

IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL
Into the Conduct of Dr. Eric Muradov, ND, Regulated Member of the
College of Naturopathic Doctors of Alberta, pursuant to

THE HEALTH PROFESSIONS ACT, being
Chapter H-7 of the Revised Statutes of Alberta

DECISION OF THE HEARING TRIBUNAL

I. HEARING

1. The Hearing Tribunal held a hearing into the conduct of Dr. Eric Muradov. The hearing was held at the offices of Field Law LLP at 10175 101 St NW #2500 in Edmonton, Alberta, on March 10-11, 2020. In attendance on behalf of the Hearing Tribunal were Ms. Anita Warnick, public member and Chair, Dr. Arden Baker-Hadley, N.D., and Dr. Harmi Kaler, N.D.
2. Also in attendance at the hearing were:
 - a. Dr. Muradov, N.D., the Regulated Member;
 - b. Mr. Jonathan Rossall, Q.C., and Ms. Arielle Fewer (student-at-law), Counsel for the Regulated Member;
 - c. Ms. Cherie Baruss, the Complaints Director of the College of Naturopathic Doctors of Alberta ("**College**" or "**CNDA**");
 - d. Mr. Gregory Sim and Ms. Tessa Gregson, Counsel for the Complaints Director; and
 - e. Ms. Sharon Au, independent legal counsel to the Hearing Tribunal.

II. JURISDICTION AND PRELIMINARY MATTERS

3. The parties did not raise any procedural issues at the outset of the hearing. Neither party had objections to the composition of the Hearing Tribunal or its jurisdiction to hear this matter.

III. ALLEGATIONS

4. The allegations against Dr. Muradov as laid out in the Notice of Hearing dated April 29, 2019, entered as Exhibit 1, are as follows:

It is alleged that Dr. Eric Muradov, while practicing as a Naturopathic Doctor engaged in unprofessional conduct by:

1. On or about September 21, 2017, failed to appropriately refer patient R.B. to another regulated health care professional upon determining that she would benefit from treatment beyond the scope of practice of naturopathic medicine in Alberta, particulars of which include one or more of the following:
 - a. Failing to refer R.B. to another regulated health professional for assessment and treatment by that regulated health professional;
 - b. Failing to provide clear communication to R.B. about the transfer of her care,

contrary to the CNDA Standards of Practice.

2. On or about September 21, 2017, prescribed or purported to prescribe one or more of the following Schedule 1 Drugs to patient R.B.:

- a. Desiccated Thyroid;

- b. Hydrocortisone;

contrary to the *Government Organization Act*, R.S.A. 2000, c. G-10, Schedule 7.1, sections 2(1)(f) or (g) or 4, the *Naturopaths Profession Regulation*, AR 126/2012, the CNDA Code of Ethics or the CNDA Standards of Practice.

3. On or about September 21, 2017, requested or recommended that a prescription be issued to his patient, R.B. for one or more of the following Schedule 1 drugs:

- a. Desiccated Thyroid;

- b. Hydrocortisone;

contrary to the CNDA Standards of Practice.

4. On or about September 2017 to March 2018, supervised the use of, or adjusted the prescribed dosages of, one or more of the following Schedule 1 drugs for patient R.B.:

- a. Desiccated Thyroid;

- b. Hydrocortisone;

contrary to the CNDA Standards of Practice.

IV. AGREED STATEMENT OF FACTS

5. At the commencement of the hearing, counsel for the Complaints Director and counsel for Dr. Muradov, presented an Agreed Statement of Facts entered as Exhibit 9. The facts as outlined in the Agreed Statement of Facts are as follows:

Background

1. Dr. Eric Muradov, ND became a regulated member of the College of Naturopathic Doctors of Alberta ("CNDA") on June 30, 2011 and was a regulated member of the CNDA at all material times.
2. Dr. Muradov practices at TruMed Naturopathic Clinic in Edmonton, Alberta. His CNDA practice permit authorizes him to perform the restricted activities of acupuncture, IV therapy and IV chelation therapy.
3. The Government of Alberta has not authorized Naturopathic Doctors to perform the restricted activity of prescribing Schedule 1 drugs within the meaning of the Pharmacy and Drug Act.

Treatment

4. R.B. became a patient of Dr. Muradov on August 8, 2017 and was his patient at all material times.

5. On September 21, 2017, Dr. Muradov sent an electronic fax to Kripps Health Care Rx in Vancouver, British Columbia regarding R.B. The cover page of the electronic fax was entitled "R.B. Hydrocort and Dessicated referral Dr. Muradov Edmonton". The electronic fax attached a document entitled "Pharmacist prescription request" for two drugs, Hydrocortisone/Cortef 10mg and Desiccated Thyroid 30mg, both of which were to be taken orally.
6. Oral Hydrocortisone and Desiccated Thyroid are Schedule 1 drugs within the meaning of the Pharmacy and Drug Act.
7. On March 9, 2018, the College's Registrar and Complaints Director, Ms. Cherie Baruss sent an issue of "College news+ information" to all of the regulated members of the CNDA, including a discussion entitled "Restricted Activities Requiring Authorization".

Complaint and Investigation

8. On July 16, 2018, R.B. submitted a complaint to the CNDA regarding Dr. Muradov.
9. The CNDA's Complaints Director Ms. Cherie Baruss conducted an investigation into R.B.'s complaint and obtained a copy of Dr. Muradov's patient records for R.B.
10. During her investigation Ms. Baruss made four attempts to contact Kripps Health Rx and its Pharmacist by telephone. On two occasions she was told to call back later. On one occasion she was hung up on. On the fourth occasion there was no answer. Ms. Baruss made one attempt to contact Kripps Health Rx by email but she received no reply.
11. Ms. Baruss contacted the College of Physicians and Surgeons of British Columbia ("**CPSBC**") and confirmed that Dr. Asif Khan resigned his membership with the CPSBC in 2009.
12. Ms. Baruss completed her investigation and referred the matter to this hearing on January 30, 2019.

V. OPENING STATEMENTS

A. Opening Statement of the Complaints Director

6. Mr. Sim made a brief opening statement on behalf of the Complaints Director. Mr. Sim began his opening statement by submitting that the job of the Tribunal is to determine: 1) whether the facts underlying the allegations had been established and if they were, whether the conduct amounted to unprofessional conduct; and 2) to assess and impose the appropriate sanction if one or more of the allegations are proven.
7. Mr. Sim briefly explained the documents in the Agreed Book of Exhibits and provided a brief summary of the Agreed Statement of Facts.
8. Mr. Sim proceeded to provide an overview of the allegations in the Notice of Hearing and the College's positions with respect to the allegations. Mr. Sim submitted that Dr. Muradov:
 - a. either improperly referred his patient, expecting a prescription to be issued for her or prescribed or purported to prescribe drugs that he was not authorized to prescribe;

- b. exceeded the scope of his practice by requesting or recommending that a prescription be issued to his patient; and
 - c. supervised or adjusted the dosages of certain drugs without conferring with the person who he says actually prescribed the medication, something he was not authorized to do.
9. Mr. Sim indicated that he intended to call R.B. who would explain how the circumstances behind the complaint arose.

B. Opening Statement of the Member

10. Mr. Rossall was provided with the opportunity to make an opening statement on behalf of Dr. Muradov, but declined and reserved his right to do so after the close of the College's case.

VI. EVIDENCE

A. Agreed Exhibits

11. The Parties submitted an Agreed Book of Exhibits containing the following exhibits:
- | | |
|-----------|--|
| Exhibit 1 | Notice of Hearing, dated April 29, 2019 |
| Exhibit 2 | Notice of Rescheduled Hearing, dated January 3, 2020 |
| Exhibit 3 | R.B.'s Patient Chart provided by Dr. Muradov, August 8, 2017 to March 21, 2018 |
| Exhibit 4 | Electronic fax cover e-mail and attachment |
| Exhibit 5 | Undated photos of prescription bottles provided to R.B. |
| Exhibit 6 | Document obtained by R.B. from Kripps Pharmacy, dated March 3, 2018 |
| Exhibit 7 | College News + Information, dated March 9, 2018 |
| Exhibit 8 | Dr. Muradov's letter responding to the complaint, dated August 14, 2018 |
12. The Agreed Statement of Facts submitted by the Parties was marked as Exhibit 9.
13. Mr. Rossall on behalf of Dr. Muradov also requested that a letter sent via fax from Kripps Healthcare Rx dated February 2, 2019, and signed by Dr. E. Thorpe, pharmacist, be entered as an exhibit. Mr. Rossall indicated this letter would be relevant to the hearing. Mr. Sim did not object, but submitted that the letter should be assigned low weight, for reasons discussed below. The letter from Kripps Pharmacy was entered as Exhibit 10
14. The Hearing Tribunal was also directed to the following legislations and standards:
- *Health Professions Act*, RSA 2000, c. H-7, section 1(1)(pp)
 - *Naturopaths Profession Regulation*, Alta Reg 126/2012, section 14

- *Government Organization Act*, RSA 2000, c. G-10, Schedule 7.1: Health Services Restricted Activities
- *Pharmacy and Drug Act*, RSA 2000, c. P-13, section 1
- CNDA Code of Ethics
- CNDA Standards of Practice:
 - General
 - Collaboration in Patient Care
 - Transfer and Termination of Care
- CNDA Guideline: Scope of Practice
- CNDA Policy: Pharmacy Therapeutics Course Requirement

B. Testimony

15. Ms. Gregson called R.B. as the College's only witness. R.B. provided the following evidence during her direct examination:
- R.B. lives in Leduc, Alberta.
 - In August of 2017, R.B. sought treatment from Dr. Muradov.
 - On August 8, 2017, R.B. had an appointment with Dr. Muradov at TruMed Naturopathic Clinic in Edmonton. She completed an intake form and discussed her medical history and health concerns with Dr. Muradov. R.B. informed Dr. Muradov that she had seen another Naturopathic Doctor with the same concerns, but felt that the treatment plan she was on was not beneficial. R.B. also provided Dr. Muradov with laboratory results and diagnostic testing results from her general practitioner and former Naturopathic Doctor. R.B. and Dr. Muradov discussed administering a saliva test for cortisol levels, and the possibility of using "Bio-Identical Hormones." R.B. received a saliva hormone test requisition, was informed of different supplements and diet, and was scheduled for a follow-up (Exhibit 3).
 - R.B. attended a follow-up appointment on August 29, 2017. During this appointment, she expressed that she had not experienced any significant changes from the supplements and inquired about the possibility of using bio-identical hormones. Dr. Muradov advised her to continue with the supplements and that they could discuss bio-identical hormones in the future.
 - On September 19, 2017, R.B. emailed Dr. Muradov and explained that her concerns had not improved. She asked if being connected to a pharmacy in Vancouver (Kripps Pharmacy) for bio-identicals was the next step (Exhibit 3).
 - On September 21, 2017, Dr. Muradov replied by email stating that he felt that she needed bio-identicals and that he had sent the referral to the Vancouver pharmacy (Exhibit 3).

- R.B. called who she thought was a pharmacist at Kripps Pharmacy. She supplied them with her driver's license details and a credit card number. R.B. asked how long the prescriptions would take to arrive, but did not discuss dosages. R.B. felt that she did not need to discuss dosages because Dr. Muradov was providing her with that information.
- The Hydrocortisone 10 mg and Desiccated Thyroid 15 mg arrived by mail. The labels on the bottles indicated her name, date, name and strength of the drugs, directions for use and the name of Dr. Asif Khan. R.B. stated she did not know who this doctor was (Exhibit 5).
- On October 25, 2017, R.B. attended an appointment with Dr. Muradov. She noted feeling a significant improvement within a few days of starting the Hydrocortisone and Desiccated Thyroid. R.B. agreed to continue the bio-identicals at the following dosages: 10 mg Hydrocortisone and 30 mg Desiccated Thyroid. Dr. Muradov informed R.B. that the dosages could be increased to Hydrocortisone 15 mg and Desiccated Thyroid 45 mg, being mindful that if she experienced any adverse symptoms, the dosages should be decreased. R.B. increased the dosages in December 2017 and sent Dr. Muradov an email saying that she experienced no significant changes (Exhibit 3).
- On January 24, 2018, R.B. discussed the increased dosages with Dr. Muradov and informed him she had not felt any significant changes. R.B. recalls discussing decreasing the Hydrocortisone dosage and starting a ketogenic diet (Exhibit 3).
- In a follow-up email dated February 26, 2018, to Dr. Muradov, R.B. advised she was taking 45 mg of Desiccated Thyroid and was anxious about increasing the dose to a total of 60 mg, which had been discussed by Dr. Muradov, as she was experiencing "shaky hands", which she felt had worsened since being on the drug. She decided to maintain the dosages of Hydrocortisone 15 mg and Desiccated Thyroid 45 mg.
- On March 18, 2018, R.B. met with Dr. Muradov at his clinic. It was suggested that she start a ketogenic diet with an exercise plan and that she should decrease the Hydrocortisone to 10 mg and continue with 45 mg of Desiccated Thyroid. R.B. was told to use ketostix as a level to determine if the ketogenic diet was working. R.B. testified that Dr. Muradov was inclined to reduce the dosage of Desiccated Thyroid and to decrease the dosage of Hydrocortisone to 5 mg/day. She had not seen any other medical professional during this time.
- R.B. had a routine appointment in April 2018 with her general practitioner. She stated that her general practitioner was not happy with her taking bio-identicals and that she should stop taking the Hydrocortisone and Desiccated Thyroid. At this time, R.B. stated that she was reassessing her health care plan and decided to stop seeing Dr. Muradov as she wanted to address the root cause of her issues as opposed to continue using diet as an approach.
- R.B. went to see a new Naturopathic Doctor, Dr. Janice Dacyshyn, who advised that Naturopathic Doctors were not allowed to prescribe bio-identical hormones and that R.B. should contact the College regarding the medications that R.B. had been taking. The College subsequently contacted R.B. and asked that she provide her communications with Dr. Muradov and that a copy of the prescription for the bio-identical hormones be sent to them. R.B. contacted Kripps Pharmacy requesting a copy of the prescription for bio-identical hormones. She was provided with the document shown in Exhibit 6.

16. During her cross-examination by Mr. Rossall, R.B. provided the following evidence:
- R.B. could not remember if she completed the intake form for TruMed Naturopathic Clinic prior to seeing Dr. Muradov for the initial August 2017 appointment.
 - It was R.B.'s understanding that Dr. Muradov was playing a secondary role on her health care team; she already had a general practitioner, a nutritionist via social media (Facebook) and a chiropractor as outlined in the signed intake document (Exhibit 3).
 - R.B. stated that her general practitioner had no concerns with her seeing a Naturopathic Doctor.
 - To the best of R.B.'s recollection she did not hear Dr. Muradov use the word "prescribing" but that he said "I'll see if I can arrange that" when the discussion arose about the use of bio-identicals.
 - It was R.B.'s impression that she was being "referred" to a pharmacy that would provide her with bio-identical hormones and that the referral process would involve her contacting Kripps Pharmacy in Vancouver directly. R.B. did not think her relationship with Dr. Muradov would be terminated because of the referral to Kripps Pharmacy.
 - R.B. acknowledged that Dr. Muradov may have mentioned Dr. Asif Khan but cannot recall if he did; there was no follow up with a pharmacist from Kripps Pharmacy.
 - R.B. stated that she had not seen the referral document listed in Exhibit 4 from Dr. Muradov on September 21, 2017.
 - R.B. could not recall whether she had a discussion with Dr. Muradov that she could contact her general practitioner at any time.
17. During re-examination by Ms. Gregson, R.B. provided the following information:
- When placing the order by phone for the bio-identicals, R.B. assumed she was speaking to a pharmacist at Kripps Pharmacy. At the time of placing the initial order, R.B. did not receive a verbal consultation with or information from Dr. Khan.
 - When R.B. called Kripps Pharmacy for a second refill she could not recall if she had used the terminology "Prescription Refill." Again, she did not receive any additional information from Kripps Pharmacy about these drugs.
 - R.B. did not recall if Dr. Muradov suggested that she check with her family doctor to verify whether what she was taking was appropriate.
 - R.B.'s understanding of the term "referral" by Dr. Muradov was that certain medications were to be filled by another party and that Dr. Muradov was going to provide information to that party regarding the medications that she should be taking.
 - R.B. understood that Dr. Muradov's role was to oversee her health care protocol which involved the supplements, bio-identical hormones, diet and exercise suggestions.
 - R.B. understood that Dr. Muradov was directing which kind of bio-identical hormones she should be taking and their dosages.

18. In response to the Hearing Tribunal's questions to R.B., R.B. provided the following evidence:

- Prior to visiting Dr. Muradov, R.B. had seen Dr. Veronique Provencher, N.D. R.B. felt Dr. Provencher was providing the same course of action that she had already tried and wanted to try different supplements.
- R.B.'s primary general practitioner was Dr. Vanessa Chetty, but she occasionally met with Dr. Kasavan who was a locum when Dr. Chetty was away. R.B. stated that she usually met with her general practitioner on an annual basis, usually for regular ultrasound follow-up appointments. During the time of seeing Dr. Muradov, R.B. believes she only saw her general practitioner once a year.
- R.B. began seeing her new Naturopathic Doctor, Dr. Dacyshyn, during the summer of 2018.
- R.B. had never travelled to Kripps Pharmacy in Vancouver.
- R.B. cannot recall talking about what exactly bio-identicals were with Dr. Muradov, but her understanding of what bio-identicals are is that they are derived from natural substances from animals, rather than pharmaceuticals manufactured in a laboratory environment. She stated that she may have started the discussion about these hormones as she was not interested in pharmaceuticals and wanted to keep her treatment as natural as possible.
- R.B. started taking 5-10 mg of Hydrocortisone and 15 mg of Desiccated Thyroid in late September/early October 2017. She understood that she would have to cut the Hydrocortisone 10 mg tablets in half to obtain a 5 mg dose. No literature was sent when she received the drugs in the mail or from anyone else.
- R.B. stated that she was told to keep in touch with Dr. Muradov regarding any side effects she may experience from taking these medications.
- R.B. could not recall after a follow up visit with Dr. Muradov how the order for the refills for the Hydrocortisone and Desiccated Thyroid occurred.
- R.B. stated that Exhibit 5 are photographs she had taken in July 2018 of the pill bottles that she received from Kripps Pharmacy, including a second refill for Hydrocortisone and Desiccated Thyroid, which were sent at the request of the College. At that time, R.B. was taking 15 mg Hydrocortisone and 45 mg Desiccated Thyroid.
- R.B. understood that Exhibit 6 was a copy of a prescription request that she had made on behalf of the College from Kripps Pharmacy in Vancouver for Desiccated Thyroid. She did not recognize the handwriting on the copy of the prescription.

19. Mr. Rossall called Dr. Muradov as the next witness. Dr. Muradov provided the following evidence during his direct examination:

- Dr. Muradov completed his training in Toronto, Ontario, and has been a regulated member of the College since June 2011. He is familiar with the Standards of Practice for the College with respect to restricted activities in Alberta.
- Dr. Muradov explained in his words the definition of prescribing: a person who is authorized to prescribe a medication that would be dispensed to a patient. He understood that he had no prescribing authority in Alberta or British Columbia.

- Dr. Muradov explained in his words the definition of compounding: combining or making a specific medication for a patient, probably by a pharmacist.
- Dr. Muradov explained in his words the definition of administration of pharmaceuticals: giving the patient medication by some sort of means. This could be by injections, applying a cream, or by an intravenous route.
- Dr. Muradov explained in his words the definition of dispensing: this is what a pharmacist would do upon receiving an order from a prescriber. They would give out the medication.
- Dr. Muradov was aware of the College News + Information bulletin from March 9, 2018, which included a section on prescribing and that it was not in his scope of practice to supervise the administration of any drug which Naturopathic Doctors are not authorized to prescribe (Exhibit 7).
- Dr. Muradov did not have any interaction with R.B. since the complaint was lodged with the College.
- Dr. Muradov testified that every patient of the clinic was asked to maintain a primary care relationship with a medical doctor as Naturopathic Doctors did not have many rights in Alberta especially when it came to prescribing and imaging (Exhibit 3).
- Dr. Muradov completed the Pharmacy Therapeutics Course Requirement as outlined in the CNDA Policy: Pharmacy Therapeutics Course Requirement. He said he had a basic understanding of pharmaceutical drugs provided by other health care providers and that he was knowledgeable about pharmaceuticals, normal dosing, appropriate indications, tapering, side effects, signs of toxicity and how they interacted with other supplements, herbs and nutrients
- Dr. Muradov explained that he had been introduced to Kripps Pharmacy by another Naturopathic Doctor at a wedding he attended in Calgary. His colleague told him that Kripps Pharmacy had a medical doctor on staff to help Naturopaths with prescriptions. Dr. Muradov did not know of any medical doctors in Edmonton that would be willing to accept referrals from a Naturopath, so he called Kripps Pharmacy and talked to the head pharmacist and owner, Dr. Thorpe. Dr. Thorpe explained they had a medical doctor on staff by the name of Dr. Khan and that Dr. Khan would review suggestions from the referring Naturopath and that the patient would have to form a relationship with Kripps Pharmacy and Dr. Khan.
- At the time he contacted Kripps Pharmacy, Dr. Muradov was unaware that Dr. Khan had not renewed his license since 2009.
- Dr. Muradov explained that the first fax sent to Kripps on September 21, 2017, had a cover sheet that read: [R.B.] Hydrocort and Dessicated referral Dr. Muradov Edmonton (Exhibit 4), and there would have been a second similar fax sent for refill of Dessicated Thyroid. Exhibit 6 is a copy of the second pharmacist prescription request from Dr. Muradov with his signature and what he believed to be Dr. Khan's signature dated March 5, 2018.
- Dr. Muradov stated R.B. was to follow the instructions on the pill bottles, as provided by Dr. Khan, which were based on his suggestions. Dr. Muradov had expectations that R.B. would have discussions with Dr. Thorpe, Dr. Khan or her general practitioner regarding the dosages of these medications.

- Dr. Muradov explained that "Pharmacist Prescription Request" on Exhibits 4 and 6 was from a revised template he had previously sent to a pharmacist in Edmonton and that he used this template to prepare his fax to Kripps Pharmacy.
- Dr. Muradov was adamant that he did not prescribe Hydrocortisone or Desiccated Thyroid for R.B.; and that he referred R.B. to a physician for the purpose of having these drugs prescribed to her in September 2017. Dr. Muradov did some lab work after the prescriptions were filled. He denied ever directing the patient to change the dosages of the medications at any time. Dr. Muradov stated that he gave R.B. suggestions of possible adjustments and she was required to obtain confirmation from an authorized prescriber.

20. On cross-examination by Mr. Sim, Dr. Muradov provided the following evidence:

- Mr. Sim referred Dr. Muradov back to his chart notes found in Exhibit 3. Dr. Muradov confirmed that these chart notes were approved. Dr. Muradov also stated that he used SOAP format when charting, being Subjective, Objective, Assessment and Plan and FP meaning Future Plan.
- With respect to his August 29, 2017 chart notes, Dr. Muradov included suggested dosages for Hydrocortisone and Desiccated Thyroid. At that time, Dr. Muradov did not suggest that R.B. consult with her primary care provider because he knew generally there would be a disconnect with general practitioners not being interested in what a Naturopath wanted in terms of prescription therapy. Dr. Muradov was more comfortable with suggesting Dr. Khan at Kripps Pharmacy because it was explained to him that Kripps Pharmacy was familiar with naturopathic medications.
- In conversation with Dr. Thorpe, Dr. Muradov was advised what information to provide to Kripps Pharmacy to get the process started, which included confirmation that Dr. Muradov is a Naturopath from Edmonton, the patient's name, a brief medical history of the patient, what Dr. Muradov thought the patient required, dosage, strengths and if any refills were required. Kripps Pharmacy would then provide the information to Dr. Khan and communicate with the patient.
- The information Dr. Muradov provided in respect of R.B. was in his fax to them dated September 21, 2017 (Exhibit 4). This information included a two word long medical history which he stated as "Longstanding Fatigue". Dr. Muradov understood that if Kripps Pharmacy felt the information was insufficient they would contact him. Dr. Muradov thought Kripps Pharmacy would also contact the patient if they needed more information. He admitted he could have included lab results that he had with the fax.
- Dr. Muradov did not ask Dr. Thorpe how he would be kept in the loop as to R.B.'s treatment. Dr. Muradov testified that he was comfortable with Kripps Pharmacy based on the information provided to him by his colleagues about Kripps Pharmacy, and felt that he could contact Kripps Pharmacy in the future with any questions.
- Dr. Muradov received no correspondence or communication from Dr. Thorpe or Dr. Khan about R.B.'s progress, and never followed-up to ask about R.B.'s progress or care. Dr. Muradov felt that he did not need to follow-up on R.B.'s progress because she had received the medications as suggested.
- Dr. Muradov did not know what Dr. Khan's goal was in the drug therapy for R.B., nor did he discuss with Dr. Thorpe or Dr. Khan, his own role in the care process or a long-term treatment goal for R.B. Dr. Muradov testified that he did not have a long-term goal in mind, and saw his role as providing Naturopathic care, overseeing all her treatments, supplements and dietary changes.

- Regarding Exhibit 4, Dr. Muradov stated that he had modified a previous template for pharmacist prescription request to include the specific patient's name, her date of birth, the drug name, strength, dosage and dosing, quantity and refills; he sent this as an attachment to the covering fax page. The fax was not addressed specifically to Dr. Thorpe or Dr. Khan.
- Dr. Muradov did not write a referral letter to Dr. Khan regarding R.B.'s medical history, her allergies or her prior treatments with supplements.
- Dr. Muradov stated that the College does not have guidelines for "referral" and that he thought he was collaborating with Dr. Khan. He felt that the Standard of Practice for collaboration from the College were very vague. Dr. Muradov was relying on Dr. Khan to perform his own assessment of R.B. including what other supplements she was taking.
- Dr. Muradov felt that the referral had been done appropriately as R.B. had received the medication from an authorized prescriber.
- Dr. Muradov felt that an assessment had been done by Dr. Khan and that Dr. Khan accepted Dr. Muradov's suggestions as R.B. received the recommended pills.
- Dr. Muradov did not directly speak with Dr. Khan. He hoped that his recommendations for R.B. were reasonable and that Dr. Khan would agree with them. Dr. Muradov denied ever seeing a prescription from Dr. Khan and assumed the pharmacy kept a paper trail of the prescriptions.
- Regarding Exhibit 6, Dr. Muradov assumed that next to his signature on the page was that of Dr. Khan.
- Dr. Muradov acknowledged that out of context, Exhibit 6 could be interpreted by a pharmacist as a prescription.
- According to Dr. Muradov's chart notes there was nothing explaining to R.B. that if she experienced any symptoms with taking these medication that she should talk to Dr. Thorpe, Dr. Khan or her general practitioner. The only charting with reference to symptoms of excess was in an email dated September 21, 2017 to R.B. advising her to watch out for anxiety, palpitations, and tremor; if these symptoms occurred, she was to decrease the dose of Desiccated Thyroid.
- Dr. Muradov admitted there was no consultant's report from Dr. Khan. At one point there was a verbal discussion with R.B. about increasing the dose of Desiccated Thyroid to 60 mg, and decreasing the Hydrocortisone dose, but Dr. Muradov thought this should be subject to confirmation with Dr. Khan or Dr. Thorpe or her general practitioner; the chart notes do not contain anything to confirm whether this need for confirmation of dosages or changes in dose was communicated to R.B. or obtained. Dr. Muradov thought he discussed this with R.B. but cannot recall.
- It was an expectation of Dr. Muradov that R.B. would maintain a primary care relationship and confirm additional medications and dosages with her general practitioner. Dr. Muradov also expected R.B. to confirm medications and dosages with Dr. Thorpe or Dr. Khan. Dr. Muradov did not verify if R.B. had contacted her general practitioner, Dr. Khan or Dr. Thorpe regarding changes to dosages.
- Dr. Muradov acknowledged that he did not add anything to R.B.'s chart notes regarding these expectations. Dr. Muradov pointed to the intake forms indicating that

he played a secondary role in R.B.'s healthcare and that R.B. was to regularly seek the opinion of a medical doctor. Dr. Muradov acknowledged that in retrospect, he could have been clearer to R.B. about his expectation that she would discuss medications and dosages with her general practitioner, Dr. Khan or Dr. Thorpe.

- Dr. Muradov recalls asking R.B. to bring in the pills bottles before starting the medications and that he may have seen her with these pill bottles at some point but not before October 25, 2017.
21. On redirect examination by Mr. Rossall, Dr. Muradov testified that he spoken to Dr. Thorpe again after the College's investigation was completed and that Dr. Thorpe had offered to write a letter which was entered into evidence at Exhibit 10. The letter of February 19, 2019, written on the letterhead of Dr. Edward J. Thorpe, pharmacist, stated that: "Kripps Pharmacy only filled and continues to fill prescriptions authorized by licensed Canadian MD, medical doctors; or ND, naturopathic doctors, licensed in BC. We are always available to advise any and all Canadians regarding health."
22. Mr. Sims submitted that the letter should be treated as hearsay evidence and should be given a very low weight, as Dr. Thorpe did not testify, the letter is generic and submitted after the fact.
23. In answer to questions from the Hearing Tribunal, Dr. Muradov provided clarification on the following points:
- The name of the Electronic Medical Record (EMR) that Dr. Muradov uses is JANE.
 - On October 25, 2017, Dr. Muradov met with R.B., suggesting that she continue with the Hydrocortisone and Desiccated Thyroid as written on the pill bottle labels from Kripps Pharmacy; he specifically recalls telling the patient those directions were just suggestions as per Dr. Khan.
 - From the chart notes in Exhibit 3, Dr. Muradov confirmed that where P: See Sheet is indicated, this refers to the sheet given to R.B. with explanation of instructions for continuing medications, dietary modifications, other instructions etc.
 - The second referral to Kripps Pharmacy could have been made as a result of a telephone conversation with R.B. or from the email of February 26, 2018 where she indicated that she was taking 45 mg of Desiccated Thyroid and would need more.
24. Mr. Sim and Mr. Rossall both indicated they had no further witnesses to call and had no further evidence to submit.

VII. SUBMISSIONS

A. Submissions of the Complaints Director

25. With respect to Allegation 1, Mr. Sim submitted that Dr. Muradov failed to appropriately refer R.B. to another health professional in contravention of the following items in the College's Standards of Practice: Collaboration in Patient Care:

Item 3: communicating clearly and effectively with other health care professionals;

- Item 4: documenting accurately and clearly their contribution in the patient's care and in accordance with CNDA Standard of Practice: Records Keeping; and
- Item 5: clearly explaining their roles and responsibilities to the patient and other health care professionals.
26. With respect to Item 3, Mr. Sim submitted that Dr. Muradov did not communicate clearly and effectively with other health professionals, including Dr. Thorpe or Dr. Khan, regarding R.B.'s care. Dr. Thorpe asked Dr. Muradov to provide R.B.'s medical history to Kripps Pharmacy. Even though Dr. Muradov had access to R.B.'s medical information including information about her condition, lab results, allergies, intentions and objectives, the medical history he provided to Kripps Pharmacy was only two words long. Dr. Muradov expected Dr. Khan to assess R.B. and determine if the specific drugs and dosages would be appropriate for R.B. in the absence of detailed medical information. Mr. Sim submitted that this did not amount to clear, effective communication in order to properly collaborate in R.B.'s care.
27. Regarding Item 4 and 5, Mr. Sim submitted that Dr. Muradov did not accurately or clearly document his contribution and those of other health care providers in R.B.'s care. Dr. Muradov testified that he saw his role as recommending treatment and that he intended for R.B. to verify medication and dosages with authorized prescribers. However, this was not documented in Dr. Muradov's chart notes. There are no notes showing that Dr. Muradov explained to R.B. what his role and the roles of other healthcare professionals were in R.B.'s treatment. Mr. Sim submitted that the inconsistency between Dr. Muradov's testimony on this point and the information contained in his chart notes raised a credibility issue.
28. Mr. Sim then went on to explain that Allegation #2 is an alternative to Allegation #1. Dr. Muradov either improperly referred his patient to Kripps Pharmacy and Dr. Khan, expecting a prescription to be issued for her (Allegation 1), or he prescribed or purported to prescribe drugs that he was not authorized to prescribe (Allegation 2).
29. Mr. Sim submitted that Exhibits 4 and 6 are key documents with respect to Allegation 2. Mr. Sim submitted that notwithstanding the use of the word "referral" on the fax cover sheet, Exhibits 4 and 6 are "Prescriptions" as defined by section 1(1)(v) of the *Pharmacy and Drug Act*, in that they included the patient's name, the name of two Schedule 1 drugs, the strength of those drugs, the dosing directions, quantity and the number of refills. Even Dr. Muradov acknowledged in his testimony that a pharmacist could think that these documents were prescriptions.
30. Mr. Sim submitted that R.B.'s understanding and Dr. Muradov's chart notes are also evidence proving Allegation 2. R.B.'s evidence was clear that she understood that Dr. Muradov was directing her care, the medication she would be receiving, and the dosages she would be taking.
31. Mr. Sim further submitted that although Dr. Muradov stated that he was just making suggestions to R.B, his chart notes and emails to R.B. do not indicate that; rather, these records show directions. They do not suggest that R.B. should verify his directions with anybody else. There is no written record of Dr. Muradov advising R.B. to verify his directions with others.
32. Mr. Sim submitted that putting the word "referral" on the document does did not make it a referral. He submitted that Exhibits 4 and 6 are prescriptions, and as such, Dr. Muradov participated in a restricted activity, in contravention of the relevant legislation and College's Standards of Practice. Specifically, Mr. Sim directed the Tribunal to the following relevant legislation and Standards of Practice governing Naturopaths:

- Schedule 7.1 of the *Government Organization Act*, RSA 2000, c G-10, lists restricted activities that can only be done by a health professional, if they are expressly authorized to do so. Section 2(1)(f) of Schedule 7.1 states that prescribing a Schedule I drug within the meaning of the *Pharmacy and Drug Act*, RSA 2000, c P-13, is a restricted activity.
 - Section 14 of the *Naturopaths Profession Regulation*, Alta Reg 126/2012, lists restricted activities from Schedule 7.1 that Naturopaths can perform. Prescribing is not listed as an activity that Naturopaths can perform.
 - The College's Standard of Practice: General contains the following relevant sections:
 - Section A, Responsibility and Accountability, Item 3 – knowing and complying with the laws and regulations governing their practice, including the *Government Organization Act*, *Health Professions Act*, *Naturopaths Profession Regulation*, *Health Information Act*, *Personal Information Protection Act*, *Child, Youth and Family Enhancement Act*, and other relevant legislation;
 - Section B, Knowledge-Based Practice, Item 9 – refraining from performing diagnostic or therapeutic procedures outside the naturopathic scope of practice;
 - Section B, Knowledge-Based Practice, Item 14 – being familiar with the list of restricted activities as outlined in the *Government Organization Act* s.7.1, 2(1);
 - Section B, Knowledge-Based Practice, Item 16 – refraining from performing restricted activities that they are not competent to perform despite any authorization given to the member to perform restricted activities;
 - Section D, Professional Accountabilities, Item 3 – practicing within the naturopathic scope of practice, including authorized restricted activities, according to *Naturopaths Profession Regulation*.
33. Regarding Allegation 3, Mr. Sim submitted that even if Dr. Muradov did not prescribe Schedule 1 drugs, he exceeded the scope of his practice and contravened the CNDA Standards of Practice by requesting and recommending Schedule 1 drugs such as Desiccated Thyroid and Hydrocortisone. In particular, Exhibit 8 is a letter sent by Dr. Muradov to the College wherein he admitted that he did not have prescribing rights within his scope of practice and so he referred R.B. to a medical doctor for bio-identical, adrenal and thyroid support. Dr. Muradov also acknowledged this in his testimony. Mr. Sim submitted that by making recommendations, Dr. Muradov contravened the following Standards of Practice: General:
- Section B, Knowledge-Based Practice, Item 9: refraining from performing diagnostic or therapeutic procedures outside the naturopathic scope of practice; and
 - Section D, Professional Accountabilities, Item 3: practicing within the naturopathic scope of practice, including authorized restricted activities, according to *Naturopaths Profession Regulation*;
34. Regarding Allegation 4, Mr. Sim submitted that for the purposes of this hearing, it is not necessary to consider the distinction between supervising and monitoring because the evidence shows that Dr. Muradov adjusted the dosages of Schedule 1 drugs, which is contrary to the CNDA Standards of Practice. The patient chart record submitted by Dr. Muradov reflects these adjustments. There is no evidence that Dr. Muradov consulted with anyone regarding those changes.

35. Dr. Muradov testified that he suggested to R.B. that she should discuss medications and dosages with her general practitioner, Dr. Khan or Dr. Thorpe. However, there was nothing documented to show that Dr. Muradov advised R.B. that she should consult with Dr. Khan, Dr. Thorpe or even her general practitioner regarding these dosage adjustments. Mr. Sim suggested that Dr. Muradov's recollection on this point is not credible because it is contradicted by the chart notes and R.B.'s evidence.
36. Mr. Sim submitted that Dr. Muradov did not share all relevant information with other health care providers, nor did he clearly indicate to the patient the collaborative treatment plan and his role in same. This was in contravention of the College's Code of Ethics: Responsibilities to the Profession.
37. In summary, Mr. Sim submitted that Dr. Muradov has not taken responsibility for his actions; rather, he blames the College because he thinks the Standards of Practice are vague. He blames Dr. Khan and Dr. Thorpe for not thoroughly following up with R.B. Dr. Muradov also blames his patient R.B. in that she should have made sure she provided all requisite information to the authorized prescribers. Mr. Sim urged the Hearing Tribunal to hold Dr. Muradov accountable for his actions and hold him to the Standards set out by the College.

B. Submissions of Dr. Muradov

38. Mr. Rossall started with submissions on Allegation 2. Specifically:
 - The issue of "prescribing" a Schedule 1 drug only came about when another Naturopathic Doctor or her physician advised R.B. that Naturopaths should not be prescribing drugs. She was then asked to send a letter of complaint to the College.
 - Mr. Rossall submitted that Dr. Muradov did not prescribe anything because he cannot prescribe anything, and there is no pharmacy that will accept a prescription from an Alberta Naturopath.
 - Dr. Muradov had not prescribed any medication but instead, found a pharmacy in British Columbia that had a medical doctor on staff that could issue prescriptions and collaborate with Naturopaths. Dr. Muradov had to go to this pharmacy because there was a lack of cohesion between Naturopathic Doctors and medical doctors in Alberta.
 - The submissions that Dr. Muradov just put the word "referral" on what is essentially a prescription disregards the other evidence. There was more to the "referral" than what was submitted by Mr. Sim. R.B.'s evidence and the chart notes show that a referral to Kripps Pharmacy was being made. R.B. talks about a referral to the pharmacy, and being connected with the pharmacy to facilitate the prescription process. R.B. did not view the situation as prescribing until her meeting with a subsequent Naturopath.
 - Further, Kripps Pharmacy filled the prescriptions at the direction of Dr. Khan, not Dr. Muradov, as evidenced by Dr. Khan's name on the pill bottles. The documents sent to Kripps Pharmacy by Dr. Muradov could not therefore have been prescriptions.
 - Mr. Rossall submitted that Dr. Muradov understood that Kripps Pharmacy had a medical doctor on staff who would consult and discuss medications with R.B., and on this basis, he referred R.B. to the pharmacy. Mr. Rossall submitted that it is not Dr. Muradov's fault that he did not know at the time that Dr. Khan was not a licensed MD.
 - R.B. admitted that she could not recall all of her discussions and conversations or who she spoke to at Kripps Pharmacy. The evidence is that R.B. contacted Kripps Pharmacy and registered as a patient and gave them her credit card and drivers'

license information, but she was vague about what other information she might have provided. There is no evidence from Kripps Pharmacy or Dr. Khan regarding the discussion with them and R.B.

39. As to Allegation 1, Mr. Rossall agreed that Allegation 1 was an alternative to Allegation 2. He agreed that the Tribunal could not find Dr. Muradov guilty of both Allegations.
40. Regarding Allegation 1, Mr. Rossall submitted that although the CNDA Standard of Practice guidelines talk about clear communication and effective collaboration, these Standards are not clear nor objective.
41. Mr. Rossall further submitted that collaboration is a two-way street. Dr. Muradov fulfilled his role by doing what was asked of him, that is referring R.B. by providing medical information to Kripps Pharmacy. It is Dr. Khan and R.B. that did not communicate with Dr. Muradov after the referral was made.
42. Mr. Rossall submitted that the fact that the prescription was filled by Dr. Khan is proof of collaboration. This evidence demonstrates that Dr. Khan accepted the recommendations of Dr. Muradov. Mr. Rossall further submitted that Dr. Muradov did what Kripps Pharmacy asked him to do: Dr. Muradov spoke with Dr. Thorpe, did his research and then sent a referral request to Kripps Pharmacy with the information that it had requested. Dr. Khan affirmed Dr. Muradov's belief as to what the appropriate medications were by issuing the medications.
43. Dr. Muradov had completed the Pharmacy Therapeutics Course, as required pursuant to the CNDA Policy: Pharmacy Therapeutics Course Requirement. Naturopaths, like Dr. Muradov, are required to understand pharmaceuticals because they need to know how they interact with the overall treatment of the patient. The requirement to understand pharmaceuticals and take the course suggests that understanding pharmaceuticals plays a part in recommending certain pharmaceuticals, and that doing so is critical to the role of a Naturopath.
44. As to Allegation 3, Dr. Muradov submitted that making recommendations or suggestions regarding medication for a patient is part of a Naturopath's practice. Dr. Muradov had gone to another healthcare professional requesting or recommending something that the patient required because he knew it was out of his scope of practice. Dr. Muradov complied with the CNDA Policy: Pharmacy Therapeutics Course Requirement by playing a part in the overall management of the patient by being competent and knowledgeable of pharmaceuticals, normal dosing, appropriate indications, tapering, side effects, and signs of toxicity. The final decision with respect to prescribing ultimately rested with Dr. Khan. Dr. Muradov knew that he could not prescribe Schedule 1 drugs in Alberta so he sought the assistance and recommendations of another health care practitioner who could.
45. With respect to Allegation 4, Mr. Rossall submitted that there is no direction regarding what constitutes supervision, monitoring or adjustment of medications in the legislation, regulation or Standards of Practice. The only document that discusses monitoring or adjustment is Exhibit 7, a bulletin dated March 9, 2018, sent by the Registrar of the College which states that it is not within the scope of a Naturopath's practice to supervise the administration of any drug. Mr. Rossall submitted that Dr. Muradov did not directly administer the drugs to his patient.
46. With respect to supervising, Mr. Rossall further submitted that Dr. Muradov had to have an overall understanding of the patient's health, which required understanding and monitoring the medications his patients are on. He had completed the required Pharmacy Therapeutics course, which required him to understand the medications and the effects they would have on a patient. As a result, supervising the use of medications ought not to be something to be penalized for.

47. Dr. Muradov made a number of recommendations and suggestions regarding the use of Hydrocortisone and Desiccated Thyroid for R.B., and expected that R.B.'s general practitioner or Dr. Khan would review his recommendations. He did not know that R.B. only saw her family doctor once a year. Dr. Muradov in hindsight knew he should have made it clear to the patient that it was his expectation that she would talk to her other healthcare professionals about her medical treatment.
48. In closing, Mr. Rossall submitted that to find that Dr. Muradov engaged in unprofessional conduct meant that Dr. Muradov had to be giving direction to his patient which she was obliged to take without reference to any other sources of information that she had readily available to her. In this case, R.B. stated that she was in charge of her own healthcare, that she had done her research on the internet, attended seminars, connected with people on Facebook, and wanted bio-identicals. It was reasonable for Dr. Muradov to have expected that R.B. would review all recommendations regarding dosages with her general practitioner. Dr. Muradov was unaware that R.B. only saw her primary care physician once a year and only learned after the fact that R.B.'s general practitioner did not agree with his recommendations.
49. Mr. Rossall submitted that everything Dr. Muradov did was in the best interests of his patient and in accordance with the Standards of Practice, guidelines and his understanding of his professional responsibilities, and there is no suggestion by R.B. that Dr. Muradov was doing anything harmful to R.B.

C. Reply Submissions of the Complaints Director

50. Mr. Sims provided the following reply submissions:
 - With respect to Allegation 1(a), if Dr. Muradov did actually refer R.B. to another medical practitioner, he did not do it with due diligence; he should have made sure the patient would receive an assessment by Dr. Khan. Dr. Muradov did not follow through in the collaborative process or referral consultation process with another healthcare practitioner and as a result, fell short of the expectations the College places on its members.
 - With reference to the Agreed Statement of Facts, paragraph 10, Ms. Baruss made numerous attempts to contact Kripps Pharmacy, but was unable to get a hold of anyone. It is problematic that the College was unable to conduct a thorough investigation. There are grave concerns regarding the association Dr. Muradov had with Dr. Thorpe and this pharmacy. However, this hearing is not about the conduct of Dr. Khan or Kripps Pharmacy, but rather, it is on whether Dr. Muradov was complying with the Standards of Practice for the College in this Province.
 - It is irrelevant that Dr. Muradov took a course on pharmaceuticals, since he is still prevented from prescribing Schedule 1 drugs, which is what Allegation 2 is about. Further, the fact that R.B. was not harmed is irrelevant. The Standards of Practice, rules and legislation are in place to prevent harm from occurring and the enforcement of these governing documents are critical to the safety of the public.

D. Further Submissions Regarding Allegation 1(b)

51. Mr. Rossall submitted that although there were submissions on whether Dr. Muradov properly referred R.B., there have been no discussions regarding a transfer of care occurring. Accordingly, he submitted that Allegation 1(b) should not be in issue. Mr. Sim responded by submitting that the intent behind the CNDA Standards of Practice is with respect to setting a

standard for collaboration and this standard requires communication with other health providers; it is this obligation that was not met.

52. The Hearing Tribunal requested further clarification as to the exact nature of Allegation 1(b) and whether it is still an issue between the two parties.

53. Mr. Sim submitted:

- Allegation 1(b) is still at issue. The reference to the allegation of "clear communication about the transfer of care" refers to the transfer by Dr. Muradov of an aspect of his care of R.B. to Dr. Khan and Kripps Pharmacy.
- CNDA Standard of Practice: Transfer and Termination of Care applies when a Naturopathic Doctor identifies circumstances where transfer of care to another regulated health profession is appropriate, which includes section 1(b): "When treatment of the patient's condition is beyond the scope of practice for the profession."
- Dr. Muradov identified that this patient could benefit from drug therapy, so he referred or transferred a portion of care to Dr. Khan.
- At that point, the obligation was on Dr. Muradov to provide clear communication to the other health care professional involved in accordance with item 2(a) and (d) of the Standard of Practice: Transfer and Termination of Care.

54. Mr. Rossall responded:

- Transfer of care only occurs when a Naturopath determines that the need for treatment is beyond his or her scope of practice and the patient is moved to a different health care professional. Anything short of this is collaboration.
- There are two Standards of Practice, one for termination and transfer of care and one for collaboration. Dr. Muradov cannot be collaborating and transferring R.B.'s care at the same time.

E. Further Submissions Regarding Allegations 1 and 2 Being Alternatives

55. At the Hearing, Mr. Sim and Mr. Rossall submitted that Allegations 1 and 2 are alternatives to each other. Both Counsel submitted that either Dr. Muradov improperly referred the patient expecting that a prescription would be issued or improperly prescribed regulated drugs. Dr. Muradov could not have prescribed and improperly transferred care.

56. Both parties were provided an opportunity to provide further submissions on their position that Allegations 1 and 2 are alternatives to each other. Both parties submitted that Allegations 1 and 2 are duplicative in the sense that Dr. Muradov cannot be found guilty of two counts of unprofessional conduct for the same conduct. If Dr. Muradov transferred or collaborated with the care of the patient, he could not have been prescribing. For example, Exhibits 4 and 6 can only be classified either as evidence of collaboration or evidence of prescribing.

VIII. HEARING TRIBUNAL'S DECISION

57. After carefully reviewing all of the evidence and submissions presented, the Hearing Tribunal makes the following findings:

Allegation 1: On or about September 21, 2017, failed to appropriately refer patient R.B. to another regulated health care professional upon determining that she would benefit from treatment beyond the scope of practice of naturopathic medicine in Alberta, particulars of which include one or more of the following::

- a. Failing to refer R.B. to another regulated health professional for assessment and treatment by that regulated health professional***
- b. Failing to provide clear communication to R.B. about the transfer of her care,***

contrary to the CNDA Standards of Practice.

58. The Hearing Tribunal finds that Allegation 1(a) has been proven on the balance of probabilities.
59. Pursuant to the College's Standard of Practice: Collaboration in Patient Care, when collaborating, Dr. Muradov should have:
 - a. communicated clearly and effectively with other health care professionals (Item 3).
 - b. documented accurately and clearly the other health care professionals' contributions in the patient's care and in accordance with CNDA Standard of Practice: Records Keeping (Item 4); and
 - c. clearly explained his role and responsibility to the patient and other health care professionals (Item 5).
60. The College's Code of Ethics places further obligations on Dr. Muradov when collaborating with other health providers, including under Responsibilities to the Profession:
 - a. share all relevant information available with the patient's consent in accordance with relevant privacy legislation (Item 7); and
 - b. clearly indicate to the patient the collaborative treatment plan (Item 8).
61. Dr. Muradov should have communicated clearly and effectively with other healthcare professionals when he considered referring his patient to another health professional to accommodate her health care needs. However, the evidence shows that his collaboration not only with his patient but with other healthcare providers fell short of the Standard of Practice: Collaboration in Patient Care and the College's Code of Ethics.
62. The evidence shows that a referral was intended to occur:
 - a. R.B. understood that Dr. Muradov would be referring her to Kripps Pharmacy and that the term "referral" meant that Dr. Muradov was going to have the medications filled by another party and that he would be providing the information they required for her medication requirements.
 - b. Dr. Muradov's evidence was that he intended to have another health care professional prescribe the treatment, knowing that prescribing was beyond his scope of practice in the Province of Alberta. This is why he referred R.B. to Kripps Pharmacy.
63. Even though Dr. Muradov's intent was not to prescribe, the Tribunal finds that Dr. Muradov did not communicate clearly and effectively with Kripps Pharmacy and Dr. Khan, nor did he

accurately and clearly document their contributions; he also did not share all relevant and available information with Kripps Pharmacy and Dr. Khan. Specifically:

- a. Dr. Muradov testified that when he initially contacted Kripps Pharmacy, he was told by Dr. Thorpe, the owner and pharmacist, to send information to them, including a brief medical history of the patient, what Dr. Muradov thought the patient required in terms of treatment and if any refills would be needed. Regardless of what Dr. Muradov was told by Kripps Pharmacy, the Tribunal finds that the information provided by Dr. Muradov in Exhibit 4 to be insufficient to meet the applicable Standards. Dr. Muradov responded to Dr. Thorpe's request for information with a two word long medical history, despite having access to additional relevant medical information including R.B.'s medical complaints, lab results, allergies and previous use of supplements or recommendations for therapy. There is no evidence of a referral letter or consult to a prescribing physician from Dr. Muradov detailing this information. The Tribunal would have expected to see at least some of this information sent to Kripps Pharmacy. There is nothing in Exhibit #4 that identifies who the fax was intended for, either Dr. Thorpe, Dr. Khan or anyone else at Kripps Pharmacy.
 - b. Dr. Muradov's testified that he did not call Dr. Khan to discuss R.B.'s care and there was no evidence in the chart notes that any attempt was made to contact Dr. Khan or any of R.B.'s other health care providers regarding her care.
 - c. Had Dr. Muradov communicated with R.B.'s other health care providers or Dr. Khan regarding R.B.'s care, the Tribunal would have expected to see, at the very least, consult notes in Dr. Muradov's chart or some other documentation evidencing his contact with Dr. Khan or R.B.'s other health care providers.
 - d. The Hearing Tribunal notes that the Standards only require that communication be "clear" and "effective" and leaves it open as to what else a Naturopathic Doctor may do to effectively collaborate with other health professionals. Although more could have been said in the Standards with respect to communication and collaborating, the Tribunal finds that at a minimum, a Naturopath's communication with other health professional needs to be clear and effective. For the reasons set out above, the Tribunal finds that this clear and effective communication did not occur here.
64. The Hearing Tribunal also finds that Dr. Muradov did not clearly communicate to R.B. what his role and responsibilities were, the role and responsibilities of the other health care professionals and overall, what the collaborative treatment plan was. Specifically:
- a. Dr. Muradov testified that his intent was to have R.B. provide her health information, including her medical condition, treatments, and laboratory results directly to Dr. Khan but his chart notes did not document precisely how this communication or referral process would transpire. His evidence is not clear as to whether he took the time to explain the referral process to R.B. Neither his chart notes nor emails to R.B. contain such an explanation.
 - b. The Hearing Tribunal found that Dr. Muradov did not clearly explain to R.B. the role other health care professionals would play in her care. Dr. Muradov expected that R.B. would discuss medications and dosages with other health care professionals but the evidence does not persuade the Hearing Tribunal that he clearly advised R.B. of his expectations. Overall, Dr. Muradov was not clear in his communication or his documentation as to who would be assessing R.B.'s progress with the bio-identical hormones, and who would be involved in the collaboration process with other health care providers.

- c. R.B. testified that it was her understanding that Dr. Muradov was going to refer her to a pharmacy that would provide bio-identical hormones and that part of the referral process would involve herself registering with Kripps Pharmacy. However, she testified that she thought Dr. Muradov would provide Kripps Pharmacy with the relevant information.
 - d. Exhibit 5 are photographs R.B. had taken of the medication bottles she received from Kripps Pharmacy. The prescriber's name on the label was Dr. Khan, and the label included directions on how to take the medication. R.B. testified that she did not have any communication with Dr. Khan regarding the prescriptions or any refills, and that she did not recall who Dr. Khan was. The Tribunal finds that this evidence is indicative that Dr. Muradov did not make it clear to R.B. who Dr. Khan was or what Dr. Khan's role was in her care.
 - e. The consent on the intake form was insufficient to communicate to the patient what kind of collaboration would be undertaken for her treatment. There needed to be clearer communication to the patient regarding the specifics of the collaborative treatment plan.
 - f. Dr. Muradov's chart notes of August 29, 2017 indicated a suggested dosage of Hydrocortisone 10 mg and Desiccated Thyroid 30 mg and a consideration of a referral to Dr. Khan at Kripps Pharmacy. However, there is nothing else documented, either in his charts or in his communication to R.B. on what this referral process would entail. There is nothing in the chart notes indicating that R.B. should contact her family doctor or that Dr. Muradov himself should consult with her family doctor before initiating a referral. R.B.'s evidence was that she did not recall Dr. Muradov telling her to consult with her family doctor and she did not consult with anyone other than Dr. Muradov from August 2017 to March 2018.
65. The Tribunal found both witnesses to be frank and honest. Both witnesses fairly conceded that they could not recall all the details of their conversations. However, there are inconsistencies between their testimonies. Dr. Muradov testified that he expected that R.B. would communicate with other health care providers regarding her treatment plan. Dr. Muradov may have expected R.B. to communicate with other health care providers regarding the medication; however, the evidence does not show that this expectation was clearly communicated to R.B. R.B. testified that she did not recall Dr. Muradov telling her to consult with her other health care providers regarding her treatment plan and ongoing assessment or therapy. Dr. Muradov's own chart notes also do not reflect this expectation, and Dr. Muradov acknowledged during his testimony that he could have been clearer with R.B. with respect to what was expected of her in terms of communicating with her other health care providers. Given this, where there are conflicts between R.B.'s and Dr. Muradov's evidence, the Tribunal preferred R.B.'s evidence.
66. The Hearing Tribunal finds that Allegation 1(b) was not proven. The Standard of Practice: *Transfer and Termination of Care* applies where a Naturopath determines that they need to transfer and/or terminate care of their patient. It does not mention transfer of a portion or aspect of a patient's care. The Tribunal finds that when reading this Standard as a whole and taking into consideration the Standard of Practice: Collaboration in Patient Care, the intention is for this Standard to apply when a Naturopath has transferred care of their patient to another health care professional or terminated care altogether; in either case, the Naturopath is no longer involved in that care of that patient. If the Naturopath remains involved with another health care professional in treating the patient, this is collaboration, and not a transfer or termination of care.
67. The evidence shows that Dr. Muradov intended to collaborate with another health professional, by providing recommendations on medications to a professional who could

prescribe these medications. The evidence also shows that Dr. Muradov remained involved with R.B.'s care throughout.

68. R.B. testified that she did not feel her referral to Kripps Pharmacy would in any way terminate her relationship with Dr. Muradov. It was her impression that Dr. Muradov was overseeing her overall health care protocol and that he would remain involved. R.B. also testified that she was told to discuss any side effects with Dr. Muradov. Other evidence supports the finding that R.B.'s care was not transferred to Kripps Pharmacy. As evidenced by the email communications between R.B. and Dr. Muradov, Dr. Muradov remained involved in R.B.'s care after the initial request to Kripps Pharmacy in September 2017. Dr. Muradov also continued to see R.B. for follow-up appointments.
69. Overall, the evidence does not establish that R.B.'s care was being transferred to a different health care professional. As there was no transfer of care, the Hearing Tribunal finds that Allegation 1(b) is not proven.

Allegation 2: On or about September 21, 2017, prescribed or purported to prescribe one or more of the following Schedule 1 Drugs to patient R.B.:

a. Desiccated Thyroid

b. Hydrocortisone;

contrary to the Government Organization Act, R.S.A. 2000, c. G-10, Schedule 7.1, sections 2(1)(f) or (g) or 4, the Naturopaths Profession Regulation, AR 126/2012, the CNDA Code of Ethics or the CNDA Standards of Practice.

70. The Hearing Tribunal finds that Allegation 2 was not proven on the balance of probabilities.
71. According to the legislation that Naturopathic Doctors must adhere to, the act of prescribing Schedule 1 drugs within the meaning of the *Pharmacy and Drug Act* and the *Government Organization Act* is a restricted activity. The term "prescription" according to the *Pharmacy and Drug Act* means a direction by a person who is authorized to prescribe drugs, directing that a drug be dispensed to or for the patient named in the direction.
72. Whether Dr. Muradov "directed" the medication is the threshold issue. It was evident from Dr. Muradov's testimony that he knew he could not prescribe Schedule 1 drugs in Alberta. R.B. testified that she did not hear Dr. Muradov use the word "prescribing" either in office visits or by emails. It was not his intent to prescribe as in the definition of giving direction. His intent was to refer and collaborate. He was guided by the advice of his colleagues and in pursuing that advice was directed to Kripps Pharmacy. He was then instructed by Dr. Thorpe and Dr. Khan to have R.B. register with their pharmacy. Even though there was very little communication, as evident by the lack of record keeping, between Dr. Khan and Dr. Muradov, the prescription bottles were labelled with Dr. Khan's name and the directions for these drugs were under Dr. Khan's authority to prescribe. This is evidence supporting a finding that Dr. Khan was the prescribing doctor.
73. Dr. Muradov testified that it was his intent to collaborate and not to prescribe. According to Dr. Muradov, Exhibit 4 is evidence of that collaboration; he faxed the pertinent information regarding R.B. at the request of Dr. Thorpe including a brief medical history and what Dr. Muradov suggested in terms of medication therapy, all of which would be conveyed to Dr. Khan, the medical practitioner at Kripps Pharmacy.

74. The Hearing Tribunal accepts that Exhibit 4 was intended to be and was in fact a referral, albeit one that was not done properly; it was not a prescription. Although there is information in the document that one would find in a prescription, there is also information that one would not expect to see in a prescription, such as the patient's medical history. The same could be said about Exhibit 6, which is the second copy of the pharmacist prescription request dated March 1, 2018 sent to Kripps Pharmacy. This document also contains the patient's medical history and date of birth; it also allegedly has Dr. Khan's signature. Without other evidence, the Hearing Tribunal is unable to verify that this is in fact Dr. Khan's signature. Accordingly, the Tribunal assigns little to no weight to this signature.
75. The evidence as described above is enough to persuade the Hearing Tribunal that Dr. Muradov did not prescribe or purport to describe.

Allegation 3: On or about September 21, 2017, requested or recommended that a prescription be issued to his patient, R.B. for one or more of the following Schedule 1 drugs:

a. Desiccated Thyroid;

b. Hydrocortisone;

contrary to the CNDA Standards of Practice.

76. The Hearing Tribunal finds that Allegation 3 was not proven on the balance of probabilities.
77. The CNDA Standards of Practice do not have any express restrictions on requesting or recommending treatments, although the Hearing Tribunal has noted that the Standard of Practice: General restricts Naturopaths from performing diagnostic or therapeutic procedures outside the naturopathic scope of practice.
78. A regulated member of the College of Naturopathic Doctors of Alberta limits the practice of restricted activities within their scope of practice to those that are identified in the *Naturopaths Profession Regulation* of Alberta. Regulated members must demonstrate their competence in the area to practice within a restricted activity and must have authorization to do so by the College.
79. The Hearing Tribunal recognizes that Naturopathic Doctors do not have the prescribing authority for Schedule 1 medication and that prescribing Schedule 1 medication would be outside of their scope of practice. However, it does not find that the College's Standards, the legislation or regulations prevent Naturopathic Doctors from making recommendations, including recommendations regarding pharmaceuticals.
80. Naturopaths are required to have a working knowledge of pharmaceuticals. The College's Policy requires that Naturopaths take a pharmaceutical course in order to ensure that Naturopathic Doctors practice "competently, safely and responsibly." It is a Naturopath's mandate to take a holistic approach to their patient's health and by making this course a requirement, it would appear that Naturopaths are expected to use their pharmaceutical knowledge in treating their patients. Patients expect Naturopaths to provide an opinion on their health. Providing opinions and recommendations to patients on their health is inherent to the Naturopath's practice.
81. Given the above, Naturopaths should be able to make recommendations that they think are necessary to safeguard or advance the patient's health. These recommendations could and should extend to, when necessary, the patient's medication. For example, if a Naturopath identifies a situation where a patient is on drugs that could be harmful for them, he or she

should be able to make recommendations; however, they cannot direct the medication to be received by the patient.

82. The line between prescribing medication (which is a restricted activity) and making recommendations on medications is not clearly drawn and the issue is complicated by the fact that Naturopaths are given all the necessary tools to provide recommendations on medications. The Standards do not provide clear direction as to how Naturopaths are expected to navigate between a prohibited and a permissible activity.
83. Dr. Muradov testified he had been required by the College to undertake the pharmaceutical course so that he would be competent and knowledgeable regarding medications that would be prescribed by other health care professionals and the effect these medications would have on a patient's overall health. Dr. Muradov's recommendations or suggestions transpired after meeting with R.B. He had formed a professional relationship with his patient and identified that bio-identicals may be helpful as she was not responding to supplemental therapy, diet and exercise as prescribed by her previous Naturopath.
84. Dr. Muradov understood that he was not authorized to prescribe bio-identical hormone medication, as that was outside his scope of practice. Accordingly, he recommended treatment from another health care practitioner. As her Naturopathic Doctor, Dr. Muradov retained responsibility for R.B.'s health care, which included making suggestions for this treatment.
85. Dr. Muradov throughout his testimony spoke to recommending or suggesting certain medication therapy for his patient. The evidence does not show that he was performing a diagnostic or therapeutic procedure to address R.B.'s questions about bio-identical hormone treatment. The Hearing Tribunal finds that the Standards of Practice for Naturopaths do not prohibit Naturopaths from making suggestions or recommending treatment options, including recommendations on available pharmaceutical options.

Allegation 4: On or about September 2017 to March 2018, supervised the use of, or adjusted the prescribed dosages of, one or more of the following Schedule 1 drugs for patient R.B.:

- a. Desiccated Thyroid;***
- b. Hydrocortisone;***

contrary to the CNDA Standards of Practice.

86. The Hearing Tribunal finds that Allegation 4 was proven on the balance of probabilities.
87. Dr. Muradov testified that he was not adjusting dosages, but rather was suggesting possible dosage adjustments. He expected that R.B. would follow-up with her health care providers to confirm the suggested dosage adjustments. Similar to the Hearing Tribunal's findings with respect to Allegation 1(a), the Hearing Tribunal finds that Dr. Muradov failed to clearly communicate this expectation to R.B. and that he also failed to collaborate with her medical professionals with respect to these suggestions and recommendations he was making. Specifically:
 - a. Even though R.B. corresponded with Dr. Muradov via emails and maintained office visits, from August 2017 to March 2018, there was no documentation in his chart notes regarding follow up discussions with Dr. Khan, Dr. Thorpe or R.B.'s general practitioner regarding R.B.'s care. The chart notes and e-mails found in the chart, as well as R.B.'s testimony show that dosages of the medications were increased and

decreased during this time; but no discussions were had with any of these health care providers.

- b. The evidence indicates that R.B. did not discuss the changes in dosages with Kripps Pharmacy, Dr. Thorpe, Dr. Khan or her general practitioner. R.B. testified that she could not recall if Dr. Muradov advised her to confirm dosages with other health care providers.
 - c. R.B.'s testimony is supported by the absence of records of these discussions in Dr. Muradov's chart notes. Dr. Muradov's chart notes do not include any notes about requiring R.B. to confirm dosages with other health care providers. There are also no notes showing that Dr. Muradov communicated with any other health care provider involved in R.B.'s care.
 - d. It is unclear from the testimony of Dr. Muradov and from his chart notes as to how the second fax was sent to Kripps Pharmacy on March 1, 2018 for further medication (Exhibit 6). The Tribunal finds it concerning that there is no documentation showing how the second fax occurred, and also how Dr. Muradov could not clearly recall what gave rise to the second request.
88. As already indicated, the Hearing Tribunal has concerns regarding Dr. Muradov's record keeping. There was poor documentation in his chart notes with respect to what exactly was being communicated to R.B. regarding her care. There is no reference in the charts regarding any conversation that Dr. Muradov had with Dr. Thorpe or with Dr. Khan at Kripps Pharmacy, or what his role would be in overseeing treatment. Yet, the evidence found in his charts and the witnesses' testimonies show that Dr. Muradov was coordinating the dosage adjustments for the Desiccated Thyroid and Hydrocortisone. Although Dr. Muradov testified that he was only suggesting dosage adjustments and that he assumed R.B. would be collaborating directly with Dr. Khan regarding the adjustment dose of these medications, the rest of the evidence does not support a finding that anyone, other than Dr. Muradov, was involved with these adjustments.
89. Dr. Muradov should have communicated with Dr. Khan or Dr. Thorpe about why he felt that the dosages should be altered. With respect to his dealings with R. B., Dr. Muradov should have explained that others were involved in her health care treatment plan and that she should confirm any dosage changes with them.
90. By adjusting the dosages without communicating with any other health care provider involved in R.B.'s care and failing to inform R.B. of what was expected of her with respect to confirming dosages with her health care providers, Dr. Muradov's fell below the following requirements:
- a. Items 7 and 8 of the College's Code of Ethics: Responsibilities to the Profession;
 - b. A.1, A.2 and C.7 of the College's Standards of Practice: General
 - c. Items 3 to 5 of the Standards of Practice: Collaboration in Patient Care.
91. With reference to the CNDA Standards of Practice: General A.1, the Hearing Tribunal found Dr. Muradov did not exhibit the responsibility and accountability he should have undertaken with his actions for his patient.
92. It is evident from Exhibit 3 that R.B. discussed how she responded to the medication either in person or via email communication with Dr. Muradov. Dr. Muradov was monitoring her responses to the medication and suggested how to adjust the dosages accordingly. However, there was no collaboration or communication with Dr. Khan, Dr. Thorpe or even the family doctor on how to determine the appropriate dosage. Dr. Muradov relied on R.B. to

do the appropriate consultation even though she was relying on him for advice on her health care.

93. The Tribunal notes that there are no CNDA Standards or policies defining "supervision", and whether "supervising" would include "monitoring". The College emailed a bulletin to all its regulated members in March 9, 2018 reminding members they do not have prescribing authority (Exhibit 7). The bulletin highlighted that it is not within a Naturopathic Doctor's scope of practice to supervise administration of any drug for which they are not authorized to prescribe. If the drug cannot be legally prescribed then regulated members are not permitted to administer it or supervise its use. The evidence does not demonstrate that Dr. Muradov was administering or directly supervising the administration of Hydrocortisone or Desiccated Thyroid to R.B. But the evidence does show that he was at least monitoring her usage of these drugs.
94. The uncertainty with respect to what is considered prohibited supervision is compounded by the requirement that Naturopaths take a pharmaceutical course as part of their overall curriculum. The necessity to take this course indicates some need to understand pharmaceuticals and their interactions. It implies that some degree of monitoring the patient's use of pharmaceuticals is required and that in itself is not prohibited.
95. The Hearing Tribunal finds that Dr. Muradov was monitoring R.B.'s use of Hydrocortisone and Desiccated Thyroid. But his failure to properly collaborate with other health care providers and communicate with his patient regarding her treatment plan meant that his conduct fell below the Standards required by the College, which amounts to unprofessional conduct.

IX. CONCLUDING REMARKS

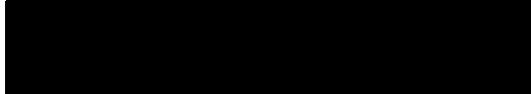
96. The Hearing Tribunal notes that there was no actual harm to R.B. during the course of Dr. Muradov's treatment and that R.B. herself did not feel Dr. Muradov's treatment was harmful in any way. There are also some questions as to what Kripps Pharmacy or Dr. Khan should or should not have done. However, this hearing was not about the conduct of R.B. or the other health care professionals, including Dr. Khan or Kripps Pharmacy. This hearing is about whether Dr. Muradov's conduct contravened the applicable legislation, regulation, standards and policies that apply to Naturopaths in Alberta.
97. In determining the reasons for this decision, the Hearing Tribunal considered the *Health Professions Act*, R.S.A. 2000, c. H-7, section 1(1)(pp) *Naturopaths Profession Regulation*, Alta. Reg. 126/2012, section 14, *Government Organization Act*, R.S.A. 2000, c.G-10, Schedule 7.1, *Pharmacy and Drug Act*, R.S.A. 2000, c. P-13, section 1, CNDA Code of Ethics and the CNDA Standards of Practice.
98. In particular, the CNDA Code of Ethics and Standards of Practice require Naturopathic Doctors to effectively collaborate with other health care professionals, accurately document their contributions, and clearly communicate with their patients, while remaining accountable for their conduct. The Hearing Tribunal finds that Dr. Muradov's conduct in this case did not meet these requirement.
99. Collaborative practice is a foundation of providing appropriate patient care in all Naturopathic practice settings. The Hearing Tribunal finds that collaboration and professionalism are the core issues in this matter.
100. The *Health Profession Act*, R.S.A. 2000, c. H-7, section 1(1)(pp) defines "unprofessional conduct" and it includes a contravention of the Act, a code of ethics or standards of practice.

101. Based on the reasons outlined above, the Hearing Tribunal finds that Dr. Muradov was engaged in unprofessional conduct as defined in Section 1(1)(pp) of the *Health Professions Act*.

X. ORDERS

102. Having made its findings on unprofessional conduct, the Hearing Tribunal must now consider the appropriate orders for sanctions. The Hearing Tribunal will receive submissions from the Complaints Director and Dr. Muradov with respect to sanctions. The Hearing Tribunal asks that the parties attempt to reach an agreement as to the preferred method and timing for submissions and advise the Hearing Tribunal through the Hearings Director as to their agreement. If the parties are unable to reach an agreement within two weeks, then the Hearing Tribunal will establish deadlines for written submissions.

Dated the 28th day of April, 2020 in the City of Calgary in the Province of Alberta.

A large black rectangular redaction box covering the signature of Anita Warnick.

Anita Warnick
Chair, Hearing Tribunal

IN THE MATTER OF A HEARING OF THE HEARING TRIBUNAL
Into the Conduct of Dr. Eric Muradov, ND, Regulated Member of the
College of Naturopathic Doctors of Alberta, pursuant to

THE HEALTH PROFESSIONS ACT, being
Chapter H-7 of the Revised Statutes of Alberta

DECISION OF THE HEARING TRIBUNAL ON SANCTIONS

I. BACKGROUND

1. In its written decision dated April 28, 2020 (the "**Decision**"), the Hearing Tribunal described its findings with respect to the allegations of unprofessional conduct as set out in the Notice of Hearing dated April 29, 2019, against Dr. Eric Muradov, N.D. ("**Dr. Muradov**"). In summary, the Hearing Tribunal found that allegations 1(a) and 4 were factually proven and constitute unprofessional conduct as defined in the *Health Professions Act*, RSA 2000, c H-7 (the "**HPA**"). Specifically, the following allegations were found proven:

It is alleged that Dr. Eric Muradov, while practicing as a Naturopathic Doctor engaged in unprofessional conduct by:

1. On or about September 21, 2017, failed to appropriately refer patient R.B. to another regulated health care professional upon determining that she would benefit from treatment beyond the scope of practice of naturopathic medicine in Alberta, particulars of which include one or more of the following:
 - a. Failing to refer R.B. to another regulated health professional for assessment and treatment by that regulated health professional;
 - ...
 4. On or about September 2017 to March 2018, supervised the use of, or adjusted the prescribed dosages of, one or more of the following Schedule 1 drugs for patient R.B.:
 - b. Desiccated Thyroid;
 - c. Hydrocortisone;contrary to the CNDA Standards of Practice.
2. Following the written decision, the parties agreed to submit written submission on sanctions. Counsel for the Complaints Director of the College of Naturopathic Doctors of Alberta ("**CNDA**") provided written submissions on May 14, 2020. Counsel for Dr. Muradov provided written submissions on May 22, 2020. On May 29, 2020, Counsel for the Complaints Director provided reply written submissions. The parties were given an opportunity to make oral submissions.
3. Due to the present COVID-19 situation, the Hearing Tribunal met via video conference on June 2, 2020 and again on June 25, 2020 to consider the written submissions of the parties. In attendance on behalf of the Hearing Tribunal were Ms. Anita Warnick, public member and Chair, Dr. Arden Baker-Hadley, N.D., and Dr. Harmi Kaler, N.D. Also in attendance were Ms. Sharon Au and Ms. Arooj Shah, independent legal counsel to the Hearing Tribunal.

II. JURISDICTION AND PRELIMINARY MATTERS

4. The parties did not raise any procedural issues in their written submissions.

III. SUBMISSIONS

A. Submissions of the Complaints Director

5. The Complaints Director sought the following orders:
 - a. Dr. Muradov shall receive a reprimand with the written decision on penalty serving as the reprimand;
 - b. Three month suspension;
 - c. \$1,000.00 fine;
 - d. Remedial course to be approved in the advance by the Complaints Director in writing in:
 - i. Collaboration with other health care professionals; and
 - e. Dr. Muradov shall pay 2/3 of the costs of the investigation and hearing.
6. Counsel for the Complaints Director submitted as attachments to the Complaints Director's written submissions the following documents:
 - a. Tab D Voluntary Undertaking of Dr. Muradov dated March 3, 2017; and
 - b. Tab L Statement of Costs to Date Re: Discipline Hearing Regarding Dr. Eric. Muradov.
7. Counsel for the Complaints Director submitted that the purpose of sentencing is to ensure the protection of the public, maintaining the integrity of the profession, fairness to the member and specific and general deterrence. Counsel for the Complaints Director's cited *Jaswal v Newfoundland (Medical Board)*, 1996 CanLII 11630 [**Jaswal**], where a non-exhaustive list of factors are provided to consider when determining the appropriate sanctions in the professional disciplinary context. Counsel for the Complaints Director analyzed the *Jaswal* factors and provided the following reasons for the requested orders:
 - a. Dr. Muradov's failures went to the core competencies of a naturopathic doctor, and, accordingly, the nature and gravity of the proven allegations against Dr. Muradov is an aggravating factor.
 - b. Dr. Muradov had been practicing as a Naturopathic Doctor for over six years at the time of the conduct in question. Dr. Muradov is not a new member and ought to have been aware of the importance of clear communication and collaboration. Further, as clear communication and collaboration are fundamental to the practice of naturopathic medicine, all members, regardless of seniority, are expected to possess these skills. This is an aggravating factor.
 - c. Dr. Muradov had a prior complaint in August 2016, which included an allegation that Dr. Muradov provided inadequate consultation to a patient, contrary to the CNDA's Code of Ethics and Standards of Practice. The complaint was resolved by way of a voluntary undertaking and Dr. Muradov agreed to complete a review of CNDA's Code

of Ethics and Standards of Practice, and pay a fine of \$250.00. Counsel for the Complaints Director submitted that Dr. Muradov's previous instance of discipline was similar to the present case, as both involved a failure to clearly and effectively communicate with others. Counsel for the Complaints Director took the position that Dr. Muradov's failure to improve after a complaint with overlapping conduct warrants a three month suspension.

- d. R.B.'s age, mental condition or particularly vulnerability is a neutral factor in this case.
- e. The unprofessional conduct in Allegations 1(a) and 4 were not isolated incidents. Dr. Muradov made inadequate referrals to Kripps Pharmacy and Dr. Khan twice, and monitored and adjusted R.B.'s dosages over a period of time of approximately 7 months. This is an aggravating factor.
- f. Dr. Muradov did not make any admissions regarding the allegations against him. It should be noted that Dr. Muradov has the right to defend himself; the lack of admission should not and cannot be held against him. However, Counsel for the Complaints Director submitted that this should not be treated as a mitigating factor.
- g. Counsel for the Complaints Director acknowledges that due to COVID-19, all Naturopathic Doctors have been restricted in their practice; but this should not be treated as a mitigating factor. Counsel for the Complaints Director submitted that there is no evidence that Dr. Muradov suffered any financial loss due to the allegations made against him; therefore, this is a neutral factor.
- h. There was no evidence of actual harm to R.B. and R.B. did not express that the treatment was harmful. Therefore, this is a neutral factor.
- i. The Orders sought by Counsel for the Complaints Director are suited to deter Dr. Muradov, specifically, and others, generally.
- j. The public has the right to expect members of the Naturopathic profession to abide by the CNDa's Code of Ethics and Standards of Practice, and exhibit competencies that are fundamental to the profession, such as communication and collaboration. The public would expect the Hearing Tribunal to impose sanctions that will prevent future unprofessional conduct.
- k. Counsel for the Complaints Director submitted that Dr. Muradov's conduct fell outside the normal bounds of professional behavior. Dr. Muradov failed to consult and communicate clearly and effectively with R.B. and her health care providers.
- l. Counsel for the Complaints Director presented the following cases as precedents for the appropriate sentencing measures:
 - i. *Marchow v College of Pharmacists (Ontario)* (2000), 133 OAC 359 (Ont Div Ct) [**Marchow**] - a patient was prescribed Isoptin by a physician and the pharmacist renewed this prescriptions without authorization for three years. The sanction was a reprimand, a 6 month suspension, a fine of \$2,000.00 and costs of the investigation and hearing in the amount of \$2,000.00;
 - ii. *Jones v College of Pharmacists (Saskatchewan)*, 2005 SKQB 352 [**Jones**] - a pharmacist filled prescriptions and dispensed pharmaceuticals without making any or adequate determination that the patient was complying with the regimen as directed by the physician; there was also a lack of consultation and employment of appropriate measures to minimize drug misuse and abuse and promote rational drug use. The sanction was a 4-month suspension; remedial

training including ethical and therapeutic decision making, interviewing and intervention management skills, ethics and documentation and communication; three annual reviews of documentation, storage and retrieval policies, practices and communication practices; costs of \$10,000.00 (to be paid jointly with other members under investigation) and a copy of the order provided to the Regina Integrated Drug Unit and published in the College newsletter.

- iii. *Moosa v College of Physicians and Surgeons (Alberta)*, (1986), 48 Alta LR (2d) 415 (CA) [**Moosa**] - physician was found guilty of failure to properly complete patient records. She was found to have improperly altered or attempted to alter patient medical records under review. A sanction of 3-month suspension and 40% of costs of the hearing was awarded.
 - iv. *Huebel v College of Physicians and Surgeons of Ontario*, 2018 ONCPSD 40 [**Huebel**] - a physician failed to maintain the standard of practice with regards to his illegible and incomplete charting and documentation and failing to properly order/interpret various tests which had the potential to cause harm to patients. The sanctions included a reprimand, three month suspension and practice restrictions to practice as a surgical assistant and to not provide any pre-operative or post-operative care; these practice restrictions were applied indefinitely but could vary at any time; and payment of costs of \$10,180.00.
 - v. *Jeh (Re)*, 2013 CanLII 51859 (AB CPSDC) [**Jeh**] - a physician inappropriately prescribed narcotics and barbiturates to a patient over an extended period of time; displayed lack of skill and/or judgment in failing to provide appropriate care to the patient; and failed to adequately document some of the prescriptions in the patient's medical record. The physician was handed a reprimand; restricted from prescribing specific drugs until knowledge met an acceptable standard, by completion of a course; required to participate in a monitoring program for two years; and ordered to pay 25% of costs (total of \$26,000.00).
8. Counsel for the Complaints Director, citing *Lysons v Alberta Land Surveyors' Association*, 2017 ABCA 7, submitted that requiring a disciplined member to pay costs proportionately at 66% was reasonable. Counsel for the Complaints Director further cited *KC v College of Physical Therapists of Alberta*, 1999 ABCA 253 ("**KC**"), for the principles that costs are discretionary, the costs awarded should be fair and reasonable and that the factors that should be taken into consideration when deciding whether to award costs include: the conduct of the parties, the seriousness of the charges, and the reasonableness of the amounts.
9. Counsel for the Complaints Director also cited the factors enumerated in *Jaswal* with respect to whether costs should be awarded. With reference to the *Jaswal* costs factors, Counsel for the Complaints Director submitted that 66% of the costs ought to be awarded on the following basis:
- a. Dr. Muradov was found guilty of unprofessional conduct for breaching core competencies of the Naturopathic profession. This is a serious matter and costs should be awarded accordingly.
 - b. Dr. Muradov was unsuccessful in his defense against 2 out of 3 Allegations (as Allegations 1 and 2 were alternatives to each other), therefore a costs award of 2/3 of the total costs are warranted.
 - c. Two witnesses provided evidence, R.B., and Dr. Muradov, and their testimony was necessary. All costs incurred were reasonable.

- d. Dr. Muradov facilitated the investigation by working with the Complaints Director to put together the Agreed Statement of Facts and an Agreed Book of Exhibits, which has been accounted for in the hearing costs.
 - e. Dr. Muradov was not subjected to an interim suspension and was able to continue to practice. There is also no evidence regarding Dr. Muradov's financial position.
10. In conclusion, Counsel for the Complaints Director submitted that payment of 2/3 of the costs of the investigation and anticipated costs of the hearing reflected a proper consideration of the factors relevant to costs and would also be fair to the other members of the profession, who should not bear the responsibility of another member's unprofessional conduct.

B. Submissions of Dr. Muradov

11. Dr. Muradov sought the following orders:
- a. Dr. Muradov shall receive a reprimand and the Hearing Tribunal's decision shall serve as the reprimand;
 - b. Dr. Muradov will successfully complete a course on communications with other health care providers/referrals subject to the requirement that he will provide proof to the Complaints Director that he has successfully completed the course within 120 days of receiving the Hearing Tribunal's decision identifying the course, or within such other period of time agreed by the Complaints Director;
 - c. Dr. Muradov shall complete a reflective essay of 500-750 words to be submitted to the Complaints Director within 90 days following completion of the communications course, or within such other period as agreed by the Complaints Director;
 - d. Dr. Muradov will pay a fine in the amount of \$1,000.00 due within 12 months of receiving the Hearing Tribunal's decision, or within such other period of time agreed to by the Complaints Director; and
 - e. Dr. Muradov will pay a portion of the costs of the investigation and hearing in the amount of \$2,000.00 due within 12 months of receiving the Hearing Tribunal's decision, or within such other period of time agreed to by the Complaints Director
12. Counsel for Dr. Muradov submitted as attachments to Dr. Muradov's written submissions the following documents:
- a. Tab 1 Formal Complaint of Unprofessional Conduct by Dr. Muradov dated January 30, 2019;
 - b. Tab 2 An Important Notice to CNDA Members Regarding Regulation, Complaints and Scope of Practice email communication dated May 21, 2019;
 - c. Tab 3 This communication includes a Notice of Facilitated Resolution (four investigated members) and a Notice of Facilitated Resolution (on investigated member) email communication dated August 13, 2019;
 - d. Tab 6 Assessor's Report; and
 - e. Tab 8 AHS Quality Referral Pocket Checklist.

13. Counsel for Dr. Muradov submitted that the mandate of the College in professional discipline is to protect public safety through self-regulation of the profession. The disciplinary process is meant to be a learning opportunity and it is not intended to be negative or punitive.
14. Counsel for Dr. Muradov cited two recent CNDA disciplinary decisions (*College of Naturopathic Doctors of Alberta and Jason Ahlan* (April 30, 2019) ("**Ahlan**") and *CNDA v Trevor Hoffman* (May 28, 2019) ("**Hoffman**"), in which the Hearing Tribunals referenced the *Jaswal* factors when imposing sanctions for unprofessional conduct. Counsel for Dr. Muradov submitted the following reasons in support of the orders sought by Dr. Muradov:
 - a. The CNDA's Standards of Practice refers to clear communication and effective collaboration, but in Dr. Muradov's position, the Standards are neither clear, specific or objective. For example, Counsel for Dr. Muradov referred to sections in the Decision where the Tribunal found that the CNDA Standards of Practice could have been clearer, particularly with respect to communication. While this does not absolve Dr. Muradov, in Dr. Muradov's position, poor communication by CNDA, the lack of clarity in the Standards of Practice and lack of intentional wrongdoing should be weighed accordingly.
 - b. Counsel for Dr. Muradov submitted an Assessor's Report completed after a random file audit in April 2019. The Report indicated that Dr. Muradov met most criteria with respect to charting, with minor concerns identified. Based on this, Counsel for Dr. Muradov submit that Dr. Muradov's charting is not the issue; rather CNDA's communication with respect to conducting proper referrals is the issue.
 - c. The CNDA does not have guidelines as to what constitutes an appropriate and proper referral. Counsel for Dr. Muradov referred to guidelines set up by Alberta College of Physicians and Surgeons of Alberta and Alberta Health Services as examples of detailed referral guidelines; details that are lacking from CNDA. Similarly, there are no CNDA standards or policies regarding adjustment or recommendations on medication adjustment.
 - d. Communication was actually limited between Dr. Muradov and other health care professionals between September 2017 to March 2018; the number of times it appears that Dr. Muradov made recommendations regarding dosage adjustments of medications was only 3 over a period of a few months.
 - e. Dr Muradov had only been in practice for 6 years at the time of the conduct and should not be regarded as a senior member. Due to health issues he has never maintained a full time practice. Experience with the referral process has been nominal, with referring R.B. to Kripps Pharmacy being his first collaboration with Kripps Pharmacy.
 - f. Dr. Muradov fully cooperated with the investigation process. An Agreed Statement of Facts and Agreed Exhibit Book saved the Hearing Tribunal valuable time and costs. Dr. Muradov recognizes that he could have been clearer in his communication to R.B. regarding his expectations and outcomes with other health care professionals; which is why he is desirous of taking a course on communications with other health care providers.
 - g. There was no evidence of harm to the patient. In fact, R.B. was quite positive about the care provided by Dr. Muradov, and the complaint only came about after a visit with her new Naturopathic Doctor who urged R.B. to communicate with the College. Once the complaint had been filed, Dr. Muradov had no interaction with R.B.
 - h. Specific and general deterrence will be best achieved with a fine and remedial action and making the decision public. Remedial action, in the form of a communication

course and reflective essay, will enhance the care of patients and the CNDA's ultimate goal of public protection. A harsh financial penalty or suspension is unnecessary given that the conduct is on the lesser end of unprofessional conduct. The orders sought will also fulfill the purpose of sentencing by ensuring that public trust in the profession is maintained.

- i. The prior complaint against Dr. Muradov involved his part-time employment with a company known as MySafeFoods, which sold food sensitivity testing and had Dr. Muradov interpret the results. The results would be communicated online. The Complaints Director at the time found that this telemedicine style consultations were not sufficient to meet the Standards of Practice at that time; Dr. Muradov undertook to withdraw his involvement with respect to any online consultation services. Issues persisted with respect to references to Naturopathic services remaining on MySafeFoods website. As a result, Dr. Muradov was fined and he was required to take an ethics course, to which Dr. Muradov agreed to do (and did do). Dr. Muradov denied that this situation and the current circumstances are analogous, other than perhaps there being no clear policies in place in either case. In any event, based on the step principle of sentencing, even if the two matters were analogous, it would be an extraordinary step for the Tribunal to agree to the sanctions proposed by the Complaints Director.
- j. Only Allegation 2 with respect to unauthorized prescribing, which was not proven, would warrant a suspension. The proven allegations do not warrant a suspension for the following reasons:
 - i. The allegations against Dr. Muradov were determined in the context where the clarity of the Standards of Practice and Policies was debatable, particularly with respect to the meaning of clear and effective communication and supervision and monitoring.
 - ii. Muradov referred R.B. to Kripps Pharmacy, albeit improperly.
 - iii. There are no CNDA guidelines for what should be a "proper" or "appropriate referral".
 - iv. The actions of Dr. Muradov occurred over a short period of time.
 - v. Dr. Muradov has refrained from any further contact with Kripps Pharmacy.
 - vi. There was no harm resulting from Dr. Muradov's care to R.B.
 - vii. The CNDA does not have any guidelines with respect to recommending or adjusting medications.
 - viii. The cases cited by Counsel for the Complaints Director are distinguishable. They do not relate directly to Naturopathic Doctors, mainly deal with incorrect prescribing of medications or deficiencies in practice that resulted in direct harm to the patient, were more serious in nature or were unrelated to the allegations in the case at hand. Specifically:
 1. *Marchow* - the member's actions were dangerous and involved unauthorized prescribing by a pharmacist over a period of 3 years. A total of 35 separate prescriptions were issued. The member was uncooperative with the college. Dr. Muradov supervised R.B. well and has been cooperative.

2. *Jones* – two members prescribed narcotics to several individuals that were subsequently trafficked in a criminal drug trafficking scheme. Dr. Muradov's circumstances are not analogous to this multi-person drug trafficking scheme.
 3. *Moosa* – involved charges of failing to submit claims for payment of benefits, improperly altering or attempting to alter patient medical records and improperly offering the receptionist a cash incentive for each payment scheduled by her for appointment. These facts are not analogous to Dr. Muradov's case.
 4. *Huebel* – the member failed to maintain the standard of practice with respect to his care and treatment of patients in 7 cases and documentation and charting in 12 cases. The member's conduct was extremely dangerous and involved 19 separate patients.
 5. *Jeh* – member inappropriately prescribed narcotics and barbiturates over a six year period, leading to dependency and withdrawal issues in the patient. The member also failed to conduct appropriate investigations, treatment or referrals. Dr. Muradov's conduct is not analogous.
- ix. In two recent Hearing Tribunal Decisions, *Ahlan* and *Hoffman*, the Hearing Tribunal only ordered costs of \$2,000.00 and no suspension was ordered. These cases involved conduct more serious in nature with the potential to cause harm to many patients over a period of time by injecting and administering drugs that are not approved by Health Canada. There were no suspensions handed down to these Naturopathic Doctors even though the allegations of proven unprofessional conduct were more severe and potentially more harmful.
 - x. The investigation and hearing process, which took nearly 24 months, resulted in emotional and psychological stress to Dr. Muradov, who already has a compromised health condition.
 - xi. A suspension would result in undue financial hardship especially in light of the difficulty of practicing during a COVID-19 pandemic, and result in an unnecessary barrier for access to care for his existing patients.
15. On the issue of costs, Counsel for Dr. Muradov submitted that the proposal of 2/3 payment is excessive and Dr. Muradov should not have to bear such an extreme amount. Based on *Hoffman* and *Ahlan*, costs have historically been in the range of \$2,000.00. None of the cases cited by Counsel for the Complaints Director justify deviating from this amount, given that none of the cases are specific to the CNDA and its practices. Given that the Hearing Tribunal only found Allegations 1 a) and 4, the less serious charges, proven, 2/3 of the hearing costs seems unreasonable, especially given Dr. Muradov's cooperation and lack of clarity in the Colleges Standards of Practice and Code of Ethics. Further, the investigation mainly focused on prescribing medication, an allegation that was not proven. In the absence of this more serious allegation, in Counsel for Dr. Muradov's submission, the complaint would have likely been resolved through consensual resolution, as opposed to a full investigation and hearing.
 16. Lastly, Counsel for Dr. Muradov submits that this matter should be used by the CNDA as an opportunity to improve its standards regarding referrals and setting boundaries on managing medication.

C. Reply Submissions of the Complaints Director

17. Counsel for the Complaints Director submitted as an attachment to the reply submissions of the Complaints Director at Tab 5 Complaint of Unprofessional Conduct dated November 6, 2016.
18. In reply to Counsel for Dr. Muradov's submissions, Counsel for the Complaints Director submitted:
 - a. The Complaints Director is not limited in its investigations and can refer any matter to the Hearings Director to find unprofessional conduct. Allegations 1(a) and 4 have been proven and the appropriate sanctions should be given by the Hearing Tribunal to Dr. Muradov's proven unprofessional conduct.
 - b. Professional discipline is not intended to be inherently negative or punitive. However, it is not the case that discipline orders can only be remedial; they can be punitive. The fundamental purpose of sentencing for professional misconduct is to ensure the public is protected from actions of professional misconduct.
 - c. Unlike in *Ahlan* and *Hoffman*, there is no joint submission on sanctions. Each of the *Jaswal* factors should be considered to determine the appropriate sanctions.
 - d. Notwithstanding any lack of clarity in the College's Standards and Code of Ethics, the Tribunal had no difficulty in finding that Dr. Muradov's conduct fell below the standards expected of him. The lack of clarity was not an obstacle in making the necessary findings. The Complaints Director referred to *Walsh v Council for Licensed Practical Nurses*, 2010 NLCA 11, *Sussman v College of Alberta Psychologists*, 2010 ABCA 300, *McPherson v Institute of Chartered Accountants*, 1991 CarswellBC 80, and *Lum v Alberta Dental Association and College (Review Panel)*, 2016 ABCA 154, for a number of principles, including:
 - i. Not every standard needs to be written down, and not every word needs to be defined to be sufficiently certain; as long as the purpose of the standards is known or ascertainable or at least capable of being deduced, the standards would be sufficient. Standards can apply in general terms or be flexible and sensitive to each circumstance.
 - ii. The lack of precise definitions for terms in Codes and Standards does not preclude their application. The interpretation and application of the Code or Standard may require the exercise of judgment.
 - e. The prior complaint against Dr. Muradov included a concern that a recommendation he had provided to a patient was "brief, barely explained, and grossly inadequate", which closely mirrors the current misconduct. Dr. Muradov responded to the prior complaint and the present complaint by stating that the patients misunderstood him, which demonstrates a lack of insight and unwillingness to take responsibility.
19. With respect to Dr. Muradov's prior disciplinary history, Counsel for the Complaints Director disagreed with Dr. Muradov's characterization of the proceedings. Counsel for the Complaints Director submitted that at the time, it appeared Dr. Muradov's conduct contravened several of CNA's Standards of practice and Code of Ethics. The Complaints Director had concerns that Dr. Muradov made a recommendation to his patient that was brief and overall inadequate; also that Dr. Muradov did not appreciate the seriousness of his conduct and was quick to dismiss the complaint on the basis of a simple misunderstanding.

20. In the present case, the Complaints Director is concerned as the present conduct of Dr. Muradov embodies his previous disciplinary action in that he also failed to communicate clearly and effectively his expectations to R.B. and her healthcare providers; and that his response in both cases was to suggest the patient had simply misunderstood him. This suggested a lack of insight and willingness to take responsibility for his professional obligations; it also suggested that Dr. Muradov did not take this prior discipline matter seriously and that a more significant sanction is warranted in order to achieve the necessary deterrence and protect the public.
21. With respect to costs, Counsel for the Complaints Director submitted that the Hearing Tribunal may direct Dr. Muradov to pay all or part of the expenses, costs and fees related to the investigation or hearing or both. In the circumstances of this case, Counsel for the Complaints Director submitted, citing *Hoff v Pharmaceutical Association (Alberta)*, 1994 CanLII 8950, that the College and its members should not be forced to bear the expense of the hearing when the need for the hearing was a direct result of Dr. Muradov's unprofessional conduct, which was proven. Counsel for the Complaints Director submitted that *Ahlan* and *Hoffman* have no application to this case because they proceeded with an Agreed Statement of Facts, admissions and joint submissions on sanctions. This case involved complex factual issues that could only be resolved with a fully contested hearing. Counsel for the Complaints Director submitted that the Hearing Tribunal should make an order for costs that ensures Dr. Muradov bears a fair portion of the costs to address his repeat unprofessional conduct and that CNDA's other regulated members do not bear more than their fair share of the costs.

IV. ORDERS

22. After carefully considering the written submissions of the parties on sanctions, the Hearing Tribunal hereby makes the following Orders pursuant to section 82 of the *Health Professions Act*:
 - a. Dr. Muradov shall receive a reprimand with the written decision on penalty serving as the reprimand.
 - b. Dr. Muradov shall pay a \$2,000.00 fine for each of the proven Allegations 1 a) and 4, for a total fine of \$4,000.00 to be paid within 1 year of receipt of the Hearing Tribunal's decision.
 - c. Dr. Muradov shall successfully complete at his own expense remedial training in the following areas on a schedule as agreed upon with the Complaints Director:
 - i. A course on record keeping and documentation; and
 - ii. A course on collaboration and communication with other health care providers.
 - d. Dr. Muradov shall complete at his own expense 3 annual reviews with a field officer of the College in matters relating to documentation, storage and retrieval policies and procedures and communication practices.
 - e. Dr. Muradov shall pay costs of the investigation and hearing in this matter fixed in the amount of \$15,000.00, to be paid within 1 year of receipt of the Hearing Tribunal's decision or such other time period as may be agreed upon with the Complaints Director.
 - f. The Hearing Tribunal will retain jurisdiction in the event that there is any dispute regarding the implementation of any of the orders referred to above.

V. REASONS FOR ORDERS

23. The Hearing Tribunal carefully considered the written submissions on sanctions by the parties, including the factors referred to by the Court in *Jaswal*. The Hearing Tribunal determined that the Orders imposed by it were appropriate to achieve the goal of sanctions in the professional discipline context, which is to protect the public from future incidents of a similar nature.

24. In determining the appropriate orders to impose, the Hearing Tribunal considered the evidence presented at the Hearing as well as the submissions of Counsel for the Complaints Director and the submissions of Counsel for the Member with respect to sanctions.

a. The nature and gravity of the proven allegations.

25. At the outset, record keeping, documentation and clear communication are fundamental to the Naturopathic profession. It was evident that Dr. Muradov did not communicate clearly or effectively with other health care professionals, nor did he document accurately with respect to his intent behind the referral. Dr. Muradov failed to collaborate and communicate with his patient his intentions and expectations, and failed to collaborate with other healthcare professionals involved with the patient's care.

26. Given the fundamental nature of record keeping, documentation and clear communication, Dr. Muradov's conduct was serious. Further, adjusting patient dosages had the potential to cause serious harm to the patient. Therefore, while there was no evidence of actual harm to the patient or to the public, the Hearing Tribunal finds that Dr. Muradov's unprofessional conduct and the nature and gravity of the proven allegations was serious. The seriousness is reflected in the sanctions.

b. The age and experience of the offending member.

27. The Hearing Tribunal determined that Dr. Muradov had sufficient experience and is not a new practitioner. Accordingly, Dr. Muradov ought to have known the level of conduct expected of him.

c. The previous character of the member and in particular the presence or absence of any prior complaints or convictions.

28. The Hearing Tribunal determined that the Orders imposed are warranted in light of the previous finding of unprofessional conduct. Although the circumstances in the previous matter are different, there are still some similarities. In the previous case, Dr. Muradov made a recommendation that was brief and overall inadequate, and in the present case, Dr. Muradov failed to communicate clearly and effectively his expectations to R.B. and other healthcare providers. In the previous case, Dr. Muradov dismissed the concerns with respect to his practice as a misunderstanding. Similarly, in this case, Dr. Muradov shifted responsibility to others. As Dr. Muradov was mandated to review the College's Standards of Practice and Code of Ethics, the Hearing Tribunal expected that Dr. Muradov would have learned from his previous experience and that he would have understood the importance of communication and accurate record keeping.

29. Dr. Muradov was also required to undergo a random chart audit. Although the assessor thought Dr. Muradov's charting was satisfactory, the Hearing Tribunal still has concerns with respect to his record-keeping and charting in the present case; particularly as it relates to documenting his communications and collaboration with the patient and other health professionals. The Hearing Tribunal therefore finds that the Orders, and in particular the requirement to undergo annual reviews, are warranted to ensure proper compliance with the College's Standards of Practice.

- d. The age and mental condition of the affected person or, in other words, whether the affected person was particularly vulnerable.**
30. The Hearing Tribunal found R.B.'s age, condition and particular vulnerability to be a neutral factor.
- e. The number of times the offence was proven to have occurred.**
31. The Hearing Tribunal acknowledges Counsel for Dr. Muradov's submissions that Dr. Muradov's communication with other healthcare providers between September 2017 and March 2018 was limited, and that Dr. Muradov adjusted dosages 3 times over a period of a few months. Even taking this into consideration, the Hearing Tribunal finds that Dr. Muradov's unprofessional conduct with respect to inadequate communication and documentation occurred repeatedly, and adjustments were made on numerous occasions to more than one medication.
- f. The role of the member in acknowledging what has occurred.**
32. The Hearing Tribunal considered Dr. Muradov's cooperation throughout the investigation and hearing, including his involvement in providing an Agreed Statement of Facts as well as an Agreed Book of Exhibits. The Hearing Tribunal noted that Dr. Muradov acknowledged that his communication with the patient and other health care professionals could have been clearer. The Hearing Tribunal also acknowledges that Dr. Muradov has a right to fully defend himself, and that exercising his right to defend himself should not be used against him at the sanctioning stage.
- g. Whether the member has already suffered other serious financial or other penalties as a result of the allegations having been made.**
33. The Hearing Tribunal noted that Dr. Muradov is still practicing, notwithstanding the current COVID-19 pandemic, and has not suffered any tangible consequences as a result of these proceedings.
- h. The impact of the incident on the affected person.**
34. The Hearing Tribunal took into consideration that there is no evidence of harm to the patient as a mitigating factor.
- i. The presence or absence of any mitigating circumstances.**
35. Dr. Muradov exhibited poor communication and collaboration practices in his interactions with his patient and other health care professionals; however, the lack of clarity of the Standards of Practice and Code of Ethics with respect to collaboration, communication, referral practices, monitoring and supervising were also considered by the Hearing Tribunal. Although the Hearing Tribunal was able to conclude that Dr. Muradov failed to meet certain standards, in spite of this lack of clarity, this lack of clarity affected the Hearing Tribunal's deliberations on the allegations, and made the matter less than straight-forward for the Tribunal to determine. This lack of clarity is a mitigating factor in the circumstances.
- j. The need to promote specific and general deterrence and, thereby, to protect the public and ensure the safe and proper practice of the profession.**
36. The Hearing Tribunal determined that the Orders imposed would promote the need for specific and general deterrence. Specifically, a suspension would be too severe and not fulfill the purpose of sentencing, which is to protect the public. In the Hearing Tribunal's view, a

suspension would not help to improve Dr. Muradov's communication or record keeping practices, which is the main concern in this case.

37. A fine of \$2,000.00 per proven allegation of unprofessional conduct will act as a specific and general deterrent for all members. A greater fine was warranted, given that this was Dr. Muradov's second disciplinary action. A financial deterrent will likely have a greater impact (than a suspension) and be more effective to prevent unprofessional conduct from happening again.
38. With respect to the previous decisions of the CNDA (*Hoffman* and *Ahlan*), the Hearing Tribunal notes that these Members did not receive fines. However, another member practicing outside of his scope of practice was fined \$2,500.00 in addition to other sanctions, as outlined in the CNDA's *An Important Notice to CNDA Members Regarding Regulation, Complaints and Scope of Practice* email communication dated May 21, 2019 (as attached at Tab 2 to the written submissions of Dr. Muradov). In that member's case, the member was found guilty of 2 counts of unprofessional conduct for providing platelet-rich plasma and 1 count of unprofessional conduct for continuing to advertise platelet-rich plasma services to the public
39. Even though Dr. Muradov's conduct was serious, the Hearing Tribunal is not of the view that poor collaboration and communication is out of scope of his practice. It is not clear if Dr. Muradov thought he was doing the right thing in collaborating and referring. Rather, the evidence indicated that he was practicing below the minimum standard required by the College. A fine and remedial measures would be more appropriate than a suspension.
40. As Counsel for Dr. Muradov stated the professional discipline process is meant to provide a learning opportunity for all involved and the College identified education as one of three outcomes of the disciplinary process.
41. In order for Dr. Muradov to practice safely and for protection of the public, courses in communication and collaboration are warranted. For greater certainty, all costs in establishing, monitoring and administering the remedial training should be the responsibility of Dr. Muradov.
42. While a reprimand and fines have punitive aspects, the Hearing Tribunal is expressly authorized by Section 82 of the *Health Professions Act* to impose them when they are warranted. Under Section 158 of the Act a maximum fine of \$5,000.00 for each finding of unprofessional conduct can be imposed. In this case a reprimand is appropriate to denounce Dr. Muradov's proven unprofessional conduct. In terms of fines, the Hearing Tribunal determined that a fine of \$2,000.00 per proven allegation of unprofessional conduct will act as a deterrence especially in light that this was Dr. Muradov's second disciplinary action; in the Hearing Tribunal's view, Dr. Muradov did not take the first disciplinary action seriously. The Hearing Tribunal notes the two recent decisions of the CNDA concerning Dr. Hoffman and Dr. Ahlan did not receive fines, but another member practicing outside of his scope of practice by providing and advertising platelet-rich plasma was fined \$2,500.00, as outlined above in paragraph 38. The Hearing Tribunal did not order a suspension to Dr. Muradov as in its view, a suspension would not help to improve Dr. Muradov's communication or record keeping practices. The Hearing Tribunal concluded that a financial deterrent will have a greater impact and be more effective to prevent unprofessional conduct from happening again.
 - k. **the need to maintain the public's confidence in the integrity of the profession.**
43. The Hearing Tribunal determined that the Orders would maintain the public's confidence in the integrity of the profession.

I. The degree to which the offensive conduct that was found to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct.

44. The Hearing Tribunal finds that Dr. Muradov's unprofessional conduct was conduct that would fall outside the range of permitted conduct of a Naturopathic doctor.

m. The range of sentences in similar cases.

45. The Hearing Tribunal has considered the cases cited by Counsel for the Complaints Director and Counsel for the Member. The cases cited by the Complaints Director do not deal with Naturopathic Doctors, and involve more dangerous and harmful conduct. In addition, *Hoffman* and *Ahlan*, previous decisions of the CNDA, involved conduct that were inherently more serious, as they involved injections to patients. However, they both proceeded by way of Joint Submissions on Sanctions, a situation not applicable here. Accordingly, the Hearing Tribunal does not have the benefit of precedent and must determine the appropriate sanctions with regard to the *Jaswal* Factors.
46. With respect to costs, taking into consideration the factors and principles outlined in the case law cited by the parties, the Hearing Tribunal determined that costs of \$15,000.00 were warranted, pursuant to section 82(1)(j) of the HPA.
47. Counsel for the Complaints Director cited *KC*, in which the Court of Appeal stated that costs are discretionary, they should be reasonable and relevant factors when considering a costs award should include the conduct of the parties, the seriousness of the charges and the reasonableness of the amounts. The Hearing Tribunal took into consideration the six factors for awarding costs outlined in *Jaswal*.
48. The Hearing Tribunal determined that the conduct of the parties did not warrant a higher costs award.
49. The Hearing Tribunal did not have sufficient information to assess the reasonableness of the amounts proposed.
50. Dr. Muradov's proven unprofessional conduct on two of the four allegations is serious and the degree of success was mixed. The Hearing Tribunal has taken this mixed success into consideration, and in particular, the serious nature of the proven allegations, in determining the appropriate costs.
51. Dr. Muradov was cooperative with the investigation and hearing and by providing an Agreed Statement of Facts, which resulted in reduced expenses in terms of the necessity to call other witnesses. For example, no one was called as a witness from Kripps Pharmacy. This would have been required in the absence of an Agreed Statement of Facts.
52. Although Dr. Muradov did not make any admissions, the Tribunal notes that he has the right to contest the allegations made against him. This should not be held against him with respect to costs.
53. Dr. Muradov was not suspended during any part of the investigation and no concerns were brought forward regarding any financial hardship Dr. Muradov has experienced.
54. The Hearing Tribunal's cost award is a significant increase from the costs awarded in previous decisions of the CNDA. However, unlike previous cases, this was a contested hearing and the Hearing Tribunal spent lengthy deliberations regarding the allegations, due in part to the difficulty in interpreting the Standards of Practice. Dr. Muradov should not have

to bear all of the financial responsibility for costs when it is the College's own Standards of Practice that resulted in lengthy deliberations.

55. The Hearing Tribunal's Orders are not to see Dr. Muradov suffer financially and prevent him from practicing in the future, but to educate and support him in achieving a higher standard of practice within the profession.

VI. CONCLUDING REMARKS

56. Disciplinary proceedings serve to protect the public, preserve the integrity of the profession in the eyes of the public, ensure fairness to the investigative member and deterrence to other members to prevent similar conduct in the future. Engaging in unprofessional conduct harms the integrity of the profession, but by imposing sanctions it serves as a learning opportunity both to the member and to the members at large.
57. While the facts of this case were fairly straightforward, the issues arising from the facts were complicated. The College's Standards have not been tested before. However, in spite of the lack of clarity, it was still clear to the Hearing Tribunal that Dr. Muradov fell short of the Standard of Practice for Collaboration in Patient Care and the College's Code of Ethics. Even though Dr. Muradov's intent was to refer, collaboration, communication and documentation with all parties involved was performed unsatisfactorily. Even with the deficiency in the College's definition of "supervision" and "monitoring", the Hearing Tribunal found Dr. Muradov fell below the minimum standards of accountability and responsibility in his actions with his patient's overall care.
58. The Standards and Code of Ethics represent the minimum level of performance for members and demonstrate the delivery of safe, competent and ethical care to patients. Collaboration, communication and professionalism are the core issues in this matter. The Orders outlined above when the minimum requirements are not met are appropriate for the reasons provided.

Dated the 26th day of June, 2020 in the City of Calgary in the Province of Alberta.


Anita Warnick
Chair, Hearing Tribunal