

**IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, being Chapter H-7  
of the Revised Statutes of Alberta, 2000**

**AND IN THE MATTER OF an Investigation into a Complaint against  
DR. JASON SCHNIEDER**

**DECISION OF THE HEARING TRIBUNAL OF THE  
COLLEGE OF NATUROPATHIC DOCTORS OF ALBERTA**

The hearing of the Hearing Tribunal was held on May 26, 2021 virtually via Zoom.

Present were:

The members of the Hearing Tribunal of the College of Naturopathic Doctors of Alberta (the "CNDA"):

Mr. James Lees, Public Member and Chair  
Dr. Farheen Madatali, ND, Member  
Dr. Derek Cook, ND, Member  
Ms. Anita Warnick, Public Member

Ms. Cherie Baruss, Complaints Director  
Mr. Gregory Sim, Legal Counsel for the Complaints Director

Dr. Jason Schnieder, ND Member  
Mr. Mathieu LeFleche, Legal Counsel for the Member

Ms. Annabritt Chisholm, Independent Legal Counsel for the Hearing Tribunal

**Opening of the Hearing**

1. The hearing opened and the Chair introduced all persons present for the record. The Hearing Tribunal confirmed that that none of its members were aware of any bias or conflict of interest that would impact their role on the Hearing Tribunal.
2. The Hearing Tribunal was advised that there were no objections to the members of the Hearing Tribunal and that no preliminary or jurisdictional issues were being raised. The hearing was open to the public, but no members of the public were present.
3. The Notice of Hearing was marked as Exhibit 1. Mr. Sim indicated that the parties agreed to amend the Notice of Hearing as follows:

It is alleged that Dr. Jason Schnieder, ND engaged in unprofessional conduct by:

- i. On or about February 3 to March 2, 2020, in presentations at the Medicine Hat Public Library, online or elsewhere, failed to communicate accurate, complete or verifiable information regarding vaccines and Alberta Health's recommended routine immunization schedule by doing one or more of the following:
  - a) [withdrawn]
  - b) [withdrawn]
  - c) Failing to communicate that Naturopathic Doctors are not authorized to give vaccinations;
  - d) [withdrawn]

### **Submissions of the Complaints Director**

4. On behalf of the Complaints Director, Mr. Sim stated that the parties would be submitting an Agreed Statement of Facts and Admission of Unprofessional Conduct, which he asked be marked as Exhibit 2. Mr. Sim noted that the Hearing Tribunal's role was to determine whether the conduct alleged in the Notice of Hearing is factually proven and rises to a level of unprofessional conduct.

Mr. Sim reviewed the Agreed Statement of Facts and indicated that Dr. Schnieder had been a registered naturopathic doctor in Alberta since 1999. He stated that in March 2020, the Complaints Director was informed by a member of the public that Dr. Schnieder had been engaged in promoting anti-vaccine messaging at the Medicine Hat Public Library. This information was treated as a complaint and the Complaints Director commenced an investigation. When the investigation was concluded in November, 2020 the matter was referred to a hearing.

5. The Agreed Statement of Facts provided that:
  - a. Between November 4, 2019 and March 2, 2020, Dr. Schnieder participated in a free seminar series at the Medicine Hat Public Library.
  - b. Two of the seminars dealt with vaccines were titled "Vaccine Dogma (Part 1)" and "Vaccine Dogma (Part 2)".
  - c. The presentations were recorded and available to the public through Zoom.us for 30 days before they were deleted.
  - d. A portion of the presentations were recorded by a member of the audience and posted to social media without Dr. Schnieder's authorization or consent.

- e. Dr. Schnieder did not communicate to the audience attending his presentations that Naturopathic Doctors are not authorized to administer vaccinations.

6. The Admission of Unprofessional Conduct indicated that Dr. Schnieder admitted to Allegation 1(c) in the Notice of Hearing and that in the circumstances, his conduct amounted to unprofessional conduct under sections 1(1)(pp)(ii) "contravention of the *Health Professions Act*, a code of ethics or standards of practice" and (xii) "conduct that harms the integrity of the regulated profession" of the *Health Professions Act*.

### **Submissions of Dr. Schnieder**

7. On behalf of Dr. Schnieder, Mr. LaFleche submitted that he agreed with the manner in which Mr. Sim set out the agreed facts. He noted that the CNDA's Standard of Practice: Communicating about Vaccinations requires a Naturopathic Doctor to accurately discuss vaccines. Dr. Schnieder admitted that he failed to include this in his presentation, and that for the purposes of this hearing he admitted that this amounted to unprofessional conduct.

### **Decision of the Hearing Tribunal on the Issue of Unprofessional Conduct**

8. The Hearing Tribunal adjourned to consider the parties' submissions and whether it found the allegation in the Notice of Hearing to be proven and to constitute unprofessional conduct. When it returned, the Hearing Tribunal stated that it found the allegation had been factually proven and that the conduct did rise to the level of unprofessional conduct.

9. The Hearing Tribunal then invited the parties to make submissions on sanctions.

### **The Joint Submission on Penalty**

10. A Joint Submission on Penalty was marked as Exhibit 3. The Joint Submission on Penalty requested that the Hearing Tribunal make the following sanction orders:

1. Dr. Schnieder shall receive a reprimand with the Hearing Tribunal's written reasons for decision ("the Decision") to serve as the reprimand;
2. Dr. Schnieder's practice permit shall be suspended for 1 day on a date to be selected by Dr. Schnieder and acceptable to the Complaints Director;
3. Dr. Schnieder shall successfully complete the online course: "Ethics and Clinical Work" by Satya Ambrose, ND within 90 days of the Hearing Tribunal's

written decision, which course shall not count towards Dr. Schnieder's continuing competence requirements;

4. Dr. Schnieder shall pay costs in the sum of \$2,000 within 30 days of the Decision.

11. The Joint Submission on Penalty also stated that Dr. Schnieder had the opportunity to seek and receive legal advice and had waived his right to do so.

#### Submissions of the Complaints Director

12. Mr. Sim reviewed the sanctions proposed by the Complaints Director and Dr. Schnieder in the Joint Submission on Penalty. He cited and applied several factors from the case of *Jaswal v Newfoundland Medical Board* that were relevant to this hearing:

- *Nature and gravity of the proven allegations* – While it is important to comply with the standards of practice, the proposed sanctions reflect that Dr. Schnieder's conduct was not the most serious of unprofessional conduct.
- *Age and experience of the member* – Dr. Schnieder has been practicing since 1999 and therefore has enough experience to be expected to know the standards of practice of the profession.
- *Previous character* – Dr. Schnieder has no prior complaints against him.
- *Number of times the conduct occurred* – Dr. Schnieder's conduct occurred during two presentations that dealt with vaccines.
- *Role of the member in acknowledging what occurred* – Dr. Schnieder fully cooperated in this process, which should be considered a mitigating factor that weighs in favour of the Hearing Tribunal accepting the proposed sanctions.
- *Presence or absence of mitigating circumstances* – The presentations were in a public forum, and there were other professionals there including the Chief Medical Officer of Health for Medicine Hat, which served to ensure attendees received appropriate information.
- *Need for specific and general deterrence* – Dr. Schnieder has learned from this experience and will adhere to the standards in future, which covers the need for specific deterrence. General deterrence will be achieved through the sanctions by showing that the CNDA takes communicating with the public seriously, particularly when discussing vaccines.

- *Public confidence in integrity of the profession* – The public takes these matters seriously and would agree that the proposed sanctions are appropriate and proportionate.
- *The degree to which the offensive conduct was clearly regarded as unprofessional conduct* – It is not a debate that breaching a standard of practice is outside of expected and permitted conduct.
- *The range of similar cases in Alberta* – There are no previous similar cases from the CNDA that deal with communications around vaccines, but the sanctions requested in this case are proportionate to orders made by previous panels of the CNDA Hearing Tribunal and are in the public interest.

13. Before concluding, Mr. Sim submitted that the law has developed a set of principles around joint submissions on sanctions, which requires Hearing Tribunals to defer to joint submissions of the parties unless the Tribunal is satisfied that the submissions are unfit or contrary to the public interest. He requested that if the Hearing Tribunal had any concerns regarding the proposed sanctions, it should bring its concerns to the parties and allow them an opportunity to address them.

#### Submissions of Dr. Schnieder

14. Mr. LaFleche acknowledged and agreed with Mr. Sim's comments regarding the law surrounding joint submissions. He then reminded the Hearing Tribunal that Dr. Schnieder's conduct was not relevant to patient care and that therefore, it should not come under the same degree of scrutiny because it concerned obligations outside of the patient-doctor relationship.

15. Mr. LaFleche submitted that in this case, the issue before the Hearing Tribunal was an error of omission because it involved a failure to disclose in a situation where there was a positive disclosure obligation. Mr. LaFleche suggested that this held a lower degree of culpability attached to it.

16. Mr. LaFleche submitted that the Standard of Practice: Communicating about Vaccinations only came into effect in 2016, and Dr. Schnieder was not aware of his obligations under this relatively new Standard during the time the conduct occurred. However, he is aware of the Standard now and therefore his conduct will not be repeated.

17. Mr. LaFleche submitted that the Joint Submission on Penalty falls within the appropriate outcomes and demonstrates an opportunity for Dr. Schnieder to gain insight into the issue and move forward in a positive and productive manner.

### Questions from the Hearing Tribunal on the Joint Submission on Penalty

18. The Hearing Tribunal adjourned to discuss the proposed sanctions. When it returned, the Hearing Tribunal questioned why the parties believed the 1-day suspension was fair and appropriate in this case.

19. Mr. Sim responded that based on the proven conduct and Dr. Schnieder's admission of unprofessional conduct, a longer suspension would not be appropriate. Dr. Schnieder was sufficiently deterred by participating in the discipline process. Therefore, the suspension was intended to serve as a more general deterrence.

20. Mr. LaFleche indicated that from Dr. Schnieder's perspective, the 1-day suspension falls within the range of proportionate outcomes and provides a deterrent to communicate and convey what is acceptable conduct.

### **Decision of the Hearing Tribunal on the Joint Submission on Penalty**

21. The Hearing Tribunal advised the parties that it would accept the Joint Submission on Penalty.

### **Reasons of the Hearing Tribunal**

#### Unprofessional Conduct

22. The Hearing Tribunal considered the Admission of Unprofessional Conduct made by Dr. Schnieder at paragraphs 11-12 of the Agreed Statement of Facts and Admission of Unprofessional Conduct (Exhibit 2).

23. The Hearing Tribunal also considered paragraphs 1 to 10 of the Agreed Statement of Facts and the documents attached as Tabs 1 to 3 of Exhibit 2, including the Notice of Hearing, Standard of Practice: Communicating about Vaccinations and a copy of the definition of unprofessional conduct from the *Health Professions Act*.

24. The Hearing Tribunal notes that the Standard of Practice: Communicating about Vaccinations outlines that administering vaccinations is a restricted activity that naturopathic doctors are not authorized to perform in Alberta. The Standard requires naturopathic doctors to communicate responsibly and ethically about vaccinations and encourage patients to also consult with other health care professionals. One of the ways naturopathic doctors are required to demonstrate adherence to the Standard is to "clearly [inform] the patient that they are not authorized to give vaccinations."

25. Based on Dr. Schnieder's Admission of Unprofessional Conduct and the Agreed Statement of Facts which sets out that when attending the seminars at the Medicine Hat Public Library, Dr. Schnieder failed to disclose that he was not authorized to give

vaccinations as a naturopathic doctor, the Hearing Tribunal finds Allegation 1c in the Notice of Hearing is proven on a balance of probabilities and constitutes unprofessional conduct as defined by sections 1(1)(pp)(ii) and (xii) of the *Health Professions Act*. Dr. Schnieder clearly breached the Standard of Practice: Communicating about Vaccinations and by failing to disclose that he is not authorized to give vaccinations, he engaged in conduct that may reasonably be seen to harm the integrity of the profession.

#### Joint Submission on Penalty

26. The Hearing Tribunal has the authority under section 82 of the *Health Professions Act* to order sanctions after making findings of unprofessional conduct. The Hearing Tribunal finds that the proposed sanctions in the Joint Submissions on Sanctions fall within its authority to order.

27. The Hearing Tribunal accepts that it has a duty to give careful consideration to a joint submission on penalty made by a member and the Complaints Director. The Hearing Tribunal considered the Agreed Statement of Facts and Admission of Unprofessional Conduct, the Joint Submission on Penalty and the submission made on behalf of both parties. The Hearing Tribunal also considered the factors in *Jaswal*, including the seriousness of the conduct, the fact that the conduct related to one event in Dr. Schnieder's long career, the need for general deterrence and Dr. Schnieder's cooperation in the process.

28. The Hearing Tribunal finds the proposed sanctions are reasonable having regard to the evidence presented in this case and based on the admitted conduct. The Hearing Tribunal is satisfied that the proposed sanctions are not contrary to the public interest.

29. The Hearing Tribunal is satisfied that Dr. Schnieder should receive a reprimand for his conduct. It is incumbent on members of the profession to know and follow the standards of practice. When this does not occur, the integrity of the profession is harmed.

30. In respect to the proposed order for a 1-day suspension, the Hearing Tribunal considered the submissions that the order for a suspension in this case is more focused on a message of general deterrence than the specific deterrence of Dr. Schnieder. As this is the first case before the CNDA Hearing Tribunal that concerns a failure to properly communicate about vaccines, the sanctions should send a message to the general profession that such conduct warrants a suspension.

31. The Hearing Tribunal also accepts the proposed order that Dr. Schnieder successfully complete the online course: "Ethics and Clinical Work" by Satya Ambrose, ND within 90 days of the Hearing Tribunal's written decision. The Hearing Tribunal believes this course will provide Dr. Schnieder with an opportunity to demonstrate that he has taken steps to improve his awareness around the importance of abiding by the

standards of practice when communicating with patients and the public. This course will also send a message to the public and the general profession that the CNDA expects its members to uphold the standards of practice.

32. Finally, the Hearing Tribunal finds it is appropriate to order Dr. Schnieder to pay \$2,000 of the costs of this matter within 30 days of the Hearing Tribunal's written decision. Although it is reasonable to require an investigated member to pay a portion of the costs of a hearing, in this case, the hearing was shortened due to Dr. Schnieder's admission that his conduct constituted unprofessional conduct and cooperation in developing the Joint Submission on Penalty.

33. As a result, the Hearing Tribunal accepts the Joint Submission on Penalty and will make the requested orders.

### **Conclusion**

34. For the reasons set out above, the Hearing Tribunal finds that the allegation of unprofessional conduct against Dr. Schnieder has been proven on a balance of probabilities and constitutes unprofessional conduct as defined by sections 1(1)(pp)(ii) and (xii) of the *Health Professions Act*.

35. The Hearing Tribunal makes the following orders on sanction under section 82 of the *Health Professions Act*:

1. Dr. Schnieder shall receive a reprimand with the Hearing Tribunal's written reasons for decision ("the Decision") to serve as the reprimand;
2. Dr. Schnieder's practice permit shall be suspended for 1 day on a date to be selected by Dr. Schnieder and acceptable to the Complaints Director;
3. Dr. Schnieder shall successfully complete the online course: "Ethics and Clinical Work" by Satya Ambrose, ND, within 90 days of the Hearing Tribunal's written decision, which course shall not count towards Dr. Schnieder's continuing competence requirements; and
4. Dr. Schnieder shall pay costs in the sum of \$2,000 within 30 days of the Decision.

Dated June 28, 2021

For the Hearing Tribunal of the College of Naturopathic Doctors of Alberta

  
Mr. James Lees, Chair