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**IN THE MATTER OF** the *Insurance Act*, R.S.O. 1990, c.l.8, as amended (the “Act”), in particular sections 441, 441.2 and 441.3;

**AND IN THE MATTER OF** Dr. Romeo Vitelli.

**NOTICE OF PROPOSAL TO IMPOSE COMPLIANCE ORDER  
AND  
NOTICE OF PROPOSAL TO IMPOSE ADMINISTRATIVE PENALTY**

**TO:** Romeo Vitelli

**TAKE NOTICE THAT** pursuant to section 441 of the Act, and by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the “Chief Executive Officer”), the Director, Litigation and Enforcement (the “Director”), is proposing to order Dr. Romeo Vitelli to immediately cease the following activities:

- a. conducting examinations for the purposes of assisting an insurer to determine if an insured person is or continues to be entitled to a benefit under the *Statutory Accident Benefits Schedule — Effective September 1, 2010* (“SABS”);
- b. conducting assessments or examinations in connection with a determination of catastrophic impairment under the SABS;
- c. preparing, completing, and signing Treatment and Assessment Plans (OCF-18) as a regulated health professional or health practitioner under the SABS; and
- d. directly or indirectly invoicing insurers for any of the services described in clauses a to c above, except for those services provided on or before the date the Order is issued.

Attached hereto as Schedule “A” to this Notice of Proposal is the Chief Executive Officer’s Report.

**TAKE NOTICE THAT** pursuant to section 441.3 of the Act, and by delegated authority from the Chief Executive Officer, the Director is proposing to impose an administrative penalty in the amount of \$50,000 on Dr. Romeo Vitelli for knowingly making false or misleading statements or representations to insurers in order to obtain payment for goods or services provided to an insured, contrary to section 447(2)(a.3) of the Act.

Attached hereto as Schedule “B” are the details of these contraventions and reasons for this proposal. This Notice of Proposal and Report include allegations that may be considered at a hearing.

**SI VOUS DÉSIREZ RECEVOIR CET AVIS EN FRANÇAIS**, veuillez nous envoyer votre demande par courriel immédiatement à: [contactcentre@fsrao.ca](mailto:contactcentre@fsrao.ca).

**YOU ARE ENTITLED TO A HEARING BY THE FINANCIAL SERVICES TRIBUNAL (THE “TRIBUNAL”) PURSUANT TO SECTIONS 441(3), 441(5), 441.3(2) AND 441.3(5) OF THE ACT.** A hearing by the Tribunal about this Notice of Proposal may be requested by completing the enclosed Request for Hearing Form (Form 1) and delivering it to the Tribunal within fifteen (15) days after this Notice of Proposal is received by you. The Request for Hearing Form (Form 1) must be mailed, delivered, faxed, or emailed to:

Address: Financial Services Tribunal  
25 Sheppard Avenue West,  
Suite 100  
Toronto ON M2N 6S6

Attention: Registrar

Fax: 416-226-7750

Email: [contact@fstontario.ca](mailto:contact@fstontario.ca)

**TAKE NOTICE THAT if you do not deliver a written request for a hearing to the Tribunal within fifteen (15) days after this Notice of Proposal is received by you, orders will be issued as described in this Notice of Proposal.**

**AND TAKE NOTICE of the payment requirements in section 5 of Ontario Regulation 408/12, which state that the penalized person or entity shall pay the penalty no later than (thirty) 30 days after the person or entity is given notice of the order imposing the penalty, after the matter is finally determined if a hearing is requested or such longer time as may be specified in the order.**

For additional copies of the Request for Hearing Form (Form 1), visit the Tribunal’s website at [www.fstontario.ca](http://www.fstontario.ca)

The hearing before the Tribunal will proceed in accordance with the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* (“Rules”) made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended. The Rules are available at the website of the Tribunal: [www.fstontario.ca](http://www.fstontario.ca). Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at 416-590-7294, or toll free at 1-800-668-0128 extension 7294.

At a hearing, your character, conduct and/or competence may be in issue. You may be furnished with further and or other particulars, including further or other grounds, to support this proposal.

**SCHEDULE “A”  
REPORT OF THE CHIEF EXECUTIVE OFFICER**

**I. INTRODUCTION**

1. Section 441(1) of the Act requires the Chief Executive Officer to make a report if the Chief Executive Officer is of the opinion that a person has committed or is committing any act, or has pursued or is pursuing any course of conduct, that is an unfair or deceptive act or practice, or might reasonably be expected to result in a state of affairs that would constitute an unfair or deceptive act or practice.
2. The Director, a delegate of the Chief Executive Officer, is of the opinion Dr. Vitelli has committed acts or pursued courses of conduct that constitute unfair or deceptive acts or practices under the Act.
3. This is the report pursuant to section 441(1) of the Act.

**II. BACKGROUND**

4. Dr. Vitelli is registered as a psychologist with the College of Psychologists of Ontario (“**College of Psychologists**”). Dr. Vitelli is authorized by the College of Psychologists to provide psychological services to adult clients.
5. From 2016 to 2019, Dr. Vitelli completed assessments, examinations, reports, and forms under the SABS on behalf of multiple licensed health service providers under the Act including Novo Medical Services Inc. (“**Novo Medical**”).
6. Novo Medical holds service provider’s licence # SP16119 under the Act. The licence was issued on March 30, 2016.
7. Novo Medical provides medical and rehabilitation treatment to persons who suffer injuries because of motor vehicle accidents. Novo Medical bills insurers under motor vehicle insurance policies for these services.

**A. SABS Treatment Plan and Invoice Requirements**

8. Medical and rehabilitation benefits available under motor vehicle insurance policies in Ontario are set out in the SABS. All health service providers that bill insurers for benefits under motor vehicle insurance policies in Ontario must adhere to the SABS.
9. Health service providers submit the following SABS forms through the Health Claims for Auto Insurance (“**HCAI**”) system:
  - a. Treatment and Assessment Plans (OCF 18) (“**Treatment Plan(s)**”); and
  - b. Auto Insurance Standard Invoices (OCF 21) (“**Invoice(s)**”).
10. Novo Medical (HCAI Facility Registry # 118538) submits completed Treatment Plans to insurers for approval through HCAI. Novo Medical can bill for services

provided under approved Treatment Plans by submitting Invoices to the subject insurer through HCAI.

11. Part 4 of the Treatment Plan, titled "Signature of Health Practitioner", requires a health practitioner to certify that the treatment set out in the Treatment Plan is reasonable and necessary.
12. Part 5 of the Treatment Plan, titled "Signature of Regulated Health Professional", identifies the health practitioner or regulated health professional responsible for preparing and supervising treatment under the Treatment Plan.
13. As a psychologist, Dr. Vitelli is authorized to execute Part 4 and 5 of Treatment Plans.

**B. Agreement Between Novo Medical and Dr. Vitelli**

14. While providing services through Novo Medical, Dr. Vitelli's responsibilities included:
  - a. preparing and signing Treatment Plans for psychological treatment and recommended services for psychotherapy provided to Novo Medical's patients; and
  - b. supervising treatment provided by psychotherapists in accordance with approved Treatment Plans.
15. Novo Medical staff inputted the following information in Treatment Plans completed by Dr. Vitelli: claimant's name and contact information, and the name and location of the clinic where services under the Treatment Plan would be provided.
16. Before sending a Treatment Plan to Dr. Vitelli for his review and approval, a Novo Medical psychotherapist pre-screened the claimant. After completing the pre-screening, Novo Medical staff delivered the Treatment Plan to Dr. Vitelli for his review.
17. Based on pre-screening information provided by a Novo Medical psychotherapist, Dr. Vitelli created a Treatment Plan for the named claimant, signed the proposed Treatment Plan, and passed it back to Novo Medical staff.
18. Dr. Vitelli also prepared assessment reports for the Treatment Plans. Novo Medical submitted Dr. Vitelli's assessment report as part of the Treatment Plan.
19. Novo Medical submitted completed Treatment Plans, through HCAI, for insurer approval.
20. Dr. Vitelli advised FSRA Staff that he did not see Treatment Plans after execution and was not advised if an insurer approved or denied a Treatment Plan.
21. Once an insurer approved a Treatment Plan, Novo Medical staff contacted the claimant and scheduled appointments under the Treatment Plan.

22. According to Novo Medical and Dr. Vitelli, psychotherapists at Novo Medical performed treatment under the Treatment Plans under Dr. Vitelli's supervision.
23. Novo Medical created and submitted all Invoices submitted under Treatment Plans. Dr. Vitelli did not contribute to the creation or submission of Invoices.
24. Novo Medical paid Dr. Vitelli a flat fee of \$10,000 a month for his services pursuant to a verbal agreement with Novo Medical.
25. In late 2019, Dr. Vitelli advised Novo Medical that he was no longer able to supervise psychotherapists at the clinic. According to Dr. Vitelli, his work through Novo Medical ended in late 2019.
26. Dr. Vitelli no longer provides services as a regulated health professional through Novo Medical.

### **C. College of Psychologists' Disciplinary Action Against Dr. Vitelli**

27. On March 23, 2019, Dr. Vitelli entered into an Acknowledgement and Undertaking (the "**Undertaking**") with the College of Psychologists following allegations of professional misconduct. The Undertaking addressed concerns regarding the adequacy of Dr. Vitelli's supervision of individuals who provided psychological services under his professional responsibility.
28. The Undertaking provided that beginning on March 26, 2019, Dr. Vitelli had 24 months to complete the following:
  - a. a 12-month coaching program, during which, for the first six months, he was not permitted to supervise any psychological services provided by non-College of Psychologists members; followed by
  - b. a 12-month inspection period during which Dr. Vitelli's files would be audited.

### **D. False or Misleading Statements or Representations to Aviva**

29. In May 2019, Aviva Canada Inc. ("**Aviva**") approached the Financial Services Commission of Ontario ("**FSCO**"), the former regulator of the insurance sector in Ontario, with allegations that Novo Medical and Dr. Vitelli engaged in practices that contravene the Act.
30. On June 8, 2019, FSRA assumed FSCO's regulatory duties under the Act.
31. FSRA received an investigative report in support of Aviva's allegations. Documents in the report establish that Novo Medical submitted seven Psychological Evaluation Reports and one Catastrophic Impairment Determination Psychological Evaluation Report (dated between April 21, 2017 and May 4, 2018) for claimants (AK, CD, GC, JH, MM, MR, and NK). Sections of the reports are identical. The reports also include identical quotations presented as the claimants' verbatim descriptions of their injuries and symptoms.

32. In the introduction section of the reports, Dr. Vitelli states the following:

Every reasonable attempt was made to address the specific questions relevant to [Claimant]’s psychological functioning. The following diagnostic impression and treatment recommendations are based on any relevant documentation available at the time of the assessment, the claimant’s self-report during the clinical interview, and the objective measures administered. Any additional information or a determination that the claimant was not candid in her self-report may alter the opinions in this report.

33. The reports for all claimants contain the following identical paragraphs and quotations under the “Subjective Report of Injuries” section:

...Of her post-MVA sleeping habits, she reports disturbed sleep due to the pain; the client no longer gets any more than six hours of sleep, as opposed to the eight she had been accustomed to. Her sleep is a major concern for her, as she says, “*Sleep is the big thing, the biggest problem. It’s making me miserable.*” When she does manage to sleep, she sometimes sees nightmares or experiences flashbacks of the accident.

[Claimant] reports problems with depression, anxiety, and increased stress. She attributes her stress to physical, financial, and personal frustrations. She finds herself in a near constant state of fatigue, having little energy to move as she used to. She says, “*I kind of get, you know, miserable,*” and finds herself having difficulty keeping up with some of the plans she would make, such as outings with friends. This has affected her ability to socialize, and she has found herself refusing or dropping out of some invitations.

34. For all claimants but AK, the reports also contain the following identical paragraphs and quotations under the “Subjective Report of Injuries” section:

[Claimant] reports significant problems with her memory, finding that she frequently forgets things more often than she used to. The client reported that she would “*forget where she placed the keys or when her appointments are*” and this causes a lot of stress for her. She has noticed an increased lack of patience, which she attributes to a buildup of fatigue. She also regularly suffers headaches...

...The client now has difficulty doing the household chores; she is more limited in what she can do and needs to take more time to do them, especially the vacuuming. The client reports, “*With the pain in my neck and back, it takes me forever to do the simplest task*” and this is a burden on her side.

#### **E. False or Misleading Statements or Representations to Desjardins**

35. On June 23, 2020, FSRA received a Business Activity Complaint Form from Desjardins General Insurance Group (“**Desjardins**”) alleging that Novo Medical and Dr. Vitelli engaged in practices that contravene the Act.

36. FSRA subsequently received an investigative report from Desjardins. The documents provided in support of Desjardin's allegations established that Novo Medical submitted five psychological assessment reports for claimants (NH, AL, KH, JS, and RR). Sections of the reports are identical. The reports also include identical quotations presented as the claimants' verbatim description of their injuries and symptoms. Dr. Vitelli completed these reports.

37. The psychological assessment reports for three claimants (KH, AL and NH) contain the following identical paragraphs and quotations under the "Subjective Report of Injuries" section:

[Claimant] reports some problems with her memory, finding that she frequently forgets things more often than she used to. The client reported that she would "*forget where she placed the keys or when her appointments are*" and this causes a lot of stress for her. She has noticed an increased lack of patience, which she attributes to a buildup of fatigue. She also regularly suffers headaches.

...Of her post-MVA sleeping habits, she reports disturbed sleep due to the pain; the client no longer gets any more than six hours of sleep, as opposed to the eight she had been accustomed to. Her sleep is a major concern for her, as she says, "*Sleep is the big thing, the biggest problem. It's making me miserable.*" When she does manage to sleep, she sometimes sees nightmares or experiences flashbacks of the accident.

The Client reports, "*With the pain in my neck and back, it takes me forever to do the simplest task*" and this is a burden on her side.

She says, "*I kind of get, you know, miserable,*" and finds herself having difficulty keeping up with some of the plans she would make, such as outings with friends.

38. The psychological assessment reports for two claimants (JS, RR) contain the following identical quotations under the "Details of Accident and Subsequent Events" and "Subjective Report of Injuries" sections:

*"I feel like I don't have the energy and drive to do anything; after the accident."*

*"I would do anything before the accident."*

*"I tend to forget my keys, or belongings on the table, then look for them for long periods."*

*"I feel very restricted and limited in what I can do. This really frustrating for me."*

39. Desjardins approved all the Treatment Plans associated with the psychological assessment reports before it discovered the above issues following an internal

review. Desjardins did not pay the \$9,976.65 in Invoices submitted by Novo Medical for the completion of the Treatment Plans.

40. Duplicated information and quotations in Dr. Vitelli's psychological reports raise significant concerns regarding their authenticity. Dr. Vitelli indicates in the reports that the diagnostic and treatment recommendations are based, at least in part, on the claimant's self-reporting during the clinical interview. If the reports do not reflect actual self-reporting by the claimant, then this raises significant concern regarding the authenticity of the diagnostic and treatment recommendations made.
41. The truth and accuracy of Dr. Vitelli's psychological assessment reports is important for the purposes of determining the claimants' entitlement and access to medical and rehabilitation benefits under the SABS.

#### **F. False or Misleading Statements or Representations to Intact**

42. FSRA received an investigative report from Intact Insurance ("**Intact**"). Documents in that on October 15, 2018, Dr Vitelli executed a Treatment Plan indicating that the claimant (SR) required treatment to address psychological impairments. In the "Additional Comments" section, Dr. Vitelli indicated that since the subject motor vehicle accident, SR had not returned to work. SR informed Intact that he was retired and had not worked for approximately eight years. Intact denied the \$1,993.33 Treatment Plan submitted by Novo Medical for SR.

#### **G. Dr. Vitelli's Admissions**

43. On February 8, 2021, FSRA investigators interviewed Dr. Vitelli. Dr. Vitelli admitted that he did not always read every single page of every document. Dr. Vitelli also admitted to "cutting and pasting" between documents where symptoms were similar. Dr. Vitelli reasoned that if a patient had the same symptoms, then he used "a shortcut" – the purported verbatim quotations did not matter.
44. Dr. Vitelli also stated that Novo Medical's staff used his Treatment Plan for another claimant as a template, by switching out the names and pronouns where necessary. Dr. Vitelli did not confirm the content and accuracy of the Treatment Plans he completed.
45. Dr. Vitelli also stated that he signed some Treatment Plans without including the date. He advised that Novo Medical staff would later place the date, but that he had completed and reviewed the rest of the Treatment Plan.
46. When Dr. Vitelli was asked during the examination whether it is possible that because of his reliance on previous assessment reports for different claimants, that claimants genuinely needing psychotherapy may have been denied by the insurer. Dr. Vitelli admitted that he may have placed some claimants at risk, because the insurers did not accept his Treatment Plans as true and accurate.



**SCHEDULE “B”  
REASONS FOR PROPOSAL**

**I. INTRODUCTION**

1. These are reasons for the proposal by the Director to impose an administrative penalty in the amount of \$50,000 on Dr. Romeo Vitelli (“**Dr. Vitelli**”).

**II. CONTRAVENTIONS OR FAILURES TO COMPLY WITH THE ACT**

2. Section 447(2)(a.3) of the Act provides that it is an offence for a person to knowingly make a false or misleading statement or representation to an insurer in order to obtain payment for goods or services provided to an insured, whether or not the insured received the goods or services.
3. The Director is satisfied that Dr. Vitelli contravened section 447(2)(a.3) of the Act by:
  - a. including false or misleading quotes and information in psychological assessment reports; and
  - b. not ensuring the accuracy and truth of information contained within SABS forms submitted to insurers.
4. Section 439 of the Act provides that no person shall engage in any unfair or deceptive act or practice.
5. Section 1 of Ontario Regulation 7/00 provides that the commission of any act prohibited under the Act or regulations constitutes an unfair or deceptive act or practice.
6. By contravening section 447(2)(a.3) of the Act, Dr. Vitelli committed acts or pursued courses of conduct that constitute unfair or deceptive acts or practices, or might reasonably be expected to result in a state of affairs that would constitute unfair or deceptive acts or practices, under the Act.

**III. GROUNDS FOR IMPOSING COMPLIANCE ORDER**

7. Section 441(1) of the Act provides that upon examination or investigation, or upon any other evidence, the Chief Executive Officer shall make a report if they are of the opinion that a person has committed or is committing any act, or has pursued or is pursuing any course of conduct, that is an unfair or deceptive act or practice or might reasonably be expected to result in a state of affairs that would constitute an unfair or deceptive act or practice.
8. Section 441(2)(a) of the Act provides that the Chief Executive Officer may order the person identified in the report to cease or refrain from doing any act or pursuing any course of conduct identified by the Chief Executive Officer, after giving notice in writing.

9. Given the evidence described in Schedule “A” to this Notice of Proposal, including Dr. Vitelli’s admissions regarding his practices with respect to assessment reports and Treatment Plans, the Director is of the opinion that Dr. Vitelli has committed acts or pursued courses of conduct that constitute unfair or deceptive acts or practices, or might reasonably be expected to result in a state of affairs that would constitute unfair or deceptive acts or practices, under the Act. Specifically, Dr. Vitelli has repeatedly made false or misleading statements or representations to insurers in order to obtain payment for goods or services provided to an insured, contrary to section 447(2)(a.3) of the Act.
10. Due to the number of problematic reports identified by the Insurers and general practices admitted by Dr. Vitelli, the Director is further satisfied that Dr. Vitelli will continue to engage in activities that will result in further unfair or deceptive acts or practices if the proposed order is not issued.
11. The Director is therefore satisfied that there are sufficient grounds to impose the order described in this Notice of Proposal.

#### **IV. GROUNDS FOR IMPOSING ADMINISTRATIVE PENALTIES**

12. The Director is satisfied that imposing administrative penalties on Dr. Vitelli under section 441.3(1) of the Act will satisfy one or both of the following purposes under section 441.2(1) of the Act:
  - 1) To promote compliance with the requirements established under the Act.
  - 2) To prevent a person from deriving, directly or indirectly, any economic benefit as a result of contravening or failing to comply with a requirement established under this Act.
13. The Director is satisfied that an administrative penalty in the amount of \$50,000 should be imposed on Dr. Vitelli for knowingly making false or misleading representations to insurers in order to obtain payment for goods or services provided, contrary to section 447(2)(a.3) of the Act.
14. In determining the amount of the administrative penalties, the Director has considered the following criteria as required by section 4(2) of Ontario Regulation 408/12:
  - 1) The degree to which the contravention or failure was intentional, reckless or negligent.
  - 2) The extent of the harm or potential harm to others resulting from the contravention or failure.
  - 3) The extent to which the person or entity tried to mitigate any loss or take other remedial action.
  - 4) The extent to which the person or entity derived or reasonably might have expected to derive, directly or indirectly, any economic benefit from the contravention or failure.

- 5) Any other contraventions or failures to comply with a requirement established under the Act or with any other financial services legislation of Ontario or of any jurisdiction during the preceding five years by the person or entity.
15. In respect of the **first criterion**, the Director is satisfied that Dr. Vitelli intentionally or negligently included fabricated quotes and information in Psychological Evaluation Reports and Catastrophic Impairment Determination Psychological Evaluation Reports he submitted to insurers. Furthermore, Dr. Vitelli recklessly or negligently failed to ensure the accuracy and truth of information contained in the reports.
16. In respect of the **second criterion**, the Director is satisfied that Dr. Vitelli's contraventions or failures to comply with the Act caused actual harm and potential harm to others. Dr. Vitelli's inclusion of false, misleading, or inaccurate information in psychological assessment reports may have resulted in denials of treatment to claimants who required the services. Dr. Vitelli's reckless behaviour with respect to his practice puts his patients at risk of not receiving the full benefit of medical and rehabilitation benefits available to them under the SABS.
17. In respect of the **third criterion**, the Director is not aware of any efforts made to mitigate any loss or take other remedial action.
18. In respect of the **fourth criterion**, the Director is satisfied that Dr. Vitelli derived an economic benefit from his contraventions and failures to comply with the Act. Dr. Vitelli received payment in the amount of \$10,000 a month under his verbal agreement with Novo Medical.
19. In respect of the **fifth criterion**, the Director is not aware of any other contraventions or failures to comply with a requirement established under the Act or with any jurisdiction during the preceding five years.
20. Such further and other reasons as may come to my attention.

**DATED** at Toronto, Ontario, March 31, 2021.

Elissa Sinha  
Director, Litigation and Enforcement

By delegated authority from the Chief Executive Officer