



Board of Directors of Drugless Therapy  
NATUROPATHY

**SUBMISSION  
TO THE  
STANDING COMMITTEE ON SOCIAL POLICY  
ON**

*Bill 179 ("An Act to amend various Acts related to regulated health professions and certain other Acts")*

**September 28, 2009**

## **INTRODUCTION**

Naturopathic Doctors have been regulated in Ontario since the 1920s; first under the *Medicine Act* and subsequently under the *Drugless Practitioners Act* (DPA). The Board of Directors Drugless Therapy-Naturopathy ("the BDDT-N" or "the Board") is the regulatory body for the profession under the DPA. The profession is the last to be regulated under the DPA.

In June 2007, the *Naturopathy Act, 2007* received Royal Assent. When proclaimed, that Act will bring the Naturopathic profession under the *Regulated Health Professions Act (RHPA)* and the *Drugless Practitioners Act* will be revoked. The Naturopathic profession is in the unique position of being the only profession among those being brought under the RHPA (Kinesiology, Psychotherapy, Homeopathy and Traditional Chinese Medicine) that is already regulated and, therefore, moving from one regulatory system to another. This is the same situation for other professions such as physiotherapy and chiropractic that moved from the DPA to the RHPA in 1993 when that Act was proclaimed. This situation creates several unique challenges and opportunities for the Naturopathic profession, some of which remain unresolved.

While regulated under the DPA, the Naturopathic profession is exempted from the controlled act provisions of the RHPA pursuant to subsection 27 (3) of the RHPA. This exemption ensures that NDs are permitted to carry out "activities that are within the scope of the practice of naturopathy". An exception is access to the controlled act of "Prescribing, dispensing, selling or compounding a drug...." [i.e. controlled act 27. (2) 8]. The *Naturopathy Act, 2007* would authorize NDs to perform six controlled acts. These controlled acts are part of the accepted scope of practice for NDs.

A Transitional Council for Naturopathy is expected to be in place soon to develop foundational regulations, bylaws and standards of practice needed to regulate the profession under the RHPA. Once this work is complete, the *Naturopathy Act, 2007* will be proclaimed and the College of Naturopathy will commence operations. The current members of the BDDT-N will be appointed to the Transitional Council and will serve in both capacities until the *Naturopathy Act, 2007* is proclaimed and the new College of Naturopathy begins operation. The BDDT-N will continue to regulate the profession until then.

There are currently 981 Naturopathic Doctors who have met the requirements to practise the profession in Ontario and who have registered with the Board. 55 NDs are also registered with RHPA Colleges.

Having provided a very brief history of the regulation of Naturopathic Doctors in Ontario, the BDDT-N would like to address three issues with respect to Bill 179:

## **REGULATORY CONTINUITY**

As indicated above, the transition from the *Drugless Practitioners Act* to the RHPA has created some unique challenges --- and it has taken several attempts to get it right.

Upon passage of the *Naturopathy Act, 2007*, the Board realized that a gap exists in terms of complaints and discipline. Under the *Naturopathy Act*, as currently written, the new College of Naturopathy would have no authority to receive or investigate a complaint, or pursue disciplinary action against a registrant pertaining to that registrant's conduct while he or she was regulated by the Board under the *Drugless Practitioners Act*. The Board called this situation to the attention of the Ministry and the Ministry took immediate action by introducing an amendment in Bill 179.

*Transition from the DPA to the RHPA creates unique challenges and opportunities for the Naturopathic profession – some of which remain unresolved.*

Section 17 of Bill 179 seeks to amend section 13 of the *Naturopathy Act* to close this gap. Once the provision has legal force and effect,

- The new College of Naturopathy would be authorized to accept complaints involving a College registrant pertaining to that registrant's performance or conduct under the *Drugless Practitioners Act*, prior to proclamation of the *Naturopathy Act, 2007* and prior to that registrant's registration with the new College.
- The new College would conduct an investigation under the complaints and disciplinary procedure pursuant to the provisions of the RHPA.
- Any penalties or sanctions applied by the new College against the registrant would be those authorized under the *Drugless Practitioners Act*.

**The Board fully supports this amendment as proposed.**

## **CONTINUITY OF SCOPE OF PRACTICE - "PRESCRIBING" AUTHORITY**

A further amendment to the *Naturopathy Act* is needed to ensure continuity in the scope of practice for the profession, so patients continue to receive the best possible care from their ND. This amendment is required as a result of changes to federal legislation that

*Changes at the federal level require NDs to have access to "prescribing, dispensing, compounding and selling" authorities in order to maintain scope of practice.*

classify as drugs certain substances that were previously available OTC. These are substances that NDs have traditionally recommended for optimal patient care. Prescribing authority will

ensure that those members of the public who choose naturopathic care may continue to have access to the full range of treatment options from their ND.

The *Naturopathy Act, 2007* gives NDs access to the controlled act of "administering, by injection or inhalation, a prescribed substance", but does not grant NDs access to the "prescribing" controlled act (i.e. RHPA Controlled Act 27. (2) 8).

It may seem anomalous for a profession that has been regulated under the *Drugless Practitioners Act* to need the authority to prescribe "drugs". Nonetheless, access to the RHPA-controlled act

*"Prescribing, dispensing, selling or compounding a drug as defined in the Drug and Pharmacies Regulation Act..."*

is required in order to preserve continuity in the scope of practice of Naturopathic Doctors and to ensure that patients continue to have access to the care NDs provide. As such, the Health Professions Regulatory Advisory Council (HPRAC) has consistently recommended that the profession have access to the controlled act, most recently in "Critical Links". The Board has initiated consultations with stakeholders to explain the need for "prescribing" authority and there now appears to be a consensus that NDs should indeed have access to the controlled act in order to preserve their scope of practice and ensure that patients continue to receive the care they have come to expect from their NDs.

Naturopathic doctors are educated and trained in the use of the full range of botanical medicines and other natural substances as part of the standard educational program at all colleges of naturopathic medicine. This includes education in interactions between natural substances and pharmaceuticals. NDs are the only regulated healthcare professionals who have the core competencies to prescribe these natural therapeutic substances and they have been administering, dispensing selling and compounding them safely for many years.

As indicated above, the need to have access to the "prescribing" controlled act is prompted largely by actual and anticipated changes to federal legislation. Since the issue is somewhat complicated, we provide the explanation as a series of steps.

- NDs have historically prescribed, dispensed, sold or compounded a range of therapeutic substances that were previously not defined or classified as "drugs". They have done so safely and effectively for many years.<sup>1</sup>
- These substances have traditionally been available over-the-counter, but over the past several years the federal government has moved a number of those substances to restricted lists under the *Food and Drugs Act*. Bill C-51 would have

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<sup>1</sup> Examples of substances that were previously available for NDs to recommend for patients include: certain amino acids such as tryptophan and levocarnitine; total daily doses of vitamin A over 10,000 IU, folic acid over 1mg, vitamin D over 1,000 IU and niacin over 500 mg; botanical medicines such as *Rauwolfia serpentina* and *Colchicum*; and restricted homeopathic medicines.

substantially expanded the number of such substances on restricted lists. Even though C-51 died on the Order Paper when Parliament was prorogued prior to the last election, it is anticipated that the trend of transfer of therapeutic substances to restricted lists will continue.

- In order to have access to therapeutic substances on the federal restricted lists, federal legislation requires that providers be members of a healthcare profession that has "authorized practitioner" status under federal legislation.
- "Authorized Practitioner" status requires that a profession be authorized to "prescribe" drugs under provincial legislation, hence the need for access to the "prescribing" controlled act. Amendments to the (*Ontario*) *Drug and Pharmacies Regulation Act*, or the regulations thereunder, would not suffice.

If an ND concludes that a substance previously available for patient care but now on a restricted list is indicated, the patient must be referred to an MD who may not be familiar or comfortable with these substances and would, therefore, be reluctant to prescribe them. Furthermore, many patients of NDs choose to use a Naturopathic Doctor as their primary care provider and/or may not have access to a family physician, or may choose not to consult one.

"Dispensing" and "selling" authorities are also essential because most pharmacies do not carry the full range of therapeutic substances that NDs require in the care of their patients. This is particularly the case in rural, remote and other underserved areas.

"Compounding" authority is required for the same reason, but also because many pharmacists and pharmacies are unfamiliar with compounding natural therapeutic substances.

The development of a regulation specifying those substances which NDs may prescribe, dispense, sell and compound will be the responsibility of the Transitional Council, in consultation with the College of Pharmacists, the College of Physicians and Surgeons and other Colleges that administer the controlled act.

**Accordingly, the Board urges the Committee to bring forward and approve an additional amendment to the *Naturopathy Act, 2007* as follows:**

**Add to subsection 4(1) of the *Naturopathy Act, 2007*, the following:**

*"7. Prescribing, dispensing, selling or compounding a drug that the member may prescribe, dispense, sell or compound under the regulations."*

**Add to section 11 of the *Naturopathy Act, 2007*, the following:**

*(g) prescribing the drugs that a member may prescribe, dispense, sell or compound for the purpose of paragraph 7 of subsection 4 (1) and prescribing the purposes for which, or the circumstances in which, the prescribed drugs may be prescribed, dispensed, sold or compounded.*

**"COMMUNICATING A DIAGNOSIS"**

Subsection 4. (1) 5 of the *Naturopathy Act, 2007* grants authority to NDs to perform the authorized act of

*"Communicating a **naturopathic** diagnosis identifying, as the cause of the individual's symptoms, disease, disorder or **dysfunction that may be identified through an assessment that uses naturopathic techniques.**" (Our emphasis added.)*

The Board appreciates that this type of wording was recently used in the *Traditional Chinese Medicine Act*. This type of restrictive wording was not, however, used in Bill 179 in granting the controlled act to physiotherapy (s.s. 22 (2) 4. (1) 1.).

The Board is very concerned that the wording in Bill 179 will lead to significant

<i>Diagnoses made and communicated by NDs are consistent with those of other healthcare professions that have access to the same controlled act, but without the limitations in the wording of the Naturopathy Act.</i>	confusion as to what is meant by a <b>naturopathic</b> diagnosis; a term that has not been defined and could create regulatory uncertainty which, in turn, could tend to limit the scope of practice of Naturopathic Doctors.
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This occurs through the application of the adjective "naturopathic" to diagnosis and to the limitation of the diagnosis by the requirement that it be obtained only through an assessment that uses naturopathic techniques.

This wording is more limiting than the regime under which NDs currently function pursuant to the controlled act exemption referenced earlier in this Submission.

The fact is that NDs arrive at their diagnoses through a combination of naturopathic and conventional medical diagnostic techniques, including comprehensive health histories and examinations, laboratory tests and other examinations and investigations. NDs are educated in and competent to perform these techniques and interpret the results. The algorithm used by NDs to make their diagnoses is consistent with the internationally-recognized diagnostic criteria. Accordingly, a diagnosis communicated to a patient by an ND is consistent with that of other health professions that have access to the same controlled act, but without the limitations applied in the *Naturopathy Act*.

The BDDT-N is very concerned that the modifiers in the *Naturopathy Act 2007* will be interpreted to mean that

- a naturopathic diagnosis is materially different from and more limited than diagnoses provided by other professions who have access to the controlled act; and/or
- NDs are limited to using only naturopathic techniques in making their diagnoses, notwithstanding the necessity of using, and their competence in the use of, generally-accepted medical diagnostic techniques.

For this reason, HPRAC recommended (in "Critical Links") that the modifier "naturopathic" be deleted from the wording of the authorized act in the *Naturopathy Act*, 2007.

**Accordingly, the Board urges the Committee to bring forward an amendment to the *Naturopathy Act*, 2007 that deletes "naturopathic" as the modifier of "diagnosis" and also deletes the phrase "that may be identified through an assessment that uses naturopathic techniques" in subsection 4(1)5. of the *Naturpathy Act*, 2007.**

## **CONCLUSIONS**

Since it was prompted by the Board's concern about regulatory continuity in the transition of the profession from the DPA to the RHPA, the Board very much supports the amendment to the *Naturopathy Act* in section 17 of Bill 179.

Two additional amendments are, however, required for continuity of the naturopathy scope of practice.

1. Authority to perform the controlled act of "prescribing" in order to maintain or regain access to natural therapeutic substances that have been moved, or could be moved, from OTC status to restricted lists under federal legislation.
2. Removal of the objective "naturopathic" and the phrase "that may be identified through an assessment that uses naturopathic techniques" in s.s. 4 (1) 5. of the *Naturopathy Act*, 2007.

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