

**COLLEGE OF PHYSICIANS & SURGEONS OF MANITOBA  
INQUIRY PANEL DECISION**

**INQUIRY: IC1544  
DR. RANDY RAYMOND ALLAN**

On September 11, 2012, a hearing was convened before an Inquiry Panel (the Panel) of the College of Physicians & Surgeons of Manitoba (the College), for the purpose of conducting an Inquiry pursuant to Part X of *The Medical Act*, into charges against Dr. Randy Raymond Allan (Dr. Allan), as set forth in an Amended Notice of Inquiry dated December 14, 2011.

The Amended Notice of Inquiry charged Dr. Allan with various acts of professional misconduct, and with contravening By-Law No. 1 of the College, and Article 2 of the Code of Conduct of the College, and Statement 805 of the College, and with displaying a lack of knowledge of, or a lack of skill and judgment in the practice of medicine.

Among other things, the Amended Notice of Inquiry alleged that Dr. Allan:

- a) Failed to maintain appropriate boundaries with two female patients (hereinafter referred to as Patient A and Patient B), and specifically that he had personal and sexual relationships with them during the same periods that he was providing medical care to them.
- b) Issued prescriptions for Oxycontin to both Patients A and B because of his personal and sexual relationships with them.
- c) Did not create an accurate or complete medical record in respect of each of the narcotic prescriptions he issued to Patient A and Patient B. In some instances he created misleading records with respect to the narcotic prescriptions; in some instances he created no records with respect to the narcotic prescriptions, and in other instances he made no chart entries in relation to the narcotic prescriptions.
- d) Caused a bill to be issued to Manitoba Health with respect to Patient A on the basis of a reported house call to Patient A, when in fact he saw Patient A by reason of his personal and sexual relationship with her. Further, he caused bills to be issued to Manitoba Health with respect to Patient B on the basis of a purported house call and on the basis of office visits respecting low back pain when in fact he saw Patient B on those occasions by reason of his personal and sexual relationship with her.

The hearing proceeded before the Panel on September 11, 2012, in the presence of Dr. Allan and his counsel, and in the presence of counsel for the College.

At the outset of the hearing, Dr. Allan entered a plea of guilty to all of the charges outlined in paragraphs 1 through 9 of the Amended Notice of Inquiry, thereby acknowledging that he:

- a) was guilty of professional misconduct;
- b) had contravened By-Law No. 1 of the College, Article 2 of the Code of Conduct of the College, and Statement 805 of the College; and
- c) was guilty of displaying a lack of knowledge of, or a lack of skill and judgment in the practice of medicine.

The Panel reviewed and considered the following documents, which were filed as exhibits in the proceedings with the consent of Dr. Allan:

1. The Notice of Inquiry;
2. The Amended Notice of Inquiry;
3. A Statement of Agreed Facts;
4. A Book of Documents which contained, among other things:
  - a) Copies of four Oxycontin 40 mg prescriptions issued between June 25, 2009 to September 2, 2009 to Patient A in various quantities, ranging from 40 to 90 pills;
  - b) A medical chart respecting Patient A;
  - c) Copies of four portions of a transcript of an interview conducted by the College of Dr. Allan on March 30, 2011 relating to his relationships and interactions with both Patient A and Patient B;
  - d) Excerpts from Manitoba Health billing records respecting billings by Dr. Allan for Patient A in June, 2009;
  - e) Copies of twenty three Oxycontin 40 mg prescriptions issued between January 8, 2010 and May 21, 2010 to Patient B in various quantities, ranging from 10 to 52 pills;
  - f) A medical chart respecting Patient B;

- g) Manitoba Health billing records respecting billings by Dr. Allan for services to Patient B;
  - h) Article 2 of the applicable Code of Conduct;
  - i) Statement 805 of the College with respect to prescribing practices;
  - j) Article 24 of the College's By-Law No. 1;
5. A Joint Recommendation as to Disposition made by counsel for the College and counsel for Dr. Allan.

### **DECISION**

Having considered all of the above-noted exhibits, and the submissions of counsel for the College and counsel for Dr. Allan, the Panel is satisfied that all of the charges have been proven. The Panel is also satisfied that the joint recommendation as to disposition is appropriate and ought to be accepted. The Panel's specific reasons for its decision are outlined below.

### **REASONS FOR DECISION**

#### **Background:**

Dr. Allan graduated from the Faculty of Medicine at the University of Manitoba in 1980. He completed a rotating internship in British Columbia in 1981, and returned to Manitoba in that year and practiced in Manitoba as an emergency physician until 1983. He then undertook a residency in pathology in British Columbia. He obtained his Royal College certification in 1987 and practiced as a pathologist in British Columbia until 1994.

In 1994, Dr. Allan returned to Manitoba and enrolled in the University of Manitoba Computer Engineering Program in the Faculty of Science. After obtaining his degree, he returned to the practice of medicine in Winnipeg in 1996. Initially, Dr. Allan worked with Envoy Medical Dispatch as a house call physician. Around the same time, he also began to work part time as a pathologist. Dr. Allan continued those positions until approximately 2001, when he went to work in Kenora, Ontario as a pathologist. He remained in that position, doing strictly pathology work, until 2004.

In 2004, Dr. Allan returned to Winnipeg and re-entered general practice. He worked at a medical clinic from 2004 to approximately June, 2009. He then did a locum in Kenora at a walk-in clinic for July and August, 2009. Dr. Allan returned to Winnipeg in September, 2009 and worked at a different medical clinic where he did house calls and primary care in the office setting. Dr. Allan remained at that clinic until he ceased practising medicine on June 18, 2010.

After the matters which are the subject of the allegations in the Amended Notice of Inquiry came to the attention of the College, Dr. Allan signed an undertaking pursuant to which he agreed not to practice medicine without the express written permission of the Chair of the Investigation Committee of the College. Dr. Allan has not practiced medicine in Manitoba or elsewhere since June 18, 2010.

Dr. Allan has no discipline record with the College. However, he was convicted of a criminal offence while he was in British Columbia as a result of actions he undertook in that province, which were unrelated to the practice of medicine. Those actions were committed while he was under a significant amount of stress and was experiencing financial pressures and health problems. The criminal charges were disposed of by way of a guilty plea and a fine of \$1,000.00. In 1998, Dr. Allan received a pardon under *The Criminal Records Act* in relation to the criminal offences.

In the course of the College investigation into the matters which are the subject matter of the Amended Notice of Inquiry, Dr. Allan has advised the College that from the time he returned to Winnipeg in 1994, he visited massage parlours for the purposes of having casual sex. At a particular massage parlour, he met both Patient A, and later Patient B. In each case, his relationship with those women was that he was initially a customer for prostitution services in the massage parlour. However, in the case of both women, Dr. Allan entered into a personal and sexual relationship with them outside of the massage parlour and in each case he prescribed Oxycontin to them at the same time as he was involved in a personal and sexual relationship, firstly with Patient A, and latterly, (after his relationship with Patient A had ended), with Patient B.

#### **Background facts with respect to Patient A:**

In early 2009, Dr. Allan met Patient A at the massage parlour. He saw Patient A a number of times at the massage parlour where she was working. On some of those occasions, they engaged in sexual activity, for which Dr. Allan paid. In the spring of 2009, Dr. Allan and Patient A began a social and sexual relationship outside of the massage parlour. Once they began to see each other outside of the massage parlour, Dr. Allan ceased paying for sex with Patient A.

At some point after they began seeing each other outside of the massage parlour, Patient A advised Dr. Allan that she was addicted to Oxycontin and wished to get into the Methadone Program. She asked him for a prescription for Oxycontin to help with her withdrawal. Prescription records document that Dr. Allan provided Patient A with four prescriptions for Oxycontin between June 25, 2009 and September 2, 2009. Their personal and sexual relationship continued until in or about August, 2009.

**Background facts with respect to Patient B**

In or about November, 2009, Dr. Allan met Patient B at the massage parlour where she was working and subsequently saw Patient B on a number of occasions at the massage parlour. On many of those occasions, they engaged in sexual activity for which Dr. Allan paid.

Commencing in late November, early December, 2009, Dr. Allan and Patient B began a personal and sexual relationship outside of the massage parlour, at which time Dr. Allan ceased paying for sex with Patient B. At some point during their encounters at the massage parlour, Patient B told Dr. Allan that she was addicted to Oxycontin. Subsequently, she told Dr. Allan that she was purchasing Oxycontin on the street and could not afford the cost. Dr. Allan began prescribing Oxycontin to Patient B and provided her with twenty three prescriptions between January 8, 2010 and May 21, 2010.

Dr. Allan's personal and sexual relationship with Patient B ended in or around May, 2010.

**Medical records and billings to Manitoba Health**

Dr. Allan created medical records relating to both Patient A and Patient B. He has acknowledged that the medical records he created were not accurate and were seriously misleading in many respects, including that:

- i) With respect to some prescriptions no records were created, and with respect other prescriptions, no entries were made in the applicable chart;
- ii) In some instances, false information was included in the record with respect to the reason for the visit or attendance, or as the reason for the prescription;
- iii) The medical records did not record that either Patient A or Patient B was addicted to Oxycontin and that Patient B was buying the drug on the street.

Dr. Allan has admitted that he billed Manitoba Health for visits and attendances in relation to both patients, when in fact the reason for the visits and attendances was personal or sexual, not medical. In his interview with the College, Dr. Allan has acknowledged that doing so was wrong and characterized his own conduct in relation to billing for some of the visits as being "horrible conduct, absolutely inappropriate".

## **THE AMENDED NOTICE OF INQUIRY**

The Amended Notice of Inquiry contains eight specific allegations against Dr. Allan (four with respect to Patient A, and four with respect to Patient B), and a further general allegation (based on the other eight allegations) of displaying a lack of knowledge of, or a lack of skill and judgment in the practice of medicine.

With respect to both Patient A and Patient B, it is alleged by the College, and admitted by Dr. Allan, that:

- a) He failed to maintain appropriate boundaries, or exploited the patients for his personal advantage, in violation of Article 2 of the College's Code of Conduct;
- b) Issued prescriptions for Oxycontin to both patients because of his personal and sexual relationships with them, thereby committing acts of professional misconduct;
- c) He did not create accurate or complete medical records in respect of each of the narcotic prescriptions he issued to both patients, in breach of Statement 805 of the College, and the record keeping requirements of By-Law No. 1;
- d) Billed Manitoba Health inappropriately in relation to both patients thereby committing act of professional misconduct.

The Panel, on the basis of Dr. Allan's guilty plea and the facts outlined in the Statement of Agreed Facts, and on the basis of its review of the documents in the Book of Documents, is absolutely satisfied that each of the nine counts in the Amended Notice of Inquiry have been proven. In the result, it has been established that Dr. Allan:

- i) is guilty of professional misconduct;
- ii) contravened By-Law No. 1 of the College;
- iii) contravened Article 2 of the Code of Conduct of the College;
- iv) contravened Statement 805 of the College;
- v) displayed a lack of knowledge of, or a lack of skill and judgment in the practice of medicine.

Given Dr. Allan's plea of guilty to the allegations in the Amended Notice of Inquiry, his admission of serious wrongdoing, and his acceptance of

responsibility for his actions, it is not necessary to comment extensively on the seriousness of Dr. Allan's behaviour and acknowledged professional misconduct.

However, it is necessary to state in the strongest possible terms, that Dr. Allan's actions and behaviour were reprehensible. He exploited the personal circumstances of two women, who, by virtue of their addictions, were particularly vulnerable. He also did so in a way which breached his professional responsibilities and contravened the reasonable standards of the profession, which were well known and understood by him. There were also elements of financial gain and sexual gratification involved in Dr. Allan's actions, all of which make his conduct particularly repugnant and wholly unacceptable.

### **THE JOINT RECOMMENDATION AS TO DISPOSITION**

Given the seriousness and unacceptability of Dr. Allan's conduct, this Panel must decide upon the appropriate disposition pursuant to Section 59.6 of *The Medical Act*. The Panel has been greatly assisted in its task by the Joint Recommendation as to Disposition made by counsel for the College and counsel for Dr. Allan.

In determining the types of orders to be granted pursuant to Section 59.6 of *The Medical Act*, it is useful to carefully consider the several objectives of such orders. In general terms, those objectives are:

- a) The protection of the public in a broad context. Orders under Section 59.6 of *The Medical Act* are not simply intended to protect the particular patients of the physician involved, but are also intended to protect the public generally by maintaining high standards of competence and professional integrity among physicians;
- b) The punishment of the physician involved;
- c) Specific deterrence, in the sense of preventing the physician involved from committing similar acts of misconduct in the future;
- d) General deterrence, in the sense of informing and educating the profession generally as to the serious consequences which will result from breaches of recognized standards of competent and ethical practice;
- e) Protection against the betrayal of the public trust in the sense of preventing a loss of faith on the part of the public in the medical profession's ability to regulate itself;

- f) The rehabilitation of the physician involved in appropriate cases, recognizing that the public good is served by allowing properly trained and educated physicians to provide medical services pursuant to conditions designed to safeguard the interests of the public.

The Panel, having carefully reviewed the Joint Recommendation, is satisfied that the disposition being recommended fulfills the above-noted objectives.

The essential elements of the Joint Recommendation as to Disposition are as follows:

- i) A suspension of Dr. Allan's license to practice medicine, to commence at 24:00 on September 11, 2012, and to continue for a period of 18 months. The period of active suspension to be served by Dr. Allan will be six months, with the balance of the suspension being remitted, provided that certain specific conditions are met. A relevant factor in determining the period of active suspension is that Dr. Allan, as a result of the subject matter of these proceedings, has not been practicing medicine since June 18, 2010.
- ii) Dr. Allan shall remain suspended from the practice of medicine, notwithstanding the period of suspension referred to in paragraph i), until such time as Dr. Allan has demonstrated to the satisfaction of the Investigation Committee of the College that he is fit to return to the practice of medicine. In assessing Dr. Allan's fitness to return to practice medicine, the Investigation Committee must accept a written report from the Program Assessors, referred to below, that in their opinion, Dr. Allan is fit to practice medicine.
- iii) Pursuant to Section 59.6 of *The Medical Act*, various conditions will be imposed upon Dr. Allan's entitlement to practice medicine, including attending and successfully completing a multi-disciplinary assessment program (the Program) chosen and approved by the Investigation Committee in accordance with specific terms as more particularly outlined in the Joint Recommendation.
- iv) Prior to Dr. Allan's return to practice, and at his own cost, he must comply with all recommendations arising from the Program and provide written confirmation to the Investigation Committee of such compliance. Such compliance must be in accordance with specific terms as more particularly outlined in the Joint Recommendation.
- v) Prior to Dr. Allan's return to practice, and at his cost, Dr. Allan must participate in ongoing psychiatric and/or psychological counselling



to address the conduct which forms the subject matter of these proceedings and the appropriate management of ethical boundary and professional issues. Dr. Allan's participation in ongoing psychiatric and/or psychological counselling must be in accordance with specific terms, as more particularly outlined in the Joint Recommendation.

- vi) If a full or focused reassessment is recommended by the Program Assessors, prior to Dr. Allan's return to practice, Dr. Allan, at his cost, must attend and successfully complete the reassessment, which must be as recommended by the Program Assessors (the Reassessment). The Reassessment will be done by the Program Assessors, or by another multi-disciplinary assessment team jointly chosen and approved by the Investigation Committee and Dr. Allan. Dr. Allan's participation in the Reassessment must be in accordance with specific terms and conditions as more particularly outlined in the Joint Recommendation.
- vii) Prior to Dr. Allan's return to practice, and at his cost, Dr. Allan must attend an interview with the Investigation Committee at the College offices for the purposes of discussing his prior misconduct and his current understanding of ethical boundary and professional issues in the physician/patient relationship, and Dr. Allan's proposed plans for return to practice. The Investigation Committee will be entitled to further assess and decide the conditions of Dr. Allan's licensure upon his return to practice.
- viii) Pursuant to Section 59.6 of *The Medical Act*, a series of specific conditions will be imposed upon his entitlement to practice medicine as more particularly outlined in the Joint Recommendation, but which will include complying with any conditions recommended by the Program Assessors or Reassessment assessors, a prohibition against prescribing any substances listed in Schedules I, II, III, IV, V or VI to the *Controlled Drugs and Substances Act*, (or any substitute legislation), and the monitoring of his practice in a manner acceptable to the Investigation Committee.
- ix) Dr. Allan must pay to the College costs of the investigation and inquiry in the amount of \$12,893.40.
- x) There will be publication, including Dr. Allan's name, as determined by the Investigation Committee.

A critically important component of the Joint Recommendation as to Disposition is the multi-disciplinary Assessment Program. The assessment is to

be independent of both Dr. Allan and the College, although the Assessment Program will be chosen and approved by the Investigation Committee of the College.

The multi-disciplinary Assessment Program is very important because the Program Assessors are ultimately to provide a written report to the Investigation Committee as to whether, in their opinion, Dr. Allan is fit to practice medicine. Further, whether Dr. Allan will be obliged to undergo a focused Reassessment will be a decision to be made by the Program Assessors, and Dr. Allan will also be obliged to comply with all recommendations arising from the Assessment Program, including any recommendations arising from a Reassessment. Moreover, if Dr. Allan does ultimately resume the practice of medicine, the specific conditions pursuant to which he will return to the practice of medicine will include complying with any conditions recommended by the Program Assessors.

Given the importance of the multi-disciplinary Assessment Program, the Panel asked counsel for the parties a series of questions as to the nature of the proposed assessment, the length of time the assessment may take, and the background qualifications and experience of the Director of the Program. The answers provided to the Panel to those questions were responsive and helpful in assisting the Panel in understanding the nature and scope of the Assessment Program.

The Panel also asked questions of counsel for the parties about the information sharing that would or could take place as between the Program Assessors, and Dr. Allan's psychiatric or psychological counsellors/caregivers. Specifically, the Panel asked whether the Program Assessors would receive written assessments from Dr. Allan's counsellors/caregivers and whether the Program Assessors would be providing information which they gathered during their assessment process to Dr. Allan's counsellors/caregivers. The Panel was advised that such information sharing was not a specific condition or requirement of the Program, but that the Program Assessors could ask for information from, and provide information to Dr. Allan's psychiatric and psychological counsellors/caregivers if they thought it necessary or advisable to do so, and that there would be a variety of reasons why Dr. Allan's psychiatric and psychological counsellors/caregivers may respond favourably to any request for information from the Program Assessors.

The Panel recognizes that the responsibility for selecting and monitoring the Program is the responsibility of the Investigation Committee. The Panel also recognizes that the Program is only one element of the Joint Recommendation as to disposition. However, given the College's responsibilities relating to public protection, it is extremely important that the Program function as intended, and that the Program Assessors be conscientious, rigorous and thorough in the discharge of their responsibilities.

The Panel has concluded that the Joint Recommendation properly reflects the seriousness of Dr. Allan's professional misconduct and his contraventions of applicable professional standards. The recommended disposition is designed to protect the public by a variety of means, including the requirement that Dr. Allan participate in a program to determine his fitness to practice medicine, and that his ultimate return to practice will be subject to a series of specific detailed conditions. The recommended disposition also involves punishment of Dr. Allan (by the imposition of a fine, a suspension, and the publication of his name). It also fulfills the objective of general deterrence, by allowing for publication of the background circumstances and the outcome of these proceedings as a means of informing and educating the profession that serious misconduct will result in serious consequences. The combination of all of the above-noted factors in the disposition should reinforce the informed public's faith in the medical profession's ability to regulate itself.

Accordingly, it is the decision of the Panel that:

1. Dr. Allan's license to practice medicine is suspended, commencing at 24:00 on September 11, 2012, subject to the conditions more particularly set forth in the Resolution and Order of this Panel, issued concurrently herewith and attached hereto.
2. In the event Dr. Allan shall return to the practice of medicine, certain conditions shall be imposed upon Dr. Allan's entitlement to practice medicine, as more particularly set forth in the Resolution and Order of this Panel, issued concurrently herewith and attached hereto.
3. If there is any disagreement between the parties respecting any aspect of the Panel's Resolution and Order, the matter may be remitted by either party to a Panel of the Inquiry Committee for further consideration, and the Inquiry Committee hereby reserves jurisdiction for the purposes of resolving any such disagreement.
4. Dr. Allan must pay to the College costs of the investigation and inquiry in the amount of \$12,893.40 forthwith.
5. There will be publication, including Dr. Allan's name, as determined by the Investigation Committee. The College, at its sole discretion, may provide information regarding this disposition to such person(s) or bodies as it considers appropriate.

IN THE MATTER OF:                    “*THE MEDICAL ACT*”, R.S.M. 1987, c.M90;

AND IN THE MATTER OF:            Dr. Randy Raymond Allan, a member of the  
College of Physicians & Surgeons of Manitoba

**RESOLUTION AND ORDER OF AN INQUIRY PANEL OF THE  
COLLEGE OF PHYSICIANS AND SURGEONS OF MANITOBA**

WHEREAS Dr. Randy Raymond Allan (Dr. Allan), a member of the College of Physicians and Surgeons of Manitoba (the College) was charged with professional misconduct, and with contravening By-Law No. 1 of the College, Article 2 of the Code of Conduct of the College, and Statement 805 of the College, and with displaying a lack of knowledge of, or a lack of skill and judgment in the practice of medicine, as more particularly outlined in a Notice of Inquiry dated December 14, 2011;

AND WHEREAS Dr. Allan was summoned and appeared before an Inquiry Panel (the Panel) of the College with legal counsel on September 11, 2012;

AND WHEREAS an Amended Notice of Inquiry dated December 14, 2011, outlining the charges and particularizing the allegations against Dr. Allan was filed as an exhibit in the hearing before the Panel;

AND WHEREAS Dr. Allan entered a plea of guilty to all of the counts relating to all of the charges outlined in the Amended Notice of Inquiry;

AND WHEREAS the Panel reviewed the exhibits filed, heard submissions from counsel for the College and counsel for Dr. Allan, and from Dr. Allan himself, and received a Joint Recommendation as to the disposition of the charges and allegations outlined in the Amended Notice of Inquiry;

AND WHEREAS the Panel decided that the Joint Recommendation was appropriate in the circumstances;

NOW THEREFORE BE IT AND IT IS HEREBY RESOLVED AND ORDERED THAT:

1. Pursuant to Section 56(3) of *The Medical Act* R.S.M., the identities of third parties, and particularly the patients of Dr. Allan, shall be protected in the record of these proceedings by referring to them in a non-identifying manner.
2. Dr. Allan is guilty of professional misconduct, and of contravening By-Law No. 1 of the College, and Article 2 of the Code of Conduct of the College, and Statement 805 of the College, and of displaying a lack of knowledge of, or a lack of skill or judgment in the practice of medicine.
3. Pursuant to Section 59.6 of *The Medical Act*, Dr. Allan's license to practice medicine be suspended, commencing at 24:00 on September 11, 2012 and, subject to paragraphs 2 and 3 hereof, continuing for a period of 18 months, subject to the following conditions:
  - a) Dr. Allan must serve a period of 6 months of active suspension from the practice of medicine; and
  - b) the balance of the suspension will be remitted if Dr. Allan meets the conditions set forth below.

4. If the Program Assessors referred to in paragraph 5 hereof find Dr. Allan unfit to practice medicine, Dr. Allan shall remain suspended notwithstanding the suspension imposed in paragraph 1 above having expired, until such time as Dr. Allan has demonstrated to the satisfaction of the Investigation Committee that he is fit to return to the practice of medicine. In assessing Dr. Allan's fitness to return to practice, the Investigation Committee must accept a written report from the Program Assessors stating that, in the opinion of the Program Assessors, Dr. Allan is now fit to practice medicine, provided that the report:
  - a) is in a form acceptable to the Investigation Committee; and
  - b) addresses all issues to the satisfaction of the Investigation Committee.
  
5. Pursuant to Section 59.6 of *The Medical Act*, the following conditions are imposed upon Dr. Allan's entitlement to practice medicine:
  - a) Prior to Dr. Allan's return to practice and at Dr. Allan's cost, Dr. Allan must attend and successfully complete a multi-disciplinary Assessment Program chosen and approved by the Investigation Committee (the Program);
  - b) Dr. Allan's participation in the Program must be in accordance with the following terms:
    - i) The Investigation Committee must provide to the Program Assessors any information in the possession

of or available to the Investigation Committee pertaining to the subject matter of the discipline and any other information in the possession of or available to the Investigation Committee which, in its sole discretion, it considers relevant, including information from any other disciplinary action(s) and complaint(s) which the Investigation Committee considers relevant.

- ii) The Investigation Committee and Dr. Allan must each provide to the other a list of all information which is provided to the Program, and, upon request, copies of any items on the list.
- iii) The Investigation Committee must ask that the Program Assessors make any requests for clarification or for additional documents or information in writing so that they may be shared with both parties.
- iv) Dr. Allan must fully and frankly discuss with the Program Assessors all conduct pertaining to the admissions made at the Inquiry.
- v) The Investigation Committee may, at its sole discretion, directly contact the Program Assessors to discuss any matters pertaining to the assessment(s) and the Program Assessors may directly contact the Investigation Committee. If such direct contact occurs, Dr. Allan must be invited to participate in the discussion.

- vi) The Program Assessors may provide to the Investigation Committee all information pertaining to and all reports resulting from the Program.
  - vii) At the conclusion of the Program, Dr. Allan must promptly provide to the Investigation Committee a current report from the Program in a form that is acceptable to the Investigation Committee. The report must address all issues to the satisfaction of the Investigation Committee, and must include an opinion on the risk of recurrence of misconduct in future practice.
- c) Prior to Dr. Allan's return to practice and at Dr. Allan's cost, Dr. Allan must comply with all recommendations arising from the Program and provide written confirmation to the Investigation Committee of such compliance.
- d) Dr. Allan's compliance with and confirmation of compliance with the Program recommendations must be in accordance with the following terms:
- i) Dr. Allan must promptly notify the Investigation Committee of his proposed plan for compliance, including specific information on any treatment program or course, and, if necessary, consult with the Investigation Committee on his plan for compliance before implementing the plan.



- ii) Dr. Allan must provide documentation to the Investigation Committee confirming successful completion of any treatment program or course in a form acceptable to the Investigation Committee.
- e) Prior to Dr. Allan's return to practice and at Dr. Allan's cost, Dr. Allan must participate in ongoing psychiatric and/or psychological counselling to address the conduct admitted and the concept and appropriate management of ethical, boundary and professional issues.
- f) Dr. Allan's participation in ongoing psychiatric and/or psychological counselling must be in accordance with the following terms:
- i) The Investigation Committee must provide to the psychiatrist(s) and/or psychologist(s) any information in the possession of or available to the Investigation Committee pertaining to the subject matter of the discipline and any other information in the possession of or available to the Investigation Committee which, in its sole discretion, it considers relevant, including information from any other disciplinary action(s) and complaint(s) which the Investigation Committee considers relevant.
  - ii) The Investigation Committee and Dr. Allan must each provide to the other a list of all information which is provided to the psychiatrist or psychologist and, upon request, copies of any items on the list.

- iii) In attending for the counselling, Dr. Allan must fully and frankly discuss with any psychiatrist(s) and/or psychologist(s) all conduct pertaining to the admissions made at the Inquiry.
- iv) Dr. Allan must comply with any recommendations arising from psychiatric and/or psychological counselling.
- g) If a full or a focused reassessment is recommended by the Program Assessors, prior to Dr. Allan's return to practice and at Dr. Allan's cost, Dr. Allan must attend and successfully complete the reassessment, which must be full or focused as recommended by the Program Assessors (the Reassessment). The Reassessment will be done by the Program Assessors, but if the Program Assessors are unable or unwilling to complete the Reassessment, the Reassessment must be by a multi-disciplinary assessment team jointly chosen and approved by the Investigation Committee and Dr. Allan.
- h) Dr. Allan's participation in the Reassessment must be in accordance with the following terms:
  - i) The Investigation Committee must provide to the Reassessment Assessors any information in the possession of or available to the Investigation Committee pertaining to the subject matter of the discipline and Dr. Allan's remediation, and any other

information in the possession of or available to the Investigation Committee which, in its sole discretion, it considers relevant, including information from any other disciplinary action(s) and complaint(s) which the Investigation Committee considers relevant.

- ii) The Investigation Committee and Dr. Allan must each provide to the other a list of all information which is provided to the Reassessment Assessors, and, upon request, copies of any items on the list.
- iii) The Investigation Committee must ask that the Reassessment Assessors make any requests for clarification or for additional documents or information in writing so that they may be shared with the parties.
- iv) Dr. Allan must fully and frankly discuss with the Reassessment Assessors all conduct pertaining to the admissions made at the Inquiry.
- v) The Investigation Committee may, at its sole discretion, directly contact the Reassessment Assessors to discuss any matters pertaining to the Reassessment and the Reassessment Assessors may directly contact the Investigation Committee. If such direct contact occurs, Dr. Allan must be invited to participate in the discussion.

- vi) The Reassessment Assessors may provide to the Investigation Committee all information pertaining to and all reports resulting from the Reassessment.
  - vii) At the conclusion of the Reassessment, Dr. Allan must promptly provide to the Investigation Committee a current report from the Reassessment Assessors. The report must address all issues to the satisfaction of the Investigation Committee and must include an opinion on the risk of recurrence of misconduct in future practice.
- i) Prior to Dr. Allan's return to practice and at Dr. Allan's cost, Dr. Allan must attend an interview with the Investigation Committee at the College offices for the purposes of:
- i) discussing the conduct admitted, Dr. Allan's current understanding of ethical, boundary and professional issues in the physician/patient relationship, and Dr. Allan's proposed plans for return to practice; and
  - ii) allowing the Investigation Committee to further assess and decide the conditions of Dr. Allan's licensure upon return to practice.
6. Pursuant to Section 59.6 of *The Medical Act*, upon Dr. Allan's return to practice, the following conditions are imposed upon Dr. Allan's entitlement to practice medicine:

- a) Any conditions recommended by the Reassessment Assessors.
- b) Any conditions which are objectively and rationally connected to the conduct admitted, and which the Investigation Committee determines necessary following the interview with Dr. Allan.
- c) Dr. Allan must have a chaperone approved by the Investigation Committee present for all female breast and pelvic examinations.
- d) Dr. Allan must document the attendance of the chaperone in a form acceptable to the Investigation Committee, and Dr. Allan must require the chaperone to maintain a daily list of all attending patients and the reason for the attendance.
- e) Dr. Allan must place in the office reception and examination rooms conspicuous signage respecting the requirement for a chaperone. The signage must be in a form and with content acceptable to the Investigation Committee.
- f) Upon request, Dr. Allan must produce to the Investigation Committee records evidencing compliance with the chaperone and signage requirements.
- g) Dr. Allan must not prescribe any substance that is listed in Schedules I, II, III, IV, V or VI to the *Controlled Drugs and Substances Act* (or legislation substituted therefor) in force from time to time during the currency of these conditions.

- h) Dr. Allan must notify all clinical and office staff at Dr. Allan's practice location(s) of the conditions imposed on Dr. Allan's licence. The notification must be in a form and with content acceptable to the Investigation Committee.
- i) Dr. Allan must participate in continuing medical education in the areas of ethics, boundaries and professionalism as directed by the Investigation Committee, and provide to the Investigation Committee a written report or confirmation of successful completion of such continuing medical education. The report or confirmation must be in a form and with content acceptable to the Investigation Committee.
- j) Upon request, Dr. Allan must attend a meeting(s) with the Investigation Committee or a nominee of the Investigation Committee to discuss the education undertaken and Dr. Allan's current understanding in these areas.
- k) Dr. Allan must comply with the monitoring of his practice established by and acceptable to the Investigation Committee. Such monitoring must include:
  - i) attendance at interviews with the Investigation Committee or a nominee of the Investigation Committee upon request.
  - ii) providing the Investigation Committee or a nominee of the Investigation Committee with access to the medical office records of Dr. Allan; and

- iii) providing reports required.
  - l) Dr. Allan must pay for all costs related to the conditions on his licence, including the costs of any continuing medical education, any reports, any mentoring and any monitoring.
7. If there is any disagreement between the parties respecting any aspect of the Panel's Order, the matter may be remitted by either party to a Panel of the Inquiry Committee for further consideration, and the Inquiry Committee hereby expressly reserves jurisdiction for the purpose of resolving any such disagreement.
  8. Dr. Allan must pay to the College costs of the investigation and inquiry in the amount of \$12,893.40, on the basis of the attached cost calculation payable in full by certified cheque or Dr. Allan's lawyer's firm's trust cheque on or before the date of the Inquiry.
  9. There will be publication, including Dr. Allan's name, as determined by the Investigation Committee. The College, at its sole discretion, may provide information regarding this disposition to such person(s) or bodies as it considers appropriate.

DATED this 4<sup>th</sup> day of October, 2012.