IN THE MATTER OF: "*THE MEDICAL ACT*", C.C.S.M. c.M90;

AND IN THE MATTER OF: Dr. David Corder

REASONS FOR RESOLUTION AND ORDER

RE: DR. DAVID CORDER
APPLICATION FOR REINSTATEMENT

INTRODUCTION AND BACKGROUND

On March 17, 2017, the Executive Committee of the College of Physicians and Surgeons of Manitoba (the "College") heard oral submissions from Dr. David Corder (Dr. Corder), who was representing himself without the assistance of counsel, and from counsel for the Investigation Committee of the College (the "Investigation Committee") with respect to an application by Dr. Corder to have his licence to practice medicine in the Province of Manitoba reinstated. The Investigation Committee opposed Dr. Corder's application for reinstatement. The oral submissions of Dr. Corder and of counsel for the Investigation Committee supplemented their written submissions which had been previously exchanged and provided to the Executive Committee.

Dr. Corder's licence to practice medicine had been revoked by the College in June, 2010 for reasons which will be described below. The reinstatement application by Dr. Corder, which is the subject of these Reasons, is his second such application. His first application was denied by the Executive Committee of the College in December, 2014.

Dr. Corder is a family physician who, prior to the revocation of his licence in June, 2010, had practiced medicine in rural Manitoba from 1986 to 2007. Between 2007 and June, 2010, he had practiced medicine pursuant to an undertaking given to the College, whereby he limited his practice to certain work at the Selkirk Mental Health Centre. Thereafter he worked as a surgical assistant for a brief period.

Dr. Corder's licence to practice medicine in Manitoba was revoked in June, 2010 as a result of very serious professional misconduct on his part. The nature and extent of his misconduct was set forth in two separate Amended Notices of Inquiry (dated September 28, 2009 and May 17, 2010) and involved two different female patients, who will be referred to hereafter as Patient X and Patient Y. Patient X was a patient with respect to whom Dr. Corder had engaged in an exploitive sexual relationship.

Dr. Corder pled guilty to the charges set forth in both of the Amended Notices of Inquiry. The charges to which he pled guilty involved egregious boundary violations, including but not limited to the sexual exploitation of Patient X, serious deficiencies in record keeping and inappropriate prescribing to both Patient X and Patient Y. The deficiencies in record keeping and the inappropriate prescribing resulted in a finding of a lack of skill, knowledge and judgment in the practice of medicine, on the part of Dr. Corder.

The Inquiry Panel, which heard and determined the charges set forth in the Amended Notices of Inquiry, made significant findings in respect to Dr. Corder's boundary violations involving Patient X. Those findings were summarized in the Inquiry Panel's reasons as follows:

> "In November of 1995, the College requested that Dr. Corder participate in a Boundary Training Program. Dr. Corder agreed and the Boundary Training Program commenced in June, 1996 and concluded in October, 1996. Following the Boundary Training Program, Dr. Corder wrote to the College thanking the College and assured the College that the training program had been beneficial to him, he got a lot out of it, and it would help him in many years to come. The Panel found this correspondence from Dr. Corder very distressing in light of his subsequent admission in the Agreed Statement of Facts that it was shortly after he completed the Boundary Training Program that he entered into an exploitive sexual relationship with Patient X.
>
> Although there were discrepancies between Dr. Corder's description of their sexual relationship and Patient X's description of the sexual relationship, the following points were not disputed:

1. Between 1995/1996 and 2001, Dr. Corder attended at Patient X's home on numerous occasions during which Patient X performed oral sex on Dr. Corder.

2. The sexual relationship was not reciprocal.

3. Dr. Corder acknowledged that he had no feeling of affection towards Patient X.

4. In the period during which Dr. Corder admitted the sexual relationship occurred, Patient X was a frequent patient of Dr. Corder's and was dependent upon him for medical care. During this time:

   (a) Patient X was admitted to hospital for depression;

   (b) Patient X presented to hospital for suicidal ideation and drug overdose;

   (c) From July, 1996 to December, 1997, Dr. Corder prescribed Temazepam on a bi-weekly basis without ever charting it;

   (d) Patient X was clearly vulnerable.

The physician/patient relationship is one where there is a power imbalance. Patient X came to Dr. Corder with trust. Dr. Corder had a fiduciary obligation to protect her and instead of protecting her, he exploited her. Dr. Corder breached his obligations in the most fundamental way possible. He victimized Patient X. He used her and abused her trust. The Panel found that Dr. Corder committed an egregious breach of the Physician's Code of Conduct.

Dr. Corder, by his own admission, knowingly crossed boundaries with Patient X after taking the Boundary Training Course recommended by the College. This inappropriate relationship continued for many years. There can be no justification for initiating an inappropriate sexual relationship or for allowing it to continue."

The Inquiry Panel also made significant findings in respect of Dr. Corder's boundary violations involving Patient Y. Those findings were outlined in the Inquiry Panel's reasons as follows:

> "In July, 2006 Dr. Corder's marriage ended and the relationship with Patient Y intensified. The facts presented to the Panel indicated that Dr. Corder formed an emotionally intimate relationship with Patient Y. Patient Y assumed the role of providing emotional support for Dr. Corder. After almost 3 years as Patient Y's primary care physician, it was improper for Dr. Corder to immediately enter into a close personal relationship with Patient Y. Although not a sexual relationship, Dr. Corder admits it was nonetheless inappropriate. The Panel agrees.
>
> As noted previously, the physician/patient relationship is one where there is a power imbalance. Dr. Corder used Patient X for sexual gratification. He used Patient Y for emotional support. Neither one is acceptable.
>
> Dr. Corder's relationship with Patient Y cannot be viewed in isolation. As noted previously, there were warning signs of potential boundary violations in the early1990s. These early warning signs, together with the specific boundary violations involving Patient X in the late 1990s and Patient Y in 2005 and 2006, suggest to the Panel a very concerning long standing pattern of behaviour on the part of Dr. Corder."

In Dr. Corder's first reinstatement application he requested that his licence be reinstated with the following conditions:

(i) No house calls;

(ii) Only examine female patients with an attendant;

(iii) Continue psychotherapy.

As noted above, the Executive Committee denied Dr. Corder's first reinstatement application in December, 2014. The Executive Committee summarized the reasons for the denial as follows:

> "The Executive Committee cannot reinstate an individual whose fitness to practice medicine has not been established in the hope that it can prevent the effect of the unfitness from damaging the public by the imposition of carefully crafted safeguards.

> The Executive Committee has concluded that Dr. Corder has not fulfilled the onus of establishing that he is currently able to practice medicine safely. In such circumstances, it would be inappropriate for the Executive Committee to impose conditions as a way of attempting to protect the public from his deficiencies. Such an approach has the potential of undermining the confidence of the public in the medical profession's ability to regulate itself.
>
> The Executive Committee, which is mindful of its responsibilities to protect the public, has decided on the basis of its review of all of the evidence available to it, that there remains an unacceptable risk of further misconduct or a breach of professional standards by Dr. Corder, and that the risk which exists is not properly manageable through placing terms and conditions on Dr. Corder's licence.

In Dr. Corder's second (current) application for reinstatement, he sets forth his "goals for licensure" as being:

1. Surgical assisting;

2. Emergency department medicine;

3. Working as an "in-house medical practitioner" in a way similar to the way he had worked at the Selkirk Mental Health Centre from 2007 to 2010;

4. Short term patient care in walk-in settings or short term locum settings;

5. Involvement with the Easton Place Medical Clinic in Selkirk, Manitoba, a multi-disciplinary facility intended to have family medicine practitioners, surgeons, pediatricians, psychiatrists, and an ophthalmologist, along with lab, pharmacy, and diagnostic imaging facilities. In a letter to the College dated November 18, 2016, the Easton Place Medical Clinic stated their willingness to employ Dr. Corder "in whatever capacity is allowed by the College of Physicians and Surgeons of Manitoba". Dr. Corder hopes to be able to do short term locum work, holiday relief for colleagues, and to assist with student and resident teaching programs and patient education programs at the Easton Place Medical Clinic.

In Dr. Corder's current application for reinstatement, he has also stated that he will not consider long term family practice situations in any location or in any circumstance. Furthermore he has stated that he is committed to long term mentorship for himself and to continuing with long term psychotherapy.

The Investigation Committee opposes Dr. Corder's current application for reinstatement on several grounds, which will be set forth elsewhere in these Reasons.

THE EVIDENCE

Dr. Corder's written submission in support of his current reinstatement application included all of the assessments and reports he had submitted in support of his first application, and some additional reports and assessments which will be commented upon elsewhere in these Reasons.

The assessments and reports which had been submitted with Dr. Corder's first application for reinstatement, were reviewed and considered by the Executive Committee as part of his current application. Those assessments and reports included:

(i) A report from Dr. G. R. Schoener, a licenced psychologist, dated August 30, 2009;

(ii) A report from Dr. Peter Collins dated September 8, 2010;

(iii) A report from Dr. Peter Collins dated December 20, 2012;

(iv) A multi-disciplinary evaluation from the Gabbard Centre dated September 13, 2011;

(v) A multi-disciplinary report from the Gabbard Centre dated November 19, 2013;

(vi) Reports from Dr. Leonard Schwartz, Dr. Corder's treating psychiatrist, dated August 12, 2013 and May 19, 2014.

There was considerable consistency between the findings and conclusions of the reports and assessments listed as items (ii) to (v) above. Those reports described Dr. Corder as having an avoidant personality disorder and borderline and narcissistic personality traits, or a mixed personality disorder with avoidant and narcissistic traits, or an Axis II personality disorder, also described as a mixed personality disorder. A report from Dr. Michael Bagby, a registered psychologist, dated June 16, 2010, had been available at the time of Dr. Corder's first application for reinstatement, but had not been submitted as part of that application. Dr. Bagby's report was provided as part of the current application. It also referred to Dr. Corder having an Axis II avoidant personality disorder.

The assessments and reports which were conducted subsequent to the Investigation Committee's denial of Dr. Corder's first application for reinstatement, and which were submitted by Dr. Corder as part of the current application for reinstatement were:

(i) A report from Dr. Jeffrey Waldman dated November 24, 2015;

(ii) A report from Dr. Schwartz dated December 28, 2015;

(iii) A report from the Comprehensive Occupational Assessment Program (COAP) dated October 24, 2016.

Dr. Waldman's report provided answers to specific questions put to him by Dr. Corder. In summary, Dr. Waldman opined that:

(a) With appropriate restrictions and limitations on Dr. Corder's licence, the risk of repetition of the inappropriate boundary violations that resulted in the revocation of Dr. Corder's licence, is low;

(b) Risks can be mitigated by the imposition of terms and conditions including that:

(i) Dr. Corder should not return to an office based family practice where he could develop long term doctor/patient relationships;

(ii) Dr. Corder should return to practice in a setting where there is some supervision such as working as a surgical assistant or working in an Emergency Department in an urban setting;

(iii) Dr. Corder should always work with at least one other physician who knows about his history;

(iv) Dr. Corder must continue with ongoing psychotherapy;

(c) Dr. Corder has demonstrated a commitment to making the changes necessary to improve his emotional and psychological health which will allow him to practice medicine safely;

(d) Dr. Corder has improved in therapy, but continues to demonstrate some deficits with regards to fully appreciating how other people might respond to his behaviours in a variety of circumstances;

(e) With the restrictions and limitations outlined in subparagraph (b) above, Dr. Corder does not pose a significant risk to the public if he returns to the practice of medicine.

In his report dated December 28, 2015, Dr. Schwartz confirmed that he was continuing to see Dr. Corder for psychotherapy on a weekly basis when he (Dr. Corder) is in Manitoba. He noted that Dr. Corder continues to make progress in his individual therapy, notably with respect to increased capacity for self-reflection and self-observation and decreased tendency to deny, minimize or otherwise avoid the consequences of his own behaviour. Dr. Schwartz also observed that Dr. Corder takes the work of therapy seriously, which has resulted in significant progress with respect to his awareness and understanding of his thoughts, feelings and behaviours. Dr. Schwartz specifically stated that “patterns of denial, avoidance and attribution of responsibility to others have virtually disappeared in the therapeutic work”.

While acknowledging that the purpose of his therapy with Dr. Corder “has not been for risk evaluation and/or prediction of probability of future behaviour”,

Dr. Schwartz fully supports Dr. Waldman's recommendation of a conditional or restricted licence for Dr. Corder.

Dr. Corder participated in an assessment by the Comprehensive Occupational Assessment Program (COAP), which he undertook on his own initiative. He did so after being advised by the Investigation Committee that it would not consider supporting a reinstatement application in the absence of a new comprehensive multi-disciplinary assessment of his fitness to practice. The assessment by COAP took place on September 9, 10 and 16, 2016, resulting in a report dated October 24, 2016. The report concluded that Dr. Corder has dependent and avoidant personality traits which contributed to his past professional misconduct.

The COAP assessment was thorough and the report arising from the assessment was detailed. Under the heading "Mental Status Examination", the report stated:

> "He showed a full range of affect and became very tearful while discussing the end of his first marriage and when discussing his desire to return to medical practice. He expressed a lot of guilt about the end of his first marriage. Of note there was little display of true regret about his boundary crossing with patients and no affective expression. He was able to say that he now knows that he was responsible for what happened but this appears to be an intellectual understanding as there was no affective expression associated with the discussion. …"

With respect to "Overall Clinical Impressions", the report stated:

> "…Overall the interviews, the psychometric testing and Dr. Corder's responses to the behavioural boundaries scenarios support the clinical view that Dr. Corder is not currently experiencing any acute psychiatric disorders, but continues to struggle with some emotional and interpersonal dysfunction arising from his dependent and avoidant styles. It is reasonable to conclude that Dr. Corder's struggles with boundary violations in his professional and his personal life are a result of his need to connect with others, to avoid conflict, and to be seen in a positive light by others. Despite years of professional challenges and consequences, as well

> as psychiatric assessment and treatment, Dr. Corder's perspective and judgment in his professional role and relationships appears to remain clouded by those long standing psychological and emotional needs.
>
> Although he intellectually recognizes that he hurt his patients with his behaviour, and that he was responsible for the boundary crossing/violations, he does not display the level of guilt and remorse that one might expect. He does feel shame but this appears to be more about how he is seen by others than his true acknowledgment of the impact on others of his actions. …
>
> … . However, the persistence of his long standing and vulnerable personality patterns indicate that he is still at risk for crossing boundaries if placed in a traditional family practice or walk-in clinic type of situation. …"

Under the heading "Recommendations", the report stated:

> "In terms of recommendations for practice, the team does not support Dr. Corder's return to a traditional medical practice due to ongoing risk for boundary violations. A practice restricted to surgical assisting could provide the limited exposure to patients and work in a team to reduce risk of boundary violations by affording the opportunity for direct supervision.
>
> Dr. Corder has been out of practice for a substantial length of time and will require retraining as directed by CPSM. Further, if Dr. Corder were to return to any form of medical practice, including surgical assisting, it would be advisable for him to enter into a formal mentor relationship. A senior colleague who does not have a relationship with him so that he can provided with objective feedback around his practice would best provide this."

THE POSITIONS OF THE PARTIES

The Position of Dr. Corder

In his written and oral submissions, Dr. Corder submitted that his licence to practice medicine in Manitoba should be reinstated and he expressed a willingness to have his licence subject to conditions or restrictions as outlined by Dr. Waldman. His arguments in support of reinstatement are summarized below:

1. The time that has elapsed since his licence was revoked, coupled with the time that has elapsed since his first application for reinstatement was denied, has provided Dr. Corder with ample time to reflect on his misconduct and the causes of that misconduct.

2. Dr. Corder has seriously considered, understood and accepted the conclusions and recommendations of Drs. Collins, Gabbard, Waldman and the COAP assessment team, which has given him insight into his past behaviour and an acute awareness of the steps which he must take to avoid the boundary violations which he committed in the past.

3. He has conscientiously participated in psychotherapy with Dr. Schwartz and is committed to continue to do so in the future.

4. He has voluntarily attended workshops on self-awareness presented by the Canadian Physician Health Institute and attended the Canadian Conference on Physician Health in Winnipeg in October, 2015.

5. Recognizing that he has not practiced medicine for many years, he is prepared to comply with any requirements set by the College before he resumes practice in any capacity, to ensure the adequacy of his medical skills and knowledge.

6. Dr. Corder asserts that the specialist who knows him the best is Dr. Schwartz, and that Dr. Schwartz is fully supportive of Dr. Waldman's recommendations of a conditional licence. Dr. Wright, one of the COAP assessors has spoken to Dr. Schwartz. Dr. Wright does not disagree with Dr. Schwartz's analysis nor with Dr. Waldman's recommendations.

7. Dr. Corder has developed his own personalized "red flag audit" based on his own traits and his awareness of the risks which may result from those traits. He intends to complete such an audit at the end of every working day as a further tool for self-awareness and as an instrument for risk reduction. He acknowledges that he must be relentless in his commitment to remain self-aware.

8. Dr. Corder's intentions as to the type of medical work he will perform and the type of environments in which he will work are entirely consistent with the type of conditions and restrictions referred to by Dr. Waldman in his report dated November 24, 2015.

As a result of all of the foregoing, Dr. Corder submits that the risk that he will re-offend is very low, and that his licence to practice medicine in Manitoba should therefore be reinstated. He believes that his medical skills and experience are being wasted and that he can once again become a valued and contributing member of the medical profession.

The Position of the Investigation Committee

In contrast, the position of the Investigation Committee is that Dr. Corder's licence to practice medicine should not be reinstated for the following reasons:

1. Dr. Corder has failed to demonstrate that it is in the public interest that he be reinstated. His application focusses not what is in the public interest, but rather on what is in Dr. Corder's interests.

2. The public cannot be adequately protected by the imposition of conditions.

3. It would be inappropriate to reinstate Dr. Corder in the hopes that protection of the public may be achieved by the imposition of conditions, while Dr. Corder attempts to rehabilitate himself through continued psychotherapy.

THE LAW

Section 59.13 of *The Medical Act* states:

> "The executive committee may, on application by a person whose registration or licence has been cancelled, direct the registrar to reinstate the person's name in the register, subject to any conditions that the executive committee may prescribe, and may order the person to pay any costs arising from the imposition of such conditions."

The Medical Act does not provide guidance as to the principles which the Executive Committee should follow when making a decision under s. 59.13. However a relatively recent decision of the Manitoba Court of Queen's Bench in *Sowemimo v. College of Physicians and Surgeons of Manitoba (2014) 301 Man. R. (2nd) 150* sets forth the principles which should guide the Executive Committee's decision when considering a reinstatement application. Those principles are that:

- the discretion to be exercised by an Executive Committee must be exercised judiciously and in good faith, meaning that the Executive Committee's discretion must be guided by rules and principles of law, and cannot be exercised in a manner which is arbitrary or biased, or motivated by ill will towards the applicant, or based on information not properly presented to the Committee;

- the purpose of the reinstatement application is to determine whether the present circumstances of the applicant (as opposed to the circumstances which prevailed when the applicant's licence was cancelled) warrant reinstatement;

- the applicant bears the onus of persuading the Committee that the applicant's medical licence should be reinstated;

- public safety and patient well-being are critical factors which the Executive Committee must consider as part of its assessment of the reinstatement application. When addressing issues of public safety and patient well-being, the following questions are relevant:

    (i) Has the applicant been rehabilitated?

    (ii) What, if anything, can be done to ensure that the applicant's medical knowledge, skill and judgment are at the level required to currently practice medicine at an acceptable level?

(iii) Has the applicant demonstrated the necessary insight into the factors which caused or contributed to the initial problems and to ensure that he or she will be able to practice safely and ethically if returned to practice?

- the passage of time is not sufficient in of itself to justify reinstatement;
- in cases which involve multiple factors such as dishonesty and competency, the applicant must introduce evidence which is sufficient to satisfy the Executive Committee that the risk of repetition of any of the multiple behaviours which caused the initial cancellation of the licence is low;
- before considering the types of conditions which should be imposed to protect the public interest and to minimize the risk of future problems, the Committee must first be satisfied that the applicant is fit to return to the practice of medicine.

Regarding the last principle, namely the relationship between the imposition of conditions designed to protect the public interest relative to an assessment of the applicant's fitness to practice medicine, counsel for the Investigation Committee referred the Executive Committee to the British Columbia Court of Appeal decision in *McQuat v. Law Society of British Columbia (B.C.C.A.) (1993) 78 B.C.L.R. (2nd) 106*.

The *McQuat* decision involved a lawyer who, over a six-year period, starting in 1976, stole and misappropriated client trust funds. He was disbarred, criminally convicted and served a prison term. In 1990, Mr. McQuat sought reinstatement as a member of the Law Society of British Columbia. His application to be reinstated was denied by the Law Society of British Columbia. The decision was appealed by McQuat, and the British Columbia Court of Appeal dismissed his appeal. In doing so the Court specifically considered the manner in which the Credentials Committee of the Law Society of British Columbia considered whether an adequate level of public protection could be achieved by the imposition of conditions designed to protect against further misappropriations. The Credentials Committee's reasoning was as follows:

> "It has been suggested that whatever worry we may be left with concerning the possibility of fresh misappropriation could be cured by placing restrictions upon his freedom to practice such as prohibiting him from handling trust funds with or without a requirement that he practice only in association with another member of the Law Society.
>
> A reinstatement with practice conditions is appropriate in some circumstances, especially where the concern is about an adequate skill level or a successful recovery from substance abuse rather than moral fitness. Even then there is a risk that a member, though prohibited from certain acts by what amounts to a private arrangement between him - or herself and the Law Society, is nonetheless in a position as regards the public to have them repose trust in a lawyer as a fully qualified member.
>
> But, deeper than that we are under the statutory constraint that we must not readmit persons about whose fitness we are not satisfied simply because we hope to prevent the effect of the unfitness from damaging the public or members of the profession by some specially crafted safeguard."

The Court of Appeal of British Columbia specifically decided not to interfere with the Credentials Committee's decision.

The Investigation Committee asserts that the *McQuat* decision stands for the proposition that when it becomes necessary to impose special conditions in hopes of protecting the public, a regulatory body must carefully consider whether an applicant is truly fit to be regarded as a member of the profession. The Investigation Committee submits that:

(i) The Executive Committee must decide whether concerns related to Dr. Corder are of a kind that could be managed with conditions or rather of a kind which render him unfit to return to the practice of medicine;

(ii) In coming to its decision the Executive Committee must be guided by the overarching public protection mandate and the need to maintain public confidence in the profession's ability to regulate itself.

ANALYSIS

Dr. Corder's efforts to rehabilitate himself have been impressive. He has accepted the findings of the various professionals who have provided reports and assessments relating to him relating to the personality traits (or disorders) which likely caused his past misconduct. He has committed himself to long term psychotherapy to reduce the risk of future transgressions.

In his submissions on his own behalf, Dr. Corder placed great reliance on the reports of Dr. Waldman dated November 24, 2015 and of Dr. Schwartz dated December 28, 2015, and to some extent on the COAP assessment of October 24, 2016.

These latter reports are important because they are relatively recent and because they were produced after the Executive Committee's decision in December, 2014 to deny Dr. Corder's first reinstatement application.

An important element of those reports is their confirmation that Dr. Corder has made progress in his individual therapy with respect to increased capacity for self-reflection and a decreased tendency to deny, minimize or otherwise avoid the consequences of his own behaviour. Those reports also suggest conditions or restrictions on Dr. Corder's licence, as the means by which the risk of harm to patients can be effectively mitigated.

Dr. Waldman's suggested conditions are more expansive than the conditions which had been proposed by Dr. Corder and his counsel as part of his first application for reinstatement.

As noted above, the conditions suggested by Dr. Waldman involve working in a setting in which there is supervision of Dr. Corder's practice. Such a setting could be similar to the Selkirk Mental Health Centre, or could involve work as a surgical assistant, or work in another highly supervised setting such as an emergency department in an urban setting. In any of those settings Dr. Waldman also emphasized the necessity of having at least one other physician, with knowledge of Dr. Corder's discipline history, being regularly available, should any concerns arise about Dr. Corder's involvement with

a patient. The continuation of ongoing individual psychotherapy is another condition suggested by Dr. Waldman.

In response to Dr. Corder's submissions, the Investigation Committee pointed out that Dr. Corder has not provided the College with a specific plan for remediation in relation to the deficits in skill, knowledge and judgment which were identified at the time his licence was revoked in 2010, including serious deficits in record keeping and charting and in his prescribing practices. The Investigation Committee also pointed out that Dr. Corder has not provided the College with any form of assessment of his present level of skill, knowledge and judgment.

Accordingly, the Investigation Committee emphasized that if Dr. Corder is to be reinstated, he will be required to comply with the requirements of the College's Council policy EL-21 with respect to the *Retraining of Inactive Physicians*. Given that Dr. Corder ceased family practice in early 2007, and has not practiced in any capacity for almost seven years, an important step in any consideration of Dr. Corder re-entering practice, will be a comprehensive assessment of his current knowledge, skills and abilities through an assessment process such as that conducted by Clinician Assessment Programs, in the Division of Continuing Competence and Assessment at the Facility of Health Sciences, University of Manitoba. A separate assessment process will likely be required to assess Dr. Corder's skills as a surgical assistant.

Dr. Corder has expressed a general willingness to comply with the College's requirements and to undergo whatever assessment of his present level of medical skill, knowledge and judgment are required. Nonetheless, he has not yet done so. Therefore the Investigation Committee asserts that Dr. Corder's current application for reinstatement is deficient in an important respect, namely Dr. Corder has failed to discharge the onus of establishing that his medical skill and knowledge are at the level required for him to currently practice medicine at an acceptable level. In that regard, Executive Committee is acutely aware that the misconduct of which Dr. Corder was convicted and which resulted in the revocation of his licence, did not simply involve boundary violations, but also involved serious deficiencies with respect to Dr. Corder's

record keeping and prescribing practices. Those deficiencies resulted in a finding against Dr. Corder of a lack of skill, knowledge and judgment in the practice of medicine.

Regarding the overarching issue of public safety and patient well-being, and the determination of whether Dr. Corder has demonstrated the necessary insight into the factors which caused his earlier transgressions to satisfy the Executive Committee that

he will be able to practice safely and ethically if his licence is reinstated, the Investigation Committee had the following comments about Dr. Waldman's report and the COAP assessment:

1. Dr. Waldman's report was prepared after a two and a half hour interview and a review of materials which had previously been provided to him. The Investigation Committee therefore says that Dr. Waldman's assessment was much less rigorous than those undertaken by the Gabbard Centre or the COAP assessment team. Nevertheless Dr. Waldman concluded that Dr. Corder should not practice in a setting in which he could develop ongoing therapeutic relationships with patients and that he required a structured supervised environment in order to function properly as a physician.

2. Dr. Waldman has proposed restrictions on Dr. Corder's licence as a means of minimizing risks and ensuring patient safety and well-being. The Investigation Committee says that what Dr. Waldman has recommended, is precisely what the *McQuat* decision says should not be done, namely utilizing conditions to minimize risks, in circumstances in which the Executive Committee should be doubtful about whether Dr. Corder is truly fit and able to practice medicine safely and ethically.

3. The COAP assessment is thorough and relatively recent. It falls considerably short of an unqualified endorsement of Dr. Corder's ability to practice medicine safely and competently. As noted above, among other reservations, the COAP report stated that Dr. Corder's perspective and judgment remain clouded by "long standing psychological and emotional needs", and that the COAP team did not

support “Dr. Corder’s return to a traditional medical practice due to ongoing risk for boundary violations”.

Having carefully considered all of the materials submitted to it and the very helpful written and oral submissions of Dr. Corder and counsel for the Investigation Committee, the Executive Committee has concluded that the various reports and assessments which have been conducted over the course of several years, establish that Dr. Corder has improved in therapy and has developed significant insight into the factors that caused his earlier misconduct.

Regrettably, all of the professionals who have assessed Dr. Corder, including Dr. Gabbard and Dr. Collins, and Dr. Waldman and Dr. Schwartz, as well as Dr. Wright and the COAP assessment team, have identified the existence of personality traits and the persistence of risk factors which, in some circumstances could compromise patient safety and well-being.

Having recognized, as it must, the persistence of those risk factors, the Executive Committee is not willing or able to engage in an exercise of developing conditions or restrictions as a means of limiting risk, in order to protect the public interest.

Public safety and patient well-being must be the paramount considerations of the Executive Committee.

The seriousness of Dr. Corder’s misconduct, as outlined in the original Amended Notices of Inquiry, and the nature and extent of the breaches by Dr. Corder particularized therein, provide the Executive Committee with a point of reference as to the potential seriousness of the conduct with respect to which the public must be protected. Although the Executive Committee recognizes that Dr. Corder has benefitted greatly from his ongoing psychotherapy, and that the insights which he has gained over the last many years will likely lessen the risk of a repetition of the misconduct which resulted in the revocation of his licence in 2010, the Executive Committee has concluded that Dr. Corder has not met the onus of establishing that he is able to practice medicine safely and ethically.

In such circumstances, it would be inappropriate for the Executive Committee to impose restrictions or conditions on his licence in an attempt to require him to practice in one or more low risk work environments, as a means of protecting the public from the risks which have been identified in the reports and assessments produced as part of these proceedings. It is significant that the reports and assessments which have been prepared after the denial of Dr. Corder's first reinstatement application, while acknowledging the progress made by Dr. Corder, nonetheless identify to risks which could compromise patient safety and well-being in various circumstances.

Accordingly, Dr. Corder's second and current application for reinstatement to the Medical Register and for the reinstatement of his licence to practice medicine in Manitoba, is denied.

Dated this 5th day of May, 2017.