

TRANSITIONAL COUNCIL OF THE COLLEGE OF HOMEOPATHS OF ONTARIO  
 DRAFT PROFESSIONAL MISCONDUCT REGULATION – PROPOSED PROVISIONS, EXPLANATION AND RATIONALE

Proposed Provision (Describes the act of misconduct.)	Explanation (Explains how it may be applied.)	Rationale (Explains why the provision has been included.)
<p><b>Part I - Professional Misconduct</b></p> <p>1.(1) The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the <i>Health Professions Procedural Code</i>:</p>	<p>Under the <i>Health Professions Procedural Code</i>, a few matters of professional misconduct are listed (e.g., sexual abuse of patients, relevant convictions, failing to cooperate with the Quality Assurance Program of the College). Other matters of professional misconduct must be set out in regulations made by the College and the government. Every health College has made such a regulation. The Discipline Committee of the College uses this regulation in its hearings when deciding whether the member did anything wrong.</p>	
<p>1. Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession.</p>	<p>Standards of practice for a profession can be written or unwritten. They reflect the shared understanding of the profession as to how to practice safely and effectively. Where the standard of practice is unwritten, an expert witness testifies as to what the shared view of the profession would be in the circumstances.</p>	<p>This is a common provision. It is often used in discipline hearings. Members are expected to learn, through their training, research and professional interactions, the basic principles of practising the profession safely and professionally.</p>
<p>2. Abusing a patient or a patient's representative verbally, physically, psychologically or emotionally.</p>	<p>This provision deals with forms of abuse other than sexual abuse (which is dealt with in subsection 51(1) of the <i>Health Professions Procedural Code</i>). It also deals with abuse of a patient's representative (e.g., the parent of a child patient). "Abuse" refers to conduct that is clearly inappropriate and is potentially harmful. It does not refer to a simple lapse in politeness.</p>	<p>This is a common provision. No person dealing with a practitioner should have to undergo abuse. The recipient of the abuse, by being a patient or a representative of a patient, is often physically and emotionally vulnerable already.</p>
<p>3. Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic or other health-related purpose except,</p> <p>i. with the informed consent of the patient or the patient's authorized representative, or</p> <p>ii. as required or authorized by law.</p>	<p>This provision requires members to have informed consent whenever providing services to a patient. Consent can be obtained in writing, verbally or by implication (e.g., a patient answering a question about why they have come is implied consent for obtaining that part of their history). To be informed, the patient has to understand what is going to be done, why, any material risks and side effects, and the alternatives. In some circumstances consent is not required by law</p>	<p>This is a common provision. Informed consent is an essential component of health care services. People have the right to choose whether they will be assessed or treated and to have control over their bodies and their health information.</p>

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	(e.g., where the patient is unconscious in an emergency). This requirement is explained further in subsection (2) below.	
4. Failing to reply appropriately to a reasonable request by a patient or a patient's authorized representative for information respecting a service, homeopathic medicine or product provided or recommended by the member.	<p>Even if the ingredients of a homeopathic medicine has traditionally been kept secret, a member must appropriately divulge the necessary information so that a patient can make an informed decision to take a homeopathic medicine, receive a product or choose a service.</p> <p>A patient cannot make an informed decision, and a member cannot obtain informed consent, unless the patient has all of the necessary information. As such, members must divulge this information. Failing to provide information or intentionally being deceptive in providing information is behaviour unbecoming of a member.</p>	Patients need all of the relevant information in order to make informed decisions about their health care. This provision ensures that the member provides all reasonable information to the patient upon request.
5. Giving information about a patient to a person other than the patient or the patient's authorized representative except with the consent of the patient or the authorized representative or as required or authorized by law.	<p>Although confidentiality has always been a hallmark of health care, it has been further codified in the <i>Personal Health Information Protection Act, 2004</i>.</p> <p>As such, a member cannot divulge any patient information, including the patient's contact information, without the consent of the patient, the patient's authorized representative, or unless as required by law (e.g. summons, court order, etc.)</p>	This is a common provision. Patients need to know that their information will be kept confidential in order to have the trust necessary to disclose it. Without this confidence, members will not receive the information they need to provide safe and effective service.
6. Discontinuing professional services that are needed unless the discontinuation would reasonably be regarded by members as appropriate having regard to, <ul style="list-style-type: none"> <li>i. the member's reasons for discontinuing the services,</li> <li>ii. the condition of the patient,</li> <li>iii. the availability of alternate</li> </ul>	<p>This provision gives guidance to the member as it demonstrates what could constitute a good reason for discontinuing services based on professional standards.</p> <p>Reasonable grounds are at the reasonable discretion of the member. However, these grounds must be consistently and ethically applied and based on fair, objective, impartial and transparent criteria. Reasonable grounds must also be easily explainable to</p>	Once a member agrees to provide professional services to a patient, the patient comes to rely upon the member. Members are expected not to unilaterally discontinue required services to patients except in a fair manner.

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services, and  iv. the opportunity given to the patient to arrange alternate services before the discontinuation.	peers.	
7. Recommending or providing unnecessary treatment or continuing to treat a patient when the treatment would be viewed by members as no longer indicated or no longer effective.	Based on acceptable professional standards, unnecessary treatments involve services where there is no reasonable prospect of benefit for the patient. This lack of necessity can apply both at the time that treatment is initiated or after the treatment has been demonstrated to be ineffective. The wording recognizes that the trial of homeopathic medicines is a valid part of the profession; it is only when a treatment is continued beyond any professionally justifiable basis that it becomes misconduct.	This is a common provision. Unnecessary treatment has the risk of harm for the patient, may provide false expectations and often wastes the patient's time and money.
8. Attempting to treat a condition that the member knows or ought to know he or she does not have the knowledge, skills or judgment to treat.	Members will be held to an objective standard. If a member encounters a patient who has needs beyond the member's capabilities, the member must refer the patient to someone who is competent to provide those services. Please see subsection (3) below which explains how continuing education is one of the ways to meet this expectation.	This is a common provision. Members are expected to only provide services that are within their abilities and to know when they are out of their depth.
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 <i>Regulated Health Professions Act, 1991</i> , where the member knows or ought to know that the patient requires a service that the member does not have the knowledge, skills or judgment to offer or is beyond his or her scope of practice.	This provision goes beyond section 1(1) paragraph (8). It mandates that a member must refer the patient to another qualified health professional when the patient needs services beyond that which can be provided by the member.	This is a common provision. It requires members to put the patient's interests first. The member cannot allow any reluctance to admit limitations in the member's skills or any concern that the member might lose the patient as a client to stand in the way of the patient's best interests.
10. Performing a controlled act that the member is not authorized to perform.	Under the <i>Regulated Health Professions Act, 1991, (RHPA)</i> , most regulated health professionals are allocated certain "controlled acts." Controlled acts are	This is a common provision. It requires members to comply with the legal requirements surrounding controlled acts. It also helps ensure that members

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	<p>procedures which have a potential risk of harm and therefore require a certain level of skill to perform. Members of the College of Homeopaths of Ontario are not authorized to perform any controlled acts.</p> <p>There are circumstances in which a member may perform controlled acts (e.g., under delegation, in an emergency). This provision does not prohibit members from performing controlled acts when there is legal authorization for doing so. However, the member must still do so within generally accepted standards of practice.</p>	<p>provide only competent care.</p>
<p>11. Failing to appropriately supervise a person, where there is a duty to do so, whom the member has assigned responsibilities related to the practice of the profession.</p>	<p>A member may also assign certain tasks which are not controlled acts and that are related to the member's practice, to a person. Supervision is expected for all assigned procedures. The degree of supervision will vary depending on the circumstances including the skills of the person receiving the assignment and the risks inherent in the procedure.</p>	<p>The member has responsibility for what is done on his or her behalf. One of the ways of assuming that responsibility is to provide an appropriate level of supervision.</p>
<p>12. Permitting, counselling or assisting a person who is not a member to represent himself or herself as such or to perform controlled acts which the person is not authorized or competent to perform.</p>	<p>This provision is intended to prevent members from condoning misleading, illegal or dangerous activities by others. The words "permitting, counselling or assisting" puts the onus on the member to intervene where the member sees such conduct occurring in a setting, such as the member's office or clinic, where the member can prevent the conduct from occurring. The conduct that cannot be condoned is where an unregistered person:</p> <ul style="list-style-type: none"> <li>• Holds out that he or she is registered</li> <li>• Performs a controlled act without authority</li> <li>• Performs a controlled act with authority (e.g., delegation) but the person is not competent to do so.</li> </ul>	<p>Members give status and legitimacy to those around them. If a patient hears a representation made in the office or clinic of a member, the patient will assume that it is true because the member is affiliated with the location. Similarly, if a patient receives a service at a location associated with a member, the patient will assume that the service is being performed legally and competently. This provision is needed to ensure that a member does not condone such misleading and unsafe conduct.</p>
<p>13. Failing to advise a patient, a patient's authorized representative or a member of the public, when requested, of his or her right to file a complaint with the College.</p>	<p>When someone tells a member that they want to know who they can complain to about the member's professional conduct, the member must advise the patient to contact the College.</p>	<p>As a new College patients and the public may be unaware of its existence. It is important for the member to advise the patient/public, if asked, about the College and its role in regulating the member.</p>

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		This provision also supports the member's accountability to the College.
14. Failing to provide a patient, a patient's authorized representative or a member of the public, when requested, with the address and telephone number of the College.	In light of this provision, the member should have readily available the contact information of the College. Currently it is as follows:  Council of the College of Homeopaths of ON 4th floor, 163 Queen Street, East Toronto, ON M5A 1S1 Tel: 416-862-4780 toll free in Ontario: 1-877-883-8083 fax: 416-874-4077 email: info@collegeofhomeopaths.on.ca	If a member knows that a person wishes to complain about his or her professional conduct, it would be unprofessional for the member to impede a person's ability to do so.
15. Acting or being in a conflict of interest in one's professional capacity.	The definition of conflict of interest focuses on the activities where the personal interest of the member could reasonably influence the performance of his or her professional duty.  This provision is further explained in Part II.	To assure the public that the member will always put the interest of his or her patient above the self-interest of the member.
16. Issuing an invoice, bill or receipt for services that the member knows or ought to know is false or misleading.	This provision requires members to issue his or her accounts carefully and prudently to ensure that they are accurate. If the member should have known that the account or charge was false or misleading, the member will have contravened this provision. The "ought to know" language means that a member cannot simply avoid responsibility by blaming others such as an assistant. The member needs to have a system that ensures accurate accounts are prepared. However, an isolated instance of normal human error is not captured by this wording.	To assure the patient that he or she will be charged appropriately and accurately for any services rendered. False accounts are dishonest. It also betrays the trust of those who pay for the services, including third party family members and insurers. It is the responsibility of members to ensure that their accounts are accurate to the extent humanly possible.

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17. Charging a fee for a homeopathic medicine or product that is not provided or for a service that is not performed. This provision does not apply to a fee for an appointment that was cancelled without reasonable notice.	Members can only charge for homeopathic medicines, products and services that are actually provided. It is also appropriate to charge a deposit for ordering a homeopathic medicine. An exception applies for cancelled visits because where reasonable notice is not given, the member will lose income.	It is not ethical to charge for something that is not provided.
18. Failing to advise a patient or a patient's authorized representative, prior to providing a service, of the fee to be charged for the service or of any penalties that will be charged for late payment of the fee.	This provision requires that members advise and informs patients about the fee for the service, and the payment terms, before providing the service. This ensures that the patient has all of the necessary information before a decision is made to proceed with the service. This requirement can be met by posting a fee schedule, including any dispensing fees, in a conspicuous place in the public area of the clinic or office.	Part of informed choice is that the patient is to be aware of the cost of services before agreeing to receive them. Patients have the right to have monetary matters handled fairly, transparently and accurately.
19. Charging a block fee.	<p>A block fee is an agreed upon fee for a series of services (e.g., 10 visits or a period of time). Typically the fee is less than if the services were paid for individually, but is paid in advance. To work in everyone's interest the nature and extent of the service must be known in advance. That is not really possible in the homeopathy context so the proposed provision does not permit the charging of a block fee by members.</p> <p>This provision allows members to discount per service individual fees at the discretion of the member. For example a member may wish to provide discounted rates for seniors, chronic care, or long time patients. Additional guidance on discounting fees will be provided by the College in the form of billing guidelines.</p>	<p>Within other health professions block fees are a common source of dispute between members and their patients. Since homeopathy is an individualistic treatment without a standardized algorithm, block fees are not deemed appropriate for the profession.</p> <p>The fundamental basis of block fees discriminates against the individual's ability to access cheaper service based on economic status.</p> <p>This provision serves to protect the patients from pressure to purchase service packages, from billing disputes and from discrimination based on economic status.</p>
20. Failing to itemize an account for professional services or goods, or if the account includes items that are not	The member must detail on an invoice or statement each good and service provided, including the cost to the patient and the charge for each. The actual cost of	This provision is common. It provides transparency to patients so that they know what they are getting and can compare costs or choose to receive some but not

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professional services, failing to itemize those items.	<p>the homeopathic medicine or product must be set out so that the patient can determine how much of the fee is for the homeopathic medicine or product and how much is for the professional service of the member. As homeopathic medicine costs may fluctuate the member is advised to post a fee schedule.</p> <p>As a matter of good practice, the member may choose to itemize the account even if not asked specifically by the patient.</p>	all services. This approach ensures the transparency of fees to patients promotes patient choice and avoids conflicts of interest.
21. Breaching, without reasonable cause, an agreement with a patient or a patient's authorized representative relating to professional services for the patient or fees for such services.	Members need to fulfill their agreements with patients. For example, if a member promises to provide a course of treatment or to charge a set fee, the member should do so. However, where there is a significant change in circumstances (e.g., the proposed treatment is no longer suitable for the patient, the patient assaults the member), then the member can decline to fulfill the agreement.	This is a common provision. A member should keep his or her promises.
22. Failing to keep records in accordance with the standards of the profession.	Record keeping must comply with the generally accepted expectations of the profession. Part 3 of the Regulation (see below) sets out additional guidance as to the standards expected for record keeping. This regulation has been developed in keeping with the <i>Personal Health Information Protection Act, 2004</i> .	This is a common provision. The rationale for maintaining the record as set out in section 3 is to ensure that all necessary information related to the patient's care is contained in the record. Record keeping facilitates future care for the patient, allows the member to explain (and defend) what was done and why, and facilitates accountability of the member for the service.
23. Signing or issuing, in his or her professional capacity, a document that the member knows or ought to have known contains a false or misleading statement.	The member must be diligent in ensuring that he or she only signs and sends out documents that contain correct information. If he or she knows, or should have known, that the document contains a false or misleading statement, the document should not be signed or sent out. This can extend to notes to an employer, letters to lawyers and reports to insurance companies.	The credibility and honesty of the member can be called into question if he or she signs a document that is false. Patients and third parties rely on the integrity of members' statements.
24. Falsifying a record relating to the member's practice.	This provision is usually triggered when a member attempts to cover up an error (e.g., changing a date of	A member of the College is expected to act honestly and with integrity.

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	service so that it falls within insurance coverage, charting an appointment that did not occur, charting a conversation with a patient that did not occur, rewriting a chart entry). This should never occur.	All documents and records are to be completed honestly and accurately.  Falsification of any kind is strictly prohibited.
25. Making a claim about a homeopathic medicine, treatment, device or procedure other than a claim that can be supported as reasonable professional opinion of one's peers.	Members should not make unverifiable claims about their homeopathic medicines, products or services. An example would be to say that if one takes a particular homeopathic medicine one will not get sick. An example of a reasonable professional opinion is to say that a particular homeopathic medicine that one has researched helps fight disease.	The public needs to be able to trust the profession to provide balanced and accurate information. Claims based on considerations other than reasonable professional opinion (e.g., higher sales) can exploit the public, result in ineffective or even harmful treatment choices and erode the public's faith in the profession.
26. Permitting the advertising of the member or his or her practice in a manner that is false or misleading.	Members are allowed to advertise. However, the member cannot allow any false or misleading statements in his or her advertising such as: <ul style="list-style-type: none"> <li>• Promising a result that cannot always be delivered: i.e., a specific homeopathic medicine can cure cancer or other disease state or health side effect.</li> <li>• Using comparisons, superlatives, suggestion of uniqueness, appealing to a person's fears or creating an unreasonable expectation of a favourable result: i.e., before and after photos, personal success stories and testimonials of effective from a homeopathic medicine or health care professional; product endorsement. As homeopathic treatment is unique to the patient's individual case, it is misleading to the public to generalize the results of a patient's outcome.</li> </ul> The College has included specific guidance on the appropriate and acceptable methods of advertising (please see subsection (4) below) within the Regulation based on advertising guidelines set out by the Ministry of Health and Long-Term Care. Additional guidance on discounting fees will be provided by the College in the	This is a common provision.  Homeopathy focuses on individualized care without generalization of outcome measurements, therefore, some forms of advertising are not suited to the profession.  The public could be duped into purchasing or believing in unwarranted and unproven treatments if such advertising were permitted. Misleading advertisements can exploit the public and can result in ineffective or even harmful treatment choices  The reputation of the member and the profession could be harmed if false or misleading advertising is permitted.

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27. Soliciting or permitting the solicitation of an individual in person, by telephone, in writing, through electronic communications or by similar means without prior consent. This provision does not prevent a member from providing a reminder or notification to a patient about follow up or recurring services.	form of Advertising Guidelines.  This provision does not prevent the member from advertising to the general public or calling a patient to remind him or her of an upcoming appointment/service. Rather, the member should refrain from direct one-on-one targeted solicitation to individuals without their prior consent. The member may not target advertising to individuals known to be needing services or use communications techniques that can pressure potentially vulnerable persons.  Please note that this extends to "electronic communications" so emails, text messages, etc., would also fall within the prohibition.  Without prior consent allows practitioners to collection contact information from individuals interested in their services and to communication health based information, provided the individual contacted has the right to be removed from the contact list at their discretion. Consent must be obtained by a non-intrusive means (e.g., a booth in a mall, at a presentation or panel discussion, mass mailing). Consent cannot be solicited through the very means the provision is intended to protect against (e.g., a telephone call).	This is a common provision. Members are not to pressure patients or prospective patients into using their services. This is especially true for vulnerable patients. Such pressure can result in unnecessary services being provided and in patients losing their freedom of choice.
28. Influencing a patient or the patient's authorized representative to change the patient's will or other testamentary instrument.	Members sometimes deal with patients who are in the midst of life-changing and end-of-life decisions. A member's role is to provide health services to the patient and not influence the autonomy of patients to make these decisions.	Such patients are vulnerable and may be unduly influenced by the member. Using that influence to affect a patient's personal decision is inappropriate and, at a minimum involves a boundary violation. At worst, the member could use their influence to personally benefit from the decision.
28A. Failing to use in professional communications, including records, the title or professional designation specified for the member's corresponding class	Members are required to use in their professional communications (e.g., reports, invoices, business cards, signature block on records) the title corresponding to their class of registration (e.g.,	This provision will help ensure that colleagues and patients have accurate information as to the professional status of the member.

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of registration	Registered Homeopathic Practitioner or RHP).	
29. Inappropriately using a term, title or designation in respect of the member's practice.	It is proposed that the only term, title or designation that a member can use is "homeopath", or a variation, abbreviation or equivalent in another language.	The use of consistent, appropriate and clear titles will help the public to know who they are dealing with and prevent confusion. The public tends to place a great deal of weight on, and trust in, certain titles, especially the title "Dr." This term is statutorily protected and cannot be used without legal authority.
30. Using a term, title or designation indicating or implying a specialization in an area or areas of practice of the profession, except in accordance with any formal specialist recognition program approved by the College.	This provision does not prevent a member from indicating their area of practice. It simply means that a member cannot hold him/herself out as a "specialist", in any fashion, as this term infers additional training and accreditation and special, external recognition. Currently, the College does not recognize specialties in homeopathy.	This is a common provision for professions that do not have a generally recognized specialist system. The public will expect a certain level of verified expertise in a member who holds him/herself out as a specialist. Therefore, holding oneself out as a specialist in these circumstances is misleading and even dishonest.
31. Practising the profession or offering to provide services using a name other than the member's name as entered in the register	The name the member uses with his or her patients must be recorded in the College's register. The member provides the name(s) he or she will use in the application for registration and on annual renewal.  It is acknowledged that some members may use a nickname with his or her patients. The College will permit members to register nicknames College.  It is recommended that the legal name (along with any nickname) be indicated on official documents such as accounts, business cards, pamphlets, etc.	Patients and the public are entitled to know who they are dealing with. Also, since the register will be on the College's website, it is important that the public be able to verify the registration status of all members. In addition, the College needs to be able to identify a member if a complaint or report is made to the College.
32. Failing, without reasonable cause, to provide a report or certificate relating to a treatment performed by the member, within a reasonable time, to a patient or the patient's authorized representative after the patient or authorized representative has requested such a report or certificate.	A member must provide a requested report to the patient, or patient's authorized representative (which may be a lawyer or insurance company) within a reasonable time period (usually no more than 30 days).  The member should have an effective system within his or her office to track such requests to ensure that the reports, etc., are provided in a timely manner.	This provision ensures that patients receive necessary information in a timely manner. When such reports are requested, they are usually required for a legal proceeding, or an employment/insurance matter. If the member delays or refuses to provide such reports in a timely manner, the patient could be seriously prejudiced. In addition, the patient may wish to have such a report in order to hold the member accountable for his or her decisions and the member

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	An example of reasonable cause not to provide a report promptly is if some critical information needed to make the report is unavailable or if the member is so ill that he or she cannot practise.	should not be able to thwart that desire by withholding the report.
33. If the member intends to close his or her practice, failing to take reasonable steps to give appropriate notice of the intended closure to each patient for whom the member has primary responsibility or failing to, <ul style="list-style-type: none"> <li>i. ensure that each patient's records are transferred to the member's successor or to another member, if the patient so requests, or</li> <li>ii. ensure that each patient's records are retained or disposed of in a secure manner.</li> </ul>	<p>A member is obligated to advise his/her patients if the member intends to close his/her practice. The notice should occur well in advance of the scheduled closure and should reach each patient. Examples of such notice include signs in the office well in advance of the closure date, individual mailings to active patients, individual telephone calls to patients, and/or advertisements in local papers.</p> <p>The member needs to ensure that the patient's records are either transferred to the member's successor, to another member requested by the patient or stored properly in a secured fashion.</p> <p>The member is expected to have a contingency plan in place in case he or she suddenly becomes disabled or dies. While the College has no jurisdiction to enforce that contingency plan against a member's family or estate, the Information and Privacy Commissioner of Ontario does. Thus it is a professional expectation that the member plan for such an eventuality.</p>	<p>The patient needs to know where the record is so that he or she can access it for future treatment or other reasons. The information in the patient's chart is confidential and contains information necessary to continue the care of the patient. Therefore proper transfer or storage in a manner known by the patient is essential.</p> <p>Part IV of the <i>Personal Health Information Protection Act, 2004</i> has codified this obligation.</p>
34. Failing to promptly report to the College an incident of unsafe practice by another member.	Members have an obligation to report a colleague's behaviour where there is likelihood that someone has suffered or will suffer serious damage as a consequence of improper conduct. The member needs to have reasonable and probable grounds that such an incident occurred before having to make a report. The member does not have to have personally observed the incident. Reasonable and probable grounds include apparently reliable information about an incident from another person (including the patient). The member is not obligated to investigate suspected conduct – only	<p>This provision balances the need to protect the public from inappropriate conduct against requiring the member to report every minor transgression. Requiring that incidents of unsafe practice be reported enables the College to take appropriate action to prevent future such incidents occurring.</p> <p>Self-regulating professionals have a responsibility to ensure that the public is being protected. Further, this provision facilitates the ability of the College to regulate the profession.</p>

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	<p>to report conduct that the member has learned about. This duty to report is in addition to the mandatory reporting provisions of the RHPA.</p> <p>Please note that any such report must be made "promptly". Delay in making such a report could also constitute misconduct.</p>	
<p>35. Practising the profession while the member's ability to do so is impaired or adversely affected by any condition or dysfunction which the member knows or ought to have known impairs or adversely affects his or her ability to practice.</p>	<p>This provision complements the incapacity provisions starting at s. 57 of the RHPA. This provision applies where the member chooses to provide services while impaired. The incapacity provision applies where the impairment prevents the member from taking appropriate action to avoid practising while impaired. For example, if one is going to a party and planning to drink alcohol, one needs to plan in advance to ensure that the member does not go to work the next day while still impaired or while experiencing a hangover.</p>	<p>The public must be protected from members who are not capable of practising. Choosing a course of action that will likely place oneself in circumstances where one will be practising while impaired, is unprofessional.</p>
<p>36. Contravening, by act or omission, a provision of the Act, the <i>Regulated Health Professions Act, 1991</i> or the regulations under either of those Acts.</p>	<p>The "Act" refers to the <i>Homeopathy Act, 2007</i>. Members are expected to be familiar with the requirements of the statutes and regulations that apply to their practice (e.g., when a mandatory report must be made; the duty to cooperate with an investigator appointed by the College). The College will provide "jurisprudence" resources to help members upgrade their knowledge of the requirements of the legislation. A member cannot plead ignorance to the obligations under these Acts and should be familiar with the relevant provisions.</p>	<p>This is a common provision. Members of a regulated profession have to know the rules that apply to them and know that breaching those rules is professional misconduct.</p>
<p>37. Contravening, by act or omission, a law if,</p> <ul style="list-style-type: none"> <li>i. the purpose of the law is to protect or promote public health, or</li> <li>ii. the contravention is relevant to the member's suitability to practise.</li> </ul>	<p>In addition to being subject to the RHPA and the <i>Homeopathy Act, 2007</i>, members are subject to other laws including laws relating to sanitation and sterility. Members need to be aware of all relevant laws that affect their practice and the health of their patients. As noted above, the College will be providing "jurisprudence" resources to assist members.</p>	<p>This is a common provision. Members of a regulated profession have to know the rules that apply to them and know that breaching those rules is professional misconduct.</p>

Proposed Provision <i>(Describes the act of misconduct.)</i>	Explanation <i>(Explains how it may be applied.)</i>	Rationale <i>(Explains why the provision has been included.)</i>
	Please note that a member can contravene an act by either doing something ("by act") or by failing to do something ("by omission").	
38. Contravening, by act or omission, a term, condition or limitation on the member's certificate of registration.	<p>The College will issue a certificate of registration to members. The member must adhere to all terms, conditions or limitations on the Certificate.</p> <p>Some terms, conditions and limitations are imposed by regulation (e.g., if the member is disciplined in another jurisdiction, one has to report this to the College). Some are imposed by a committee (e.g., a Discipline Committee order to successfully complete a course).</p> <p>If the member disagrees with a term, condition or limitation, he or she must take the appropriate appeal measures and not unilaterally breach the term, condition or limitation.</p>	Terms, conditions and limitations are imposed to protect the public. Any breach of them must be enforceable through discipline. In addition, this provision reinforces the authority of the College.
39. Practising the profession while the member's certificate of registration has been suspended.	<p>The College has the sole authority to issue a certificate of registration. Correspondingly, it has the ability to suspend a certificate of registration. To be effective, the member whose certificate is suspended must refrain from practising.</p> <p>If the member disagrees with the suspension, he or she must take the appropriate appeal measures and cannot practise until the certificate has been re-issued.</p>	<p>This is a common provision. The provision reinforces the authority of the College. If the College has decided to suspend the member's certificate, the member cannot practice.</p> <p>This provision reassures the public that only practitioners who are authorized by the College, will be able to practice.</p>
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.	<p>When suspended the member should not receive any benefits from the practise of the profession. If the member hires someone to operate his or her practice during a suspension, the member must ensure that he or she does not derive an income from it.</p> <p>The Executive Committee can permit exceptions in compassionate circumstances (e.g. if the member's spouse is also registered with the College, it would be unfair to prohibit the spouse from practising during the</p>	This is a common provision. A suspension is intended to prevent the member from benefiting from his or her professional status. The purpose of a suspension is defeated if the member profits from the operation of his or her practice by others. The provision ensures that a member does not circumvent the suspension.

Proposed Provision <i>(Describes the act of misconduct.)</i>	Explanation <i>(Explains how it may be applied.)</i>	Rationale <i>(Explains why the provision has been included.)</i>
	suspension just because the family will receive some income from the spouse's work).	
41. Failing to comply with an order of a panel of the College.	<p>Panels are sub-groups of the committees of the College.</p> <p>There are several committees within the College that have the ability, and the responsibility, to issue orders that are binding on members (e.g., the Inquiries, Complaints and Reports Committee can direct a member to undergo upgrading).</p> <p>If a member does not agree with an order, he or she must take the appropriate appeal route and cannot simply disregard or ignore the order.</p>	<p>In accepting a certificate of registration from the College, the member is obtaining certain privileges (i.e., the ability to use the title homeopath) and, therefore, accepting certain obligations. One such obligation is to accept the authority of the College. If a member fails to comply with an order of a panel of the College, the member is openly challenging the authority of the College. This compromises the public protection provided by the panel's order and would erode the public's confidence in the College to regulate the profession.</p>
42. Failing to appear before a panel of the Inquiries, Complaints and Reports Committee to be cautioned.	<p>The Inquiries, Complaints and Reports Committee (ICRC) deals with complaints or reports about a member's alleged misconduct, incompetence or incapacity.</p> <p>If a complaint or report raises concerns that warrant educational action short of discipline, the ICRC can require the member to attend before it to be cautioned (i.e., a verbal warning). This is not a penalty. It does not occur in public and is intended to be remedial and advisory.</p> <p>If the member refuses or fails to attend before the ICRC, the member can be found to have committed professional misconduct.</p>	<p>The provision reinforces the authority of the College.</p> <p>When the ICRC decides to issue a caution, it is reaching out to the member to provide guidance and assistance so that the member can discharge his or her duties and the public can be better protected and served.</p> <p>If a member refuses to adhere to the ICRC's request, he or she is repudiating the authority of the College and refusing required assistance. The public is not served by such behaviour.</p>
43. Failing to carry out or abide by an undertaking given to the College or breaching an agreement with the College.	<p>An undertaking is a promise made by the member to the College. Undertakings are often negotiated as an alternative to formal disciplinary action. It is considered a very serious matter for a member to break the promise. If the member breaches the undertaking, the member has committed professional misconduct.</p>	<p>It is unprofessional for a member not to fulfill a promise to the College. This provision reinforces to the member that such agreements are to be taken seriously and that failure to abide by such agreements could result in a finding of professional misconduct.</p>
44. Failing to co-operate with a College	<p>A member is expected to fully co-operate with the College during an investigation. The investigation can</p>	<p>Every member has an obligation to co-operate with the College.</p>

Proposed Provision <i>(Describes the act of misconduct.)</i>	Explanation <i>(Explains how it may be applied.)</i>	Rationale <i>(Explains why the provision has been included.)</i>
investigation.	be of the member or of another member. It is expected that the member will co-operate in a timely manner. This includes providing access to the facilities, or records, relevant to the investigation. It is expected that the member exhibit appropriate behaviour during the investigation and not subject the investigator to rude, threatening or obstructionist behaviour.	This provision reinforces the importance of assisting the College in adhering to its purpose of protecting the public by investigating any complaint or report.
45. Failing to reply appropriately, fully, accurately and within thirty days to a written inquiry or request from the College.	If the College formally contacts a member in writing, the member has to respond. An appropriate response is complete (i.e., provides all the information requested), accurate, made in writing and timely. In an exceptional circumstance (e.g., the member is away or ill, the request is complex and extensive), an extension of the deadline can be granted.	This provision reinforces the importance of assisting the College when asked. A fundamental attribute of governability is responding to inquiries from the College. Otherwise the member cannot be regulated.
46. Failing to co-operate with an investigator of the College or of another regulated health profession who produces evidence of his or her appointment under section 75 of the Health Professions Procedural Code.	The Registrars of all of the health regulatory Colleges can appoint an investigator to determine if a member has committed an act of professional misconduct or is incompetent. Once evidence of this appointment is made known to the member, he or she needs to co-operate with the requests of the investigator (as described in paragraph 44, above). This duty extends to investigators from other colleges (e.g., College of Physicians and Surgeons, College of Nurses of Ontario, etc.).	This provision encourages inter-professional collaboration and ensures that all health care professionals act in the public interest at all times. Having such reciprocal provisions ensures that all available information is obtained in such investigations.
47. Selling or assigning any debt owed to the member for professional services. This does not include the use of credit cards to pay for professional services.	The member is entitled to hire a collection agency to collect unpaid accounts for professional services. However, the member cannot "sell" or "assign" the debt to the collection agency.	If a member were permitted to sell or assign the debt, the member would not have any control in how the collection of such debt was conducted. It is in the interest of the public that such activity be conducted with professionalism. By ensuring that the debt remains that of the member, and that the member is to set the terms in how the debt is to be collected, the process can be discharged properly.
48. 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	This is a "catch-all" or "basket" clause that captures any misconduct that is not specifically described above. It refers to conduct in which there is a consensus within the profession that is unacceptable.	This provision is universal among regulated professions and is derived from a leading 1894 court case. There are situations where a member has engaged in professional misconduct but it does not fit

Proposed Provision <i>(Describes the act of misconduct.)</i>	Explanation <i>(Explains how it may be applied.)</i>	Rationale <i>(Explains why the provision has been included.)</i>
as disgraceful, dishonourable or unprofessional.	This provision is not intended to capture the legitimate exercise of professional discretion or mere errors of judgment.	within an established provision. Therefore, this "catch all" provision is intended to capture any improper conduct that is not caught by the wording of the specific definitions of professional misconduct.
49. Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a practitioner of homeopathy.	This provision is intended to capture conduct that is outside the practice of the profession (e.g., behaviour that reflects poorly on one's integrity). Generally it applies to conduct that is dishonest (e.g., fraud) or that involves a serious breach of trust (e.g., child abuse).	This common and historically tested provision ensures that private behaviour that reflects poorly on one's suitability to be a member of the College, will not be outside of the College's reach.
50. Failing to make reasonable attempts to collaborate with the patient's other relevant health care providers on the care of the patient where such collaboration is necessary for the patient's health unless the patient refuses to consent.	Traditionally there has been some reluctance for such collaboration between homeopaths and some other professions. The reluctance has sometimes come from all parties, including patients. This provision recognizes that collaboration is a two-way street and that homeopaths can only attempt to foster collaboration. If the other health care providers refuse to participate, the homeopath cannot be faulted for that. In addition, under <i>PHIPA</i> , the patient has a "lock box" right to refuse to consent to the homeopath sharing the patient's personal health information with others in the patient's circle of care.	Interprofessional collaboration is a key value in the recent amendments to the <i>RHPA</i> . It facilitates coordinated and consistent treatment and ensures that all of the patient's health care providers have all of the necessary information. This provision attempts to do what this College can to promote interprofessional collaboration.
(2) For the purposes of subparagraph i of paragraph 3 of subsection (1), a member may demonstrate compliance with the principles of informed consent by complying with the <i>Health Care Consent Act</i> even if the intervention is not a treatment within the definition of that Act.	<p>The member should be familiar with the <i>Health Care Consent Act</i>, especially section 11 which sets out the elements of informed consent.</p> <p>Informed consent is required for all assessments and treatments conducted by members. The member also needs to be aware that the principles of informed consent should be followed even if the intervention is not a "treatment" as per Section 2(1) of the <i>Health Care Consent Act</i>.</p> <p>Therefore, the member should apply the principles of informed consent to <b>anything</b> that is done for a therapeutic, preventive, palliative, diagnostic or other health-related purpose.</p>	<p>Informed consent is an essential component of health care services. People have the right to choose whether they will be assessed or treated and to have control over their bodies and their health information.</p> <p>This provision gives guidance as to how a member may follow the principles of informed consent to circumstances where the <i>Health Care Consent Act</i> does not technically apply.</p>

Proposed Provision <i>(Describes the act of misconduct.)</i>	Explanation <i>(Explains how it may be applied.)</i>	Rationale <i>(Explains why the provision has been included.)</i>
(4) For the purposes of paragraph 26 of subsection (1) related to advertising, the following shall be deemed to be false or misleading:  (a) Promising a result that cannot always be delivered.  (b) Providing before and after pictures or other visual information about a treatment.  (c) Using comparisons, superlatives, suggestion of uniqueness, appealing to a person's fears or creating an unreasonable expectation of a favourable result.	This explains some specific expectations of the College with respect to advertising as set out in subsection (1) paragraph 26.  Members are allowed to advertise. However, the member cannot allow any false or misleading statements in his or her advertising such as: <ul style="list-style-type: none"> <li>• Promising a result that cannot always be delivered: i.e., a specific homeopathic medicine can cure cancer or other disease state or health side effect.</li> <li>• Using comparisons, superlatives, suggestion of uniqueness, appealing to a person's fears or creating an unreasonable expectation of a favourable result: i.e., before and after photos, personal success stories and testimonials of effective from a homeopathic medicine or health care professional; product endorsement.</li> </ul>	The rationale for this provision is to give some guidance to the members of inappropriate advertising specific to the homeopathic professional's focus on individualized care without generalization of outcome. The examples given are either issues that have been identified for this profession or are taken from the Ministry Guidelines on advertising.
<p style="text-align: center;"><b>Part II – Conflict of Interest</b></p> 2. (1) For the purposes of this Part, the following definitions apply unless the context indicates otherwise:	This part relates to paragraph 1(1).15 of the professional misconduct regulation.	The rationale for this section is to provide further guidance to the member on understanding the concept of conflicts of interest and how to avoid them.
"collateral benefit" includes any advantage or gain obtained outside of the ethical operation of one's practice, whether direct or indirect and whether or not it is monetary in nature. A collateral benefit typically advantages the member more than it advantages the patient.	As noted in the definition, a "collateral benefit" can be something other than money. A "collateral benefit" could involve things (e.g., a large television) or services (e.g., free use of a condo).	The rationale for this provision is to provide the definition of "collateral benefit."
"person" includes a corporation.	A corporation is a legal person.	The rationale for this provision is to provide the definition of "person."
"related corporation" means a corporation wholly or substantially owned or controlled by the member or a related person of the member.	A conflict of interest may arise not only where the member obtains a collateral benefit, but where a business related to the member obtains a collateral	The rationale for this provision is to provide the definition of "related corporation" and to clarify that an indirect collateral benefit can also constitute a conflict

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	benefit or confers a collateral benefit. For example, if a member refers a patient to a health food store and the store is a family business, a conflict of interest exists. Similarly, if a member's family business, rather than the member himself or herself, pays money to a physician for referrals to the member, the conflict of interest still exists.	of interest.
<p>"related person" means any person connected with a member by blood relationship, marriage, common-law or adoption, and</p> <ul style="list-style-type: none"> <li>(i) persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;</li> <li>(ii) persons connected by marriage if one is married to the other or to a person who is connected by blood relationship to the other;</li> <li>(iii) persons are connected by common-law if the persons have, for a period of not less than three years, cohabited in a relationship of some permanence; and</li> <li>(iv) persons are connected by adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship.</li> </ul>	<p>A conflict of interest may arise not only where the member obtains a collateral benefit, but where an individual related to the member obtains a collateral benefit or confers a collateral benefit. For example, if a member refers a patient to a health food store and the store pays the member's relative, a conflict of interest exists. Similarly, if a member's relative, rather than the member himself or herself, pays money to a physician for referrals to the member, the conflict of interest still exists.</p> <p>This definition a member of the homeopath's immediate family in the same as if the homeopath when it comes to conferring or receiving a benefit. In more distant relationships the College would have to demonstrate that the homeopath was involved in the transaction.</p>	<p>The rationale for this provision is to provide the definition of "related person" and to clarify that an indirect collateral benefit can also constitute a conflict of interest.</p>
(2) A conflict of interest exists where there is an arrangement or relationship between the member or a related person or related corporation and a person where a reasonable person could conclude that the exercise of the member's professional expertise or judgment may conflict with or be	Even if an actual conflict of interest has not occurred, the member can still trigger this provision if he or she allows a potential or a perception of a conflict of interest to occur. For example, if a health food store gives a large payment to the member at the end of the year to thank the member for referring patients all year, an appearance of a conflict of interest exists. This	<p>The rationale for this provision is to remind the member that they are to be wary of creating any perception of a conflict of interest.</p> <p>This provision educates the public that members should not place themselves in any form of conflict of interest. This reassures the public that the patient's</p>

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influenced by the arrangement or relationship. A conflict of interest may be actual, potential or perceived.	<p>appearance exists where the member accepts the gift even though the member did not expect the gift and would have referred the patients without it.</p> <p>This standard will be measured objectively. For example, if the gift is a customary one that reasonable people would view as innocuous (e.g., a bottle of wine or box of chocolates), no conflict of interest would be created. However, if the gift is expensive (seasons tickets to the Blue Jays), then a conflict of interest is created even if the member actually dislikes baseball.</p>	<p>interest always comes first in the mind of the member.</p> <p>Members can also point to this provision when declining to accept inappropriate gifts.</p>
(3) Without limiting the generality of subsection (2) a member has a conflict of interest where that member or a related person or related corporation, directly or indirectly,	This provision sets out specific examples of conflicts of interest. The examples are not exhaustive.	The rationale for this provision is to provide further guidance, and specific examples, to the member on how to avoid any forms of conflict of interest. The examples given are either issues that have been identified for this profession or are taken from the Ministry Guidelines on advertising.
i. accepts a rebate, credit or other collateral benefit by reason of the member referring a patient;	<p>A member should only refer a patient if the patient requires or requests the service. The member should choose the place of referral solely on the basis of merit and benefit to the patient, and not because the member hopes to receive a collateral benefit as a result of that referral.</p> <p>Example: if a patient is referred to a health food store to purchase their homeopathic medicine and the member receives and accepts a credit from the health food store for the referral there is a conflict.</p>	To ensure that referral recommendations are made solely with a view to obtaining the maximum benefit for the patient. Also, referrals for collateral benefit can promote unnecessary services.
ii. offers, makes or confers a rebate, credit or other collateral benefit to a person by reason of the referral of a patient to the member;	<p>A member cannot offer a "collateral benefit" to a person in order to receive referrals of patients. This is the reverse side of subparagraph (i).</p> <p>Example: If the homeopath was to pay \$50 for each referral received there is a conflict.</p>	To ensure that referral recommendations are made solely with a view to obtaining the maximum benefit for the patient. Also, referrals for collateral benefit can promote unnecessary services.
iii. offers, makes or confers a rebate, credit or other collateral benefit to a patient where the service is paid in whole or in part by a third party except for the provision to the patient,	Where a third party pays for the service (e.g., an insurance company), it is inappropriate to give the patient expensive gifts to come in for services. For example, giving an electronic game to patients who	Inducing a patient to come in for a service paid by a third party (e.g., an insurance company) by giving lavish gifts promotes unnecessary treatment and could even involve insurance fraud. There have been

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at no charge, a product of nominal value to be used in the maintaining or promoting of well-being or health;	come in for a costly series of treatments is improper. The giving of a small, health promoting product is acceptable. For example, many dentists give a toothbrush to patients, which is fine as no one would go to a dentist just to get a toothbrush and the toothbrush will encourage the patient to brush with an effective instrument.	instances of serious problems in other professions where this conduct has occurred (e.g., free shoes for patients who obtain an expensive, insurance-paid orthotic insert).
v. uses without payment according to market rates any premises or equipment provided by a person who stands to gain financially from the supplying of materials or equipment by or to the member or the member's patients;	The member needs to pay a reasonable amount (i.e., the market rate) for any premises or equipment used in his or her practice or used personally.  If a health food store gives a member free use of an office in the back of the store, there is real or implied duty to make referrals of patients to the health food store for homeopathic medicine and supplies.	This provision ensures that the member does not place him/herself in a conflict of interest with a landlord or supplier. All premises and equipment must be paid at a reasonable, market rate. Otherwise there is at least an appearance that the member will favour the landlord or supplier in the member's recommendations.
vi. enters into an agreement or arrangement or causes another member to enter into an agreement or arrangement that interferes with the member's ability to properly exercise his or her professional expertise or judgment in respect of the treatment or referral of a patient;	The member cannot enter into an agreement or arrangement, or coerce another member into an agreement or arrangement, that prevents the member from placing the needs of the patient first. For example, an agreement that a member will provide a certain treatment or homeopathic medicine to all patients, regardless of their condition, is improper because that decision must be made on an individual assessment of the patient's needs.	This provision reassures the public that despite any contractual obligations, the member will always place the needs of his or her patients first. The existence of this provision can be used by members to show the other party when negotiating agreements.
vii. engages in any form of revenue, fee or income sharing with any person other than:  1. an associated member or a homeopathic professional corporation;  2. a member of another College or a health professional corporation; or  3. in accordance with a written agreement that states that the member has the responsibility for and control over all the clinical and professional aspects of the	This provision allows the member to join a health team.  This provision prevents the member from practicing, or sharing any revenue, fee or income, with anyone not involved in the care of the patient or who does not share the same values as members of the profession except under a written agreement that ensures that the homeopath maintains control over the professional aspects of the practice.  For example it is a conflict of interest to permit a business person who puts up the financial backing and office in return for control over all records and billings	The rationale of this provision is to ensure that a member does not allow business associates to put profits ahead of professionalism. Arrangements with those who share the values of the profession (e.g., effective, safe and necessary services at a reasonable cost) are permitted. Arrangements with those who have no commitment to those values and who are not themselves accountable to regulators are permitted only under a written agreement ensuring that the homeopath retains control over the professional aspects of the practice. Otherwise the latter arrangements may result in the investor /

Proposed Provision <i>(Describes the act of misconduct.)</i>	Explanation <i>(Explains how it may be applied.)</i>	Rationale <i>(Explains why the provision has been included.)</i>
homeopathic practice including record keeping and billing.	of patients.	partner pressuring the member to cut corners, provide unnecessary treatment or bill inappropriately.
viii. recommends or suggests a homeopathic medicine or product to a patient that is sold in any premises associated with the member without first offering to issue a written instruction of the homeopathic medicine or product and advising the patient that he or she may purchase the homeopathic medicine or product elsewhere without affecting the patient-practitioner relationship;	<p>Recommending Products: This provision mandates that the member will not use his or her influence with the patient to pressure the patient into purchasing homeopathic medicine or products from the member's practice or the member's landlord. The member must positively advise the patient that he/she is not obligated to purchase homeopathic medicines or products from the member or the member's landlord, give the patient sufficient information to purchase the homeopathic medicine or product elsewhere and advise the patient that any such decision does not affect the relationship.</p> <p>Written instruction includes the name, dosage/strength, frequency and any other special information related to the homeopathic medicine for the patient</p>	This provision assures the public that any recommendation or suggestion made by the member is in the patient's interest only. It also gives the patient the choice to obtain homeopathic medicines or products elsewhere, perhaps at a lower price or at a more convenient location.
ix. sells a homeopathic medicine or product to a patient without first offering to issue written instructions on the homeopathic medicine or product and advising the patient that he or she may purchase the homeopathic medicine or product elsewhere without affecting the patient-practitioner relationship;	Selling Products: This provision mandates that the member will not use his or her influence with the patient to pressure the patient into purchasing homeopathic medicines or products from the member's practice. The member must positively advise the patient that he/she is not obligated to purchase homeopathic medicines or products from the member, give the patient sufficient information to purchase the homeopathic medicines or product elsewhere and advise the patient that any such decision does not affect the relationship.	This provision assures the public that any recommendation or suggestion made by the member is in the patient's interest only. While the patient may choose to purchase from the member, this provision also gives the patient the choice to obtain homeopathic medicines or products elsewhere, perhaps at a lower price or at a more convenient location.
x. endorsing a homeopathic medicine, product or service using one's professional status.	This provision prevents a member from participating in marketing or advertising campaigns where his or her professional status is utilized. For example a member could not appear in an ad for a health food store or a brand name health product. It does not matter if the member is paid for the endorsement or not. This provision does not prevent a member from	Using one's professional status to promote a product abuses the respect, status and trust that the public has in the profession. This is particularly of concern where the member obtains some benefit for making the endorsement. Even where there is no direct benefit, the public will perceive that there is. In any event, it is irresponsible to recommend a particular

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	recommending a product to a patient on the basis of the patient's assessed need and the member's professional opinion. For example, a homeopath could advise a patient to take x brand of a multivitamin as it would likely best meet the patient's needs.	homeopathic medicine, product and service at large without first performing an individual assessment of the person.
(4) No member may engage in a conflict of interest.	This provision sets out the general prohibition against engaging in a conflict of interest. The next provision then lists the exceptions.	Conflicts of interest prevent a member from exercising his or her professional judgment in the sole interest of the patient.
(5) Despite subsection (4) a member may refer a patient to a related person or a related corporation for either a service, homeopathic medicine or product so long as the patient is first advised both verbally and in writing of the following:  i. the nature of the relationship with the related person or related corporation;  ii. the name and contact information of at least three other local providers of the service, homeopathic medicine or product (or if there is no local provider, three other providers who are as close as possible to the patient); and  iii. that the patient's choice of another provider of the service, homeopathic medicine or product will not affect the patient's ability to obtain the same service from the member as if the patient had chosen the related person or related corporation.	This provision explains how members are not prohibited from making self-referrals so long as the safeguards listed in the regulation are followed. The safeguards include:  1. Disclosure of the conflict (e.g., "this health food store is owned by my family");  2. Providing options (e.g., "here are three other places where you can get this product"); and  3. Reassurance (e.g., "I won't be upset if you get the product elsewhere – you are still welcome here for treatment").	Technically, a referral to a related person or corporation puts the member into a conflict of interest. However, there will be situations where this is appropriate. This provision explains to the member that as long as the member adheres to the safeguards in this section, he or she will not be putting him/herself in a prohibited conflict of interest.
(6) A member shall, if requested, promptly provide to a representative of the College any document or explanation requested about the member's arrangement or relationship with another person to enable	If the College has reason to believe that a member has a conflict of interest, it can ask the member to provide information that will clarify the matter one way or another. The member must provide the information promptly.	Conflicts of interest tend to be difficult to discern. They are often the result of hidden or secret arrangements. Therefore, it is important for the member to disclose all requested documentation and information to the College when asked. Otherwise the

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the College to assess whether there is a conflict of interest.		conflict of interest provisions may not be enforceable.
<p><b>Part III – Record Keeping</b></p> <p>3. (1) The standard of the profession for record keeping relating to the treatment of a patient includes the following:</p>	Please note that the provisions provided below are not exhaustive. For example, although it is not listed, it would be an expectation that all patient records are legible. Failure to maintain a legible record would defeat the purpose of maintaining complete and accurate records. Similarly, the specific details of what must be recorded for each homeopathic medicine recommended are not listed below. However, the profession understands what details are to be recorded.	<p>This section ensures that the health record contains all information necessary to ensure effective care for the patient. Please note that although the member owns the health record, patients are authorized, by law, to access the record. Further, the patient is authorized to correct any errors in the health record.</p> <p>This has been codified in s. 52 of the <i>Personal Health Information Protection Act, 2004</i>.</p>
(a) The record shall be in English or in French.	The information can be recorded in other languages so long as all entries are also in English or French. English and French are the generally accepted languages in Ontario for the health care system.	In order to ensure continuity of care for the patient, it is necessary that the record be in English or French so that other members of the patient's health care team (hospitals, chiropractors, physiotherapists, etc.) can understand the treatment provided to the patient by the member.
(b) The record shall contain the name and date of birth of the patient.	Identifying information and the age of the patient is required in the record. The name, or other unique identifier, of the patient should be on each document so that it can be returned to the record if it is separated.	This is a standard component of all health records.
(c) The record shall include all relevant subjective information provided by the patient or his or her authorized representative.	This provision mandates that the member will record all relevant information provided by the patient (e.g., the patient's complaints, the patient's understanding of his or her symptoms).	This is a standard component of all health records.
(d) The record shall include all relevant objective findings.	This provision mandates that the member record all relevant information observed by the member (e.g., on physical examination).	This is a standard component of all health records.
(e) The record shall include the results of any testing and any testing from other health professionals obtained by the member to determine the condition of the patient.	Testing includes physical testing, and any laboratory results. That means if a member does testing on a patient the results must be recorded in the patient's record. If a patient discloses test results a notation must be recorded in the patient's record. This does not mean a member must ask for copies of copies of	This is a standard component of all health records.

Proposed Provision <i>(Describes the act of misconduct.)</i>	Explanation <i>(Explains how it may be applied.)</i>	Rationale <i>(Explains why the provision has been included.)</i>
	reports not needed.	
(f) The record shall include the member's treatment plan.	Sufficient details should be provided of the treatment so that others can know exactly what the member did and so that others can provide it in the member's absence.	This is a standard component of all health records.
(g) The record shall include a notation of all relevant communications with the patient.	All advice and other communications with patients should be recorded (including letters, emails and notes of telephone calls).	This ensures that the record encapsulates all relevant information between the member and the patient.
(h) The record shall include the relevant information obtained from any re-assessment of the patient and any modification of the treatment plan	Record keeping is an ongoing requirement. Changes in assessment and treatments must be noted so that the record is current.	This is a standard component of all health records.
(i) The record shall indicate who made each entry and when each entry was made.	A legible signature, (preferably with one's professional designation) is sufficient. In most cases (unless the condition is acute) the date is a sufficient indication of time. Normally the person providing the service makes the record.	This is a standard component of all health records.
(j) Any amendment to the record shall indicate what change was made at what date by whom and shall ensure that the previous entries are legible.	As noted in s.1(1) paragraph 24, a member cannot falsify a record. If an error is made in the record, the member (or delegate) cannot obliterate or white out the previous entry. The change to the record must follow proper procedure (usually a one-line strike-through with the date and initial of the person who made it and a reference to where the corrected entry can be found).	This ensures that the record will be accurate at all times and precludes any tampering or inappropriate alteration of the record.
(k) The original record shall be retained by the member or the health information custodian <sup>1</sup> for whom the member works and only copies shall be provided to others	The only exception is where there is legal compulsion to provide the original record (e.g., in a police, coroner's or College investigation or pursuant to a summons). In those cases the member needs to keep a legible copy.	This provision ensures the integrity of the original record.
(l) The record shall be retained for ten years from the last interaction with the patient or the patient's eighteenth birthday, whichever is later	The member should maintain a system to ensure that the patient record is retained for the time periods as set out in this provision. If a patient is 7 at the time of the last interaction, the record must be kept for 21 years.	This is a common provision. Additional guidance to the profession will be made available through the Record Keeping Guidelines in the Registrant's Binder. Included in this guideline is the recommendation that

<sup>1</sup> The term "health care custodian" is defined in the *Personal Health Information Protection Act, 2004*.

Proposed Provision <i>(Describes the act of misconduct.)</i>	Explanation <i>(Explains how it may be applied.)</i>	Rationale <i>(Explains why the provision has been included.)</i>
	"Interaction" involves any contact with the patient, including a phone call and email.	practitioners' retain patient records for fifteen years in keeping with the <i>Limitations Act, 2002</i> .
(m) The records required by regulation shall be legibly written or typewritten.	The member should maintain legible records.	This is a standard component of all health records.
3.(2) The standard of the profession for record keeping includes creating and maintaining appropriate financial records for ten years from the last interaction with the client or the client's eighteenth birthday, whichever is later.	The College will develop standards to provide guidance.	Such records permit the member to be able to respond to questions from clients and to be accountable, including to the College, for his or her actions. For example, if there is a dispute about payment, the record can clarify the situation.
3.(3) The standard of the profession for record keeping includes creating and maintaining appropriate equipment records for ten years.	The College will develop standards to provide guidance.	Such records permit the member to be able to respond to questions from clients and to be accountable, including to the College, for his or her actions. For example, if there is a client is harmed by the equipment, the record will help identify who was responsible for the maintenance of the equipment.
3.(4) The standard of the profession for record keeping includes creating and maintaining appropriate records of the receipt, storage and disposition of homeopathics or other substances for ten years.	The College will develop standards to provide guidance.	Such records permit the member to be able to respond to questions from clients and to be accountable, including to the College, for his or her actions. For example, if there is a recall, the record can identify which clients may be at risk from the supplement or substance.
3.(5) The standard of the profession for record keeping includes creating and maintaining an appointment and attendance record for ten years.	The College will develop standards to provide guidance.	Such records permit the member to be able to respond to questions from clients and to be accountable, including to the College, for his or her actions. For example, such a record could confirm the attendance of the client on a particular day.