

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

NOTES ON COMMENTS:

- The identity of individuals respondents have been made confidential. Individuals are noted by a reference number only. Organizations are referenced by name and reference number.
- For the ease of transitional Council and Committee review comments have been sorted by provision or segmented into the “General Comments” section (see Appendix 1 of this document).
- The transitional Council wishes to thank all individuals and organizations who took the opportunity to provide their comments and suggestions.
- The proposed provisions noted in this document are those which have been submitted to the Ministry of Health and Long-Term Care as the transitional Council’s submission for consideration.
- The Ministry of Health and Long-Term Care have the right to make changes as they feel are appropriate and consistent with their mandate of public protection.

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>
<p>Part I - Professional Misconduct</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>Individual Comment 1: The harm that homeopathy has the potential to do is not associated with its prescribed treatments which if over 12C are guaranteed harmless (no side effects or effects and no conflicts with any conventional medications). The potential harm of homeopathy is foregoing or delaying conventional medical treatment for serious diseases or believing that homeopathy has provided you (or your children) with immunity to disease like malaria, pertussis, polio, etc. These matters will not be improved by regulation unless the regulations incorporate limits on homeopathy to protect the public from such claims and misinformation. (#63)</p>		

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2. Abusing a patient or a patient's representative verbally, physically, psychologically or emotionally.	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.	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>Organization Comment 1: The term 'representative' can be defined very broadly including family members, lawyers, ministers, trustees and others. The seriousness of patient abuse may be diluted by using such inclusive language. The College may wish to consider using more specific language such as "authorized representative: to more clearly define the closeness of the relationship to the patient. Another option would be to refer only to abuse of the patient as professional misconduct and to pursue abuse of other individuals as disgraceful, dishonourable or unprofessional conduct. In addition, the College may also wish to reference financial abuse as a category of abuse that would be subject to professional misconduct. College of Nurses of Ontario (#49)</p>		
3. Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic or other health-related purpose except, <ul style="list-style-type: none"> i. with the informed consent of the patient or the patient's authorized representative, or ii. as required or authorized by law. 	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 (e.g., where the patient is unconscious in an emergency). This requirement is explained further in subsection (2) below.	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>Individual Comment 1: Accordingly, as per provisions of Healthcare Consent Act, college should design a standard consent form for all the homeopath which the patient would sign and countersigned by the practitioners. (#15)</p> <p>Individual Comment 2: An Informed CONSENT FORM: If possible a general and common format for the consent form should be outlined for all homeopaths, which contains all information on what the Homeopath, will be doing, and the rights and duties of the patient. (#32)</p> <p>Individual Comment 3: I am assuring you mean we must use a standard consent form that clients must sign? (#38)</p> <p>Response: The required form and guidelines on informed consent will be provided in the Registrant's Binder. This is a matter of registrant education.</p>		

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<p>4. Failing to reply appropriately to a reasonable request by a patient or a patient's authorized representative for information respecting a service, <u>homeopathic medicine remedy</u> or product provided or recommended by the member.</p>	<p>Even if the ingredients of a <u>homeopathic medicine</u> has remedy have traditionally been kept secret, a member must appropriately divulge the necessary information so that a patient can make an informed decision to take a <u>homeopathic medicine</u> remedy, 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>	<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.</p>

Organizational Comment 1: Transitional Council-College of Naturopaths of Ontario (TC-CONO) would ask TC-CHO to review this provision to ensure confidence that this provision will adequately allow the College to prosecute situations where a patient or their representation has asked about the composition of a substance and the member has refused. It is common for some members of professions to decline to do so based on the remedy being a "secret remedy" or proprietary. Patients have a right to know the composition of any substance being given to them and the authoritarian position of health professionals can often be used to dissuade them from such request. Transitional Council-College of Naturopaths of Ontario (#22)

Response 1: Duly noted and further discussed by the Working Group.

Individual Comment 1: Since using Placebo in homeopathic treatment is often required and an integral part of the treatment (Ex, between doses of antimiasmatics, or between doses of the constitutional), some terms and conditions which safeguard or rule its use are required. For ex. how, when to use, how to convey its use to the patient when required, etc. (#32)

Individual Comment 2: Sometimes I have given Placebo when I didn't want to disturb the action of a remedy, and my client wants me to prescribe something. It sounds that this is going to be a problem now under this clause? (#38)

Response 2: This is a matter of registrant education. More information will be provided in the guidelines on informed consent provided in the Registrant's Binder.

Individual Comment 3: What is appropriate information? Homeopathic treatments contain nothing that can be identified by any chemical analysis or scientific test. Therefore is it accurate to advise the patient in a manner that implies any actual content of the starting ingredient is in the treatment? It would be fair to state the remedy contains the essence or the memory of the diluted ingredient since homeopaths believe this and it is consistent with the science (both memory and essences are undetectable). Most of the public do not have a clear understanding of what homeopathy is or the nature of the medication provided. Most believe it's some form of natural medicines (i.e. there is an active ingredient in a measurable dose). The active ingredient in all homeopathic treatments is a closely guarded secret hidden behind confusing descriptors of memory, energies, nanostructures or the law of infinitesimals; that ingredient is "**nothing**". So please let's provide the information in a manner that is clear so the public can make truly

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informed decisions. (#63)		
<p>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>	<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 <u>authorized</u> representative, or unless as required by law (e.g. summons, court order, etc.)</p>	<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.</p>
<p>6. Discontinuing professional services that are needed unless the discontinuation would reasonably be regarded by members as appropriate having regard to,</p> <ul style="list-style-type: none"> i. the member's reasons for discontinuing the services, ii. the condition of the patient, iii. the availability of alternate services, and iv. the opportunity given to the patient to arrange alternate services before the discontinuation. 	<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 peers.</p>	<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.</p>
<p>Organization Comment 1: Section 6 gives direction to members regarding situations when discontinuing care is not considered professional misconduct. The College may want to consider including a reference to situations where the patient chooses to discontinue, although this may be assumed to be covered under 6ii. College of Nurses of Ontario (#49)</p> <p>Organizational Comment 2: 1.(1) 6. Re discontinuing professional services: It is not clear whether we will be prohibited to refuse to accept clients or book follow-up visits for existing clients when they are or become abusive, or who will decide what behaviour is abusive enough to warrant this. NUPATH (#123)</p> <p>Individual Comment 1: Is this case scenario a valid reason for the case scenario described in #6 part I? (#12)</p> <p>Response 1: This is a matter of registrant education.</p>		

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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 remedies 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.
<p>Individual Comment 1: Homeopathic remedies have no clinical affects so what meaning can unnecessary treatment have for homeopathy? Also there are no clinical studies to guide what lengths of treatment can be anticipated based on physiological responses or variations in dose based on patient weight or any other factor that may influence the prescription (not that it matters in for placebos). Personnel experience, patient feedback and anecdote are the controlling factors of the homeopathic paradigm. There is also little consistency in treatment selection after all homeopaths believe that past emotional trauma or even dreams must be factored in along with reported symptoms. These are termed "constitutional," impacts so failing to report some past personnel upset provides the explanation for any failure of efficacy or treatment choice selection. If not this then some other individualistic factor will always provide the escape route from this regulation. Try going to court and claiming your health was damaged by an incorrect homeopathic treatment provided at 30C. Since the homeopathic community does not operate within a scientific framework it has no mechanism for arriving at professional consensus on professional standards of treatment beyond a few commonly held ideas. Does contemporary or classical homeopathy produce better results? Obviously the treatment choice in the Province of Ontario should be the better of the two and I look forward to seeing the education standards resolve which of these two is the better choice for Ontario. What meaning can this regulation have outside of an operating framework based on science and evidence? Once you have accepted that an ultra-diluted solution of the Berlin wall is a valid medical treatment what claim can there be for an invalid or unnecessary treatment? The treatment provided (if over 12C) is actually irrelevant it has no active agent or clinical effect on the patient. This is well illustrated by Alexa Joel's suicide attempt¹ using Traumeel (a contemporary homeopathic pain killer not containing any of the 12 biological agents listed on its label). She was unharmed of course by her "overdose"; homeopathy saved a life in this case entirely in accordance with conventional medical understanding. If the regulations operate under the paradigm of homeopathic beliefs the regulation becomes unenforceable. (#63)</p> <p>Individual Comment 2: This misconduct is too vague and subjective and further clarification (by example) is required in the explanatory notes for this provision to ensure fairness and clarity to both the public and practitioner alike. Recommendation: Re-wording and re-structuring this provision, with clear examples of the intent of this provision. (#125)</p> <p>Response 1: This is a matter of registrant education.</p>		
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	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.

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	continuing education is one of the ways to meet this expectation.	
<p>Organizational Comment 1: The paragraphs related to members practicing within their scope and participating in continuing professional development are important. However, we have concerns about the range and severity of conditions that homeopaths consider to be within their knowledge, skills and judgement. CPSO (#67)</p> <p>The CPSO has concerns that, for more serious conditions, pursuing homeopathic care without being referred to a more appropriate provider will prevent or delay patients from receiving evidence-based treatment. The Executive Committee had specific concerns, for example, that the use and promotion of homeopathic vaccinations, in the absence of further information, would result in patients coming to harm. CPSO (#67)</p> <p>Organizational Comment 2: The efficacy of the modalities used by the homeopath should meet an "Objective Standard" as detailed in the explanation of Part I, Section 8. This objective standard is one that exists, by definition, outside of the homeopathic doctrine. CASS has examined many investigations into the efficacy of homeopathy and the consensus is that the modalities presented do not have sufficient evidence to support their use as treatment for any medical condition (for an example summary, see the report of the Science and Technology Committee of the U.K. House of Commons¹). We feel that the policy sets an, as of yet, unmet standard in the practice of homeopathy, and the council should consider this when setting out the scope of practice and the conditions for which the homeopath can prescribe treatment. Also see letter under Tab 7 in Submission Binder. Also see letter under Tab 7 in Submission Binder. Committee for the Advancement of Scientific Skepticism (#72)</p> <p>Individual Comment 1: Rationale: This item is key, homeopaths do not ascribe to the scientific method. Accordingly, they have no guide to identify for them what works and what does not. Nor do they complete large scale clinical trials of treatments (remember all treatments are individualized so you presumably can't do this). Let's examine a straightforward example, can homeopathy treat cancer? Well certainly some homeopaths are of the opinion that they can (watch Cure or Con? DVD minutes 13:25 to 14:55 & 15:05 to 16:55). Others make no such claims (at least openly). Which of the two positions is true? Science and common sense would both suggest quite strongly that it should have no significant efficacy and in fact a review of many trials has failed to show clinical efficacy. Will the decisions on this matter be left to individual homeopaths? If a single homeopath knows five others that are agreement with the view that homeopathy is a viable treatment for cancer (or diabetes, or any other serious illness) is that sufficient to justify treatment? Recall the underlying premise of homeopathy; you are selecting a treatment to correct the vitalistic imbalance as identified by the displayed symptoms. Accordingly, there is no logical reason why a treatment could not be selected for any illness under its "laws of similar" all that is required is to select the right treatment to match the patient's symptoms. This means that homeopaths do not know where to draw their limits for treatment. You do not need training as an oncologist or other area of specialization to deal with cancer; you just need training to interpret the Materia Medica Pura or other sources of provings. A perusal of a proving * will show that it is an inane mishmash of descriptive symptomatic terms that are as flexible to interpretation as an astrological reading. Regulation should therefore define these limits based on a practical risk benefit consideration (the risk is no clinical efficacy being provided in the face of a serious disease vs. the benefit that the patient is receiving treatment under the modality they desire) (#63) (TC-CHO NOTE: *Reference to Appendix deleted from this compilation document to reduce reader confusion. Copies of reference materials and appendix from individual respondent were provided to submission reviewers.)</p> <p>Individual Comment 2: Many of the proposed clauses seem to have been borrowed from other health professions. One in particular (section 8) that is of concern, <i>"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."</i> This clause is very vague. Homeopathy treats people not conditions. If there is concern about inexperienced homeopaths taking on life threatening diseases unsupervised, then those exact expectations need to be specified. Given that homeopathy is so different, it requires more time to adequately survey and determine much more specifically defined misconduct guidelines. Is it possible to wait and further develop the misconduct regulations before passing them through regulation at this time? (#122)</p>		

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<p>Individual Comment 3: As referred to in Section 3.(1)12 above, this is too vague and subjective. Firstly, homeopaths treat individuals, not conditions. Secondly, outside of obvious health care emergencies and controlled acts already regulated under the RHPA, the homeopathic process is the same for experienced and non-experienced practitioners. As far as I know, we do not take, analyze, assess or monitor an acne case any different from a cancer case. Therefore, how is a practitioner to "know or ought to know" what he or she does not have the knowledge, skills or judgement to treat? A case could be easily made either way in every single case of homeopathic treatment. Recommendation: Re-wording and re-structuring this provision is necessary. Elaboration and examples are needed to provide clarity for both the public and practitioners alike. (#125)</p> <p>Individual Comment 4: "Attempting to Treat a condition that the member knows or ought to know he or she does not have the knowledge, skills or judgement to treat". This is a very vague clause. Homeopaths DO NOT treat specific conditions, rather they treat the individual. I am not sure I understand the relevance of this clause here and it simply re-enforces how poorly Homeopathy is still understood. (#131)</p> <p>Response 1: This is a matter of registrant education regarding the scope of practice, competencies, and the interpretation and application of this provision.</p>		
<p>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.</p>	<p>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.</p>	<p>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.</p>
<p>Organizational Comment 1: We cannot emphasize enough the importance of section 9 (regarding failure to advise consultation with another member of a health profession) and section 25 (regarding claims about remedies). CPSO (#67)</p> <p>Response 1: Duly noted. This is a matter of registrant education regarding the scope of practice, competencies, and appropriate referral mechanisms.</p> <p>Individual Comment 1: Similar to Section 8 above, this section requires examples to provide clarity to both the public and practitioner. Recommendation: Elaborate and provide examples on situations where such action would be considered necessary, and where a misconduct would be committed. (#125)</p>		
<p>10. Performing a controlled act that the member is not authorized to perform.</p>	<p><u>Under the <i>Regulated Health Professions Act, 1991, (RHPA)</i>, most</u> Most regulated health professionals are allocated certain "controlled acts." Controlled acts are 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>This is a common provision. It requires members to comply with the legal requirements surrounding controlled acts. It also helps ensure that members provide only competent care.</p>

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	<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>Organizational Comment 1: I see Naturopaths have provision for certain acts regarding examinations and medicinal introduction. Where are “controlled acts” defined and in what way are homeopaths limited in terms of their scope of practice as a result? Are the similarly allowed to confirm diagnoses, conduct examinations and remove certain specimens for laboratory testing? May homeopaths diagnose or is it levelled at that of a “therapist”? (#93) Homeopathic Association of South Africa</p> <p>Individual Comment 1: What are “controlled acts?” (#38)</p> <p>Individual Comment 2: Recommend the wording be changed to ‘Performing a controlled act that the member is not authorized to perform, with the exception of acts that are essential to treatment.’</p> <p>However, as the acts of prescribing, dispensing, compounding or selling a homeopathic remedy for acute or chronic conditions are specific to homeopathic treatment, homeopaths should be authorized to perform these acts. In-depth knowledge of homeopathic remedies and their possible contraindications is required for safe prescribing.</p> <p>The whole purpose of homeopathic treatment is to determine and prescribe a remedy. Naturopaths, whose training in homeopathy less comprehensive than that of homeopaths, have the right to prescribe homeopathic remedies. (#39)</p> <p>Individual Comment 3: Most regulated health professionals are allocated certain “controlled acts”. I would like to see a change here. I understand that the homeopaths were not given any controlled acts that they asked for when the Homeopathic Act came in to effect in 2007. However, I feel that as medical professionals there are certain controlled acts that we should be able to perform to reach a particular homeopathic diagnosis. Naturopaths have many controlled acts that they can perform. I think this should be looked at and addressed in the future for the homeopaths need these to have some credibility with respect evaluation of the patient. I know that right now at this stage in the process it might be a moot point. I just want to let the Council know that I feel this is important. (#52)</p> <p>Individual Comment 4: Similar to Section 8 above, this section requires examples to provide clarity for both the public and practitioner. Recommendation: Elaborate and provide examples on situations where such action would be considered necessary, and where a misconduct would be committed. (#125)</p> <p>Response 1: This is a matter of registrant education. It is also a matter for future discussion by the College.</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</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>

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<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>including the skills of the person receiving the assignment and the risks inherent in the procedure.</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"> • Holds out that he or she is registered • Performs a controlled act without authority • Performs a controlled act with authority (e.g., delegation) but the person is not competent to do so. 	<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>Organizational Comment 1: TC-CONO is concerned about the use of “competent to perform” in this provision. We would recommend that the more current phrase of “knowledge, skill and judgement” be used in its place. (#22) Transitional Council-College of Naturopaths of Ontario</p>		
<p>Recommendation 1: Wording to be changed, as recommended.</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. This provision also supports the member’s accountability to the College.</p>
<p>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.</p>	<p>In light of this provision, the member should have readily available the contact information of the College. Currently it is as follows:</p> <p>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</p>	<p>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.</p>

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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.
<p>Organizational Comment 1: This provision includes the phrase "being" in conflict of interest. TC-CONO received considerable feedback during its informal consultation phase that this portion of the draft Regulation be removed as it is not professional misconduct to be in a conflict of interest but it is professional misconduct to act while in a conflict of interest. Transitional Council-College of Naturopaths of Ontario (#22)</p> <p>Organization Comment 2: The College may wish to refocus this section on the relationship of the provider with the patient rather than defining conflict of interest in terms of professional capacity. Alternate language consistent with the public protection role might be "acting or being in a conflict of interest when providing care to a patient." College of Nurses of Ontario (#49)</p> <p>Response 1: The Professional Practice Working Group is satisfied with the wording in the current provision.</p>		
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.
17. Charging a fee for a <u>homeopathic medicine remedy</u> 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 <u>homeopathic medicine remedies</u> , products and services that are actually provided. <u>It is also appropriate to charge a deposit for ordering a homeopathic medicine remedy</u> . 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.

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<p>Individual Comment 1: Members can only charge for remedies, products and services that are actually provided. Does this apply also to advance deposits that may have to be taken when placing an order for a product only and specially for a patient? (#32)</p>		
<p>Response 1: Deposits are deemed appropriate and the explanation has been revised accordingly.</p>		
<p>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 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.</p>	<p>This provision requires that members <u>discuss advise and informs patients about</u> 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. <u>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.</u></p>	<p>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.</p>
<p>Organizational Comment 1: We noted that the provision is very prescriptive in telling members of the College how they can meet the provision. TC-CONO recommends that the last line of the provision "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" be removed from the provision to allow Homeopaths more leeway and discretion in determining how to advise patients of the fees to be paid. Transitional Council- College of Naturopaths of Ontario (#22)</p>		
<p>Response 1: The Professional Practice Working Group (PPWG) accepted the suggestion and changed the provision accordingly.</p>		
<p>19. Charging a block fee.</p>	<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. <u>Additional guidance on discounting fees will be provided by the College in the form of billing guidelines.</u></p>	<p><u>Within other health professions</u> 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><u>This provision serves to protect the patients from pressure to purchase service packages, from billing disputes and from discrimination based on economic status.</u></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>
<p>1 Regulatory, 1 Association and 15 individuals commented on this provision. See Appendix 2 at end of document.</p> <p>Of the 15 individuals the majority felt that a block fee was appropriate and beneficial for patients in a homeopathic practice.</p> <p>Response: The Professional Practice Working Group believes this provision is in the interest of public protection and recommends to the transitional Council that the provision remain unchanged. Further education and explanation is required. The explanation and rationale have been revised to improve understanding by the profession and public.</p>		
<p>20. Failing to itemize, if asked, an account for professional services or goods, or if the account includes items that are not professional services, failing to itemize those items.</p>	<p>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 the <u>homeopathic medicine remedy</u> or product must be set out so that the patient can determine how much of the fee is for the <u>homeopathic medicine remedy</u> or product and how much is for the professional service of the member. As <u>homeopathic medicine remedy</u> 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>	<p>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 all services. This approach ensures the transparency of fees to patients promotes patient choice and avoids conflicts of interest.</p>
<p>Organizational Comment 1: This provision only requires a member to itemize an account if requested to do so by the patient. It is recommended that the provision be applied to all circumstances by removing the phrase "if asked". Itemized statements of account ensure transparency in the provision of services and products to Ontarians. Transitional Council-College of Naturopaths of Ontario (#22)</p> <p>Response 1: The Professional Practice Working Group agreed with this suggestion and changed the provision accordingly.</p> <p>ORGANIZATIONAL COMMENT 2 + INDIVIDUAL COMMENT 1 TO 6: Re itemization of invoices: Many homeopaths include doses of medicines in the consultation fee without itemization because the expense associated with the dose is so minimal. We suggest allowing this to continue and requiring members to provide itemization of such doses only upon request of the patient. (#123) NUPATH representing 160 members. Similar comments came from (#91), (#92), (#109), (#132), (#133), (#142),</p> <p>Individual Comment 7: This is a far too detailed provision to impose at the outset of regulation, without assessing whether (1) it poses a danger to the safety of the public and (2) is an issue in the Ontario homeopathic community. Many practitioners, myself included, include remedy costs in the initial and follow-up treatments. Where a lot of remedy is required, I charge to cover my expenses. Every charge should be detailed in an appropriate record-keeping manner, but the cost of remedy should not be required in every instance as is suggested by this provision.</p> <p>Recommendation: Reword the explanation of this section to include an itemized account of services and/or remedy fees where applicable. (#125)</p>		

Transitional Council of the College of Homeopaths Professional Misconduct Regulation

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>
Response 2: This is a matter of registrant education. More information will be provided in the guidelines on billing provided in the Registrant's Binder.		
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. <u>This regulation has been developed in keeping with the Personal Health Information Protection Act, 2004.</u>	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.
Individual Comment 1: If a patient asks to see his/her file, am I required to put the entire file at their disposal? Are they also able to view my repertorizations and evaluations? This would mean having to be careful about choice of words in analyzing the case. Or, are they just able to access information they provide to me and the resulting prescriptions? (#33)		
Response 1: This is a matter of registrant education. More information will be provided in the guidelines on record keeping provided in the Registrant's Binder.		
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 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.	A member of the College is expected to act honestly and with integrity. All documents and records are to be completed honestly and accurately. Falsification of any kind is strictly prohibited.

<p>Proposed Provision <i>(Describes the act of misconduct.)</i></p>	<p>Explanation <i>(Explains how it may be applied.)</i></p>	<p>Rationale <i>(Explains why the provision has been included.)</i></p>
<p>25. Making a claim about a <u>homeopathic medicine remedy</u>, treatment, device or procedure other than a claim that can be supported as reasonable professional opinion <u>of one's peers</u>.</p>	<p>Members should not make unverifiable claims about their <u>homeopathic medicines remedy</u>, products or services. An example would be to say that if one takes a particular homeopathic <u>medicine remedy</u> one will not get sick. An example of a reasonable professional opinion is to say that a particular homeopathic <u>medicine remedy</u> that one has researched helps fight disease.</p>	<p>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.</p>
<p>Organizational Comment 1: The paragraphs related to members practicing within their scope and participating in continuing professional development are important. However, we have concerns about the range and severity of conditions that homeopaths consider to be within their knowledge, skills and judgement. College of Physicians and Surgeons of Ontario (#67)</p> <p>The CPSO has concerns that, for more serious conditions, pursuing homeopathic care without being referred to a more appropriate provider will prevent or delay patients from receiving evidence-based treatment. The Executive Committee had specific concerns, for example, that the use and promotion of homeopathic vaccinations, in the absence of further information, would result in patients coming to harm. CPSO (#67)</p> <p>Therefore, we cannot emphasize enough the importance of section 9 (regarding failure to advise consultation with another member of a health profession) and section 25 (regarding claims about remedies). CPSO (#67)</p> <p>Response 1: Duly noted. This is a matter of registrant education.</p> <p>Organizational Comment 2: Many homeopaths make claims that overreach their abilities without any plausible evidence to support such claims. These claims include - but are not limited to - being able to cure cancer, provide effective prophylaxis for malaria, and immunize against common childhood infections. These claims carry significant health risks when they lead patients to eschew effective conventional treatments. It is unethical for any medical practitioner to make misleading claims about the efficacy of any treatment, or to make any health claims that cannot be supported by rigorous scientific evidence. Genuine informed consent is not possible unless medical practitioners are entirely open and honest about the available evidence, or lack of it, for the treatments they propose. (#72) CASS</p> <p>The draft regulations do include some provisions that seem intended to address this issue. However, it is our view that these provisions do not go nearly far enough, and in any case, are, overall, far weaker than corresponding language in similar regulatory documents (e.g. those issued by the College of Physicians and Surgeons of British Columbia²). Part 1, Section 25, of the proposed Professional Misconduct Regulations prohibits "Making a claim about a remedy, treatment, device or procedure other than a claim that can be supported as reasonable professional opinion." This language is identical to the language governing physicians in Ontario (the Ontario Medicine Act, 1991³). However, in application to homeopaths, the language is questionable. Our concern is that "reasonable professional opinion" is ambiguous. If the standard were the same as that applied to physicians, the reasonable professional opinion would be based upon a standard of evidence that comes from empirical observation and that has been subject to rigorous scientific inquiry. A homeopath can have a reasonable professional opinion that is based upon an irrational medical paradigm, like vitalism, and provide support for a claim that is not otherwise supportable with objective scientific evidence. Also see letter under Tab 7 in Submission Binder. Committee for the Advancement of Scientific Skepticism (#72)</p> <p>Response 2: Duly noted. This is a matter of registrant education.</p>		

Transitional Council of the College of Homeopaths Professional Misconduct Regulation

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>
<p>Individual Comment 1: S. 25 seems to target treatments like homeoprophylaxis. A reasonable professional homeopath's opinion, verifiable by current and historical international studies, would be that homeoprophylaxis can be very successful in many circumstances. However, a reasonable allopathic professional's opinion would be to the contrary. The current wording of this clause risks substituting the homeopathic paradigm for conventional medical opinion. Please correct the wording to specify professional homeopathic or natural health opinion or otherwise correct the ambiguity in the clause. (#62)</p> <p>Individual Comment 2: What is a "reasonable professional opinion"? The answer to this question can only come from the context mentioned above. Clearly this is not the opinion of a professional engineer. It must be the professional opinion of an homeopath but what is an homeopath? what is homeopathy? what are its boundaries? what distinguishes it from conventional medicine? from naturopathy (and yes it is very different from naturopathy)? From, for that matter, engineering? Is it the art of divining remedies using a pendulum? or maybe it is the prescription of beans in nephritic cases because they are shaped like kidneys? or is it... you see, I am sure, what the problem is. Without these definitions and standards how can any one have a "professional opinion". It can easily become a case of picking the "professional" that will give the opinions that the committee, panel, judge or whatever wants in a given case. The question of a clear definition of homeopathy is paramount to these regulations. (#92)</p> <p>Response 3: Duly noted. This is a matter of registrant education.</p> <p>Individual Comment 3: Would this phrase be allowed? "If you are dealing Acute or Chronic conditions, Homeopathy can help." (#38)</p> <p>Individual Comment 4: Pretty much every claim made for homeopathic clinical efficacy is unverified in the eyes of science. All patients are receiving placebos (which are considered an unethical course of treatment by the CPSO and other Health Professionals). Research papers published in homeopathic journals often lack proper peer review and proper controls to make them credible sources of professional opinion and support to a verifiable claim. So how are reasonable professional opinions to be formed? There is little to read in standard medical journals because most papers dealing with homeopathy do not get past peer review due to deficiencies in content or experiment. Again, will this regulation be applied from the world view of homeopaths or will it be applied based on the realities of clinical understandings? The homeopathic view (based on theory) is that divination of the right treatment will correct the vitalistic balance and you will be well, therefore a cure is possible in all cases. If interpreted from the world view of homeopaths there are no intrinsic limits to the claims that can be made, just the practitioner's self-confidence level in his ability to decipher provings. Thus we get cases2 where homeopaths like Peter Chappell, whose work was scheduled for presentation at a conference organized by the Society of Homeopaths (U.K.), making dramatic claims about his ability to solve the Aids epidemic using his own homeopathic pills called "PC Aids", and his specially encoded music. "Right now," he says, "Aids in Africa could be significantly ameliorated by a simple tune played on the radio." Oh, if it were only so. If this regulation is applied on the basis of reality there is no claim to be made. (#63)</p>		
<p>26. Permitting the advertising of the member or his or her practice in a manner that is false or misleading.</p>	<p>Members are allowed to advertise. However, the member cannot allow any false or misleading statements in his or her advertising such as:</p> <ul style="list-style-type: none"> • Promising a result that cannot always be delivered: i.e., a specific <u>homeopathic medicine</u> remedy can cure cancer or other disease state or health side effect. • Using comparisons, superlatives, suggestion of uniqueness, appealing to a person's fears or creating an unreasonable expectation of a favourable result: i.e., 	<p>This is a common provision.</p> <p>Homeopathy focuses on individualized care without generalization of outcome measurements, therefore, some forms of advertising are not suited to the profession.</p> <p>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</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>
	<p>before and after photos, personal success stories and testimonials of effective from a <u>homeopathic medicine remedy</u> or health care professional; product endorsement. <u>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.</u></p> <p>The College has included specific guidance on the appropriate and acceptable methods of advertising (please see subsection (4) below) within the Regulation <u>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 form of Advertising Guidelines.</u></p>	<p>The reputation of the member and the profession could be harmed if false or misleading advertising is permitted.</p>
<p>Summary of Comments: The comments related to this provision, should be read in conjunction with those of provision Part 1 (4) (b) regarding before and after pictures and (c) related to testimonials. The full list of comments on this provision and Part 1 (4) can be found in Appendix 3 at the end of this report.</p> <p>Specific to provision 26: The following comments represent the voices of 16 individuals and two homeopathic associations which collectively have 370 members. In addition, one public organization and one public individual provided comment to support strict guidelines on advertising and testimonials.</p> <p>Overall individuals felt that since homeopathy is not well known testimonials are an effective manner in which to demonstrate the effectiveness of the treatment. Individuals which to be able to use testimonials in office, on their websites, and ethical advertising vehicles. Since homeopathy is not covered by OHIP or broadly covered by insurance, freedom of speech in advertising is seen as key to generating patient base.</p> <p>On the reverse side of this argument, one organization and one public individual suggested that these are important provisions for public protection which ought to be as strong as possible.</p> <p>Response 1: The recommended provisions generally follow the Ministry of Health and Long-Term Care 2004 Guidelines for Drafting Advertising Regulations.</p>		
<p>27. Soliciting or permitting the solicitation of an individual in person, by telephone, <u>in writing</u>, 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</p>	<p>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 <u>direct one-on-one targeted solicitation to individuals without their prior consent. The member may not targeted advertising to individuals known to</u></p>	<p>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.</p>

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<p>up or recurring services.</p>	<p><u>be needing services or use</u> communications techniques that can pressure potentially vulnerable persons.</p> <p>Please note that this extends to “electronic communications” so emails, text messages, etc., would also fall within the prohibition.</p> <p>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).</p>	
<p>Organization Comment 1: This section describes targeted marketing strategies delivered in person, by telephone or through electronic mechanisms and focuses on situations with potential to pressure vulnerable individuals. Written communications via mail or posters can also communicate forceful messages. Although it may be implied, the College may also want to specifically include a reference to written materials in this section. College of Nurses of Ontario (#49)</p> <p>Individual Comment 1: Homeopathy is a business! Many homeopaths do have personal pages in Face-book, blog-post or individual website to promote their system of healthcare, explaining how homeopathy can help people with different kind of sickness and imbalances. Target is the general public or a group of public having homogenous health condition. Do they breach this paragraph by doing so? (#15)</p> <p>Individual Comment 2: The statement that the members should refrain from targeted advertising to those needing the services is absurd! That is the point of advertising-get the message across to those who need it. Does it need reminding that the medical profession and the drug companies pressure people and scare them and overcharge them on a regular basis? (#23)</p> <p>Individual Comment 3: Again, this limits Homeopaths to advertising using only their name and address, as an area of specialty cannot even be mentioned. Many Homeopaths already specialize in their practises, ie. Treat only women’s health or children’s health issues. Are we all to be considered “general practitioners” then, until the College has specialist programs in place? Will we need to call ourselves “RHP – General Practitioner – Grandparented”? This needs to be addressed similar to (true) grandfathering, with Homeopaths being granted the right to claim specialization based on experience and/or training to date, not just based on some future training program. (#43)</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>
<p>Response 1: The recommended provision follows the Ministry of Health and Long-Term Care 2004 Guidelines for Drafting Advertising Regulations. This is a matter of registrant education. A guideline on advertising for inclusion in the Registrant's Binder is under development.</p>		
<p>28. Influencing a patient or the patient's authorized representative to change the patient's will or other testamentary instrument.</p>	<p>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.</p>	<p>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.</p>
<p><u>28A. Failing to use in professional communications, including records, the title or professional designation specified for the member's corresponding class of registration.</u></p>	<p><u>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., Homeopath or Hom).</u></p>	<p><u>This provision will help ensure that colleagues and patients have accurate information as to the professional status of the member.</u></p>
<p>29. Inappropriately using a term, title or designation in respect of the member's practice.</p>	<p>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.</p>	<p>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.</p>
<p>Organization Comment 1: Although this section refers to inappropriate use of term, title or designation, this is not the equivalent of requiring members to use their official title. The public is entitled to expect that members of each profession use their official title when practicing. TC-CHO may wish to consider including a specific reference to failure to use one's regulated title when providing patient care as part of the professional misconduct regulation. College of Nurses of Ontario (#49)</p> <p>Individual Comment 1: Some educational Institutes confer degrees such as DHM (Diploma In Homeopathic Medicine) BHMS (Bachelor of Homeopathic Medicine and Surgery) I do not see any problem to display their credentials in authentic cases! (#15)</p> <p>Individual Comment 2: I feel that the title of homeopathic doctor should be looked at again. I am aware that this was not passed in the homeopathic act 2007. However, I feel that the public looks to homeopaths in a similar way they look at Naturopaths and I would like to see HD used. It would be less confusing than the other proposed titles. I understand that the term doctor is statutorily protected. In this case I feel that homeopath should be the title used. I still feel that the title HD (homeopathic doctor) should be addressed with the government of Ontario in the future. I also feel that having the HD title will promote more interprofessional collaboration. (#52)</p> <p>Individual Comment 3: I object to the proposal to end the title "Homeopathic Doctor" or "Doctor of Homeopathy" . The rationale that the public will be 'confused' seems extremely simplistic. Does it not occur to the TC-CHO to consider that Naturopaths carry the title "doctor". Is the public confused about this, I wonder? In most other countries around the world, homeopaths carry the title 'doctor'. Are those populations, many with much less education than Canadians, confused about the title designation? (#124)</p> <p>Response 1: This is a matter of registrant and public education.</p>		

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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.
<p>Organizational Comment 1: areas of specialisation are understandably touchy issues as it infers a degree of specialised training (both medically and therapeutically). While it seems open for the College to recognised specialities it might be more worthwhile to consider the introduction of acknowledgement of "Field of Interest" or "Field of Practice" which would potentially avoid the complications associated with formal specialisations. (#93) Homeopathic Association of South Africa</p> <p>ORGANIZATIONAL COMMENT 2: Re specialization: It is not clear whether members can say they specialize in treating a specific type or area of complaint even if that makes up most or all of their practice. We suggest clarification and perhaps the provision of an alternate wording. NUPATH (#123)</p> <p>Individual Comment 1: What formal specialist recognition programs are approved by the College? Are these programs of further study or programs designed to evaluate past experience and training in order to determine claim to specialisation? Are these programs already in place? Many Homeopaths already specialise in their practises, ie. treat only women's health or children's health issues. Are we all to be considered "general practitioners" then, until the College has specialist programs in place? Will we need to call ourselves "RHP – General Practitioner – Grandparented"? This needs to be addressed similar to (true) grandfathering, with Homeopaths being granted the right to claim specialisation based on experience and/or training to date, not just based on some future training program. (#43)</p> <p>Individual Comment 2: Again, this limits Homeopaths to advertising using only their name and address, as an area of specialty cannot even be mentioned. Many Homeopaths already specialise in their practises, ie. treat only women's health or children's health issues. Are we all to be considered "general practitioners" then, until the College has specialist programs in place? Will we need to call ourselves "RHP – General Practitioner – Grandparented"? This needs to be addressed similar to (true) grandfathering, with Homeopaths being granted the right to claim specialisation based on experience and/or training to date, not just based on some future training program. (#43)</p> <p>Individual Comment 3/4: I understand we do not "specialize" in certain conditions or persons in homeopathic training. However, many practitioners have a keen interest and subsequently more experience dealing with certain patient groups (eg - children, pregnancy, etc.). The explanatory note should clarify this does not prohibit a practitioner from advertising or promoting services to a certain class or group of patients. Recommendation 1: Expand the explanatory section of this provision to incorporate the above. (#125) Recommendation 2: I suggest that this section provide more explanation to incorporate the above or be removed. (#133)</p> <p>Response 1: This is a matter of registrant education and policy development to provide clear guidance to registrants on communicating areas of interest. The matter of recognized specialists is an issue of future consideration by the College.</p>		
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	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,

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	<p>renewal.</p> <p>It is acknowledged that some members may use a nickname with his or her patients. The College will permit members to register nicknames College.</p> <p>It is recommended that the legal name (along with any nickname) be indicated on official documents such as accounts, business cards, pamphlets, etc.</p>	<p>the College needs to be able to identify a member if a complaint or report is made to the College.</p>
<p>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.</p>	<p>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).</p> <p>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.</p> <p>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.</p>	<p>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 should not be able to thwart that desire by withholding the report.</p>
<p>Individual Comment: The nature of the report to be given is not specified. (#17)</p>		
<p>Response: This is a matter of registrant education and will be addressed with guidelines on report writing.</p>		
<p>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,</p> <p>i. ensure that each patient's records are transferred to the member's successor or to another member, if the patient so requests, or</p> <p>ii. ensure that each patient's records are</p>	<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</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>

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>
retained or disposed of in a secure manner.	successor, to another member requested by the patient or stored properly in a secured fashion. 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>ORGANIZATIONAL COMMENT 1: Re closing a practice: It is not clear what constitutes reasonable notice or "well in advance." Two months? Six months? Suggest stating a specific amount of time. NUPATH (#123)</p> <p>Organizational Comment 2: The section seems to be a blend of professional misconduct and record keeping provisions. Perhaps the notice requirements should remain in the professional misconduct section while the matters relating to transfer and retention of records moved to the record keeping section. Transitional Council-College of Naturopaths of Ontario (#22)</p> <p>Organization Comment 3: Closure of an office – All regulated health professions are obligated to plan for appropriate transfer, retention or disposal of health records under the <i>Personal Health Information Protection Act (1994)</i>. The public and patients should have information that explains how they can access personal health records and how personal information would be retrained, respectful of patient confidentiality when a professional closes an office. Incorporating a requirement regarding standards for notification of closure of an office in the professional misconduct regulation would ensure members meet this expectation. College of Nurses of Ontario (#49)</p> <p>Response 1: This is a matter of registrant education and is detailed in the draft record keeping guidelines.</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 to report conduct that the member has learned about. This	<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>

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>
	<p>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>Organization Comment 1: Establishing mechanisms to monitor safe, competent and ethical practice of members is an important component of self-regulation. This section refers to reporting unsafe practice, a term that is not defined in the regulation or the RHPA. The College may wish to use language consistent with the RHPA and require members to report a member who they reasonably believe has committed professional misconduct or is incapacitated or incompetent. In addition to requiring members to report to the College, TC-CHO may wish to consider expanding this section to include reporting to the employer or another authority responsible for the member. This will assist employers in their responsibility to ensure that all employees provide safe care and may limit the number of vexatious complaints brought to the College. College of Nurses of Ontario (#49)</p> <p>Individual Comment 1: To submit a report based on the oral communication of a third party is a kind of hear-say! Is it legally acceptable? I would suggest that College of Homeopathy should develop a form, which could be signed by the reporter and countersigned by the member/practitioner! (#15)</p> <p>Response 1: This is a matter of registrant education. More information will be provided in the Registrant's Binder.</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</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>

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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>
	plead ignorance to the obligations under these Acts and should be familiar with the relevant provisions.	
37. Contravening, by act or omission, a law if, <ul style="list-style-type: none"> i. the purpose of the law is to protect or promote public health, or ii. the contravention is relevant to the member's suitability to practise. 	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. Please note that a member can contravene an act by either doing something ("by act") or by failing to do something ("by omission").	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.
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>

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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>
<p>Organizational Comment 1: States that it is Misconduct to practise while suspended but does not contemplate other situations such as when the member is registered as inactive, qualifying, etc Board of Directors Drugless Therapists - Naturopaths (#48)</p>		
<p>Response 1: This is a matter is covered under the registration regulations and the proposed additional provision below.</p>		
<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>	<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. 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 suspension just because the family will receive some income from the spouse's work).</p>	<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.</p>
<p>41. Failing to comply with an order of a panel of the College.</p>	<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). 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>
<p>42. Failing to appear before a panel of the Inquiries, Complaints and Reports Committee to be cautioned.</p>	<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>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>

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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>
	If the member refuses or fails to attend before the ICRC, the member can be found to have committed professional misconduct.	
43. Failing to carry out or abide by an undertaking given to the College or breaching an agreement with the College.	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.	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.
44. Failing to co-operate with a College investigation.	A member is expected to fully co-operate with the College during an investigation. The investigation can 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.	Every member has an obligation to co-operate with the College. 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.

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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>
<p>Individual Comment 1: Here investigator means investigator from college of homeopathy to investigate matters relating to misconduct of a homeopath and he/she is expected to be a homeopath who understand the process very well. If he needed the help of any other investigator from another regulated health profession, he can co-opt for one! (#15)</p>		
<p>Response 1: This is a matter of registrant education.</p>		
<p>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.</p>	<p>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.</p>	<p>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.</p>
<p>ORGANIZATIONAL COMMENT 1: Re selling or assigning debt: We suggest amending this to state that a member may sell or assign outstanding balances after a set period of time of non-payment, perhaps six months. Otherwise they could be trying to collect moneys owed for years. NUPATH (#123)</p>		
<p>Response 1: This is a common provision and a matter of registrant education in how to best manage the collections process.</p>		
<p>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 as disgraceful, dishonourable or unprofessional.</p>	<p>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.</p> <p>This provision is not intended to capture the legitimate exercise of professional discretion or mere errors of judgment.</p>	<p>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 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.</p>
<p>49. Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a practitioner of homeopathy.</p>	<p>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).</p>	<p>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.</p>
<p>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</p>	<p>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</p>	<p>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.</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>
consent.	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.	
<p>Organizational Comment 1: Section 50 of the proposed Professional Misconduct Regulations commendably requires homeopaths to attempt to collaborate with other relevant health care providers. However, this language fails to capture a serious failure of collaboration, which occurs when homeopaths actively disparage the treatment options provided by other medical practitioners. Of particular concern to us is the frequent promulgation of false and misleading information concerning vaccinations. Vaccinations are one of the most important and effective public health initiatives of modern times, responsible for saving millions of lives every year. Unfortunately, many alternative health practitioners, including a significant number of homeopaths, frequently spread scare stories about supposed risks of vaccination, and offer ineffective alternative treatments in their place⁵. Such misinformation, and the decline in vaccination rates it causes⁶, is one reason why, after years of decline, developed countries are now seeing renewed epidemics of infectious diseases – such as mumps and measles – that are entirely vaccine-controllable. Also see letter under Tab 7 in Submission Binder. Committee for the Advancement of Scientific Skepticism (#72)</p> <p>Individual Comment 1: Collaboration is a 2 way street and while the homeopath cannot be faulted when other health care providers refuse, it would be interesting to know any ideas put forth by the College to foster the respect and education needed to confer with our peers in a serious helpful manner for the health of the patient. (#23)</p> <p>Individual Comment 2: Collaborating with other health care providers on the care of the patient after his/her consent. What would be the way to achieve this? How can his personal health information be shared? For example collaborating with the family doctor of the patient. In the future can we do it on Phone, by mail, by post,etc How is interprofessional collaboration to be done? (#32)</p> <p>Response 1: This is a matter of policy development by Working Group and Council; followed by registrant education. More information will be provided in the Registrant’s Binder.</p>		
(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 anything that is done for a</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>

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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>
	therapeutic, preventive, palliative, diagnostic or other health-related purpose.	
Organization Comment 1: The College may want to remove specific references to legislation, in this case the <i>Health Care Consent Act</i> , and use a more general description such as “required by law” and “as defined in legislation.” This approach provides more flexibility for the College should the legislation be revised. Additional information, such as the name of the legislation, can be incorporated into standards or guidelines. College of Nurses of Ontario (#49)		
(3) For the purpose of paragraph 8 of subsection (1), but without limiting the generality of that provision, a member ought to know that he or she does not have the knowledge, skills or judgment to treat a condition if he or she fails to undertake continuing education as specified by the College.¹	One of the best ways of maintaining competence is to engage in systematic and comprehensive continuing education. The College will issue policies/guidelines to help members engage in meaningful and appropriate continuing education.	Members are expected to only provide services that are within their abilities and to know when they are out of their depth. The rationale for this provision is to remind the member that unless he or she takes continuing education as specified by the College, he or she may be providing services beyond their abilities.
Individual Comment 1: Difficult pathologies can always benefit from palliative treatment. What is being implied here??? (#38)		
Individual Comment 2: As referred to in Section 3.(1)12 above, this is too vague and subjective. Firstly, homeopaths treat individuals, not conditions. Secondly, outside of obvious health care emergencies and controlled acts already regulated under the RHPA, the homeopathic process is the same for experienced and non-experienced practitioners. As far as I know, we do not take, analyze, assess or monitor an acne case any different from a cancer case. Therefore, how is a practitioner to “ <i>know or ought to know</i> ” what he or she does not have the knowledge, skills or judgement to treat? A case could be easily made either way in every single case of homeopathic treatment. Recommendation: Re-wording and re-structuring this provision is necessary. Elaboration and examples are needed to provide clarity for both the public and practitioners alike. (#125)		
(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"> • Promising a result that cannot always be delivered: i.e., a specific <u>homeopathic medicine remedy</u> can cure cancer or other disease state or health side effect. • Using comparisons, superlatives, suggestion of uniqueness, appealing to a person’s fears or creating an unreasonable 	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.

¹ This provision may be unnecessary if the quality assurance regulation is enacted before proclamation.

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>
	expectation of a favourable result: i.e., before and after photos, personal success stories and testimonials of effective from a <u>homeopathic medicine</u> remedy or health care professional; product endorsement.	
<p>There is a strong desire among two associations (representing 360 members collectively) and 11 individual members to utilize both before and after pictures and testimonials in advertisements and/or websites to assist in the education of the public as to the possible outcomes of homeopathy. See summary of comments above under provision 26 and below in Appendix 3.</p>		
<p>Response: The recommended provisions generally follow the Ministry of Health and Long-Term Care 2004 Guidelines for Drafting Advertising Regulations.</p>		
<p>Part II – Conflict of Interest</p> <p>2. (1) For the purposes of this Part, the following definitions apply unless the context indicates otherwise:</p>	<p>This part relates to paragraph 1(1).15 of the professional misconduct regulation.</p>	<p>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.</p>
<p>Individual Comment 1: The issue of conflict of interest is a fine line. There will always be someone who will perceive a potential conflict. Are we going to be persecuted simply on the appearance of a conflict? People see things in different ways. It appears to be based on the semantics of money; small is ok, large is not. Yet what is not appropriate to one is not a conflict for another. Where is the conflict in expressing thanks? (#23)</p> <p>Individual Comment 2: Once again, extremely detailed provisions are contained under this section of the draft misconduct regulations which may prevent existing practitioners from establishing and maintaining a viable practice. Conflict of interest regulations should be carefully and thoroughly analyzed with practitioner input prior to completion. Unless each item can be justified as (1) presenting a danger to the safety of the public and (2) has been identified as a valid issue in the practice of homeopathy in Ontario, they should be removed.</p> <p>Recommendation: Review each conflict of interest guideline with the above "tests" in mind and remove all provisions that cannot be clearly justified at this time. (#125)</p>		
<p>"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.</p>	<p>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).</p>	<p>The rationale for this provision is to provide the definition of "collateral benefit."</p>
<p>Organization Comment 1: TC-CHO has chosen to use the term "collateral benefits". The more common language used by health regulatory colleges is "benefits" as opposed to "collateral benefits." Is the use of the term "collateral" intended to convey something in addition to "benefits"? College of Nurses of Ontario (#49)</p>		
<p>Individual Comment 1: "collateral" benefit includes <u>any advantage or gain</u> Whereas (3)iii, allows for the use of "a product of nominal value". Will a value be set to define "nominal value", or will this be at the discretion of the Homeopath? (#43)</p> <p>Response 1: Duly noted.</p>		

<p>Proposed Provision <i>(Describes the act of misconduct.)</i></p>	<p>Explanation <i>(Explains how it may be applied.)</i></p>	<p>Rationale <i>(Explains why the provision has been included.)</i></p>
<p>"person" includes a corporation.</p>	<p>A corporation is a legal person.</p>	<p>The rationale for this provision is to provide the definition of "person."</p>
<p>"related corporation" means a corporation wholly or substantially owned or controlled by the member or a related person of the member.</p>	<p>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 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.</p>	<p>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 of interest.</p>
<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"> (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; (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; (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 (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. 	<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>

<p>Proposed Provision <i>(Describes the act of misconduct.)</i></p>	<p>Explanation <i>(Explains how it may be applied.)</i></p>	<p>Rationale <i>(Explains why the provision has been included.)</i></p>
<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 influenced by the arrangement or relationship. A conflict of interest may be actual, potential or perceived.</p>	<p>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 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 an 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>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 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>
<p>Organization Comment 1: TC-CHO may wish to consider adding bartering and multiple relationships as considerations for misconduct. Bartering presents specific challenges in quantifying the value of unrelated services and may not be in the best interest of the patient. Multiple relationships, that is, relationships other than the professional one, are frequently a cause of confusion for the member and the patient as boundaries for appropriate behaviour may not be clear. Recognition or inclusion of these additional issues is consistent with a public protection perspective. College of Nurses of Ontario (#49)</p> <p>Organizational Comment 2: It is unclear in Part II of the Professional Misconduct policy what the duties of the homeopath are regarding the sale of therapeutic substances and devices while protecting the patient's economic status. Part II, Section, 3 Paragraph ix covers the sale of any products and the necessity of the homeopath to inform the patient of the availability of such items by other sellers, but it fails to go as far as the College of Physicians and Surgeons of Ontario Policy 1-10 on Dispensing Drugs⁷ when speaking about the conflict of interest that will exist when making a profit on such drugs. We ask that a provision such as that found in the Ontario Medicine Act 1991, Section 16(d) be added to ensure that it is a "conflict of interest for a physician (<i>homeopath</i>) to profit on the sale of a drug to a patient except in very limited circumstances," (CPSO Policy 1-10). Those circumstances are set out in the Medicine Act above and concern only emergent and life-threatening situations. Also see letter under Tab 7 in Submission Binder. Committee for the Advancement of Scientific Skepticism (#72)</p> <p>In the light of this legislation and policies, it is obvious that a conflict of interest occurs when a homeopath profits from the dispensation of homeopathic preparations and this should be considered professional misconduct. Committee for the Advancement of Scientific Skepticism (#72)</p>		

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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>
(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;	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. Example: if a patient is referred to a health food store to purchase their <u>homeopathic medicine remedy</u> and the member receives and accepts a credit from the health food store for the referral there is a conflict.	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.
Individual Comment 1: To me there is no problem in accepting something for a referral. It is a way of saying thank you for your help. But in this present economy, largess is not the norm, but the exception A referral is not cart blanche that the patient that has been recommended will actually come for the therapy. Business and commerce are done regularly this way. Medicine is also a business. To pretend otherwise is naive. (#23)		
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;	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). Example: If the homeopath was to pay \$50 for each referral received there is a conflict.	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, at no charge, a product of nominal value to be used in the maintaining or promoting of well-being or health;	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 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.	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 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).
iv. —accepts, makes or confers a rebate, credit or other collateral benefit in respect of materials or	This provision deals with collateral benefits related to supplies or equipment. For example, a member	To ensure that any equipment and supplies are selected solely for the benefit of the patient and not for any

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<p>equipment including those intended to be provided to patients;</p>	<p>should not accept or receive a collateral benefit for using or recommending a supplier's supplement. The member's choice of supplements should be based solely on quality for the patient i.e. best quality and most effective product for use in treating patients. Even volume discounts, unless passed on to the patient, cannot be received.</p> <p>If a member orders \$7,500 of product a year and supplier 1 makes a mediocre product but offers a 52" TV to customers, but supplier 2 makes a superior product and offers no incentive; it is in the best interest of the patient to use supplier 2.</p> <p>If a member uses supplier 3 and gets \$1,000 worth of supplies or \$800, the cost savings must be passed on to the patient.</p>	<p>collateral benefit for the member.</p>
<p>Individual Comment 1: Does this imply that all supplements are to be provided at cost? If not at cost, then what level of profit is deemed acceptable? (#43)</p>		
<p>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;</p>	<p>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.</p> <p>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 <u>homeopathic medicine remedies</u> and supplies.</p>	<p>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.</p>
<p>Individual Comment 1: The agreement between said member and landlord/supplier is private, and no ones business but theirs! If they choose to allow them free space (and there may be a very valid, justified reason why) they may! And of course there may be the idea of then shopping in that store. Again, that is a cost of business, and is done all the time. If the product (or store for example) is not very good, this will be realized fairly soon and using the product/therapy will be stopped. I fear that gov'ts and organizations are way to intrusive in things that are not their concern. (#23)</p> <p>Individual Comment 2: I have a machine in my clinic that sometimes after having an experience my clients want to purchase and if I refer them I get a commission for this. Will I no longer be able to do this? (#38)</p> <p>Individual Comment 3: I sell supplements, vitamins, essential oils and creams to my clients and make a 20 to 40% mark up on these products, will I know longer be able to do that? Note: I have ND friends who are allowed to mark up their product 100%. (#38)</p> <p>Individual Comment 4: This proposed provision makes sense, but the explanation and rationale say something else. The explanation should state it only be for related</p>		

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<p>businesses. An example: One spouse owns a property. The other spouse has an office there and they don't pay rent. Under this proposed provision, the homeopathic practitioner must pay their spouse market rent. But if the spouse gave the homeopathic practitioner the property, it would be okay under this provision. A point of concern for this provision could be that struggling or beginning of practice homeopaths may be offered space for free or at a discount by a family member or friend that may be in a related business to ease the rental burden. This provision could impact the profession and drive homeopaths into their homes to practice which may not be ideal or workable and we could lose great practitioners to this provision. For example, sibling 1, an RMT let's sibling 2, the newly Registered Homeopath, use the RMT office on Wednesday and Friday afternoons when sibling 1 isn't there. Under this provision, this can't happen and sibling 1 may not have a place to practice because they have yet to build their practice. (#128)</p> <p>Response: This is a matter of registrant education.</p>		
<p>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;</p>	<p>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 <u>homeopathic medicine remedy</u> to all patients, regardless of their condition, is improper because that decision must be made on an individual assessment of the patient's needs.</p>	<p>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.</p>
<p>vii. engages in any form of revenue, fee or income sharing with any person other than:</p> <ol style="list-style-type: none"> 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 homeopathic practice including record keeping and billing. 	<p>This provision allows the member to join a health team.</p> <p>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 of patients.</p>	<p>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 / partner pressuring the member to cut corners, provide unnecessary treatment or bill inappropriately.</p>
<p>viii. recommends or suggests a <u>homeopathic medicine remedy</u> or product to a patient that is sold in any premises associated with the member without first offering to issue a written <u>instruction description</u> of the <u>homeopathic medicine remedy</u></p>	<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 <u>homeopathic medicines remedies</u> or products from the member's practice or the member's landlord. The</p>	<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 <u>homeopathic medicines remedies</u> or products elsewhere, perhaps at a lower price or at a more</p>

<p>Proposed Provision <i>(Describes the act of misconduct.)</i></p>	<p>Explanation <i>(Explains how it may be applied.)</i></p>	<p>Rationale <i>(Explains why the provision has been included.)</i></p>
<p>or product and advising the patient that he or she may purchase the <u>homeopathic medicine remedy</u> or product elsewhere without affecting the patient-practitioner relationship;</p>	<p>member must positively advise the patient that he/she is not obligated to purchase <u>homeopathic medicine remedies</u> or products from the member or the member's landlord, give the patient sufficient information to purchase the remedies or product elsewhere and advise the patient that any such decision does not affect the relationship. <u>Written instruction includes the name, dosage/strength, frequency and any other special information related to the homeopathic medicine for the patient.</u></p>	<p>convenient location.</p>
<p>ORGANIZATIONAL COMMENT 1: Practitioners who recommend or suggest supplemental health products in their offices or on the premises must disclose to their patients that he or she has the choice to purchase them elsewhere without fear of damaging the patient-practitioner relationship. Homeopathic remedies are not included in this category of supplemental products thus this provision does not apply to homeopathic remedies.</p> <p>Homeopathic remedies are not simple <i>health products</i>, they are not interchangeable by brand, they are uniquely prescribed, they come in many different potencies, and therefore are not subject to the same restrictions as supplements, vitamins, or other health products sold in every health food store in Ontario. Self-prescribing of homeopathic medicines can be dangerous. Sending a patient off to the local health food store to pick up a remedy can lead to confusion, mis-dosing and poor compliance, and thus is not in the best interest of the patient. With few exceptions e.g in the case of emergency, homeopathic remedies are individually prescribed based solely on the treatment plan created by the homeopath for that patient. Homeopathic medicines (remedies) are not supplemental to treatment and must be under the control of the practitioner to protect the public, who are not trained to prescribe, dose, or discern among potency selections. (#98) Ontario Homeopathic Association plus 4 Individual Comments (#39), (#57), (#64), (#99)</p> <p>Individual Comment 5: I totally disagree with this statement of not getting the remedy from the Homeopaths clinic if they have it there. "Not use their influence"? I am a Homeopath with a homeopathic remedy, but you don't need to get it from me. Why not? Perhaps no one else in the area has them. Patients are not stupid, they will find out soon enough if they are being gouged in some way and most likely won't come back. (#23)</p> <p>Individual Comment 6: In the case of water potencies, I am not aware of any health stores or pharmacies where a patient can purchase these remedies in that form. Many Homeopaths use only water potencies. Is the Homeopath mandated to suggest the use of dry-dose merely so that the patient can purchase the remedy elsewhere? Dry dose remedies are NOT the same as water potencies. (#43)</p> <p>Individual Comment 7: 3 viii, ix I object to these proposed subsections. Many Homeopathic Doctors include remedies in the consultation fee. It is often imperative to the case that the Homeopath prepare remedies carefully and precisely and using a specific format (dry or liquid). Advising the client to go elsewhere is neither a reasonable nor realistic expectation. (#124)</p> <p>Individual Comment 8: See comments provided for Section 8 above. Recommendation: Re-wording and re-structuring this provision is necessary. Elaboration and examples are needed to provide clarity for both the public and practitioners</p>		

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<p>alike. (#125)</p> <p>Individual Comment 9: The most probable and direct incentive for conflict is the linkage between remedy sales and the power to prescribe them. Wisely this power, with its opportunity for conflict, was kept at arms-length when considering the regulation of physicians. There is also no reason to think that homeopaths are any more or less virtuous than any other type of practitioner. Therefore, the conditions applied to members of the College of Physicians and Surgeons to maintain separation between their power to prescribe and the sale of remedies should be maintained in an equivalent fashion for homeopaths. (#63)</p> <p>(d) sells or otherwise supplies any drug, medical appliance, medical product or biological preparation to a patient at a profit, except,</p> <p>(i) a drug sold or supplied by a member to his or her patient that is necessary,</p> <p> a) for an immediate treatment of the patient,</p> <p> b) in an emergency, or</p> <p> c) where the services of a pharmacist are not reasonably readily available, or</p> <p>(ii) despite subclause (i), an allergy preparation prepared by a member for his or her patient that is sold or supplied by the member for a price that does not exceed the total of,</p> <p> a) the true cost of production of the preparation, and</p> <p> b) the fee for the professional component, for the member's review of the case, for the prescription of the material and for the general supervision of the member's laboratory in preparing the material.</p> <p>O. Reg. 241/94, s. 2. (#63)</p> <p>Keeping the two separated except for the reasonable exceptions provided for under the CPSO regulations is reasonable and appropriate and has proven reasonably successful in practice. There are no reasons provided in the draft regulations to support deviating from the CPSO regulation requirements. This working and proven model should prove equally capable of protecting the public interest for the regulation of homeopathy. (#63)</p>		
<p>ix. sells a <u>homeopathic medicine remedy</u> or product to a patient without first offering to issue a written instructions on description of the <u>homeopathic medicine remedy</u> or product and advising the patient that he or she may purchase the <u>homeopathic medicine remedy</u> or product elsewhere without affecting the patient-practitioner relationship;</p>	<p>Selling Products: This provision mandates that the member will not use his or her influence with the patient to pressure the patient into purchasing <u>homeopathic medicine remedies</u> or products from the member's practice. The member must positively advise the patient that he/she is not obligated to purchase <u>homeopathic medicines remedies</u> or products from the member, give the patient sufficient information to purchase the <u>homeopathic medicines remedies</u> or product elsewhere and advise the patient that any such decision does not affect the relationship.</p>	<p>This provision assures the public that any recommendation or suggestion made by the member is in the patient's interest only. <u>While the patient may choose to purchase from the member</u>, this provision also gives the patient the choice to obtain <u>homeopathic medicines remedies</u> or products elsewhere, perhaps at a lower price or at a more convenient location.</p>
<p>ORGANIZATIONAL COMMENT 1: Practitioners who sell supplemental health products in their offices or on the premises must disclose to their patients that he or she has the choice to purchase them elsewhere without fear of damaging the patient-practitioner relationship. Homeopathic remedies are not included in this category of supplemental products thus this provision does not apply to homeopathic remedies.</p>		

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<p>As stated in our rationale for provision 50.3 (viii) above, the individually prescribed remedy must be controlled and monitored by the homeopath prescribing it because the homeopath is responsible for managing the case. Remedy prescription is part of a treatment regimen and must be under the control of the prescriber only, both to protect the safety of the patient and preserve the efficacy of the prescribed treatment. (#98) Ontario Homeopathic Association plus Individual Comments (#64) (#99)</p> <p>ORGANIZATIONAL COMMENT 2: Re selling remedies: Many homeopaths include doses in consultation fees, due to the minimal expense of the dose. We suggest removing the requirement to give a written description unless requested by the patient, or a general exemption from this clause for single doses given during consultations. NUPATH (#123)</p> <p>Individual Comment 3: “issue a written description of the remedy” What type of description? Is this the proving symptoms? Or taken from a Materia Medica of choice? Or does this refer to the manufacturing process? Will descriptions be standardized similar to MSDS sheets? (#43)</p> <p>Individual Comment 4: The most probable and direct incentive for conflict is the linkage between remedy sales and the power to prescribe them. Wisely this power, with its opportunity for conflict, was kept at arms-length when considering the regulation of physicians. There is also no reason to think that homeopaths are any more or less virtuous than any other type of practitioner. Therefore, the conditions applied to members of the College of Physicians and Surgeons to maintain separation between their power to prescribe and the sale of remedies should be maintained in an equivalent fashion for homeopaths. (#63)</p> <p>(d) sells or otherwise supplies any drug, medical appliance, medical product or biological preparation to a patient at a profit, except, (i) a drug sold or supplied by a member to his or her patient that is necessary, a) for an immediate treatment of the patient, b) in an emergency, or c) where the services of a pharmacist are not reasonably readily available, or (ii) despite subclause (i), an allergy preparation prepared by a member for his or her patient that is sold or supplied by the member for a price that does not exceed the total of, a) the true cost of production of the preparation, and b) the fee for the professional component, for the member’s review of the case, for the prescription of the material and for the general supervision of the member’s laboratory in preparing the material. O. Reg. 241/94, s. 2. (#63)</p> <p>Keeping the two separated except for the reasonable exceptions provided for under the CPSO regulations is reasonable and appropriate and has proven reasonably successful in practice. There are no reasons provided in the draft regulations to support deviating from the CPSO regulation requirements. This working and proven model should prove equally capable of protecting the public interest for the regulation of homeopathy. (#63)</p> <p>Response: The Professional Practice Working Group has made a minor revision to this provision. Additional registrant education is required through draft conflict of interest guidelines.</p>		
<p>x. endorsing a <u>homeopathic medicine remedy</u>, product or service using one’s professional status.</p>	<p>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</p>	<p>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</p>

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	<p>matter if the member is paid for the endorsement or not. This provision does not prevent a member from 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.</p>	<p>public will perceive that there is. In any event, it is irresponsible to recommend a particular <u>homeopathic medicine remedy</u>, product and service at large without first performing an individual assessment of the person.</p>
<p>Individual Comment 1: I feel that this is a gray area. When I educate the public I recommend various products to them. These are OTC's and are readily available for a variety of conditions. For example – Parents on cough and cold products for children under the age of 6. Health Canada deems these DIN-HM medicines as safe. I should be able to promote these medicines. If Health Canada deems certain over the counter medicines as safe. I should be able to recommend them to parents without assessing each child. (#52)</p> <p>Individual Comment 2: The most probable and direct incentive for conflict is the linkage between remedy sales and the power to prescribe them. Wisely this power, with its opportunity for conflict, was kept at arms-length when considering the regulation of physicians. There is also no reason to think that homeopaths are any more or less virtuous than any other type of practitioner. Therefore, the conditions applied to members of the College of Physicians and Surgeons to maintain separation between their power to prescribe and the sale of remedies should be maintained in an equivalent fashion for homeopaths. (#63)</p> <p>(d) sells or otherwise supplies any drug, medical appliance, medical product or biological preparation to a patient at a profit, except, (i) a drug sold or supplied by a member to his or her patient that is necessary, a) for an immediate treatment of the patient, b) in an emergency, or c) where the services of a pharmacist are not reasonably readily available, or (ii) despite subclause (i), an allergy preparation prepared by a member for his or her patient that is sold or supplied by the member for a price that does not exceed the total of, a) the true cost of production of the preparation, and b) the fee for the professional component, for the member's review of the case, for the prescription of the material and for the general supervision of the member's laboratory in preparing the material.</p> <p>O. Reg. 241/94, s. 2. (#63)</p> <p>Keeping the two separated except for the reasonable exceptions provided for under the CPSO regulations is reasonable and appropriate and has proven reasonably successful in practice. There are no reasons provided in the draft regulations to support deviating from the CPSO regulation requirements. This working and proven model should prove equally capable of protecting the public interest for the regulation of homeopathy. (#63)</p>		
<p>(4) No member may engage in a conflict of interest.</p>	<p>This provision sets out the general prohibition against engaging in a conflict of interest. The next provision then lists the exceptions.</p>	<p>Conflicts of interest prevent a member from exercising his or her professional judgment in the sole interest of the patient.</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>
<p>Individual Comment 1: The most probable and direct incentive for conflict is the linkage between remedy sales and the power to prescribe them. Wisely this power, with its opportunity for conflict, was kept at arms-length when considering the regulation of physicians. There is also no reason to think that homeopaths are any more or less virtuous than any other type of practitioner. Therefore, the conditions applied to members of the College of Physicians and Surgeons to maintain separation between their power to prescribe and the sale of remedies should be maintained in an equivalent fashion for homeopaths. (#63)</p> <p>(d) sells or otherwise supplies any drug, medical appliance, medical product or biological preparation to a patient at a profit, except,</p> <p>(i) a drug sold or supplied by a member to his or her patient that is necessary,</p> <p> a) for an immediate treatment of the patient,</p> <p> b) in an emergency, or</p> <p> c) where the services of a pharmacist are not reasonably readily available, or</p> <p>(ii) despite subclause (i), an allergy preparation prepared by a member for his or her patient that is sold or supplied by the member for a price that does not exceed the total of,</p> <p> a) the true cost of production of the preparation, and</p> <p> b) the fee for the professional component, for the member’s review of the case, for the prescription of the material and for the general supervision of the member’s laboratory in preparing the material.</p> <p>O. Reg. 241/94, s. 2. (#63)</p> <p>Keeping the two separated except for the reasonable exceptions provided for under the CPSO regulations is reasonable and appropriate and has proven reasonably successful in practice. There are no reasons provided in the draft regulations to support deviating from the CPSO regulation requirements. This working and proven model should prove equally capable of protecting the public interest for the regulation of homeopathy. (#63)</p>		
<p>(5) Despite subsection (4) a member may refer a patient to a related person or a related corporation for either a service, <u>homeopathic medicine</u> remedy or product so long as the patient is first advised both verbally and in writing of the following:</p> <p>i. the nature of the relationship with the related person or related corporation;</p> <p>ii. the name and contact information of at least three other local providers of the service, <u>homeopathic medicine</u> remedy or product (or if there is no local provider, three other providers who are as close as possible to the patient); and</p> <p>iii. that the patient’s choice of another provider</p>	<p>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:</p> <ol style="list-style-type: none"> 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”). 	<p>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.</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>
<p>of the service, <u>homeopathic medicine remedy</u> 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.</p>		
<p>Individual Comment 1: 5. ii. I feel that if there is full disclosure of the service, remedy, or product that that should be sufficient. Having to provide each patient with 3 other places etc. is unacceptable. I recommend that my patients go to a specific health food store however I also give them the option to shop wherever they wish to. I give full disclosure and I feel that should be sufficient. (#52)</p> <p>Individual Comment 2: The most probable and direct incentive for conflict is the linkage between remedy sales and the power to prescribe them. Wisely this power, with its opportunity for conflict, was kept at arms-length when considering the regulation of physicians. There is also no reason to think that homeopaths are any more or less virtuous than any other type of practitioner. Therefore, the conditions applied to members of the College of Physicians and Surgeons to maintain separation between their power to prescribe and the sale of remedies should be maintained in an equivalent fashion for homeopaths. (#63)</p> <p>(d) sells or otherwise supplies any drug, medical appliance, medical product or biological preparation to a patient at a profit, except, (i) a drug sold or supplied by a member to his or her patient that is necessary, a) for an immediate treatment of the patient, b) in an emergency, or c) where the services of a pharmacist are not reasonably readily available, or (ii) despite subclause (i), an allergy preparation prepared by a member for his or her patient that is sold or supplied by the member for a price that does not exceed the total of, a) the true cost of production of the preparation, and b) the fee for the professional component, for the member's review of the case, for the prescription of the material and for the general supervision of the member's laboratory in preparing the material.</p> <p>O. Reg. 241/94, s. 2. (#63)</p> <p>Keeping the two separated except for the reasonable exceptions provided for under the CPSO regulations is reasonable and appropriate and has proven reasonably successful in practice. There are no reasons provided in the draft regulations to support deviating from the CPSO regulation requirements. This working and proven model should prove equally capable of protecting the public interest for the regulation of homeopathy. (#63)</p>		
<p>(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 the College to assess whether there is a conflict of interest.</p>	<p>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.</p>	<p>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 conflict of interest provisions may not be enforceable.</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>
<p style="text-align: center;">Part III – Record Keeping</p> <p>3. (1) The standard of the profession for record keeping relating to the treatment of a patient includes the following:</p>	<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 remedy <i>medicine</i> recommended are not listed below. However, the profession understands what details are to be recorded.</p>	<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>
<p>Individual Comment 1: This section in its entirety is far too detailed at the outset of regulation without assessing each provision to determine if (1) failing to do so poses a danger to the safety of the public and (2) is a reasonable expectation for all practitioners and (3) is required by law. Once again, I believe such detail relating to the management of practice should be subject to a thorough review and input of its stakeholders before being put in place. Recommendation: Defer this section in its entirety until such time as all stakeholders have had an opportunity to provide input and the TC-COH is afforded an appropriate amount of time for thorough review and analysis. (#125)</p> <p>Response 1: Duly noted. The Professional Practice Working Group feel strongly that it is both appropriate and responsible to introduce record keeping into regulation at this time to ensure consist understanding, expectations and education around this very important component of practice. Drafted guidelines have been developed to support clarity on implementation of the record keeping provisions.</p> <p>Individual Comment 2: If a patient asks to see his/her file, am I required to put the entire file at their disposal? Are they also able to view my repertorizations and evaluations? This would mean having to be careful about choice of words in analyzing the case. Or, are they just able to access information they provided to me and the resulting prescriptions? (#33)</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	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	This is a standard component of all health records.

Transitional Council of the College of Homeopaths Professional Misconduct Regulation

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>
authorized representative.	of his or her symptoms).	
<p>Individual Comment 1: Will an RHP be in the position to request a physical or laboratory tests be done? (#12)</p>		
<p>Individual Comment 2: It is my understanding that we "Homeopaths" call the people that come to us "Clients" not "Patients" (#69)</p>		
<p>Response 1: This is a matter of registrant education.</p>		
(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.
<p>Individual Comment 1: I am of the understanding that legally (unless previous education provides) that a Homeopath does not physically exam a client. Is this not so? (#69)</p>		
<p>Response 1: This is a matter of registrant education.</p>		
(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 reports not needed.	This is a standard component of all health records.
<p>Individual Comment 1: Will the RHP be in a position to request physical or laboratory test to be done? (12)</p>		
(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.
<p>Organizational Comment 1 and Individual Comment 1/2: How is "relevant" defined? Homeopaths receive many one-minute phone calls and answer many short emails. Exhaustive recordkeeping of these would require prohibitive pricing, lessening patient access to us for help. We suggest some sort of exemption for short communications. NUPATH (#123) plus Individual Comments (#132) (#133)</p>		
<p>Response 1: All communication is relevant in documenting the interaction with the patient. This is a matter of registrant education, which will be further outlined in the draft record keeping guidelines within the Registrants Binder.</p>		

Transitional Council of the College of Homeopaths Professional Misconduct Regulation

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>
(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 ² 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. "Interaction" involves any contact with the patient, including a phone call and email.	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 practitioners' retain patient records for fifteen years in keeping with the Limitations Act, 2002.
Organizational Comment 1: The TC-CHO may also, in the best interest of its members, wish to adjust the required retention time period of the various types of records to fifteen years, to be in line with section 15(2) of the Limitations Act, 2002. College of Physicians and Surgeons of Ontario. (#67)		
Response: Duly noted. See note from Legal Counsel.		
Individual Comment 2: There is a probably typing error in the explanation column – in the example the record must be kept for 11 years not 21 years. Correct? (#7)		
(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.

² The term "health care custodian" is defined in the *Personal Health Information Protection Act, 2004*.

Transitional Council of the College of Homeopaths Professional Misconduct Regulation

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>
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.
Organization Comment 1: The explanatory notes indicate that the College intends to develop standards of practice to provide specific expectations for member conduct in relation to record keeping. CNO has noted a variance amongst Colleges in their choice of approach to including details in regulation or including detail in standards. The latter approach which TC-CHO is using may provide more flexibility for regulatory colleges to revise professional conduct requirements, although there is the potential that legal authority and enforcement may not be as strong. College of Nurses of Ontario (#49)		
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.
ORGANIZATIONAL COMMENT 1: Re records of receipt, storage and disposition of homeopathic medicines: This is a paperwork nightmare, since homeopaths often dispense doses in single or few pellets, copy medicines, etc. Suggest an exemption for homeopathic medicines (i.e. with DIN-HM) since recalls are unheard of. NUPATH (#123)		
Individual Comment 1: Part III, In general, but specifically related to 3.(4) record keeping as it relates to the receipt and storage and disposition homeopathic medication/remedies. (#130)		
<p>Individual Comment 2: I have several very serious concerns related to this clause that make me further doubt the intent of this regulation, including: (#130)</p> <ol style="list-style-type: none"> The rationale that "Such records permit the member to be able to respond to questions from clients and to be accountable, or the college for his or her actions" is entirely unrelated to this clause. Patient concerns and/or the concerns of the collage regarding a member's action related to a patient is robustly covered in the Part III 3(1). What is the rationale for this clause? (#130) The rationale goes on to cite the possibility of a Homeopathic medication/remedy recall. Not only is this is entirely unheard of but nearly irrelevant since many Homeopathic practitioners duplicate their own medications/remedies. (#130) This clause is overly stringent and burdensome considering that Homeopathic medications/remedies are not controlled substances and are in fact widely publicly available. (#130) Meeting this clause will result in such undue hardship to Homeopathic practitioners that most will inevitably be unable to comply. (#130) This requirement is uncommon for other regulated health care providers. (#130) 		

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>
<p>Individual Comment 3/4: Many homeopaths dispense homeopathic medicines with each consultation or suggest that the client purchase the homeopathic medicine at a reputable distributor. This does not reflect current day to day practice in Ontario and creates a logistical challenge. To my knowledge no homeopathic medicines have been recalled. I suggest an exemption for homeopathic medicines. (#132) (#133)</p>		
<p>Individual Comment 5: Homeopathic remedies/medicines are not controlled substances, they are sold publically – We should not have to track them on this reason alone. Furthermore, this would be a record keeping nightmare, as often only one or two pellets are dispensed from a tube. The amount of time to track remedies would be detrimental to a Homeopath's profitability. (#135)</p>		
<p>Response 1: It is not the intention of the Working Group to make this record keeping requirement an onerous endeavor. It is, however, deemed an appropriate business practice to keep a record of products purchased, date of purchase, DIN, and date of disposal. This practice will ensure public protection in the case of recalls or adverse reactions.</p>		
<p>Individual Comment 6: I suggest that this clause be removed and replaced with the draft for the Naturopaths of Ontario Professional Misconduct Regulation Section 1. (1)24. that simply states it is an act of professional misconduct when "failing to keep records in accordance with the standards of the profession." The regulation goes on to state that "record keeping must comply with the generally accepted expectations of the profession. Standards of practice will be developed to set out additional guidance to members with respect to record keeping." Additional Homeopathic guidance regarding record keeping should be developed in consultation with the Homeopathic community. (#130) (#135)</p>		
<p>Response 2: This provision has been included in Part 1 of these regulations.</p>		
<p>3.(5) The standard of the profession for record keeping includes creating and maintaining an appointment and attendance record for ten years.</p>	<p>The College will develop standards to provide guidance.</p>	<p>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.</p>
<p>Organizational Comment 1: How is that to be recorded other than the existing record of the appointments? If it's a sign-in sheet, how is proof of attendance for phone consultants to be given? Suggest deleting this clause. NUPATH (#123)</p>		
<p>Response 1: As it is important to document interaction with the patient, the draft record keeping guidelines will also look to telehealth record keeping protocols. This is a matter of registrant education, which will be further outlined in the Registrants Binder.</p>		

APPENDIX 1

GENERAL COMMENTS FROM INDIVIDUALS:

Organizational Comment 1: COTO I have reviewed the draft regulations and have no comments to make at this time. Thank you College of Occupational Therapists of Ontario (#44)

Organizational Comment 2: Thank you for including the College of Medical Laboratory Technologists of Ontario (CMLTO) on your list of stakeholders for the circulation of the proposed draft registration, quality assurance and professional misconduct regulations. We have reviewed the documents and have no comments or suggested revisions to offer to the Transitional Council of The College of Homeopaths of Ontario. (#66)

Organizational Comment 3: As an organisation that promotes an evidence-based perspective on the world, CASS has several concerns regarding the regulation of homeopaths in Ontario and the commitment that the College of Homeopaths of Ontario has to protect the public from harm. These concerns are focused on: (i) the concept of Standards of Practice, (ii) the titles used by homeopaths in Ontario, (iii) the treatment of chronic and acute illness, (iv) the role that homeopaths intend to play in the prevention of communicable diseases and the use of vaccines in their practices, and (v) the sale of prescribed products including all compounded formulae and devices by the prescribing homeopath or his or her business. (#72) Committee for the Advancement of Scientific Skepticism

The criteria for the Standard of Practice as set out in Professional Misconduct Part I, Section 1 is a cause of concern for us. It is important when discussing Standards of Practice, to define the term "standards" as an average and agreed upon level or degree. This becomes a problem when faced with two different conflicting standards of practice, namely "classical" and "contemporary" or "combination" homeopathy. We are concerned that since the standard of care is so broad, being both "written and unwritten" as suggested in the explanation for this provision, that any care rendered by the homeopath and supported by another homeopath, regardless of the state of evidence of efficacy or safety of such practice, can be determined to be the standard of practice for the profession. (#72) Committee for the Advancement of Scientific Skepticism

Regulated health professionals occupy a position of significant trust in our society, and patients rely on them for accurate, factual information regarding health matters. This trust often goes far beyond the professed areas of competence of the practitioner. For this reason, it is vital that homeopaths are tightly regulated regarding the claims that they may make concerning non-homeopathic treatment options, including vaccinations. Any such statements should be required to meet the same standards of accuracy and verifiability as should be required of the positive health claims made by homeopaths. Moreover, such claims should be prohibited where there is a reasonable likelihood that they will lead to unfounded fears or concerns regarding medical treatments. (Such may include true statements regarding known side effects of conventional treatments, without indicating the likelihood of such side effects, or the counterbalancing benefits expected.) (#72) Committee for the Advancement of Scientific Skepticism

In addition to a requirement of accuracy, verifiability, and fairness in describing conventional medical treatments, we believe that the regulations must make abundantly clear the duty of homeopaths to refer patients to an appropriate physician or other medical practitioner whenever there is any risk to the life or health of the patient. This includes collaboration regarding routine and non-routine vaccination programs. Also see letter under Tab 7 in Submission Binder. Committee for the Advancement of Scientific Skepticism (#72)

Organizational Comment 4: Professional Misconduct Regulation: As this regulation has been made keeping in view of the RHPA (1991), HMAC approves the draft Misconduct Regulation. (#94) + 1 Individual (#126)

Organizational Comment 5: Professional Misconduct Regulations: As this regulation has been made in complaint with the RHPA (1991), HMECC Inc. approves the draft Misconduct Regulation. Homeopathic Medical Educational Centre of Canada INC. (#115)

Organizational Comment 6: Comments were ratified by the attending NUPATH membership at our Annual General Meeting for 2011, Oct. 22, 2011. (#123)

GENERAL COMMENTS From Individuals Support for Groups:

Individual Comment 1: My response to the Proposed Regulations corresponds to the response submitted by the Ontario Homeopathic Association to all proposed regulations. (#99)

Individual Comment 2: I support the comments on this regulation submitted by NUPATH and OHA. One frustration homeopaths have is that people do not know the full effectiveness of our work, due in part to a low public awareness of homeopathy in general, and in part to hostile media output such as the CBC Marketplace episode of Jan 14/2011, pseudoskeptics' ad campaigns, and so on. Testimonials and before/after pictures can illustrate that effectiveness in a way that no other vehicle can. So long as the homeopath is very clear right up front that the most spectacular results do not happen in every case and are not guaranteed, I don't think this is deceptive. (#129)

GENERAL COMMENTS FROM INDIVIDUALS:

Individual Comment 3: The work you are trying to accomplish is very commendable. However, if a law is not passed to protect our right to practice AND use homeopathic medicine (perhaps Alberta's example is worth a look), then we will go the same way as Europe. Big pharma has a plan to make all alternative medicine profitable for them. The plan has been in existence for more than 20 years. What has happened in Europe in the last 4 or 5 years is what is destined for us. Our only hope is to have laws passed, protecting our right to choose. Are any homeopathic groups doing this in North America that you know of? (#2)

Individual Comment 4: I agree with the draft for regulation of the homeopathic profession. Thank you! (#3)

Individual Comment 5: I think there is nothing to say. it is perfect way. Go ahead and make identity of homeopathic system in Canada. We need low registration and renewal fees too. (#4)

Individual Comment 6: I have read the included information and have no comments (#14)

Individual Comment 7: Also feel that Homeopathy will be accessed by public if the system is Included in OHIP/company insurance, as the public finds its difficult to pay from pocket as fees vary. (#17)

Individual Comment 8 to 10: No comment. (#18) (#97) (#143)

Individual Comment 11: RE: September 16 Presentation to ARHFC? Basil and Janet have done a great job of providing and communicating the most important aspects of regulation. They have also identified the most common claims and liable suits in Canada, including sexual abuse, slander, and protection of the term "doctor". (#36)

Individual Comment 12: I am happy that about registration regulation for homeopathic practitioners in Ontario with College of Homeopaths of Ontario. As per call for feedback for draft regulations, I enclosed some of the documents which may useful for the same. (#37)

Individual Comment 13: I support the work of the Transitional Council of the College of Homeopathy of Ontario to establish high standards for the profession. (#45)

Individual Comment 14: *Comments on Professional Misconduct Regulation re: Ethics*

- All Members must maintain exemplary standards of professional conduct.
- Courtesy, patience and understanding should be shown to patients and their families at all times.
- Members should not discourage patients from seeking other forms of treatment that may be appropriate.
- A Member must uphold the honour and dignity of the profession, and not engage in any activity which may bring the profession into disrepute.
- Members must act at all times in a manner which promotes public trust in the Homeopath's knowledge, ability and judgment, and enhances the good standing and reputation of the profession.
- A Member may not disclose information obtained in confidence from or about a patient or the patient's family to anyone without prior consent from the patient or the appropriate guardian unless the interest of the patient or the Law requires such disclosure.
- Members may not enter into an emotional, intimate or sexual relationship with a patient they are treating.
- Members may not make any unsolicited approach to another homeopath's patients without prior arrangement with the homeopath. (#56)

Individual Comment 15: Overall, the draft regulations are consistent with that of all other regulated professions in Ontario. I hope to see them adapted to the reasonable standard expected of a professional natural health practitioner as some of the sections still reflect allopathic legislative templates. (#62)

Individual Comment 16: The reference to "Patients", it is my understanding that we "Homeopaths" call the people that come to us "Clients" not "Patients". (#69)

Individual Comment 17: I understand that these documents are standards that are required by the government. I commend all who are directly involved in such a challenging process. I look forward to being part of a college that will give homeopathic medicine credibility and provide an important service to the public. I read all 3 documents and believe that the requirements are reasonable and necessary. (#77)

Individual Comment 18: Hi guys, you all doing a good jobs. I appreciate your hard work of your effort that you all are making in order to get homeopathy regulated. All the best. (#81)

Individual Comment 19: All three draft regulations appear comprehensive. As a member of the CMTO (College of Massage Therapists of Ontario), the draft regulations are similar to those of the CMTO. (#82)

Individual Comment 20: The same general comment given above for Quality Assurance applies to the Misconduct regulations. The text provided is in the "absolute" goodness BUT is only meaningful when a) the profession is clearly defined, b) its boundaries are clear and c) the standards of practice are documented. Without this context the proposed regulation can easily become the perfect basis for witch hunts and other perversions of the profession. I don't think it necessary or useful to comment in details, I have chosen only one item to exemplify the issues. (#92)

Note in the form of a postscriptum. The IHA in the 19th century adopted a three pronged definition:

1. Similar – in terms of matching symptoms of proving to symptoms of the diseased patient (#92)

2. Single remedy – one remedy at a time, no other to be given until the effect of the single remedy has passed (which, granted, could be seconds) (#92)
3. Minimum dose – one faction interpreted that to be the highest potency that will act, another faction, after Hahnemann, saw that as the smallest quantity possible of the correctly selected potency. (#92)

History has shown that the second and third prongs of the definition have often been the cause of heated (if not violent) debates. In my opinion they are not defining elements but rather fall in the category of style of practice. (#92)

Who can seriously dispute Eizayaga's success with low potencies administered frequently? Who can argue with the immense success in Europe with multiple concurrent remedies? Who can ignore the equally significant successes of the LM or Q potencies. (#92)

But without the first prong, there is no homeopathy. There maybe something useful even miraculous but it is not homeopathy if it is not the prescription of a medicine that produces in healthy people the symptoms observed in the diseased patient. (note that this can be a genius epidemicus as used in homeo-prophylaxis, and other disease related "protocols") Therefore I suggest that this or a close variation of it be used as the definition. From there, the boundaries as well as the standards that will enable a "reasonable professional opinion" can easily be derived. (#92)

Individual Comment 21: Regulation of homeopathy in Ontario certainly represents a milestone for future development and advancement of our profession. A primary objective in the regulation of homeopathy is public safety, ensuring that individuals referring to them selves as a homeopath are adequately trained. I agree for the most the Draft regulation, Quality assurance regulation and professional misconduct regulation, however the area I disagree with is the college requirements and the curriculum which is too taught in a three year program. (#95)

Individual Comment 22: Have spoken with Basil October 17/2011 regarding process, anticipation of regulation, any perceived obstacles to practice i.e. Co-existing in practice with naturopaths, chiro's who sell homeopathic remedies. Basil satisfied by questions. Thanks for the discussion Basil. (#100)

Individual Comment 23: I had several comments with respect to the initial work sent out by the Transitional Council of the College of Homeopaths of Ontario dated August 15, 2011 that have not appeared in the recent Road to the Regulation for Homeopaths in Ontario and further explained by the speakers at the Homeopathic conference including Basil Ziv and his colleague, Janet Blanchard on October 23, 2011. From that information session, the concerns that I have now are with respect to the educational preparation equalization for all homeopaths to include the basic background sciences required for medical, nursing, dental, chiropractic, etc. such as anatomy, physiology, pathophysiology, psychology, etc. in addition to the suggested 3 year program in homeopathy. This differs from the "after suitable prerequisites" as suggested in the Road to the Regulations for Homeopaths in Ontario because the homeopathic education in not consistent in all of the schools. So, I believe the Transitional Council must address the existing inequality of the education system and somehow standardize this to ensure all Homeopaths have the same education competency. Along with the issue of homeopathic education, all schools need to have a clinical base to ensure the clinical component experience of the homeopathic education correctly prepares the students for professional practice. This includes learning homeopathic issues of professional and ethical behaviour with patients in a clinic setting, and teaching clinical issues about professional misconduct regulations and quality assurance regulations, such as record keeping, observe privacy/confidential information, keeping records for a specific time, addressing all of the items outlined in the Professional Misconduct Regulation and Quality Assurance Regulations. (#111)

Individual Comment 24: I am writing to express my thanks not only as a tax payer of the province of Ontario but also for allowing me the choice for my health and wellness and protecting me in that choice. I use Homeopathic Medicine and appreciate that it is now going to be regulated under the RHPA. Personally I searched for a competent Homeopath. My homeopath had extensive medical health science schooling (MD), knowledge of classical homeopathy and hands on clinical training with live patients. It's VERY important that there are high standards of education and competency of practice. I look at my homeopath as a primary health care provider. It is also important that my homeopath be able to work in collaboration with other health care professionals. For myself, I believe I have the right to choose how I want to be treated

and Homeopathic Medicine has been my choice for years. I look forward to the day that I can take a letter from my Homeopath to my allopathic medical doctor and they can work together for my total care. Once again, thank you for moving in a positive direction in health care in Ontario. (#114)

Individual Comment 25: Appeal process

These new regulations give very broad and open-ended power to the regulatory body. I understand that the details are still be flushed out. I do believe that it is important in all matter or regulations that there be an accessible appeals process. This appeals process should be available for any aspect of the regulation that an individual homeopath feels is unjust given his/her situation. Homeopathy is based on customized medicine for each individual. I hope the council will organize itself to be able to meet each member individually, if needed. (#122)

Individual Comment 26: I have reviewed the draft regulations viz. (i) Professional Misconduct Regulation (ii)Registration Regulation and (iii) Quality Assurance Regulation and support them. (#126)

Individual Comment 27: In addition to the comments below I have a general concern with the very broad and open-ended power given to the regulatory body (College) as it has been proposed. I think that is essential that there is an open and transparent appeal process that will allow Homeopaths a venue for all manner of dispute resolution related to the decisions of the College. (#130)

Individual Comment 28: Reading the three proposed regulations it is clear that there is a lack of understanding of the Homeopathic profession as it is currently practiced in Ontario. I am justifiably concerned that if the Transitional Council continues in this vein the final regulatory package (regulations, guidelines and policies) will, at the very least, hobble Homeopathic practitioners. I am sure that it was in interest of expediency that consultation and research were previously eschewed. What needs to be realized is that expediency is likely to come at the expense of the homeopathic profession in Ontario. (#130)

Individual Comment 29: In conclusion, I would say that to continue this process with these current timeframes makes no sense whatsoever. This entire process is being rushed, and too much information is still too vague. Please remember, that as Homeopaths, we have made very important decisions to move into this career, dedicating much time, energy and money to this wonderful profession. I ask that you treat us, as much as you wish to treat the public, with respect and consideration. For many of us at this moment, it feels as though our very ability to practice may be at risk. (#131)

Individual Comment 30: Homeopathy is being regulated because of a perceived 'risk of harm' to the public from incompetent and insufficiently trained practitioners. How do we ensure others that practice homeopathy (Naturopaths, Chiropractors, Nutritionists, Massage Therapists, Osteopaths, Health Food Store Service Representatives, and Pharmacists) will be held to the same competencies as are required of homeopaths? Will the above be permitted to practice homeopathy without using the term Homeopath? Unless these other practitioners are properly trained; their scope of practice should be limited and realistically they should all attain the level of competencies as set out by the College. (#133)

I appreciate the efforts and amount of time devoted by all of the members and staff of the TC-CHO. However, given the sequence of events and the time-frame as dictated by the Ministry of Health, it has placed the key stakeholders; the Homeopaths themselves at a disadvantage and has caused them to feel alienated from the process. This expediency is likely to come at the expense of the homeopathic profession in Ontario and will act as a deterrent to many Homeopaths from joining the College. (#133)

Individual Comment 31: Canadians My simple feed back regarding the New College is that full research into the fact that Homeopathy is the safest system of medicine and is practiced all over the world. The facts that Ontario is trying to regulate something that is making a profound difference to our health care and lessen illness brought into Medical Doctors offices, hospitals and keeping individuals healthy to be at work, school and home life healthy. If the government, health organizations would put more advertising, shared Homeopathy's credibility with Ontario citizens our health care would not be overloaded, overtaxed and over spilled patients in waiting rooms at

hospitals. If this college is going to regulate us homeopaths that have a clean, effective record of healing then they must do the same for Naturopaths who have very little hours in training for case taking and administering homeopathic remedies. My overall comments to all of the above is that the College is attempting to create something based on fear of allopathic practice, not at all looking at the reality of how homeopathy can heal and is safe and can be beneficial in acute and chronic health conditions and can change the course of Ontario, and Canada's overall health environment. We has practicing homeopaths have attended credible schools here in Canada and practice with overall integrity. If the college is going to offer a fair opportunity to all Homeopaths we should have the designation of Doctor . We should be grand fathered into the college with the designation Doctor. To show our credibility and to show that the college is actually working along side the homeopaths to create the best health care for our citizens. We as homeopaths should be privileged to charge as we see fit, considering each case. Our homeopathic clients/patients are treated as individuals with individual needs. I would only consider joining this college if the full expectations were to work as a team, Doctors of Homeopathy in the best interest of the citizens of Canada. Giving full credit to a system that is credited all over the world as safe, easy and effective. It appears by the collective information you are starting with a non-complementary college in a extremely complementary health care system. Canadians deserve the best and Homeopathy provides this and if you are creating a "college" in practice for everyones best interest you have not achieved with this document to date. Thank You (#139)

Individual Comment 32: I support the work of the Transitional Council of the College of Homeopaths of Ontario to establish high standards for the profession. (#141)

Individual Comment 33: Regulation will impose restrictions on the ability to practice within the vast scope of homeopathy. The proposed regulations reflect the Classical view which is unduly restrictive. Classical approach will dominate the regulated homeopaths. Is the goal of regulation to favour a single school or to reform homeopathy by excluding the majority of current students and practitioners from immediate Active Registration? The Regulation Draft represents an allopathic legislative template, overall consistent with that of all other regulated health professions in Ontario. The reasonable standard expected of a professional natural health practitioner should be considered. Regulations set homeopaths up to being effectively marginalized by the allopathic community. Homeopathy would likely become a sub-set of naturopathy, which is what ND's is pushing for. The above comments reflect a few of the negative outcomes of Regulation. I do support topics such as registration, professional misconduct, quality assurance, advertising, informed consent, conflict of interest, record keeping, etc. and as a professional Homeopath, I presently adhere to these provisions. (#144)

Individual Comment 34: After reading through all parts of proposals; I would also like to see, in addition to all the requirements for practitioner education and protection of public; some concrete establishment of protection rules for the practitioner. i.e. against malicious prosecution by the public we are trying to protect – etc. Otherwise, thank you all, it is certainly a large task you are undertaking on our behalf. (#150)

APPENDIX 2

Provision 19. Charging a block fee.

Organizational Comment 1: The explanation seems to suggest that a member can offer a discounted service for any reason. Was this the intention? i.e. a member could offer a discount to every patient who did not have insurance coverage, thereby charging more for patients with insurance coverage. It does not state that discounted fees must be posted. Board of Directors Drugless Therapists - Naturopaths (#48)

Organization Comment 2: This section prohibits the use of block fees (e.g., a fixed fee for a specific number of visits usually at a discounted rate). The explanatory notes indicate that this does not prohibit members from offering discounted fees, at their discretion, to specific populations (e.g., seniors, chronic disease patients) or to long time patients. The College may want to consider including a specific section to address discounted fees to provide clarity for both the public and members including the criteria that must be applied when determining when and how to apply discounts. TC-CHO may also want to consider the ethical implications of permitting a discounted fee based on loyalty to a provider. College of Nurses of Ontario (#49)

Individual Comment 1: I am also concerned about the block booking issue. There is good reason to offer block deals for patients -- there are instances of complex chronic disease in which there is a clear need for multiple visits. Establishing this at the outset with a block payment option is beneficial for the client. Moreover, some homeopaths, like myself, offer a block that includes nutritional sessions -- this is an essential part of the treatment and committing to it financially is important for success on the patient's part. (#6)

Individual Comment 2: See letter from respondent #10. (#10)

Individual Comment 3: Though homeopathy is holistic in nature and one can not fore-see what would happen next, yet considering the senior and economically down-trodden people, who can get 3 or 4 visits per year from a homeopath by paying an affordable amount agreed up by the both, at a time, so to say, once in a year! It's not discrimination, rather expansion of services to less fortunate people. Please consider that side also! (#15)

Individual Comment 4: Some of my patients pay less because of their financial condition, will this still be allowed? I also volunteer free homeopathic services at one of the Mission in the city, how does this clause affect my capacity to do this? (#38)

Individual Comment 5: Delete. Explanation: Discounted fees for packages are offered on the recommendation of the homeopath, who can gauge the number of follow-up visits required after the initial case-taking.

Rationale: The patient will benefit from the discounted price. The decision of whether or not to purchase a treatment package vs. paying for visits individually remains with the patient.

There is no restriction regarding block fees in the Regulations for Naturopaths. (#39)

Individual Comment 6: I do not agree that "Since homeopathy is an individualistic treatment without a standardized algorithm, block fees are not deemed appropriate for the profession." Block fees should be allowed. (#91)

Individual Comment 7: A "block fee" can be a way to differentiate your practice, and to make it more economical or convenient for patients. We are competing with other professions that are covered by extended health benefits, and as such should not be denied the ability to price our services in a way that is attractive to prospective clients

who will shop around. Physicians are entitled to charge patients for uninsured services, and they may offer patients a block fee. I believe the draft regulation for naturopaths does not prohibit block fees. (#91)

Individual Comment 8: I do not agree that "Since homeopathy is an individualistic treatment without a standardized algorithm, block fees are not deemed appropriate for the profession." Block fees should be allowed. A "block fee" can be a way to differentiate your practice, and to make it more economical or convenient for patients. We are competing with other professions that are covered by extended health benefits, and as such should not be denied the ability to price our services in a way that is attractive to prospective clients who will shop around. Physicians are entitled to charge patients for uninsured services, and they may offer patients a block fee. I believe the draft regulation for naturopaths does not prohibit block fees. (#109)

Individual Comment 9: In the professional misconduct section, it lists packaged pricing as unallowable. In my practice, almost all my patients have chosen to buy a package of follow-ups. A la carte follow-ups are available but it is more cost effective to buy a package. There is no expiry on the package and no time estimates about how long treatment should take. My patients really appreciate having this money 'in the bank' with me. It prevents them from having to pay every visit and allows them to call me or email me for consultations without having to deal with a separate bill. In two years, I have never had any conflicts about packages. Given that I do not accept credit or debit cards and most patients rarely carry cash or cheques, this pre-payment system works very well. I would like further explanation as to your concerns about this practice. (#122)

Individual Comment 10: The nature of the homeopathic treatment process is inherently conducive to block fees, which encourage the patient to commit to the homeopathic process for a reasonable amount of time by being rewarded by a reduction in fees. I do not see any realistic "danger" to the safety of the public by allowing this practice in homeopathy. It is a valuable business tool for the homeopath and should be supported.
Recommendation: Remove this section of the draft Misconduct regulations. (#125)

Individual Comment 11: I understand the intent of this clause is to ensure equal access to treatment and I fully support that intent. I do not think that this clause actually meets that intent. I propose that this clause be removed and replaced with section 1(1)22. of the draft Naturopathic Professional Misconduct Regulation that prohibits "Offering or giving a reduction for prompt payment of an account." but very clearly states that "Additional guidance will be provided to the profession in the generally accepted standards on fees, including guidance on multi-visit packages." I think that the replacement clause will achieve the intent of the original clause and address the following concerns: (#130)

- a. Many Homeopaths are currently utilizing block fees/multi visit rates in their practice to ensure return clients. This clause will radically and detrimentally impact many Homeopathic practices. Standards and guidelines should only be implemented after adequate consultation & study of the profession as practiced today has been done. (#130)
- b. The development of billing standards/ guidance that are consistent with the standards/ guidance of other Ontario health care providers is essential for the success of Homeopathic practitioners in Ontario. (#130)
- c. The rationale provided for this clause is nonsensical – "Block fees are a common source of dispute between members and their patients". There are no members at this time. Who has been reporting and tracking said disputes? (#130)

Individual Comment 12: The nature of the homeopathic treatment process is inherently conducive to block fees, which encourage the patient to commit to the homeopathic process for a reasonable amount of time by being rewarded by a reduction in fees. I do not see any realistic "danger" to the safety of the public by allowing this practice in homeopathy. It is a valuable business tool for the homeopath and should be supported. Recommendation: Remove this section of the draft Misconduct regulations. (#132)

Individual Comment 13: Many Homeopaths treat families and also provide ongoing treatment during cold, flu and allergy season. The nature of the homeopathic treatment process is inherently conducive to block fees and especially so during the examples above. This process encourages the client(s) to commit to the homeopathic process for a reasonable amount of time by being rewarded a reduction in fees. There is no danger to public safety and it is a valuable business tool for the homeopath and should be supported. I suggest that this section be removed from the Misconduct Regulation. (#133)

Individual Comment 14: Block fees are beneficial both for the practitioner and the patients. Until the government will provide assistance in the cost associated with Homeopathic treatment, block fees should be allowed. The Homeopathic profession is not covered by OHIP nor by most third party insurance companies and thus Homeopaths must market and create fee packages to be competitive in growing their practice. (#135)

Individual Comment 15: Comments: Block fees should be a discretion of practitioners. (#142)

APPENDIX 3

26 Advertising

The comments related to this provision, should be read in conjunction with those of provision Part 1 (4) (b) regarding before and after pictures and (c) related to testimonials. The full list of comments on this provision and Part 1 (4) can be found in Appendix 3 at the end of this report.

Specific to provision 26: The following comments represent the voices of 16 individuals and two homeopathic associations which collectively have 370 members. In addition, one public organization and one public individual provided comment to support strict guidelines on advertising and testimonials.

Overall individuals felt that since homeopathy is not well known testimonials are an effective manner in which to demonstrate the effectiveness of the treatment. Individuals wish to be able to use testimonials in office, on their websites, and ethical advertising vehicles. Since homeopathy is not covered by OHIP or broadly covered by insurance, freedom of speech in advertising is seen as key to generating patient base.

On the reverse side of this argument, one organization and one public individual suggested that these are important provisions for public protection which ought to be as strong as possible.

Response 1: The recommended provisions generally follow the Ministry of Health and Long-Term Care 2004 Guidelines for Drafting Advertising Regulations.

Organizational Comment 1: regarding advertising, compounds the problem of Section 25. While it is of course entirely correct to bar false or misleading advertising, this does not go far enough. Many doubtful claims cannot be demonstrated to be false, yet it would be entirely inappropriate for a medical practitioner to advertise services by making such claims. Medicine does not advance through the falsification of a claim but by the presentation of robust evidence supporting a claim. Therefore the standard should be that advertised claims must always be backed up by solid scientific evidence. Far more appropriate language is that proposed by the College of Chiropractors of Ontario, requiring advertising to be "accurate, factual, and contain information that is verifiable." Also see letter under Tab 7 in Submission Binder. Committee for the Advancement of Scientific Skepticism (#72)

ORGANIZATIONAL COMMENT 2 & INDIVIDUAL COMMENT 1, 2, 3, 4: We concur that promising results that cannot always be delivered is unethical. However, a before-and-after photo and testimonials in general should be allowed and can be a useful tool to show, for example, the resolution of a skin condition. False and misleading advertising is already illegal (#98) Ontario Homeopathic Association + 4 individuals (#39), (#57), (#64), (#99) supported this position.

ORGANIZATIONAL COMMENT 3: See below. NUPATH (#123)

Individual Comment 5: Since Homeopathy is not well known my patients give me testimonials in order to share with others how this mode of treatment has helped them. I have these Testimonials on my web site. This clause tells me this will no longer be allowed?? I understand someone can be misleading here, but the public has no idea of what Homeopathy can do, so unless there will be a well organized "Public Awareness Campaign" educating the public on the effectiveness of Homeopathic treatment, I feel we should be able to share our clients sincere and positive experiences. (#38)

Individual Comment 6: The explanation for this item indicates that personal success stories and testimonials of effective treatment are not permitted forms of advertising. I recognize that the College is using a medical model here; however, the reality is that licensed medical doctors are paid through OHIP (in Ontario) and have little or no need to advertise, given that they are virtually guaranteed to have patients through the current billing system. Restricting this form of advertising limits Homeopaths to using only their name and address for advertising. Homeopaths are struggling to build practises and struggling financially. These restrictions will not help. As a Homeopath practising other modalities (RNCP/ROHP and Bowenwork), neither of which are regulated, I will be advertising my non-regulated services and specialisations. There are many Homeopaths that practise other modalities (whether regulated or non-regulated). (#43)

Individual Comment 7: In regards to professional misconduct regulation, for the purposes of paragraph 26 of subsection (1) related to advertising, I think successful stories without mentioning the name of a particular remedy used for the case is a good tool to explain to patients how homeopathy works and how effective it can be. (#50)

Individual Comment 8: I feel that this needs to be more flexible. Homeopaths should be allowed to use testimonials that are a true reflection of what the medicines can do. Many consumers do not know about the benefits of homeopathy and I feel that educating the public is key. Perhaps there should be room here for fair statements that are true and not misleading.

I feel that there should be provisions made here that can allow the homeopath to advertise in a truthful way that will not mislead consumers. A public awareness campaign may work. Better guidelines need to be established here. (#52)

Individual Comment 9: In regards to professional misconduct regulation, for the purposes of paragraph 26 of subsection (1) related to advertising, I think successful stories without mentioning the name of a particular remedy used for the case is a good tool to explain to patients how homeopathy works and how effective it can be. (#56)

Individual Comment 10: also risks penalizing members unnecessarily. Superlative and incredible claims are to be avoided, however, the ever-present disconnect between natural health and allopathic professionals means that the standard for false and misleading is skewed. The section should be drafted to reflect the nature of homeopathic medicine and natural health beyond the weak rationale that homeopathy does not measure specific outcomes. This section is common and well-meaning but it should not be so broad as to include common claims that a reasonable professional homeopath may make. (#62)

Individual Comment 11: No homeopath should be able to make the claim that homeopathy is based in science. This is patently false. If homeopaths did adhere to science they would accept the evidence and move into another aspect of health care. It's also fair to note that anecdotal testimonials are the currency of proof of efficacy in homeopathy however notwithstanding this homeopathic tradition the regulation should remain as proposed.

Again we are faced with the same fundamental dilemma are the patients to be informed on the basis of (false) beliefs held by homeopaths or clinical understanding. As long as there is a categorical understanding that none of the claims have any scientific/clinical standing that would seem a reasonable starting point.

However, homeopaths repeatedly claim scientific validity as per the quotes below taken from various websites: (#63)

- Homeopathy is a natural and *scientific* system of medicine that stimulates the body to heal itself.
- These medicines are prepared according to *scientific principles* that allow them to be easily utilized by your body to support your body's attempts to heal itself.
- Dr. K____ presents a *modern and scientific* face of homeopathy. Her huge practice supported by clinical research based data, statistics and *scientific documentation*, make it unique in the homeopathic world
- Homeopathy is *scientific*, logical, safe, quick and extremely effective module of healing.

- Homeopathy is one of the most rational *sciences* with respect to its concept of health, disease and cure. The claims can be made but with the disclaimer they are not validated by science, unless the standard of scientific proof is met. Homeopathy cannot reject the outcome of the scientific process on its efficacy and claim its validation too. (#63)

Individual Comment 12: *Professional advertising must be factual and not seek to mislead or deceive, or make unrealistic or extravagant claims. Advertising may indicate special interests but must not make claims of superiority or disparage professional colleagues or other professionals. No promise of cure, either implicit or explicit, should be made of any named disease. All research should be presented clearly honestly and without distortion, all speculative theories will be stated as such and clearly distinguished.* (#63)

Individual Comment 13: "personal success stories and testimonials of effective from a remedy or health care professional; product endorsement" I have a problem with the above being considered 'false or misleading'. Please clarify what is at issue here. Is this not how conventional doctors prescribe most of their drugs? Based on what the pharmaceutical rep has told them about how the new drug or vaccine works? Re: product endorsement: Does this mean that we cannot sell products, such as tissue salts or supplements, for the convenience of our clients? Are Naturopaths also regulated to not endorse products? (#124)

Individual Comment 14: Homeopathy is a business as much as it is a service and must be successful to survive. Regulations regarding business management must be respectful to the interests of both the practitioner and the patient. I am not certain that specific advertising "misconducts" should be included at this time until a more thorough assessment of what must, can and should be included can be completed. For example, *patient testimonials* appear to be a "misconduct" pursuant to the explanatory note and is ludicrous. This is a main factor in generating homeopathic patients - referral by other patients. Disallowing patient testimonials, worded in an appropriate manner, is essential to building a practice.

Recommendation: Defer this section until more thorough research, analysis and consultation with the homeopathic community can be undertaken. Alternatively, remove the words "...*personal success stories and testimonials of effective from a remedy or health care professional...*" at the end of bullet point two in the explanatory note. (#125)

Individual Comment 15: It seems unreasonable and unduly restrictive to not allow us to use Testimonials on our websites etc. We would not be referring to specific remedies since, as noted in the point above, We treat the individual not the disease. So ten people with Migraines will likely get ten different remedies. Testimonials are powerful in that they are based on real people's positive experiences with Homeopathy. I do not understand what is wrong with that. (#131)

Individual Comment 16: As health care practitioners, homeopaths are at a disadvantage since our services are not covered by public health insurance or most private extended insurance plans. Successful advertising with testimonials is very effective. Testimonials do not guarantee a promised result or health outcome; they simply suggest that the client was very satisfied with care provided by the Homeopath. It is a mode of referral. I suggest allowing testimonials and personal success stories as a mode of advertising so long as the member clearly communicates that the most positive results cannot always be expected or guaranteed. (#132)

Individual Comment 17: As health care practitioners, homeopaths are at a disadvantage since our services are not covered by public health insurance or most private extended insurance plans. Successful advertising with testimonials is very effective. Testimonials do not guarantee a promised result or health outcome; they simply suggest that the client was very satisfied with the care provided by the Homeopath. It is a mode of referral. I suggest allowing testimonials and personal success stories as a mode of advertising so long as the member clearly communicates that the most positive results cannot be expected or guaranteed. (#133)

Individual Comment 18: Most of homeopathy is case-based, all of it is unique. If we are not allowed to talk about cases of effectiveness and uniqueness (what is considered advertisement?) then how are we going to talk about homeopathy at all? This is formulated in a way that seems intentionally prohibitive to how homeopathy is represented and explained. (#142)

Part 1 (4) Testimonials / Before & After Pictures

ORGANIZATIONAL COMMENT 1 & INDIVIDUAL COMMENT 1, 2, 3, 4, 5: We concur that promising results that cannot always be delivered is unethical. However, a before-and-after photo and testimonials in general should be allowed and can be a useful tool to show, for example, the resolution of a skin condition. False and misleading advertising is already illegal. No professional health care practitioner should be appealing to peoples' fears. The authentic testimonial of a satisfied patient is not inappropriate provided it is not used as a suggestion of uniqueness appealing to a person's fears or creating an unreasonable expectation of a favourable result. (#98) Ontario Homeopathic Association plus (26) (#39) (#64) (#57) (#99)

ORGANIZATIONAL COMMENT 2: (b) Before-and-after pictures are some of our only means of communication with prospective clients. Likewise testimonials. As health care practitioners, homeopaths are at a disadvantage since our services are not covered by public health insurance or most private extended insurance plans. We cannot be successful without effective advertising. We suggest allowing the above modes of advertising so long as the member clearly communicates that the most positive results cannot always be expected. False or misleading advertising is illegal under advertising legislation anyway. NUPATH (#123)

Individual Comment 6: Of Note – With regards to advertising, will the homeopath be permitted to advertise other health care modalities they practice, separate from Homeopathy. For example; as an RMT I have not been allowed to advertise that I also practice Homeopathy. Will regulation change this? (#23)

Individual Comment 7: Same as 26. Above. I have client testimonials on my website?? Are they no longer allowed? (#38)

Individual Comment 8: Testimonials are an effective way of educating the public about the little known effectiveness of homeopathy; some patients also want to provide testimonials about the personal care they received from their homeopath. Denying practitioners the ability to use testimonials puts us at a great disadvantage in a market place that favours mainstream medicine. Pharmaceuticals use testimonials in advertising and encourage the public to ask their doctor about a particular medication. The ministry does not seem to limit their advertising or their claims. We should be allowed to use testimonials that meet certain guidelines. (#91) (#109)

Individual Comment 9: It concerns me that we are not allowed to advertise testimonials from other patients. I understand that it would be unethical for a testimonial to reference a specific remedy for a specific condition. However, it seems unduly restrictive to prevent testimonials that do not reference remedy types. Homeopathy is so poorly understood. People relate to other people's experiences. Testimonials on brochures or web sites seem reasonable and effective as long as they do not link remedies with particular conditions. (#122)

Individual Comment 10: See comments detailed in Section 26 above.

Recommendation: Defer this section until more thorough research, analysis and consultation with the homeopathic community can be undertaken. Alternatively, remove the words "...personal success stories and testimonials of effective from a remedy or health care professional..." at the end of bullet point two in the explanatory note. (#125)

Individual Comment 11 Regarding the use of personal success stories and patient testimonials: I understand that the intent of this clause is to prohibit aggressive, misleading and potentially false advertising. The clause itself is not the problem, and it is consistent with how other health professionals are regulated, the problem is the

explanatory note that has been included. I suggest eliminating the explanatory note and providing additional guidance outside of this regulation as required to "...to give some guidance to the members of inappropriate advertising..." (#130)

Response 2: This is a policy decision to be put forth by the Professional Practice Working Group and a matter of registrant education.

APPENDIX 4

OTHER SUGGESTED PROVISIONS

Organizational Comment: TC-CONO has also indentified two provisions not included in the draft Regulations which we would recommend the transitional Council consider including:

Organizational Comment: Recommended provision 1)

"Offering or giving a reduction for prompt payment of an account" the absence of which favours the wealthy who are typically always able to pay promptly." (#22)
Transitional Council-College of Naturopaths of Ontario

Organizational Comment: Recommended provision 2)

"Failing to itemize an account such that it distinguishes professional fees, products, services and applicable taxes", a provision which TC-CONO is proposing to include in its Professional Misconduct Regulation in order to ensure that patients are fully aware of all elements of costs and to ensure that there is transparency in the transactions. (#22) Transitional Council-College of Naturopaths of Ontario

Organizational Comment: from College of Nurses of Ontario (#49)

Part III Record Keeping – Other Considerations

Discount for Prompt Payment – It is common for Colleges to include a reference that prohibits members from offering discounted fees for prompt payment. This type of discount favours the affluent and comparatively results in higher fees for those who do not pay promptly. Access to health care should be equal regardless of ability to pay.

These recommendations were duly noted but not adopted by the Professional Practice Working Group.