Navigating the CoNO “Curse” Words

DR ERIN PSOTA ND

BRB CE Group

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Objectives

- Get some jurisprudence credits!
- Review the roles of Council and statutory committees, specifically the ICRC and QA.
- Understand the reasoning behind the rules that govern the profession that are often misunderstood, misinterpreted and/or cause frustration among members.
- Gain insight into how to make changes to their practice, including advertising and social media, in order to better comply with regulations.
- Understand how complaints might arise from the topics discussed.

Disclaimers

- I am not here as a representative of CoNO, Council or the ICRC.
- Examples are either made up or they are publicly available on the register.
- Confidential or identifying information has been removed from examples.
- I am not a lawyer, nothing I say should be construed as legal advice.
- Conflict of interest declarations.

Defining Roles

Council

- CoNO's Board of Directors comprised of 8 elected NDs and 7 appointed public members
  - ensure that the College fulfills its mandate set out in legislation
  - set the strategic directions of the College and monitor its performance
  - appoint a Chief Executive Office and monitor their performance against agreed upon priorities

Our vision is to achieve and maintain public confidence in the practise of naturopathy through excellence in regulation.

Our mission is to regulate naturopathic doctors to ensure safe, ethical, and competent care for the people of Ontario.

Individual and group performance is reviewed on a regular basis

Council
Code of Conduct

Accordingly, Council and Committee members:

- Will publicly support all of the decisions, policies and position statements taken by the Council and/or the Committee to which they are appointed. The principle of “one voice” will apply.
- Are fiduciaries and must be loyal to the interest of the public of Ontario. This accountability supersedes any personal interest or conflicting loyalty such as to advocacy or interest groups and members on other boards or staffs.
- Must avoid any conflict of interest with respect to their fiduciary responsibility.
- May not direct the Chief Executive Officer (CEO) or other staff and must recognize the lack of authority vested in them as individuals except when explicitly authorized by Council.
- Cannot communicate with the public, press or other entities about College business without authorization by Council, unless it is about an approved statement/position of the College.

https://www.collegeofnaturopaths.on.ca/about-us/council/governance-policies/

Defining Roles

Statutory Committees: set out by the RHPA

- Discipline Committee
- Executive Committee
- Fitness to Practise Committee
- Patient Relations Committee
- **Inquiry, Complaints and Reports Committee**
- **Quality Assurance Committee**
- **Registration Committee**

Non-Statutory Committees: established by the Council

- Examination Appeals Committee
- Finance, Audit & Risk Committee
- Governance Committee
- Inspection Committee
- Standards Committee

Defining Roles

The Inquiries, Complaints and Reports Committee shall:

- Administer the Complaints and Reports Program and, as such, develop and maintain policies and procedures governing the program.
- Establish panels, as necessary from time to time to investigate complaints, consider reports into the conduct and/or capacity of Registrants in accordance with the Health Professions Procedural Code.
- Ensure that the program policies and procedures are transparent, objective, impartial, and fair, free of discrimination and bias and support the Council's overall commitment with respect to equity, diversity, inclusion and belonging.

Defining Roles

The Quality Assurance Committee shall:

- Administer the Quality Assurance Program and, as such, shall develop and maintain policies and procedures governing the Quality Assurance Program of the College;
- Establish panels, as necessary from time to time, to receive and review reports from assessors with respect to registrants that have been assessed and take such action as is, in the opinion of the Panel, permitted under section 80.2 of the Code to ensure the continued competence of the registrant; and
- Ensure that the program policies and procedures are transparent, objective, impartial, and fair, free of discrimination and bias and support the Council's overall commitment with respect to equity, diversity, inclusion and belonging.

Defining Roles

The Registration Committee shall:

- Administer the Registration Program: annual renewal of registrants; entry-to-practise program, Prior Learning Assessment and Recognition (PLAR)
- Administer the Examinations Program: jurisprudence, written biomedical and clinical, practical exams, prescribing and IVIT
- Establish panels to consider: initial applications for registration referred to it by the CEO; applications from Registrants who have held an inactive certificate of registration for more than two years and who wish to be issued a general class certificate; applications to remove or modify a term, condition or limitation that was imposed as a result of a Registration proceeding
- Ensure that the program policies and procedures are transparent, objective, impartial, and fair, free of discrimination and bias and support the Council's overall commitment with respect to equity, diversity, inclusion and belonging.

Regulatory Framework

- Regulated Health Professions Act, 1991 as amended.
- Health Professions Procedural Code, Schedule 2 of the RHPA
- Public Inquiries Act
- Laboratory and Specimen Collection Centre Licensing Act, 1990 (LSCCLA)
- Naturopathy Act, 2007
- Ontario Regulation 17/14 (Professional Misconduct Regulation) made under the Act
- CoNO Standards of Practice

Where is this stuff?

https://www.ontario.ca/laws/statute/07n10

https://www.collegeofnaturopaths.on.ca/members/

Consider This:

How would you feel if a family member went to see this ND?

Where is the oversight?

How do you regulate the inexperienced members of the profession?

Specialists

Naturopathy Act, 2007

ONTARIO REGULATION 17/14

PROFESSIONAL MISCONDUCT

Acts of misconduct

1. The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:

31. Inappropriately using a term, title or designation indicating or implying a specialization in the profession.

Standard of Practice: Restricted Titles

The Member may not use a term, title or designation indicating or implying a specialization in an area of practice of the profession except in accordance with any formal specialist recognition program of the College. (i.e. Dr. Mary Smith, ND, FABNO is not currently permitted)

https://www.ontario.ca/laws/regulation/140017

Specialists

The title “specialist” (and related specializations) is regulated by the College of Physicians and Surgeons of Ontario (CPSO) under the Medicine Act, 1991 and its regulations.

Specialty recognition is distinct from registration.

In order to be recognized as a specialist by the College of Physicians and Surgeons of Ontario, physicians must meet the criteria set out by their policies.

The Ontario Regulation 114/94 provides that no member shall use a term, title or designation relating to a specialty or subspecialty of the profession in respect of their practice of the profession unless the member has been,

- certified by the Royal College of Physicians and Surgeons of Canada (RCPSC) in a specialty or subspecialty of the profession to which the term, title or designation relates;
- certified by the College of Family Physicians of Canada (CFPC) in a specialty or subspecialty of the profession to which the term, title or designation relates; or
- formally recognized in writing by the College as specialist in the specialty or subspecialty of the profession to which the term, title or designation

https://www.cpso.on.ca/physicians/registration/registration-policies/specialist-recognition-criteria-in-ontario

Specialists

Physicians who do not meet the criteria for specialty designation but have the knowledge and skills in a particular area of practice may describe their practice as “practicing in the area of…” {sound familiar??}

Currently, there is no policy with criteria to establish a specialty within naturopathic medicine in Ontario.

Recent consultation (information gathering) on this topic…

https://www.cpso.on.ca/physicians/registration/registration-policies/specialist-recognition-criteria-in-ontario

Testimonials

Naturopathy Act, 2007

ONTARIO REGULATION 17/14

PROFESSIONAL MISCONDUCT

Acts of misconduct

1. The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:

28. Using or permitting the use of a testimonial from a patient, former patient or other person in respect of the member's practice.

Testimonials

Standard of Practice: Advertising

The Member ensures that advertisements do not include:

• any information that could be interpreted to be an endorsement by a Naturopathic Doctor including an expressed or implied endorsement or recommendation for the exclusive use of a drug, product or brand of equipment used in her/her practice;

• a guarantee of the success of the service provided;

• a comparative or superlative statement about service quality, products or people;

• a direct, indirect or implied testimonial by any patient, former patient or other person in respect of the Member's practice

• any references to third-party websites or publications that carry testimonials or endorsements of the Member.

Testimonials

- Are subjective.
- Can be bought/solicited.
- Can be AI.
- Compromise patient confidentiality.

Delegation

Standard of Practice: Delegation

Delegation: For the purposes of this Standard of Practice, delegation is a process whereby a member authorized to perform a controlled act procedure under the Naturopathy Act, 2007 confers that authority to someone - regulated or unregulated - who is not so authorized and not a member of this profession (e.g. a ND registered with the College of Naturopaths of Ontario cannot delegate an authorized act to another ND registered with the College of Naturopaths of Ontario).

**A delegation is not a referral.

Referral: A process whereby a member makes a formal request for care to another regulated health care practitioner on behalf of the patient and is supported by documentation containing appropriate background information on the patient and outlining the reason for the referral.

Delegation

Competency

The Member has the knowledge, skill and judgment to perform the authorized act to be delegated safely, ethically, and competently prior to delegating the act.

- never delegates the act of communicating a diagnosis
- never delegates acupuncture (exempted act)

Responsibility and Accountability

The Member is responsible and accountable for the performance of a delegated authorized act, and only delegates to individuals who have the knowledge, skill and judgment to perform the delegated act. Delegation may be written or verbal, but appropriate documentation must be maintained.

Naturopathic Doctor – Patient Relationship

The Member delegates authorized acts procedures in the context of an existing Naturopathic Doctor-patient relationship.

Delegation

Receiving a Delegation

The Member accepts delegation of controlled acts from another regulated health professional provided that all the necessary conditions for delegation are met.

- Does the delegator has the authority and competence to perform and to delegate the controlled act?
- Do you have the knowledge, skill and judgment to perform the controlled act safely, competently and ethically?
- Do you have a Naturopathic Doctor-patient relationship with the patient?
- Is it in the best interest of the patient?
- Can it be performed safely and ethically and that there are sufficient safeguards and resources available?
- Have you followed the proper documentation criteria and obtained informed consent?

Delegation

Most frequent concerns:

- Documentation
- Doctor-Patient Relationship
- Workarounds

Group Programs

Are you doing this for the purpose of insurance billing?

Do you have a ND-patient relationship with the group members?

Have you done an intake and assessment?

How personalized are the recommendations?

Have you considered patient confidentiality?

Is this an online program?

Are you monitoring outcomes?

What are the potential risks or side effects?

Block Fees

Naturopathy Act, 2007

ONTARIO REGULATION 17/14

PROFESSIONAL MISCONDUCT

Acts of misconduct

1. The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:

19. Charging a fee that is excessive in relation to the services or products provided.

21. Failing to provide an account or failing to itemize the account in a way that sets out each item charged, including, but not limited to, professional fees, products, services and applicable taxes.

Block Fees

Standards of Practice: Fees and Billing

The Member does not charge a block fee.

The Member does not offer or give a reduction in fees for prompt payment of services.

Issues?

- Payment for services not yet rendered.
- Fraudulent insurance claims.
- Optics of unnecessary treatment and / or pressuring patients to commit.

Fraud

- Block fees
- Receipts not itemized
- Billing for non-ND treatments
- ND on receipt without seeing patient
- Billing according to coverage

Workarounds

- Recommending unauthorized tests
- Allowing patients to purchase testing without an ND-patient relationship
- MD or NP sign-offs of lab requisitions without a patient relationship
- MD or NP delegations that do not meet criteria
- Having pharmacist change the route of administration of prescribed medication

Risk-Based Regulation

Risk-Based Regulation Program

- purpose is to identify conditions within the profession that may present a risk of harm to patients
- intended to be proactive through early identification of areas of activity within the practice of the profession that create an existing or potential risk of harm to the public and patients, and the implementation of mitigative measures to reduce or eliminate that risk of harm

DATA COLLECTION AND ANALYSIS

Risk-Based Regulation

Data Collection and Analysis

- Complaints and Reports
- Discipline
- Examinations
- Inspections
- Quality Assurance
- Registration Data
- Therapeutic Prescribing
- Regulatory Guidance and Education

Look how safe we are!

Peer and Practice Assessments

- part of the quality assurance program (QAC)
- not punitive! (but may be ordered as part of ICRC/QAC dispositions)
- random selection of 20% of general class registrants, eligible every 3 years
- completed within six months from the date you have been notified
- objective review of your knowledge and performance to ensure you are providing safe, ethical, and competent patient care
- meet with a peer and discuss practice-related issues through a supportive, transparent, and educational process
- goal is a positive learning experience relevant to your practice

Peer and Practice Assessments

- complete an online pre-assessment questionnaire that includes questions related to your practice
- chart review and worksheets to submit before the assessment
- virtual meeting for 2-3 hours to review patient charts (that you've selected), premises review, and review of self-assessment quizzes completed at annual registration
- provide you and QAC with an overview of their assessment including what you are doing well and where improvements can be made

Informed Consent

Standard of Practice: Consent

- indicates that the consent given by a person has been based upon a clear appreciation and understanding of the facts, implications, and future consequences of an action

- individual concerned must have adequate reasoning faculties and be in possession of all relevant facts at the time consent is given

- is an ongoing process and not a singular event

Informed Consent

Patients need to understand and appreciate the reasonable foreseeable consequences of their decisions, in order to give informed consent.

Aspects that must be discussed:

- the nature of the intervention
- its expected benefits
- the material risks and side effects
- available reasonable alternatives
- the likely consequences of not receiving the intervention
- any associated costs
- the right to withdraw consent

Did they have an opportunity to ask questions?

If not you, do they know who is providing services?

Informed Consent

The Member documents:

- that a discussion regarding consent took place and the patient understands the proposed assessment or treatments and their risks, limitations and benefits
- any modifications to the consent
- when consent was obtained through the use of an interpreter, alternate means of communication, or a substitute decision maker (etc).
- if the patient withdrew consent, why he/she did so, and what specifically was withdrawn

Documentation can take the form of:

- a note in the patient record
- a consent form, that is dated, signed, and witnessed

So, like, can I just use a checkbox in EMR?

Controlled Acts

Standard of Practice: Performing Authorized Acts

Under subsection 27(2) of the Regulated Health Professions Act there are 14 controlled acts.

Of those 14, NDs can perform the following controlled acts:

- Putting an instrument, hand or finger beyond the labia majora but not beyond the cervix.
- Putting an instrument, hand or finger beyond the anal verge but not beyond the rectal-sigmoidal junction.
- Administering, by injection or inhalation, a prescribed substance.
- Performing prescribed procedures involving moving the joints of the spine beyond the individual's usual physiological range of motion using a fast, low amplitude thrust.
- Taking blood samples from veins or by skin pricking for the purpose of prescribed naturopathic examinations on the samples.
- *Communicating a naturopathic diagnosis identifying, as the cause of an individual's symptoms, a disease, disorder or dysfunction that may be identified through an assessment that uses naturopathic techniques.*
- *Prescribing, dispensing, compounding or selling a drug designated in the regulations*

Controlled Acts

Standard of Practice: Communicating a Diagnosis

Delegation of communication of diagnosis

22. It is a standard of practice of the profession that a member shall not delegate the controlled act described in paragraph 5 of subsection 4 (1) of the Act.

Controlled Acts

Standard of Practice: Acupuncture

- Acupuncture is an exempted act
- An exempted act means a whole or part of a controlled act that is not authorized to the profession but may be performed by Naturopathic Doctors via an exemption in the RHPA.
- Use of the title acupuncturist/acupuncture practitioner is restricted to those registered with the College of Traditional Chinese Medicine Practitioners and Acupuncturists
- The RHPA only supports the delegation of controlled acts authorized to the profession, as such since acupuncture is authorized through an exemption it cannot be delegated.

Mandatory Reporting

Practice Guidelines: Mandatory Reporting Guideline

Mandatory reports include:

- sexual abuse of a patient by any regulated health care practitioner (not just an ND)
- unsafe practice by any regulated health care practitioner, including incompetence or incapacity
- child and elder abuse or neglect
- reportable diseases
- privacy breaches of a patient's personal health information
- findings or charges against a Member
- IVIT-related Type 1 and Type 2 occurrences
- changes to a Member's personal and practice contact information
- changes in professional liability insurance information

Mandatory Reporting

Naturopathy Act, 2007

ONTARIO REGULATION 17/14

PROFESSIONAL MISCONDUCT

Acts of misconduct

1. The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:

34. Failing to promptly report to the College an incident of unsafe practice by another member if the member has reasonable and probable grounds to believe that such an incident has occurred.

Mandatory Reporting

Reports should be made immediately.

When in doubt call: CoNO, Public Health, Police, Child Protective Services…

Anonymous reports may be an option.

Anyone who makes a report in good faith under the Health Professions Procedural Code is protected from legal action, even if the report is later found to be unfounded.

Q&A

THANK YOU!