safe, effective and ethical manner;

vii. **Requisitioning Laboratory Tests Standard of Practice**; and

viii. **Collecting Clinical Samples Standard of Practice.**

Attached at **Tab "K"** are copies of the relevant standards.

b. **Paragraph 8** - Providing or attempting to provide services or treatment that the Member knows or ought to know to be beyond the Member 's knowledge, skill or judgment;

c. **Paragraph 9** - Failing to advise a patient or the patient's authorized representative to consult another Member of a health profession within the meaning of the *Regulated Health Professions Act, 1991*, when the Member knows or ought to know that the patient requires a service that the Member does not have the knowledge, skill or judgment to offer or is beyond his or her scope of practice;

d. **Paragraph 10** - Performing a controlled act that the Member is not authorized to perform;

e. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts

   i. **Section 2(1) of the General Regulation** - A Member shall not perform a controlled act under the authority of subsection 4 (1) of the Act except in accordance with this Part; and

f. **Paragraph 46** - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by Members as disgraceful, dishonourable or unprofessional.

47. It is also agreed that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007.*

Advertising and Administration Concerns

48. Registrants of the College are authorized to administer certain drugs and substances via IM and IVIT. Registrants of the College are aware that the specific drugs and substances are set out in the Tables in the General Regulation. In addition to identifying the authorized drugs and substances, the General Regulation also sets out the authorized administration mode.

49. It is agreed that on or after July 1, 2015, the Clinic offered and the Registrant actually administered, ordered and/or delegated the following treatments to patients:

    a. Lipotropic B12 injection (IM) that includes choline, inositol, chromium and methionine;

    b. Immune Boost IM injection that includes Vitamin C;

    c. Immune Boosting IV that includes anti-viral botanicals;

    d. Gluthathione injection (IM) that includes procaine and Procaine injection; and

    e. Iron IV that includes iron.

50. It is agreed that the Registrant administered, ordered and/or delegated the injections described in paragraph 49 for the following patients:

    a. Patient 13;

    b. Patient 14;

    c. Patient 2;

    d. Patient 6;

    e. Patient 12;

    f. Patient 11;

    g. Patient 3;

    h. Patient 7;

    i. Patient 1;

    j. Patient 4;

    k. Patient 5;

    l. Patient 8; and

    m. Patient 9.

51. It is agreed that the Registrant is not authorized to administer, order or delegate the treatments set out in paragraph 49. Naturopaths are only authorized to administer, order or delegate certain substances and drugs via IM and IVIT. The substances and drugs set out in paragraph 49, with the exception of Vitamin C, are not specifically identified in the General Regulation. Vitamin C is listed but can only be administered via IVIT – not IM. Therefore, the Registrant did not have the requisite knowledge, skill or judgment to recommend or order these treatments. If the Registrant believed that these treatments were necessary she ought to have alerted the patients to consult another Registrant of a health profession that was authorized to do so.

52. The Clinic also offered and the Registrant administered, ordered and delegated a Fresh Start Detox that could "help reset your metabolism."

53. Naturopaths must advertise in a manner that is factual and verifiable. It is agreed that the Fresh Start Detox could not factually "reset" a patient's metabolism.

54. The Clinic also advertised an Immune Boosting IV, which includes anti-viral botanicals, Iron IV, and Fresh Start Detox. Attached as **Tab "L"** is a copy of the advertisements.

55. Naturopaths are not authorized to administer anti-viral botanicals or Iron IV.

56. It is agreed that in several instances the nurses administered the IVIT and yet the Registrant authorized billing the service under her name.

57. It is agreed that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007:*

a. **Paragraph 1** - Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;

   i. **Section 3(1)(6) of the General Regulation:** 6. The Member must have the knowledge, skill and judgment,

      i. to perform the controlled act safely and ethically, and

      ii. to determine whether the patient's condition warrants performance of the controlled act;

   ii. **Section 5(1) of the General Regulation** - For the purposes of paragraph 3 of subsection 4 (1) of the Act, a Member who meets all of the standards of practice of the profession in this section and section 3 of this Regulation is authorized to perform the following controlled acts:

      1. Administering a substance specified in Table 1 by inhalation to a patient, in accordance with any limitations respecting the substance set out in the Table.

      2. Administering a substance specified in Table 2 by injection to a patient using the routes of administration respecting the substance that are set out in the Table and in accordance with any limitations respecting the substance that are set out in the Table;

   iii. **Section 5(3) of the General Regulation** - It is a standard of practice of the profession that a Member who performs the controlled act referred to in paragraph 2 of subsection (1) and who, in doing so, reconstitutes, dilutes, mixes, prepares, packages or labels two or more substances specified in

Table 2 for the purpose of administering a customized therapeutic product to a patient by injection must comply with all the standards of practice set out in subsection 11 (2), with any necessary modifications;

iv. **Section 11(2)(2) of the General Regulation -** The Member must have the knowledge, skill and judgment to engage in the controlled act safely, competently and ethically;

v. **Section 11(2)(6) of the General Regulation** Where a limitation, a route of administration or a dosage is indicated in the column opposite the drug in Table 5, a Member shall only compound that drug in compliance with the limitation and in accordance with the route of administration and dosage specified; and

vi. **Advertising Standard of Practice**

1. The Member may use any public medium to advertise professional services offered within the scope of practice of Naturopathic Medicine …
2. The Member ensures the information in advertisements is
    a. Accurate,
    b. True;
    c. Verifiable by Registrant;
    d. Not misleading by either omitting relevant information or including non –relevant information;
3. The Member ensures that advertisements do not include

a. A guarantee of the success of the service provided.

Attached at **Tab "M"** is a copy of the relevant standard.

b. **Paragraph 8** - Providing or attempting to provide services or treatment that the Member knows or ought to know to be beyond the Registrant's knowledge, skill or judgment;

c. **Paragraph 9** - Failing to advise a patient or the patient's authorized representative to consult another Member of a health profession within the meaning of the Regulated Health Professions Act, 1991, when the Member knows or ought to know that the patient requires a service that the Registrant does not have the knowledge, skill or judgment to offer or is beyond his or her scope of practice;

d. **Paragraph 10** - Performing a controlled act that the Member is not authorized to perform;

e. **Paragraph 23** - Failing to keep records in accordance with the standards of the profession;

f. **Paragraph 27** - Permitting 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;

g. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts;

i. **Section 2(1) of the General Regulation** - A Member shall not perform a controlled act under the authority of subsection 4 (1) of the Act except in accordance with this Part; and

h. **Paragraph 46** - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the

circumstances, would reasonably be regarded by Members as disgraceful, dishonourable or unprofessional.

58. It is also agreed that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007.*

Health Track-Pro

59. On or about December 12, 2018 an undercover investigator of the College ordered "Health Track-Pro" from the Clinic's website. Health Track-Pro cost $270.00 and included a blood work requisition and one hour appointment with a naturopath from the Clinic.

60. The undercover investigator was immediately sent an electronic receipt attaching a link to download a lab requisition. The requisition was signed by the Registrant and ordered the following tests: Lipid Profile (cholesterol, triglycerides, HDL, Cholesterol, LDL Cholesterol, HDL/LDL Ratio), Complete Blood Check (CBC), Ferritin, Glucose Fasting, Chemistry Panel M, Chemistry Panel N, and TSH. Attached as **Tab "N"** is a copy of the requisition.

61. The undercover investigator was not a patient of the Registrant.

62. On or about December 13, 2018, the undercover investigator had her blood drawn at a laboratory. She was contacted by the Clinic and offered an appointment to meet with another naturopath at the Clinic. However, the undercover investigator asked to meet with the Registrant.

63. On or about January 23, 2019, the undercover investigator attended the Clinic and completed a 6 page intake form, family health history and reasons for attending. The undercover investigator then had a 30 minute appointment with the Registrant.

64. The Registrant reviewed the results and discussed a treatment plan with the undercover investigator. She recommended supplements and

recommended that the undercover investigator make an appointment with her physician to request a haematologist referral for her high iron.

65. It is agreed that the above conduct constitutes professional misconduct pursuant to s. 51(1)(c) of the Code, as set out in the following paragraphs of section 1 of Ontario Regulation 17/14 made under the *Naturopathy Act, 2007:*

    a. **Paragraph 1 -** Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession including the following:

        i. **Section 3(1) of the General Regulation** – A Member shall not perform any controlled act under the authority of paragraph 1, 2, 3, 4, or 6 of subsection 4(1) of the Act unless she performs it in accordance with all of the following standards of the profession:

            1. The Member must have a naturopath-patient relationship with the patient and, before performing the controlled act, must record the patient's health history.

            2. Before performing the controlled act, the Member must inform the patient or the patient's authorized representative about,

                a. the purpose of the controlled act,

                b. the risks inherent in performing it,

                c. alternative treatments that the Member knows or ought to know are available within the practice of the profession, and

                d. treatments that the Member knows or ought to know are available to the patient if he or she

were to be treated by a Member of another College under the Regulated Health Professions Act, 1991.

3. Before performing the controlled act, the Member must receive an informed consent from the patient or his or her authorized representative.

4. Before performing the controlled act, the Member must determine that the patient's condition warrants performing the controlled act, having considered,

   a. the known risks and benefits to the patient of performing the controlled act,

   b. the predictability of the outcome,

   c. the safeguards and resources available in the circumstances to safely manage the outcome of performing the controlled act, and

   d. other relevant circumstances specific to the patient.

6. The Member must have the knowledge, skill and judgment,

   i. to perform the controlled act safely and ethically, and

   ii. to determine whether the patient's condition warrants performance of the controlled act.

ii. **Advertising Standard of Practice –** The Member's advertisements are accurate, verifiable, comprehensible, professionally appropriate and in compliance with the standards of the profession;

iii. **Consent Standard of Practice –** The Member has a duty to ensure the patient has sufficient information to make valid decisions about his/her care. The Member ensures that informed consent is obtained from the patient or substitute decision maker at the start of and throughout the assessment and treatment process. The Member documents the consent process; and

iv. **Requisitioning Laboratory Tests Standard of Practice –** The Member ensures that the … tests being requisitioned are appropriate and necessary for the specific patient, taking into consideration the patient's health history, a clinical assessment including but not limited to a medical history, physical examination and other relevant diagnostic testing or investigations and a differential diagnosis.

Attached at **Tab "O"** are copies of the relevant standards.

b. **Paragraph 8** - Providing or attempting to provide services or treatment that the Member knows or ought to know to be beyond the Registrant's knowledge, skill or judgment;

c. **Paragraph 18** - Issuing an invoice, bill or receipt that the Member knows or ought to know is false or misleading;

d. **Paragraph 23** - Failing to keep records in accordance with the standards of the profession;

e. **Paragraph 27** - Permitting 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;

f. **Paragraph 36** - Contravening, by act or omission, a provision of the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts

i. **Section 2(1) of the General Regulation** - A Member shall not perform a controlled act under the authority of subsection 4 (1) of the Act except in accordance with this Part; and

g. **Paragraph 46**- Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by Members as disgraceful, dishonourable or unprofessional.

66. It is also agreed that the above conduct constitutes professional misconduct pursuant to subsection 4(3) of the *Naturopathy Act, 2007.*

ADMISSION OF PROFESSIONAL MISCONDUCT

67. By this document, the Registrant admits to the truth of the facts referred to in paragraphs 1 to 66 above (the "Agreed Facts").

68. By this document, the Registrant states that:

a. She understands fully the nature of the allegations made against her;

b. She has no questions with respect to the allegations against her;

c. She admits that the admitted facts constitute professional misconduct;

d. She understands that by signing this document she is consenting to the evidence as set out in the Agreed Statement of Facts and Admission of Professional Misconduct being presented to the Discipline Committee;

e. She understands that by admitting the allegations, she is waiving her right to require the College to prove the allegations against her at a contested hearing;

f. She understands that the decision of the Committee and a summary of its reasons, including reference to his name, will be published in the College's annual report and any other publication or website of the College;

g. She understands that any agreement between her and the College with respect to the penalty proposed does not bind the Discipline Committee; and

h. She understands and acknowledges that she is executing this document voluntarily, unequivocally, free of duress, free of bribe, and that she has been advised of her right to seek legal advice.

69. In light of the Agreed Facts and Admission of Professional Misconduct, the College and the Registrant submit that the Discipline Committee should find that the Registrant has committed professional misconduct.

All of which is respectfully submitted.

Signed this 27 / 11 / 2020 day of _____, 2020

Dr. YELENA DESHKO, ND
Registrant

Signed this 27 day of November, 2020

ANDREW PARR, CAE
Chief Executive Officer, College of Naturopaths of Ontario

COLLEGE OF NATUROPATHS OF ONTARIO - and - YELENA DESHKO

DISCIPLINE COMMITTEE
OF THE COLLEGE OF
NATUROPATHS OF ONTARIO

AGREED STATEMENT OF FACTS AND ADMISSION OF PROFESSIONAL MISCONDUCT

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