

iNformed

Newsletter of the College of Naturopaths of Ontario



IN THIS ISSUE

Registrar's Message:

- Furthering Transparency & Modernization 1
- Ever wonder why we need by-laws? 3
- CPR: What do I need to know? 4
- Obligations when a patient's life is at risk 5

Regulatory Guidance:

- Common Record Keeping Issues 6

Professional Conduct:

- ICRC Corner 10
- Discipline Decision 13
- Volunteer Spotlight: Elena Rossi, ND 15
- Becoming a member of Council 17
- You asked us about - College Security 20

Legal Corner:

- "Wilful Blindness" SML Blog 21
- Grey Areas:
 - Screening Committee Members 22
- News and Events 24
- Contact Us 25

Fall
2016

Registrar's Message

Furthering our Goals of Transparency and Modernization

On October 27, 2016, the Council of the College approved a series of amendments to the College's By-laws that will further our work towards transparency and modernization of the regulatory framework. These changes were approved after a mandatory 60-day consultation period which was initiated in June 2016.

Public and Professional Representation Among the Officers

The College has two elected officers, the President and Vice President. Both of these positions also sit on the Executive Committee of the College. The By-laws were amended by the Council to require that one, but not both, of these officer positions be held by a professional member elected to the Council and the other held by a public member appointed to the Council by the Lieutenant Governor in Council. The College Council is made up of eight professional members elected in the districts from across the province and seven public members appointed by the Government. This change is intended to modernize the structure of the Council to ensure that there is a balance between public and professional representation among the officers. (see By-Laws of the College of Naturopaths of Ontario, section 13.01, Specific Composition and Selection of Committees – *Executive Committee*)

Changes to Enduring Tail Insurance

The College has changed the requirements for enduring tail insurance when a member ceases to practise. While the period of time required for a Member to have this insurance remains the same (5 years), the College now requires that a Member who is ceasing to practise has this insurance in place before they stop practising. This means that before the College can approve a change in class or accept a resignation, the Member will be required to provide proof of enduring tail insurance as a condition to the change. (see By-Laws, section 19.03, *Professional Liability Insurance – Enduring (Tail) Insurance*.)

Additions to the Public Register

Today, the public is increasingly interested in having more information available to them in order to make



informed decisions about professionals from whom they are seeking health care services. To facilitate this, the College has made three important pieces of information available on the public register.

Confirming an Investigation under way -

First, while presently all complaint related information is deemed confidential under the *Regulated Health Professions Act, 1991*, the College has the authority to confirm that an investigation is under way “if there is a compelling public interest to do so.” Although the College has used this provision in the past to answer questions about serious investigations under way, until now, it had no way of posting this information. As of October 27, 2016, such information will be included in the public register. Although it is expected to be used relatively infrequently at this present time, this is an important new disclosure in terms of transparency. (see By-Laws, section 20.6, The Register – *Additional Information* (XXXV))

Posting Criminal Charges - Second, Members are presently required to report to the College when they are charged with a criminal offence. However, this information is not disclosed by the College. Under the new changes to the public register, the College will be in a position to post this information to the register, if it is deemed relevant to the Member’s practising the profession. This provision will take effect after the Council approves a policy relating to which charges will be exempt from this requirement. (see By-Laws, section 20.6, The Register – *Additional Information* (XXXVI))

Other Registrations or Licenses - Finally, in order to complete its adoption of the transparency principles developed by the *Advisory Group for Regulatory Excellence* (AGRE), the College has decided to begin posting the other Registrations or licenses held by Members that are issued by other regulators. While the College collected this information from Members in the past, it will now be added to the public register. This allows the public to be sure whether a Member listed in one profession is the same person listed as a Member in another profession, and to use information from

all areas of registration in their decisions surrounding seeking health care services. (see By-Laws, section 20.6, The Register – *Additional Information* (XXXVI))

Changes to the Election Related Materials

The College has changed the documentation that is required from nominees as part of the election process. As opposed to referring to the Conflict of Interest Questionnaire exclusively, the By-laws now clearly indicate six documents that constitute the “Election Package” which must be submitted to be eligible to run for election to a district.

These include:

1. Nomination and Consent form
2. Conflict of Interest Questionnaire
3. Confirmation of Eligibility form
4. Election Undertaking
5. Fiduciary Agreement
6. Agreement Regarding Duties of Members of Council.

Only individuals who have submitted these documents to the College can run for election. (see By-Laws, section 1.01 Definitions – “Election Package,” and section 10.05 Eligibility for Election)

Fee Changes

In January 2016, the Council of the College approved a budget for the current fiscal year. At that time, it was clear that fee changes surrounding the examinations were required as the exams are not financially self-sufficient, that is, the revenue received was less than the costs to run the exams. The Council has approved changes to the fees as they pertain to examinations and changes of class. The new fee structure is as follows:

Initial Clinical Examinations - \$350 (to take effect on December 5, 2016, the opening of the registration for the February 2017 examination)

Jurisprudence Examination - \$75 (to take effect for new registrations on November 1/16)

Therapeutic Prescribing Examination - \$500 (takes effect with the June 2017 examination)

IVIT Infusion Therapy Examination - \$650 (takes effect with the opening of the registration in April 2017 for the May 2017 examination)

Change of Class Applications, when the member has been in the Inactive Class for 2 or more years - \$275 (takes effect on November 1, 2016). (see Schedule 3 to the By-Laws - *Fees*)

In addition, a number of housekeeping amendments were also made to the By-laws. These amendments remove references to the former transitional Council and streamline operating processes.

A copy of the By-laws is available on the website for Members to review and download.

I hope you enjoy this issue of *iNformeD*. We would be happy to hear from you. Tell us what you like, dislike and what you want to hear about from us.

Andrew Parr, CAE
Registrar & CEO

Ever wonder why we need bylaws?

By-laws are the written rules by which an organization governs itself. They describe the structure of the organization and its governance. They determine certain of the rights of participants and the procedures by which these rights can be exercised. In other words, our by-laws guide the Council in conducting business. Carefully crafted by-laws and adherence to them can help ensure the fairness of Council decisions and provide protection against legal challenges.

It is important to note that our by-laws are in fact legal documents. This means there are legal requirements for what can be included. Regulatory health colleges in Ontario are permitted to make by-laws under the *Regulated Health Professions Act, 1991*, the *Health Professions Procedural Code*, (the RHPA Code) section 94, which says,

94. (1) The Council may make by-laws relating to the administrative and internal affairs of the College and, without limiting the generality of the foregoing, the Council may make by-laws ...

Section 94 then describes some 26 areas where colleges can make by-laws. The section also says that most proposed by-laws must be circulated to every Member for consultation at least 60 days before approval by Council.

By-laws enable Members to decide what rules they can all agree with and abide by, and yet allow the Members to make changes when the organization grows and changes. These rules ensure stability, continuity, and structure.

Find our College By-laws Here.

See the RHPA Code Here.

Cardiopulmonary Resuscitation (CPR)

What do I need to know?

Naturopaths are required to maintain current CPR certification

Naturopaths are primary care health care professionals. This means that a patient may attend independently choose to visit a naturopath or they may attend with or without a referral from another health care provider. Naturopaths have a clearly defined scope of practice and are authorized to perform a number of controlled acts as set out in legislation. Naturopaths, therefore, will likely see a broad range of patients in their practices.

It is entirely possible that, as a naturopath, you will be confronted with a patient in an emergency situation. Many patients have a history of heart disease, stroke, diabetes and other serious medical conditions, and some serious and potentially fatal events can occur to a patient— even while in your office.

9 in 10 Canadians have at least one risk factor for heart disease or stroke.

Heart and Stroke Foundation 2015 Report to Donors

What are my CPR Requirements?

All members holding a General Class Certificate of Registration must maintain valid, Health Care Provider Level CPR (HCP Level C or HCP) certification.

How often do I have to re-certify?

A member's CPR certificate must be valid (not expired) at all times and renewed every two (2) years.

Can I do my CPR training online?

No. At this time only in-person training courses taught in compliance with the Heart & Stroke Foundation of Canada's most current Guidelines for CPR and Emergency Cardiovascular Care are recognized.

I maintain a General Class Certificate of Registration but I do not treat patients. Am I still required to maintain certification in CPR?

Yes. Holding a General Class Certificate of Registration is a privilege and not a right, and with that privilege comes certain professional obligations, including compliance with regulations, CONO's standards of practice, and policies.

Can I apply the hours spent learning CPR towards my CE Requirements?

Yes, completion of a CPR for Healthcare Providers (HCP) certification or re-certification course counts for a maximum of 8 credits towards your Category B requirements.

Every 7 minutes in Canada, someone dies from heart disease or stroke.

Heart and Stroke Foundation 2015 Report to Donors

Obligations when a patient's life is at risk

In addition to the use of CPR where appropriate and advising staff to contact 911, naturopaths should remember that they have obligations to advise a patient or the patient's authorized representative to seek other appropriate services, e.g., treatment from a physician or other regulated health professional where a condition presents that necessitates such advice. A failure to do so could constitute professional misconduct. (see 9 below).

Where a patient's life is or may be at risk, a naturopath must immediately call emergency services to transfer the patient to a hospital.

This requirement is set out in section 13.(1) of the General Regulation (see below). Failure to do so might constitute professional misconduct (see 36 below).

Professional Misconduct Regulation (Ontario Regulation 17/14)

1. The following are acts of professional

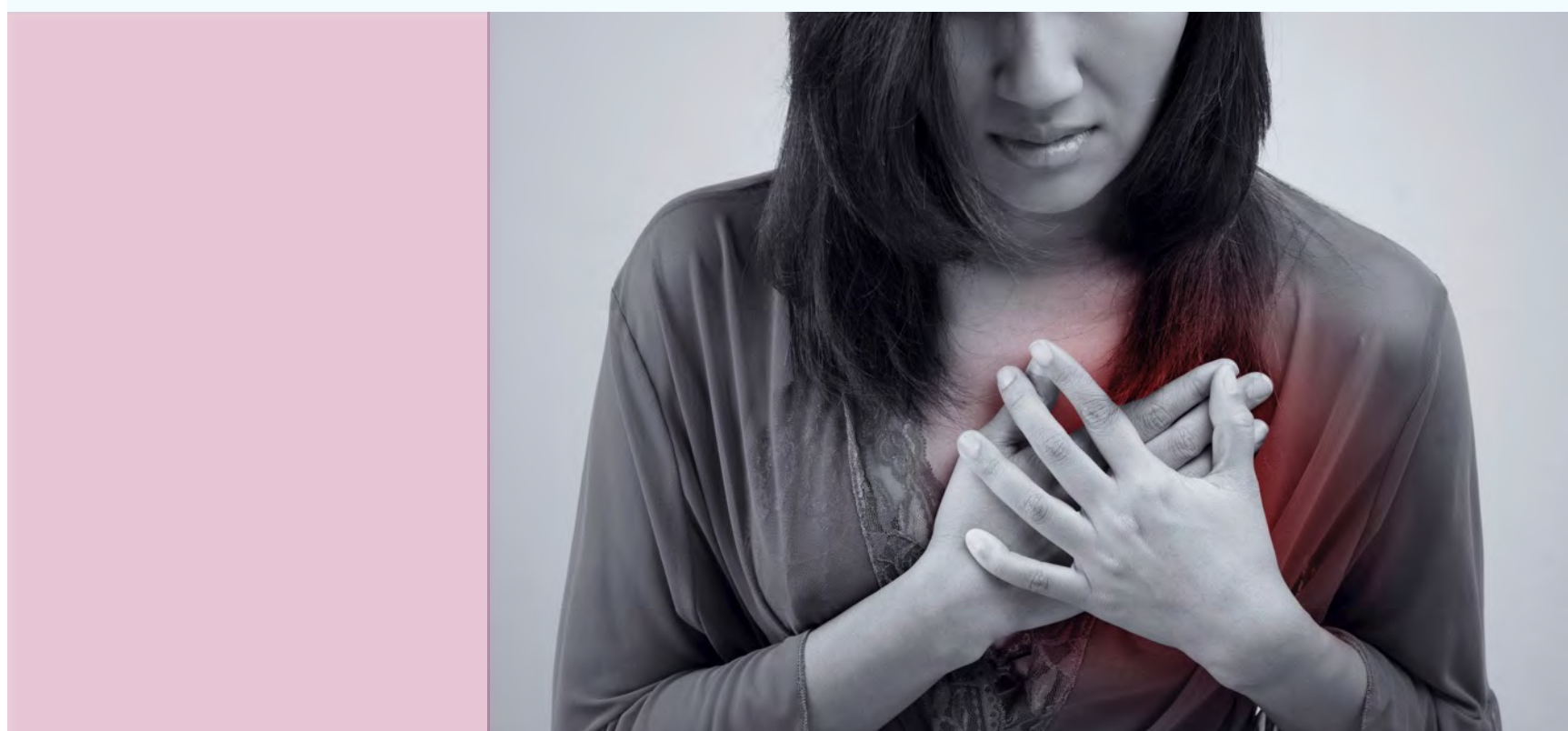
misconduct for the purposes of clause 51(1)(c) of the Health Professions Procedural Code:

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.

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.

General Regulation (Ontario Regulation 168/15):

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



Regulatory Guidance

“Regulatory Guidance” is our new title for what was formerly known as “Practice Advice.” We think the new title more clearly describes the nature of the information that CONO provides in this context and avoids confusion.

Common Record Keeping Issues and How to Avoid Them

Consider this: if another ND were to take over your practice tomorrow would they be able to understand your SOAP notes and carry on with the treatment plan in place for your patients?

Good record keeping is part of good patient care. In the majority of complaints where the Inquiries, Complaints and Reports Committee’s (ICRC) investigation requires a review of the patient record, additional concerns are raised regarding deficiencies with the member’s record keeping. Here, we will review the most common concerns that come to the College’s attention through complaints to assist our Members in establishing and maintaining good record keeping habits.

Informed Consent issues commonly seen include the following:

- no record of what was explained to the patient prior to starting the treatment protocol,
- no documentation of discussions about consent,
- no evidence that a member discussed risks or side effects of treatment with the patient about the treatment,
- no documentation in the patient record to show that the diagnosis was communicated and discussed with the patient,
- consent form is not signed or dated,

- no documentation in the patient record indicating whether fees were discussed with the patient.

Often in a complaint investigation the Member confirms that a discussion occurred however there is no way to be certain of this if it is not in the chart.

It is important that discussions that occur with the patient regarding obtaining consent to fees, assessments and treatments are documented in the patient chart. In many cases the discussion has taken place however it was not documented in the patient chart. Documentation allows for everyone involved, the College, the ND and the patient to refer back to what was discussed if there is ever a question about it in the future.

Documentation of the discussions can be brief notes indicating that it occurred and the nature of discussion. It does not have to include, for example, a list of every possible side effect but rather that there was a discussion of the side effects of the proposed treatment.

Consent is an ongoing process and not just a one-time event that occurs during the initial visit when the consent form is signed.

There have been cases where the consent form was signed prior to the date of the initial visit. The patient cannot give consent when there has been no opportunity to discuss the assessment or treatment plan.

SOAP Notes Documentation issues commonly seen are:

- lack of physical examination findings logged in the patient record,
- no vital signs documented,
- notes are very sparse in all fields,
- acupuncture points needled were not documented,
- treatment notes do not fully outline the treatment,
- no documentation of any education that was provided to the patient as treatment progressed.

The importance of complete and legible SOAP notes helps to ensure continuity of care, whether it is a case where another ND sees the patient on behalf of a colleague, a patient returns for a visit six months since her previous visit or a patient requests a copy of his file when moving to another city and seeing a new ND. If the SOAP notes are not complete and able to be read by someone else, assessments and treatments may be unnecessarily repeated or inappropriate care provided and patient care may be compromised.

What are SOAP Notes? While ND's will be familiar with the principles behind SOAP Notes, not all readers will be. SOAP = Subjective, Objective, Assessment (diagnosis), Plan.

Typically, subjective information from the patient and objective information from the health professional, will lead the health professional to an assessment of the patient's condition and a plan for care.

If the College receives a patient file in connection with a complaint and the entries are illegible the file will be returned to the Member who will be required to provide a legible transcript at his or her expense.

It is always better to include more information in the patient file than less and that it be recorded as soon as possible. All interactions with the patient are required to be documented and in the patient file, this includes telephone calls with the patient and emails.

If there is no documentation that an event occurred then no one, not the treating ND, the patient, a ND taking over the patient care or the College can go back to see what actually occurred. The more information that is documented, the better it is for everyone.

Privacy issue commonly seen is:

- **Members failed to provide access to the patient records to a patient or their representative.**

The Member is the guardian of the patient's personal health information. It is the right of the patient or their authorized representative to access the information in the patient record. The Member can charge a reasonable fee to cover the costs of providing a copy of the information however they cannot require pre-payment of the fee nor withhold the information until the fee is paid. It is also not acceptable for the Member to require the patient to come in for a visit in order to provide information, such as recent test results, to the patient.

General issues included:

- **Discrepancies between the appointment and/or financial records and the patient file or chart**

As noted in the Standard of Practice for Record Keeping the patient record consists of the patient chart, appointment record and financial records. All three components of the record must align:

Appointment Record: There is a scheduled naturopathic consultation for patient TG with Dr. John Doe, ND for Monday October 3, 2016 at 10:00 am for a half hour.

Patient Record: There should be notes for the visit on that day in TG's patient file made by Dr. Doe.

Financial record: There should also be a financial record of the cost of the half hour consultation and any itemized additional charges, such as supplements that were sold from the clinic dispensary. The record should also include if the costs for October 3, 2016 were paid in full, how payment was made (cash, cheque, debit, credit card), if a receipt was issued and copy of the receipt.

- **Blaming staff for record keeping deficiencies**

The Standard of Practice for Fees and Billing states that the Member audits invoices and billing practices periodically to ensure that staff are following expectations set by the College.

- **Inability to access the patient file**

The ICRC has seen instances where a complaint is made against a Member years after they last saw the patient and the Member was unable to provide the patient record to the College. This is due to the fact that the Member allowed another party to maintain the records on their behalf but failed to ensure that they were informed of a change of location of the records. It is the responsibility of the Member to ensure that the patient and the College are aware of the location of the patient record and will be able to access it

It is the Member, as a regulated health professional, who is responsible and held accountable for ensuring that not only themselves but the people who work for them are aware of and correctly implement all of the College's regulations and standards of practice.

as needed during the specified ten-year retention period.

- **Amending the patient record**

If there is a need to amend the patient record, the Standard of Practice for Record Keeping outlines how it is to be done in order to ensure that the original entries are not lost. Sometimes corrections need to be made to the patient file to ensure accurate information has been recorded. However the original entry must remain unamended. A Member must not amend a record by erasing the previous entry in an effort to change the original information. This may reflect poorly on the Member.

The *Professional Misconduct Regulation* defines the following as acts of professional misconduct:

- signing or issuing, in his or her professional capacity, a document that the Member knows or ought to know contains a false or misleading statement,
- falsifying a record relating to the Member's practice.



Resources

Standard of Practice for Record Keeping
Standard of Practice for Consent
Informed Consent Guideline
Standard of Practice for Fees and Billing
Code of Ethics

*All of the above can be found under “Quicklinks” in the **Resources** section of Cono’s website.*

Professional Misconduct Regulation -

Find it Here

iNformedD newsletter November 2015 – Ask the “Practice Advisor” article - ***Find it Here***

Regulatory Guidance articles originally published in past issues of iNformedD are now available on the Member section on the website.



For regulatory guidance related questions, or to suggest issues to cover in future editions of the newsletter, contact -

Dr. Mary-Ellen McKenna ND (Inactive),
the College’s Regulatory Education Specialist,
at 416-583-6020 or by email at
info@collegeofnaturopaths.on.ca

In a recent meeting of Canada’s naturopathic regulatory authorities, the importance of good record keeping was a topic of discussion. In addition to being important for a naturopath’s ability to provide continuity of care (*let’s be honest, you can’t remember every detail of every one of your patient’s current and past care*), the patient record represents an important legal document that supports you in the event that a complaint is received by your regulator.

Professional Conduct: ICRC Corner

The College takes its role of protecting the public interest seriously. One way that the College protects Ontarians is by investigating complaints about naturopathic doctors. It is the College's Inquiries, Complaints and Reports Committee (ICRC) role to investigate and consider the complaints received. The ICRC also considers Registrar's Reports about certain conduct or actions of a Member and takes appropriate action on the information that may result from such a report.

In each edition of iNformeD, we will present and analyze an ICRC scenario based on facts from real cases. We hope these scenarios can assist NDs to recognize any areas of potential concern in their own practices, to enhance NDs' knowledge of the professional standards and regulations that apply to their practices and to further an understanding of the College's complaints process.

This ICRC scenario relates to practicing naturopathy while under suspension. By statute, except for a few exceptions, the complaints process is confidential. The participants are not identified, therefore, and details of the case are altered slightly to maintain confidentiality.

Summary of the report

The College learned that a suspended member of the College might be practising naturopathy and using the title "Naturopath." A Panel of the Discipline Committee had previously found the Member guilty of an act of professional misconduct. of the sanctions imposed by the Panel included a three-month suspension of the Member's certificate of registration. The terms of the suspension included a requirement that the Member not engage in the practice of naturopathy, use the title ND, or hold out as an ND throughout its duration.

Information came to the attention of the Registrar that the Member was continuing to practice, to use the title ND, and had participated in a health show as an ND during the period of suspension. The Registrar appointed an investigator to inquire further.

The results of the investigation supported the allegations. According to the Member's statement, the Member attended a health show in the capacity of an ND and had answered questions about his/her practice. However, the Member claimed that he/she informed the public of not practising at the time. The Member

also said that even though he/she used the restricted title on the clinic website and in social media, there was a posting on the website that he/she was not seeing patients at the time of suspension.

During the investigation, the Member also acknowledged that while being suspended he/she continued to treat one patient.

Outcome

The results of the investigation raised serious concerns about the Member's governability and ability to practise in accordance with the College's regulations and standards of practice. Failure to comply with an order of the Discipline Committee and to abide by the

Information came to the attention of the Registrar that during a period of suspension, a Member was continuing to practice, to use the title ND, and had participated in a health show as an ND.

terms of an Undertaking with the professional regulator is a serious act of professional misconduct, which can result in revocation of one's certificate of registration.

As a result of the Registrar's investigation, the Member, having obtained advice from his/her own legal counsel, signed an Undertaking to the College, in which, among other things, he/she agreed to resign and never to apply or re-apply for registration as a naturopathic doctor in Ontario. Given the nature of the Undertaking, the ICRC decided to accept the Undertaking and to take no further action with this Member on this matter, such as, for example, a referral to Discipline.

Analysis

Holding out as a Naturopath

In health care, titles are important. To use a protected title is a privilege. When the public sees a protected title, such as ND, people can easily identify a professional who is qualified to offer and provide health care, and who has met the standards needed to practise safely, ethically and competently.

The title "naturopath", its variation of naturopathic doctor and the abbreviation ND are protected under the *Naturopathy Act, 2007*. They may only be used by Members currently registered with the College of Naturopaths of Ontario.

Members of the College who resign or whose registration has been suspended or revoked may not use the title ND in advertising, publications or social media, even if it is followed by a disclaimer that they are not practising at the time. The ICRC considered the Member using the title "naturopath" and its variations in this case at the time of suspension as a violation of the *Naturopathy Act, 2007*. As noted, such a violation can result in a referral to the Discipline Committee of the College.

Practising under Suspension

Under the current regulation, the Registrar of the College may suspend a member's certificate of registration,

- if a member fails to pay a fee that he or she is required to pay in accordance with the by-laws;
- if a member fails to provide the College with information about the member as required under the by-laws;

- if a member fails to be insured;
- due to a finding by the Discipline Committee that the naturopath was incompetent or committed an act of professional misconduct;
- to a finding by the Fitness to Practise Committee that the naturopath cannot practise safely and effectively.

Practising the profession or benefiting from the practice of the profession while the member's certificate of registration is suspended is professional misconduct as outlined in sections 39-40 of the Professional Misconduct Regulation ¹ under the *Naturopathy Act, 2007*.

The Member's advertising and practising naturopathy in spite of being suspended by an order of the Discipline Panel, combined with a history of similar disregard for regulatory obligations previously addressed by the complaints committee, raised questions about the Member's governability and whether the Member intended to comply with the regulations and standards of practice governing the profession. The Member's actions amount to clear disrespect for the law, the College, and his/her peers, thus raising serious concerns for the ICRC.

Breach of an agreement with the College or failure to comply with an order

The Professional Misconduct Regulation (sections 41 and 43) ² states failing to comply with an order of a panel of the College and failure to carry out or abide by an undertaking given to the College or breaching an agreement with the College are acts of professional misconduct.

In a self-regulatory environment, it is critical that members respect the obligations of the College to regulate the profession in order to promote and ensure patient safety.

The ICRC noted that the Member showed disregard for the authority of the College by failing to comply with the Suspension order. Should a Discipline panel consider such a matter, and given such a demonstration of ungovernability, revocation of the member's registration would be a distinct option.

Bottom line

Being a self-regulated profession means that naturopaths are involved in setting the values and standards that govern the profession, enforcing those values and

standards, and ultimately are accountable for their own behavior. The College's role is to provide assistance and oversight in actualizing these responsibilities and to intervene where public protection demands it.

Failure to cooperate with an order of a panel of the College, consisting of your fellow NDs and public members appointed by the government, undermines the authority of the profession, may lead to an additional investigation and, potentially, a discipline hearing, all paid for out of your registration fees.

¹ Professional Misconduct Regulation under the *Naturopathy Act, 2007*, sections 39 and 40.

39. Practising the profession while the member's certificate of registration has been suspended.

40. Directly or indirectly benefiting from the practice of the profession while the member's certificate of registration is suspended unless full disclosure is made by the member to the College of the nature of the benefit to be obtained and prior approval is obtained from the Executive Committee.

² Professional Misconduct Regulation under the *Naturopathy Act, 2007*, sections 41 and 43.

41. Failing to comply with an order of a panel of the College.

43. Failing to carry out or abide by an undertaking given to the College or breaching an agreement with the College.

College's Note:

We publish ICRC scenarios in an anonymized format as they are confidential in nature. While, in certain circumstances the legislation permits the information to be publicly available, we believe that it is important to preserve both the confidentiality of the process and the anonymity of these scenarios.

We have anonymized this scenario, as is our regular process. However, due to the specific nature of the matter concerning this former Member, we are adding this footnote in the interests of the public's safety and of transparency.

We are, therefore, identifying Maureen Horne-Paul as the former Member in this circumstance. The ICRC outcome is available on the public register under the individual's name and the same information is available through a direct access link from the Homepage, on the College website, called "*Complaints and Reports Outcomes*." (see also *Discipline decision regarding this individual*.)

Accountability

Being a self-regulated profession means that naturopaths are involved in setting the values and standards that govern the profession, enforcing those values and standards and ultimately are accountable for their own behavior.



Professional Conduct: Discipline Decision

The Discipline process is one of the ways that the College maintains the high standards of practice of the profession of naturopathy in order to protect Ontarian's' rights to safe, competent and ethical naturopathic care. When there are reasonable and probable grounds to believe that a Naturopath may have breached the College's Professional Misconduct Regulation or might be incompetent, the Discipline Committee holds a hearing into the allegations.

The hearings are open to the public, in

the interests of transparency and public protection, except for certain special circumstances where for example, there might be safety and security concerns, or where the privacy of a witness must be protected. All Discipline decisions are made in the best interests of the public. Publishing summaries of the decisions in this newsletter is part of the further transparency of the discipline process, and is intended to assist members of the College in understanding what may constitute professional misconduct.

Decision

Member: Maureen Horne-Paul

(Resigned Member, Registration #0789)

At an uncontested hearing on June 22, 2015, a Panel of the Discipline Committee of the Board of Directors of Drugless Therapy – Naturopathy (BDDT-N) made findings of professional misconduct against Maureen Horne-Paul with respect to the following:

- The Member violated section 7 of the Drugless Practitioners Act by administering Schedule 1 drugs for use internally;
- Member failed to perform a relevant and complete physical examination, contrary to section 4.2(b) of the BDDT-N Standards of Practice.

Ms Horne-Paul admitted to the allegations set out in the notice of hearing and signed an Undertaking with the BDDT-N. She agreed,

- To complete successfully and unconditionally, at her own expense and within 12 months of the date of the Undertaking a jurisprudence course which will

include a review and testing of knowledge of the policies and standards of practice;

- To meet with a Monitor in person no less than once every two weeks for the first six months of the Undertaking and no less than every four weeks for the last six months of the Undertaking;
- That in the event the Monitor suspects that the Member committed a misconduct, acted with incompetence or became incapacitated, the Monitor will take all reasonable steps to ensure that the Member does not perform any further naturopathic services, document the specific concerns regarding the Member's conduct, competence or capacity and notify the regulator.

Additionally, the Discipline Panel imposed the following order:

1. The Member will appear before a Panel of the Discipline to receive an oral reprimand.
2. Member's certificate of registration will be suspended for a period of three (3) months, during which time she will:

- not engage in the practice of naturopathy;
- not use the title ND (or any variation or abbreviation);
- not hold out as an ND or as somebody who is entitled to practice naturopathic medicine;
- advise staff that her certificate of registration is under suspension and shall ensure staff are instructed not to do anything that would suggest to patients that she is entitled to engage in the practice of naturopathy during her suspension;
- not supervise any students or graduates of naturopathic medicine; and
- the commencement of the suspension will be deferred until July 15, 2015.

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

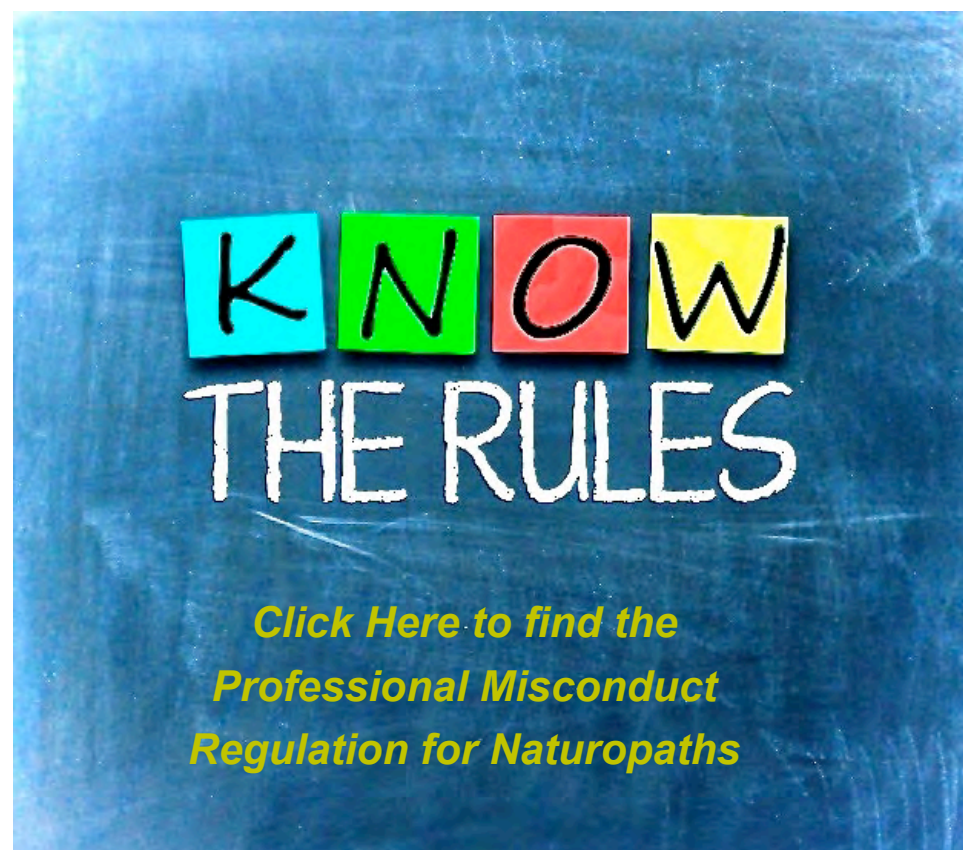
In its reprimand, the Panel noted that the Member's unprofessional and unethical behaviour might erode the profile of the profession in the minds of the public,

other regulated health care providers and insurance providers.

The Panel reminded the Member that her role as a naturopathic doctor was to provide safe, ethical competent care within the bounds of the scope of practice and her knowledge, skills and judgment. Further, the Panel expressed serious concerns regarding the Member's failure to perform a relevant and complete physical exam in particular on a patient for whom she was performing intravenous therapy.

The Panel recognized that the Member had been practising for some time and that it was the first time she was before the Discipline Panel; however, it was noted that it was not the Member's first encounter with the complaints process of the BDDT-N. The Panel cautioned the Member that should she come before a Discipline panel of this profession again, the penalty would likely be more severe.

The Panel trusted that this case would serve as a caution to the Member and as a deterrent to such behavior for others in the profession.



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

Copies of the full discipline decisions are available on the public register on the Members' profiles.

You can also review all decisions in the **Resources** section of the College's website.

Volunteer Spotlight: Elena Rossi, ND

Elena says that she appreciates the insight she has gained into the running of a complex body that is working to carry out the important work of regulating the profession and protecting the people.

CONO could not carry out its work without Members of the profession who regularly give of their valuable time and expertise in a variety of essential volunteer capacities.

Recognizing the importance and privilege of self-regulation to the profession of naturopathy, these Members have been responsible for developing the framework of standards and rules by which naturopaths are now governed in Ontario, for assisting the profession in meeting and maintaining these standards and rules, and for the overall governance of the profession.

Volunteer Members sit on Council, statutory and non-statutory committees, and assist the College in carrying out examinations. Members act as decision-makers, examiners, peer assessors, practice experts and in the future it is anticipated they will also act as inspectors.

Our Member in the spotlight in this issue has volunteered on the Audit Committee with CONO this past year and previously with the Transitional College. Elena Rossi and her fellow Audit Committee members have the significant role of reviewing the College's annual financial statements, the Auditor's report and related issues, including accounting practices and financial controls, and making recommendations to Council.

Why do you volunteer with the College?

Having a very young child, jointly owning and managing a busy downtown clinic with a group of professionals, as well as carrying out her own practice may seem like more than enough for a young naturopathic doctor. But Elena Rossi opted to take one step further and volunteer with the College. Why, you might ask? Elena says that volunteering with the College has been a positive experience from which she has also gained. She says that volunteering has required a commitment to learning, and it has also made use of a variety of her own skills and attributes that in turn have been enhanced and expanded through the activities. The work has required an attention to detail and objectivity, and has deepened her sense of curiosity and engagement. Elena says that she has been privileged to see firsthand that the work of the College is a group effort of many people.

Serendipity plays a hand

Coming originally from outside of the profession with a graduate degree in Medical Biophysics from U of T, Elena spent time carrying out research for pharmaceutical companies. Elena related that she never felt completely settled doing this work. It was a

serendipitous evening out with friends that changed the course of her life. A friend of friend with them that evening was taking time away from busily studying for an exam - a final exam in the naturopathic medicine program at CCNM (the Canadian College of Naturopathic Medicine). For Elena, the rest is history.

On the way to a new career

Within a very short period of time Elena, herself, had entered the naturopathic program at CCNM and was on her way to a new career. She has never looked back. As she tells the story sitting across from me in her Clinic, I ask if she feels settled and happy in her new choice of a career. She beams and nods affirmatively. I hardly needed to ask, it was already evident.

Elena explained that having worked outside the profession has actually been a benefit as it has given her a broader perspective of the profession as a whole and how it affects people. This has stimulated her interest in the self-regulation of the profession and her desire to contribute.

Elena tells me that the Audit Committee has been an ideal place for her to volunteer her time, as its work is carried out in a concentrated period during spring to early summer. This gives her the rest of year to give her full attention to her work and family.

“It grounds me in the profession.”

I asked Elena whether volunteering with the College has enriched her professionally or personally. Without hesitation, she replied, that it “grounds me in the profession.” She added that she appreciates the insight she has gained into the running of a complex body that is working to carry out the important work of regulating the profession and protecting the people of Ontario. She tells me that she is “proud to be part of that work, and to make a small contribution.”

“Go for it!”

Elena wanted to get out a strong message about NDs volunteering with the College - “Go for it!” She says. “Every ND I know loves to learn and has something to offer [in volunteering for the College].” She added that it brings a new and different experience from the clinic. “NDs are bright, engaged, strong individuals with much to offer not only to their patients, but also to their profession,” Elena concluded, and “it’s important to have all of these voices as we go forward.”



“Every ND I know loves to learn and has something to offer [in volunteering for the College]. . . NDs are bright, engaged, strong individuals with much to offer not only to their patients, but also to their profession. It’s important to have all of these voices as we go forward.”

Elena Rossi, ND

“iNformeD” spotlights a CONO volunteer in each issue. CONO deeply values and appreciates the work and commitment of the many Members who give their time to volunteer for the College. In the College’s view, no volunteer contribution is a “small contribution.” We thank Elena Rossi, ND for agreeing to be spotlighted in this issue.

Shelley Ledger, *Communications Manager, Acting*

Want to get involved? For more information about volunteering with CONO, contact us by email at info@collegeofnaturopaths.on.ca

Becoming a Member of Council

Members of the Council of the College and its committees act in the public interest and further the College's mandate of regulating naturopathic doctors in Ontario.

By standing for election, registrants have the opportunity to join a committed group of naturopaths and public members appointed by the Ontario Government working together to safeguard the public interest by ensuring that Ontarians have access to safe, competent, ethical naturopathic doctors.

While Members find serving on the Council both personally and professionally rewarding, it requires a significant time commitment. Council typically meets for one-day, four times each year. Dates are set well in advance to ensure Council Members can plan ahead. Preparation time associated with Council meetings averages between two and four hours for each meeting. This generally involves reviewing material in advance of meetings in order to contribute constructively to Council discussions and decision-making.

Council members must also serve on at least one, but more often two Committee of the Council. The time commitment varies depending on which Committee(s) you sit. Some Committees will meet twice per year while others will meet almost monthly. Additional information about the Council Committees is available on the College's website [HERE](#).

The College pays a per diem for participating on Council and its Committees; however, this per diem is not equivalent to the average billing of a naturopathic doctor for a day and as such, Council and Committee members are considered to be "volunteering" their time to the College.

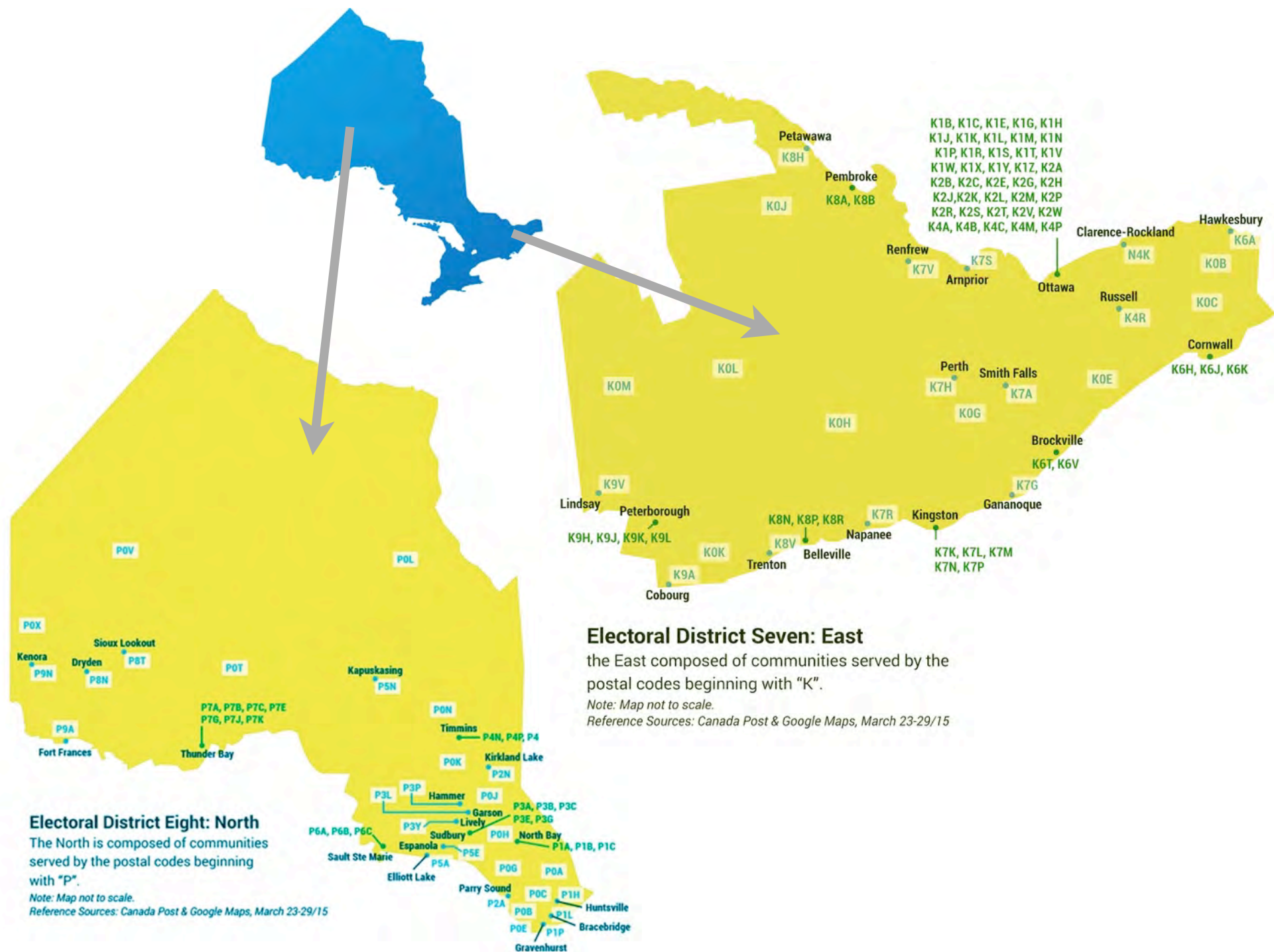
Members who are interested in running for election should consider whether they can commit the time necessary to serve.

COLLEGE
governance



District Elections 2017

Elections in each district occur every three years on a rotational basis. Elections will be held in March 2017 in the following districts.



District	Name	District Encompasses	Current Member
7	East	Communities served by the postal codes beginning with "K"	George Tardik, ND
8	North	Communities served by the postal codes beginning with "P"	Dielle Raymond, ND

Important Dates

Members who are interested in seeking election in these districts should keep the following dates in mind:

Call for Nominations	December 6, 2016
Deadline for Receipt of Nominations	January 5, 2017
Balloting begins	February 8, 2017
Balloting closes	March 9, 2017

Did you know?

Once elected to Council, NDs are not accountable to the Members in their district, but instead to the statutes and laws governing the College?

Accepting a position as a Council and/or Committee member means that that a Member has accepted to

occupy a position of trust and confidence.

Their personal interests and the interests of any constituency with which they may be affiliated must at all times be subordinated to the public interest, the best inter-

ests of the College and to the principles of self-regulation.



You asked us about - College Security

Some Members have asked us why the College is not open for anyone to drop by unannounced.

The office of the College of Naturopaths of Ontario is a secure site. If you have visited, you will have noticed that after you reach the 10th floor, you must use a dedicated telephone in the elevator foyer to contact a staff person who will grant you entry to the main office. You must also enter your name, purpose and time of entry and exit from the College into a log book.

No one is or will be permitted to enter the College's main offices if they do not have an appointment or are otherwise expected to be attending at the College.

The log book provides an important record for the College of who has been on the College's premises, should any questions arise in the future, and also should there be an emergency evacuation, such as for a fire. Should there be an evacuation, a staff person who is an appointed Emergency Warden will take the book with them in order to ensure that all who have been onsite can be accounted for after the floor has been evacuated. This information may be required by the emergency authorities, such as Fire or Police Services.

There are two main practical reasons for the College to maintain a secure environment – the safety and security of the staff and of any volunteer

Two main reasons for CONO maintaining a secure environment are,

- the safety and security of the staff, Members or others on site, and
- to preserve the confidentiality of CONO's workspace.

Members or others who may be attending meetings or hearings on site; and to preserve the confidentiality of the College workspace - computer screens, documents, files and such - as most of the College's work involves sensitive and confidential materials relating to Members, prospective Members, examinations, and sometimes to patients.

In addition these security measures must be in place in order to be compliant with legislation governing workplace safety and security, as well as privacy and other provisions of the *Regulated Health Professions Act, 1991*.

The safety measures are not intended to be onerous. The College regularly reviews its entry procedures to ensure not only that they fulfilling their intended purposes, but also providing for efficient access to the College.

The College is contemplating a few changes at this time, one of which is likely to be providing persons with a guest card suspended from a lanyard to be worn around the neck, to further ensure the safety of all persons on site. This is a general practice used by other regulatory health colleges across the sector.

We appreciate your question and hope this gives you a more complete understanding of why the College is a secure environment.

If you have a question for the College, please let us know. We'll do our best to give you more insights into how the College operates. Email your question to info@collegeofnaturopaths.on.ca.

Legal Corner:

“Wilful Blindness and Recklessness”

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

In professional misconduct hearings the regulator generally does not have to prove that the practitioner deliberately engaged in the conduct. Proving the act or omission is generally sufficient. There are some exceptions where the wording of the definition of misconduct inserts a mental element. In addition, for some matters, a defence of due diligence may be available (e.g., that the practitioner took all reasonable steps to avoid the result occurring). One situation that recurs often is where an employee of the practitioner engaged in the conduct without the practitioner’s knowledge.

In *The Law Society of British Columbia v. Sas*, 2016 BCCA 341 the practitioner argued that the billing irregularities were made by staff without her knowledge. However, the Court upheld the finding saying that the practitioner was wilfully blind. There were suspicious circumstances such that the practitioner “ought to have recognized that something was amiss.” In the case,

there was a blitz to close old files and none of the scores of clients who had prepaid a deposit had any funds returned to them. All the prepaid funds were being transferred to the practitioner’s bank account. The Court said: “In the circumstances, the ... [practitioner] had a duty to look at the backup documents, and to make inquiries.”

In describing the difference between wilful blindness and recklessness, the Court cited a Supreme Court of discussion in a criminal case:

Wilful blindness is distinct from recklessness because, while recklessness involves knowledge of a danger or risk and persistence in a course of conduct which creates a risk that the prohibited result will occur, wilful blindness arises where a person who has become aware of the need for some inquiry declines to make the inquiry because he does not wish to know the truth. He would prefer to remain ignorant. The culpability in recklessness is justified by consciousness of the risk and by proceeding in the face of it, while in wilful blindness it is justified by the accused’s fault in deliberately failing to inquire when he knows there is reason for inquiry.

In most cases, even if some intent is desired in order to make a finding of professional misconduct, it does not have to be deliberateness. It can be wilful blindness or recklessness.

by Bernie LeBlanc
August 22, 2016

[Regulation Pro](#) is a Blog on regulatory issues, published by Steinecke Maciura LeBlanc, Barristers and Solicitors. It is reprinted here with their permission.

Wilful blindness arises where a person who has become aware of the need for some inquiry declines to make the inquiry because he/she does not wish to know the truth. He/she would prefer to remain ignorant.

... while recklessness involves knowledge of a danger or risk and persistence in a course of conduct which risks that the prohibited result will occur.

Grey Areas

Discussing the selection process for committee members. The author suggests the screening process should look at knowledge, skills and attitudes as well as commitment.

Screening Committee Members

by Rebecca Durcan
September 2016 - No. 209

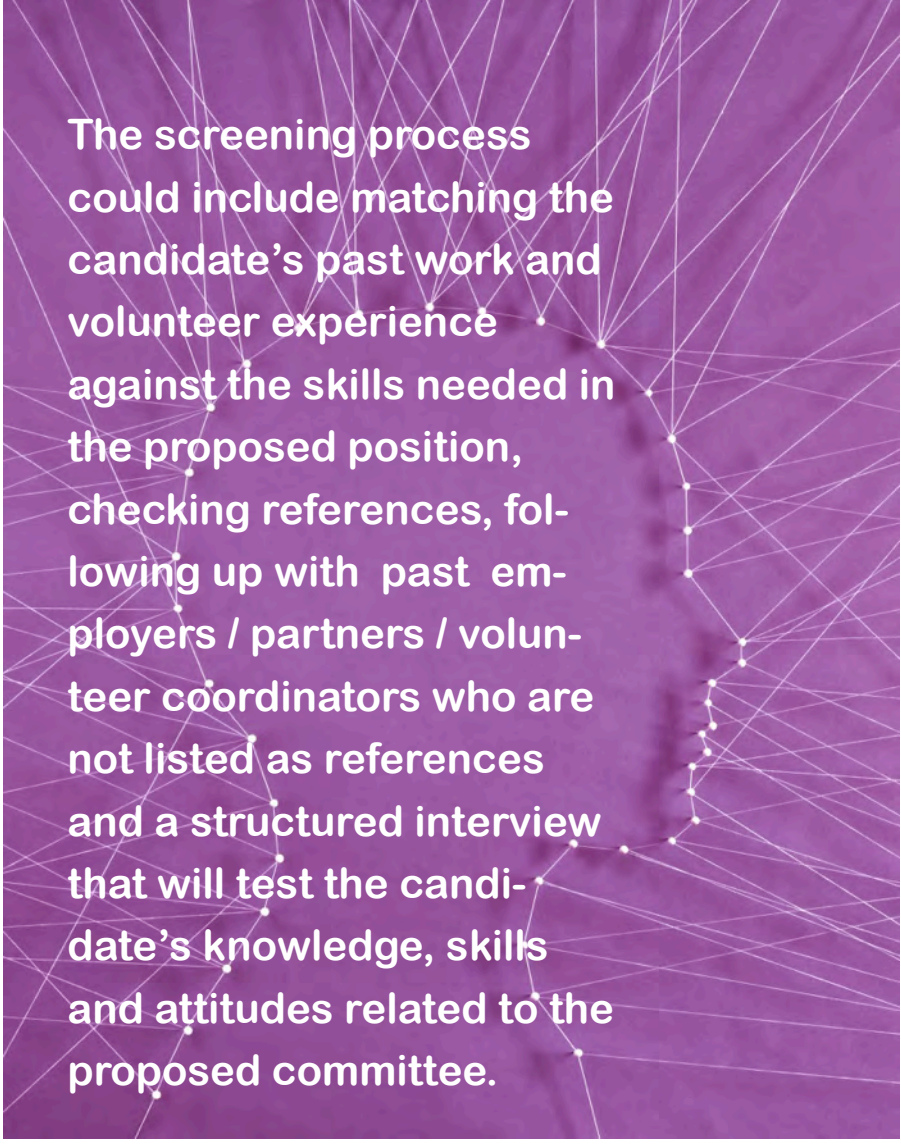
Self-regulators do not have much of a say in which professional members are elected to their Boards and Councils. Regulators can have a say, however, on who serves on which committees. The case of Justice Robin Camp illustrates the need to do so.

Justice Camp is awaiting the outcome of his discipline hearing before the Canadian Judicial Council. He will learn whether he will be removed from the Bench as a result of admittedly sexist statements he made during a criminal sexual assault trial that reflected stereotypical thinking. Justice Camp took remedial education and counselling in the dynamics of sexual assault which he argues enables him to return to adjudications.

One interesting fact that emerged in the publicity surrounding the discipline hearing is that before Justice Camp was appointed to the Bench he served on the Equity Committee of the Law Society of Alberta. The Equity Committee would have consid-

ered ways in which to address individual and systemic discrimination within the legal profession, including gender discrimination. Upon learning this, many asked how could Mr. Camp (as he then was) have been appointed to this committee when he was oblivious to basic concepts of gender equality (as he now acknowledges).

This raises the general question of how do regulators screen their committee members? Many regulators simply have their Boards appoint (by motion or election) committee members based on whatever information they might already have about those seeking the position. Regulators should consider a more rigorous process. Committee members can have an enormous impact on the regulator's work or the regulator's reputation (sometimes long after they stop serving, as demonstrated in the case of Justice Camp).



The screening process could include matching the candidate's past work and volunteer experience against the skills needed in the proposed position, checking references, following up with past employers / partners / volunteer coordinators who are not listed as references and a structured interview that will test the candidate's knowledge, skills and attitudes related to the proposed committee.

Some of the techniques used when hiring employees could be considered. A complete resumé should be provided by candidates, along with references. Candidates should be put through a screening

process, perhaps through review by a Nomination Committee or by independent consultants. The screening process could include matching the candidate's past work and volunteer experience against the skills needed in the proposed position, checking references, following up with past employers / partners / volunteer coordinators who are not listed as references and a structured interview that will test the candidate's knowledge, skills and attitudes related to the proposed committee.

As just noted, in addition to suitability, the screening process should look at knowledge, skills and attitudes as well as commitment. For significant committee positions consideration should be given to requiring candidates to go through a "boot camp." Appointees will go through an orientation process, so why not conduct at least part of it as a precondition to appointment in the first place?

Such an orientation day would likely begin with providing information about the position so that the candidate is fully aware of the nature of the position and what will be involved. Some candidates may select themselves out of the process once they learn of the commitment that it will take. The session could then teach some of the basic skills needed for the position (e.g., adjudication, policy analysis, committee meeting dynamics). The session should use adult learning techniques (e.g., small group discussion of scenarios, role playing). Those conducting the session could provide an evaluation of each attendee that could be used by the screening group in making its recommendations.

If a committee candidate is not willing to attend the "boot camp", they are probably not appropriate for the position. And those who attend the session but are not selected may:

- be seen as suitable for another committee,
- be seen as suitable for the original position in the future after gaining more experience,
- themselves see that day as an opportunity to develop their own skills for their career, and
- be eligible for collateral benefits (such as CPD hours).

In the past there have been concerns about training members of adjudication committees in "values". The concern is that such training could be viewed as

undermining the adjudicator's need to be neutral and impartial and not leaning towards a particular perspective on issues that might come before them. However, in the Justice Camp case, another issue that arose is that provincial justices do not receive as much training as federally appointed ones, including in the area of how to approach sexual abuse cases.

In addition, the recent Sexual Abuse Task Force report in Ontario explicitly recommended that adjudicators of sexual abuse cases be selected on the basis of an awareness of the dynamics and impact of sexual abuse. There is a recognition today that adjudicators do need to reflect the basic values of the society in which they operate to be effective. For example, many decades ago there were court decisions that said that whether a victim of sexual assault was "of previously chaste character" was relevant to whether the alleged perpetrator thought there was consent to the sexual activity. Today an adjudicator whose decision articulated that belief would be reversed on appeal.

Some of these screening techniques could be used for candidates for elected Board or Council positions. Having a Nomination Committee make recommendations to the profession is not inconsistent with a democratic electoral process. Even if that were not done, regulators could require candidates, in order to be eligible for election, to attend a "boot camp" so that they were fully aware of what to expect if elected.

Regulators need to ensure that they have high quality individuals, who understand the role of the regulator, serving on their committees in order to protect the public. Having suitable and skilled committee members can also help avoid serious reputational harm to both the organization and the individual.

Grey Areas is a Legal Commentary on Issues Affecting Grey Areas, published regularly by Steinecke Maciura LeBlanc, Barristers and Solicitors, a law firm practising in the field of professional regulation. It is reprinted here with their permission.

News and Events

Click for Upcoming Examinations

ONTARIO CLINICAL EXAMINATIONS

Registration Opens	December 5, 2016
Examination Date	February 12, 2017

CALL FOR SUBMISSIONS - SCHEDULED SUBSTANCES AND LABORATORY TESTS

The College is now accepting submissions for recommendations to amend the following:

- The list of tests authorized under section 8(1) of the General Regulation;
- The list of tests authorized under the Laboratory Specimen Collection Centre Licensing Act and the regulation made thereunder;
- the schedules of substances (Tables 1 through 6) established under the General Regulation.

Submissions will be accepted until February 17, 2017.

For more info or to make a submission, [Click Here](#)

Click for Upcoming Council Meetings

COUNCIL MEETING

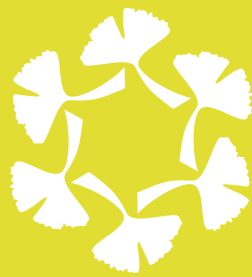
CONO's next regularly scheduled meeting of the Council will be held on January 25, 2017 in the Council Chamber at the College. Observers are welcome! If you are interesting in observing this meeting we invite you to contact the College at info@collegeofnaturopaths.on.ca to register.

WEBSITE CHANGES

CONO is working towards changes to its "Homepage" and how the menus are displayed. These changes are designed to allow for simpler ease and access. We'll keep you in the loop!

REGISTRATION RENEWAL

It's not so far off! Registration Renewal is coming up in the new year, on March 31, 2017. CONO is planning some improvements to facilitate the process. You can expect to see your first Notice by e-mail in early February 2017.



The College of Naturopaths of Ontario

150 John Street, 10th Floor, Toronto, Ontario, M5V 3E3 Canada

T: 416.583.6010 F: 416.583.6011

info@collegeofnaturopaths.on.ca *www.collegeofnaturopaths.on.ca*