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

AND IN THE MATTER OF: DR. SHAMOON HASHAM DIN, A MEMBER OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF MANITOBA

AND IN THE MATTER OF: A NOTICE OF INQUIRY DATED SEPTEMBER 13, 2017

INTRODUCTION

On June 18, 2018, a hearing was convened before an Inquiry Panel (the "Panel" of the College of Physicians and Surgeons of Manitoba (the "College"), for the purpose of conducting an inquiry pursuant to Part X of *The Medical Act, C.C.S.M.* (the "*Act")* into charges against Dr. Shamoon Hasham Din ("Dr. Din") as set forth in an Amended Notice of Inquiry dated September 13, 2017.

The Amended Notice of Inquiry charged Dr. Din with professional misconduct, with contravening Articles 1, 2, 12, and 23 of the *Code of Ethics* of the College, with contravening sections 2, 7, 21, 22, and/or 27 of By-Law No. 11 of the College, and/or with displaying a lack of knowledge, skill and/or judgment in the practice of medicine.

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

1. From in or about July 2016 until in or about February 2017, during the course of his practice of medicine, Dr. Din violated his ethical obligations to Patient A and contravened Articles 1, 2, and/or 12 of the *Code of Ethics* of the College and/or section 7 of By-Law No. 11, by exploiting Patient A for his personal advantage by becoming involved in an inappropriate personal relationship with Patient A;

2. Dr. Din inappropriately prescribed and/or provided samples of medications to Patient A and/or inadequately documented the prescriptions and the provision of samples to Patient A and thereby contravened Article 23 of the *Code of Ethics* of the College and sections 21, 22 and/or 27 of By-Law No. 11 of the College and/or displayed a lack of knowledge, skill and/or judgment in the practice of medicine and/or committed acts of professional misconduct.

3. Dr. Din attempted to mislead the College both in his written communications and in his interview with the Investigator appointed by the College, thereby committing acts of professional misconduct.

4. On or about June 11, 2017, Dr. Din breached his undertaking to the College dated April 28, 2017, pursuant to which he had undertaken that a practice supervisor would be present at all times on site when Dr. Din was seeing patients, by seeing approximately 25 patients without his practice supervisor being present at the site.

5. Dr. Din, by reason of one or more of the foregoing, displayed a lack of knowledge of, or a lack of skill and judgment in the practice of medicine.

The Amended Notice of Inquiry also contained extensive and detailed factual particulars with respect to allegations 1 to 3 outlined above.

The hearing proceeded before the Panel on June 18th, 2018, in the presence of Dr. Din and his counsel, and in the presence of counsel for the Investigation Committee of the College (the "Investigation Committee"). Dr. Din, through his counsel, admitted his membership in the College, and confirmed that he had no objection to any member of the Panel and that the Panel had jurisdiction over the matters at issue. Dr. Din, through his counsel, also acknowledged service upon him of the Notice of Inquiry and consented to a motion by the Investigation Committee to amend the Notice of Inquiry.

At the commencement of the hearing, counsel for the Investigation Committee made a motion pursuant to subsections 56(2) and 53(3) of the *Act*, for an order protecting the identity of all patients, including Patient A, and any third parties who may be referred to in the proceedings, or in any of the exhibits filed in these proceedings. The motion also sought an order preventing the disclosure, publication or transmission of various photographs and a video to be referred to in the proceedings, due to the personal and private nature of the photographs and video.

Dr. Din, through his counsel consented to such an order. The Panel, being satisfied that the desirability of avoiding public disclosure of the identities of patients and of the photographs and video outweighed the desirability of the identities of patients, photographs and video being made public, granted an order. The order specified that there shall be no disclosure of the names or other identifying information of any patients, (including Patient A), or other third parties who may be referred to in the proceedings, or who may be referred to in any of the exhibits in the proceedings, and that there shall be no disclosure, publication or transmission of any photographs or of any video referred to in the proceedings.

Dr. Din waived the reading of the Amended Notice of Inquiry and entered a plea of guilty to each of the five charges outlined therein. By doing so, he admitted the truth of all of the allegations and of the factual particulars in support of the allegations in the Amended Notice of Inquiry and also admitted that the facts and matters outlined therein constituted professional misconduct, and a breach of the specific Articles in the *Code of Ethics* of the College and a breach of the sections of By-Law No. 11 of the College referred to in the Amended Notice of Inquiry. By pleading guilty to each of the five

charges, Dr. Din also acknowledged that the cumulative effect of his actions and omissions was that he displayed 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, all of which were filed as exhibits in the proceedings by consent:

1. The Notice of Inquiry (Exhibit 1);

2. A detailed, 67 page Statement of Agreed Facts (Exhibit 2);

3. An Agreed Book of Documents containing, among other documents, the Amended Notice of Inquiry and a Joint Recommendation as to Disposition (Exhibit 3);

4. A calculation of the costs of the proceedings to be paid by Dr. Din (Exhibit 4);

5. A document signed by Dr. H. as the Practice Supervisor of Dr. Din, by which he undertook to continue to supervise Dr. Din's practice in relation to his conditional registration with the College and also to supervise and monitor Dr. Din's practice at the clinic at which they both worked for compliance with the terms of Dr. Din's undertaking dated until April 28, 2017 (Exhibit 5);

6. A Notice of Decision of the Investigation Committee, with respect to Dr. Din's interactions with a patient in May 2017 (Exhibit 6);

7. Registration documents submitted by Dr. Din to the College on August 5, 2014, at the time of his application for registration with the College (Exhibit 7); and

8. A bundle of nine Assessment Reports dated between June 28, 2017 and May 9, 2018 relating to Dr. Din, from various assessors, including Dr. Din's treating psychiatrist (Exhibit 8).

The Panel considered the guilty plea of Dr. Din in the context of the above-noted Exhibits and the submissions of the Investigation Committee and the submissions of counsel for Dr. Din. The Panel is satisfied that all of the charges set forth in the Amended Notice of Inquiry and the particulars contained therein have been proven.

The Panel is also satisfied that the Joint Recommendation as to Disposition is sound and appropriate and ought to be accepted by the Panel. The Panel's specific reasons for its decision are outlined below.

BACKGROUND

1. Dr. Din was born in Canada on August 4, 1976. He grew up in Ontario. Dr. Din went to medical school and graduated from the Grace University School of Medicine in Belize in 2001. He returned to Canada in January 2002 and passed the Medical Council of Canada Evaluating Examination in 2003. Dr. Din was unable to obtain a residency position in Ontario. He received his family medicine training in the United States at Wayne State University in Detroit, Michigan, commencing that training in 2005 and completing it in 2009. Thereafter, Dr. Din returned to Ontario and practiced family medicine in Mississauga. However, his licensing in Ontario expired because he had not written and passed his American Board examinations. Dr. Din has been registered as conditional registrant with the College in Manitoba since June 2015. He commenced his practice in Manitoba on July 11, 2015 as a family physician under the supervision of Dr. H at a clinic in Winnipeg. At all material times, Dr. Din continued practicing under the supervision of Dr. H at the Clinic. He completed his American Board examinations in April 2017. To be eligible for full registration with the College as a family physician, Dr. Din must still successfully complete his College of Family Physicians of Canada Certification Examinations in Family Medicine.

2. Most of the matters referred to the in the Amended Notice of Inquiry occurred between July 2016 and late February 2017 and involved Dr. Din and a female patient, referred to as Patient A.

3. Patient A had been a patient at the Clinic since 2010. She first saw Dr. Din in October 2015, when she was 16 years of age. On her first visit with Dr. Din, accompanied by her mother, Patient A expressed concerns that she may have ADHD, as she described being absent minded and that her grades at school were declining. Dr. Din noted in the medical record that he was considering a possible referral to a psychologist, Dr. X, practicing in the Clinic.

4. Patient A's Electronic Medical Record (the "EMR") referred to a series of attendances at the Clinic, over the next several months. Those attendances were unremarkable. She attended on December 9, 2015 and Dr. Din conducted a physical examination. On April 17 and 21, 2016, she saw another physician at the Clinic for a Urinary Tract Infection ("UTI"). On May 5, 2016, Patient A, in the company of her mother, saw Dr. Din relating to urinary frequency. She also reported experiencing anxiety, potentially related to a previous traumatic experience. Dr. Din's notes again mention a plan to refer Patient A to Dr. X for a psychological consult. On July 5, 2016, Patient A saw Dr. Din with respect to a possible UTI. She also advised Dr. Din that she was experiencing feelings of anxiety and was

feeling depressed. Dr. Din strongly recommended that Patient A see Dr. X. Dr. Din noted that "no RX intervention is warranted".

5. In the summer of 2016, Dr. Din sent his first text message to Patient A. No record exists of this message, but Dr. Din and Patient A recall it occurred shortly after one of Patient A's appointments with Dr. Din.

6. On August 10, 2016, Patient A saw Dr. Din for follow-up in relation to her psychological health. Patient A reported feeling better. She was considering cancelling her appointment with Dr. X, scheduled for August 16, 2016, but Dr. Din encouraged her to keep that appointment. Dr. Din noted in the EMR, a decision to defer medication.

7. On August 16, 2016, Patient A saw Dr. X. She discussed personal issues related to her emotional health.

8. Patient A saw Dr. Din at the Clinic on August 29, 2016, complaining of possible UTI symptoms and ongoing anxiety. Dr. Din provided a prescription for Lorazepam (.5 mg. 28 tablets) which Patient A filled on September 2, 2016.

9. On September 4, 2016, Patient A filled prescriptions from Dr. Din for Tylenol 3 (30 mg. 7day supply of 14 tablets) and Apo-Sulfatrim DS (160/800 mg. 3 day supply of 6 tablets). There is no reference to either prescription in Patient A's EMR and Dr. Din admitted that he did not create a medical record for those prescriptions. During his interviews with a Medical Consultant engaged by the College, Dr. Din was unable to recall or explain the Tylenol 3 prescription.

10. During the balance of September and October 2016, Patient A saw Dr. Din at the Clinic on September 13 and 20, 2016 and October 7 and 18, 2016, for various reasons.

11. Between the summer of 2016 and November 2016, Dr. Din and Patient A began exchanging text messages regularly and frequently. The text messages were personal. During this period Dr. Din visited Patient A twice at her place of employment at a large shopping mall. Dr. Din frequently complimented Patient A on her personal appearance, advised her he was lonely and gave her various gifts. The gifts included two pairs of Air Jordan basketball shoes, a $100 gift card for a cosmetic store, a jacket, two tickets to a concert in Toronto of one of her favourite musical artists (which he purchased online while they were in his office in the Clinic during an appointment for her medical care) and headphones valued at approximately $325.00.

12. Patient A was seen by Dr. Din on November 1, 2016 in relation to injuries which she sustained in a motor vehicle collision. She presented with neck and lower back pain. Dr. Din documented providing prescriptions for Flexeril, and Naproxen (which were filled by Patient A on November 1, 2016) and Percocet (325 mg-5, 28 tablets, which was filled by Patient A on November 4, 2016). Also on November 4, 2016, Patient A was seen by Dr. Din in the Clinic for a follow-up in relation to her lower back and neck pain. Dr. Din documented that he provided Patient A with samples of Durela (Tramadol – 100 mg), but did not specify the quantity.

13. Based on Patient A's EMR, Patient A did not see Dr. Din, or any other physician from the Clinic between November 4, 2016 and January 24, 2017. Patient A made a conscious decision to cease contact with Dr. Din in or around mid-November 2016, including seeing him for medical care. Her primary reason for doing so, was a series of texts which he sent her on November 7, 2016, which Patient A thought were "creepy" and because he had sent pictures to her of his face, which made her feel "uncomfortable". The texts of November 7, 2016, were included in the Agreed Book of Documents. They contained profanities, were sexually suggestive and highly unprofessional.

14. Communication between Dr. Din and Patient A resumed in or about late December 2016, when Dr. Din reinitiated contact with Patient A by text message, after Patient A's relative had a medical appointment with Dr. Din.

15. As part of its investigation into these matters, the College obtained the extraction data from Patient A's cellphone from the Winnipeg Police Service. It showed a total 1001 text communications between Dr. Din and Patient A between February 7 and February 22, 2017. At lest seven photographs were exchanged between Dr. Din and Patient A during this period. A very significant number of the text messages were personal (i.e., entirely unrelated to Patient A's medical care). Many of the text messages were salacious. All of the photographs were personal and many of them displayed sexualized images.

16. On January 24, 2017, Patient A was seen in the Clinic by Dr. Din for follow-up in relation to her lower back pain. It was noted that she was using Tylenol and Naprosyn to manage pain. A physical examination was conducted, but no medications were prescribed.

17. Patient A attended upon Dr. Din at the Clinic on February 7, 2017. In the EMR she is noted as complaining of significantly depressed mood and breakthrough anxiety. The entry noted that Patient A was using benzodiazepines intermittently and wanted a re-fill. Dr. Din noted he had no concerns relating to drug abuse or dependency on the part of Patient A.

Dr. Din provided a prescription for Lorazepam (1 mg, one daily, 21 tablets). The prescription was filled that day.

18. Patient A was seen by Dr. Din for a prescription on February 17, 2017. The prescription stated in part: "Lorazepam 2 mg tablet . . . 28 TAB, no refills." There are no other entries by Dr. Din in Patient A's EMR after February17, 2017. Dr. Din also wrote a prescription for Adderall for Patient A which he personally delivered to her, when they met outside the Clinic to shop on February 17, 2017. Patient A attempted to fill the prescription for Adderall on or about February 18, 2017, but could not, because Dr. Din had neglected to sign the prescription. In a text message, Dr. Din apologized for the mistake, stating he would bring her the Adderall on another occasion, which did not come to pass. On February 17 and February 18, 2017, Dr. Din and Patient A exchanged a series of texts in which Patient A expressed her need for more Lorazepam and asked for Adderall. In those texts, various other topics were mentioned, including Patient A's appearance and Dr. Din's feelings towards her. Dr. Din and Patient A also attempted to make arrangements whereby the two of them would meet. Photographs, several of which were sexually suggestive, were also exchanged, and Dr. Din sent Patient A a video.

19. Dr. Din and Patient A met at a Foot Locker store to shop on February 17, 2017. While together at the store, Dr. Din purchased items for Patient A with a value of $435.03.

20. In February 2017, Dr. Din and Patient A exchanged several texts about her desire to purchase a car. In a text on February 15, 2017, Dr. Din agreed to loan Patient A money to buy a car. They made arrangements for Dr. Din to pick Patient A up to look at cars on February 18, 2017, close to her home, but in a manner which would avoid them being seen by Patient A's parents.

21. On February 18, 2017, they met and went to a car dealership and test drove a car together. Patient A selected a car. In a text sent on February 18, 2017, Dr. Din agreed to loan her $4,000.00 in order to assist with the purchase of the car.

22. On February 19, 2017, in a lengthy series of text messages, Dr. Din raised concerns about them being seen at the dealership together and the potentially adverse consequences this could have on his career. Several of Patient A's texts to Dr. Din in this series of messages, indicate that Patient A was concerned and anxious and was feeling very badly about the possibility of negative consequences for Dr. Din and his career. In the same exchange of e-mails, they continued to discuss arrangements to see each other to shop within a few days.

23. In a series of text messages exchanged after February 19, 2017, Dr. Din and Patient A discussed going out for dinner in early March and travelling to Toronto. They also made plans to meet at a mall on February 22, 2017. Dr. Din confirmed that he would bring Patient A Adderall on February 22nd and some "new gear" which he had acquired for her online.

24. On February 21, 2017, Dr. Din and Patient A exchanged texts about his situation at work, in which she again expressed concern about any adverse professional consequences he may suffer as a result of seeing her outside of a professional setting.

25. In the late morning on February 22, 2017, Dr. Din and Patient A exchanged texts about seeing each other later that day, and arranged to do so at 4:30 p.m., at the mall where Patient A worked.

26. Patient A presented at a local hospital emergency department at 2:24, on February 22, 2017, after ingesting 8 or 9 tablets (2 mg) of Lorazepam in the preceding 12 hours, which tablets had been prescribed to her by Dr. Din. Patient A had taken some Lorazepam when she went to bed the previous night, then took some more in the morning before going to school. She described herself as being "super out of it". A teacher noted her condition and called her parents. Her father came to the school to pick her up and she collapsed when walking towards him. Dr. Din became aware that Patient A had gone to the emergency department at a local hospital, after taking too many pills, because they had an exchange of text messages, while she was in the hospital, in which she told him what had happened. The day following Patient A's hospitalization, she and Dr. Din exchanged additional texts about meeting the next day. At the end of that text exchange, Dr. Din sent Patient A a photograph of himself and a video of himself with no shirt on, blowing a kiss and saying, "miss you".

27. On February 28, 2017, the College initiated an investigation based on allegations that Dr. Din had or was having an inappropriate relationship with Patient A. The allegations were communicated to the College by both a member of the Winnipeg Police Service ("WPS") and an emergency room physician who had provided care to Patient A on February 22, 2017. The basis of the allegations against Dr. Din was a series of text messages and photographic images exchanged between Dr. Din and Patient A which were discovered by Patient A's mother on Patient A's cellphone during her attendance at the ER.

28. At the request of the Chair of the Investigation Committee of the College, on March 1, 2017, Dr. Din executed an undertaking whereby he agreed to cease practice for a defined period. As a result of this as well as two subsequent undertakings signed on March 3 and March 24, 2017, Dr. Din

was out of practice from March 1, 2017 to April 28, 2017, for a total period of approximately 8 weeks. Dr. Din re-entered practice on a restricted basis pursuant to an undertaking he signed on April 28, 2017.

29. The WPS continued to investigate possible criminal charges against Dr. Din in relation to his relationship with Patient A. On March 17, 2017, the WPS advised the College that no criminal charges would be laid against Dr. Din due to the lack of evidence suggesting that he had a sexual relationship with Patient A or that he had provided her with prescription drugs outside the clinic where he is employed. A copy of the WPS Narrative Report of its investigation was provided to the College on March 29, 2017 to assist with the College's investigation.

30. On or about December 15 and 16, 2017, Dr. Din, at the request of the College, voluntarily enrolled in a comprehensive occupational assessment program offered in Alberta. The cost of the assessment was $8,000.00 plus travel costs. These costs were paid by Dr. Din. On or about January 12, 2018, the Investigation Committee received a report from an assessment of Dr. Din from the Comprehensive Occupational Assessment Program ("COAP") which led to Dr. Din being interim suspended from practicing medicine in accordance with the Notice of Interim Suspension and letter outlining the reasons for same dated January 18, 2018.

31. On January 18, 2018, after the issuance of the Notice of Interim Suspension but before Dr. Din's suspension was posted on his profile, Dr. Din signed a voluntary undertaking not to practice.

32. The College was advised by Dr. Din's supervisor on Monday, June 12, 2017 that Dr. Din had breached this undertaking on Sunday, June 11, 2017. Dr. Din provided the following explanation for this breach:

    (a) On Sunday, June 11, 2017, Dr. Din received a request from Dr. K, who was ill, to cover for him and see patients during Dr. K's scheduled shift while Dr. K would be present at the clinic to supervise;

    (b) Shortly after 10, Dr. H called to confirm that Dr. Din was going in for the shift at 11;

    (c) Dr. Din presented at the Clinic around 11:05 with the assumption that Dr. K was there, or on his way and he started to see patients as they had already been placed in rooms;

(d) After a short time, Dr. Din looked for Dr. K in the office, and then went to the front desk to inquire about the whereabouts of Dr. K. The front staff reported that they had not seen him yet;

(e) Dr. Din immediately tried to contact Dr. K with no success and subsequently tried to contact Dr. H, again with no answer. He then asked staff to contact the clinic manager, who advised that since Dr. K had initially stated he would be present, and was aware Dr. Din could not practice in his absence, he was most likely enroute to the clinic;

(f) Shortly after that, the abbreviated weekend shift was completed and Dr. Din had seen a total of 25 patients;

(g) Dr. Din reached Dr. H and advised him of the events of the day;

(h) The following morning, Dr. Din stated that he spoke with Dr. S, his other supervisor, regarding the events of the previous day. She shared the concerns expressed by Dr. Din and Dr. H. A staff meeting was called for that afternoon to discuss the incident and the system failure that allowed for this incident to occur;

(i) Dr. K later communicated his regret and offered his apology that Dr. Din was placed in a compromising situation with regards to his restrictions/undertaking; and

(j) Dr. Din stated that in the interest of integrity and transparency, he felt that the College should be notified straightaway of this event and he asked Dr. H to call and notify the College on the first business day after the incident, Monday, June 12th. Those circumstances were also documented in the weekly supervisor report submitted to the College.

ADDITIONAL BREACHES OF UNDERTAKINGS

33. In addition to the above-noted breach of undertakings, which forms part of the charges referred to the Amended Notice of Inquiry, the College has learned of other breaches by Dr. Din of certain undertakings. Those additional breaches are as follows:

(a) He breached his undertaking dated April 28, 2017, which included a requirement that Dr. Din not communicate with patients outside of their attendance at the Clinic, with the exception of communicating abnormal test results. The additional breach occurred in May 2017

and involved Dr. Din calling a patient at home during an evening to apologize to that patient following an unsatisfactory interaction with that patient a few days earlier. The patient had come in for a walk-in appointment and had seen Dr. Din. The patient had complained to her family physician several days after seeing Dr. Din, stating that Dr. Din had not been willing to let her fully explain her problems, that he was rude, and that he did not properly examine her in relation to her complaints. She was also unhappy about some of the notations which Dr. Din had made in her medical records. In addition, in his telephone call to apologize to the patient, Dr. Din mentioned that his wife had urged him to call the patient to apologize, which caused the patient to be concerned that he may not be respecting the confidentiality of her personal health information; and

(b) Dr. Din signed an undertaking to cease practicing medicine on January 19, 2018. However, he authorized prescriptions which were faxed to a pharmacy and dated January 26, 2018, one week after he was to cease practising. Dr. Din has provided explanations with respect to that breach, which, among other things, indicated that he perceived the need to fill the prescriptions because certain of the prescriptions related to vulnerable patients who might have suffered otherwise. Dr. Din also explained that he did not consider the filling of the prescriptions in the circumstances which prevailed in January 2018, to be practicing medicine.

34. Counsel for the Investigation Committee and Dr. Din agreed that these additional breaches, which only became known to the College after the Notice of Inquiry was issued, should be addressed in these proceedings. Counsel for the Investigation Committee and Dr. Din also agreed that although Dr. Din has not been and will not be charged with these breaches, they are nonetheless relevant to the Panel's consideration of the appropriate penalty in these proceedings.

ASSESSMENTS AND CONSULTANTS' REPORTS

35. At the request of Dr. Din's legal counsel, Dr. Din participated in an independent psychiatric evaluation by a local psychiatrist, Dr. B in June 2017. Dr. B is a forensic psychiatrist with expertise in conducting court-ordered fitness and criminal responsibility assessments. He also performs independent psychiatric examinations in medicolegal criminal and civil cases. The assessment involved extensive interviews and a review of the text messages. Dr. B provided additional reports regarding Dr. Din in January, February and May of 2018 after Dr. Din had been assessed by the COAP team and after speaking with Dr. Din's psychiatrist, Dr. C.

36. Dr. Din first engaged in psychotherapy with Dr. C in relation to the matters which are the subject of this hearing in August 2017. As of January 2018, Dr. Din had attended for a total of six sessions, during which the goal was to increase his insight into the reasons he crossed boundaries and to prevent this type of behaviour from happening again and to support Dr. Din in coping with the consequences of the College Investigation.

37. As described in paragraph 30 above, Dr. Din was assessed by the COAP team on December 15 and 16, 2017. This team is comprised of two psychiatrists and a psychologist with expertise in boundary issues involving physicians and was approved by the Investigation Committee to conduct the assessment because of its expertise in this area. The assessment involved a review of text messages, extensive interviews and psychiatric testing, including the Brief Symptom Inventory, the Minnesota Clinical Multiaxial Inventory-IV and the Personality Research Form E. The COAP team provided an initial report in January 2018 and a further report in April of 2018 after speaking with D. C and reviewing reports from Dr. B.

38. Dr. Din has continued to see Dr. C since January 2018 at a frequency of approximately 1-2 times per month. Dr. C has also provided reports to the Investigation Committee regarding Dr. Din.

39. At the request of Dr. Din's legal counsel, Dr. Din participated in a further psychological assessment by Dr. F, a psychologist, in the spring of 2018. Dr. F's areas of practice include extensive forensic work in the criminal justice system. This assessment also involved extensive interviews with Dr. Din over four separate days between February and April 2018, a review of all of the texts exchanged and repetition of the psychometric testing done by the COAP team. The assessment also involved an interview with Dr. Din's treating psychiatrist, Dr. C.

40. The Investigation Committee and Dr. Din have agreed that the following information from the above-noted assessments is relevant to the Panel's consideration as to whether the Joint Recommendation represents an appropriate disposition:

    (a) Dr. Din clearly engaged in severely impaired judgment and boundary violations;

    (b) Dr. Din does not appear to have a significant diagnosable psychiatric disorder;

    (c) Dr. Din's behaviour has not been predatory;

(d) Dr. Din possesses a number of significant personality traits which likely contributed to his behaviours, and if left untreated, put him at risk of the type of impaired judgment and decision making that led to his serious boundary violations.

(e) Dr. Din appears to be motivated to participate in ongoing psychotherapeutic treatment and monitoring to address these personality traits and their impact on his behaviour;

(f) Dr. Din would benefit from ongoing extensive psychotherapeutic intervention with a focus on gaining a fuller understanding of what led him to the conduct underlying the charges to which he has pled guilty. The recommended frequency ranges between weekly and monthly and all agree that it will be a process of at least one year before significant change will be evident; and

(g) There is a general consensus among the assessors that Dr. Din should have the following restrictions on his licence upon his return to practice:

(i) Dr. Din will not engage in a solo practice;

(ii) A practice supervisor must supervise Dr. Din in whatever setting in which he is practising;

(iii) Dr. Din's communication with patients outside of the clinic setting should be limited;

(iv) Dr. Din must have a chaperone present for encounters with female patients;

(v) His prescribing should be limited and monitored; and

(vi) Dr. Din will participate in regular psychotherapy with his psychiatrist.

PROGRAMS AND COURSES

41. Pursuant to an undertaking signed by Dr. Din on January 19, 2018, he agreed to participate in:

(a) The Professional Boundaries Training Program at the University of Manitoba, Rady Faculty of Health Sciences Depart of Continuing

Professional Development or another similar program approved by and to the satisfaction of the Investigation Chair; and

(b) A prescribing course with a focus on drugs of potential abuse approved by and to the satisfaction of the Investigation Chair.

42. Dr. Din has fulfilled the requirements set out in the preceding paragraph by completing the following courses:

(a) An enhanced Professional Boundaries and Ethics coursed offered by the University of California, Irvine School of Medicine; and

(b) A PBI prescribing course on opioids, pain management and addiction offered by the University of California, Irvine School of Medicine.

THE JOINT RECOMMENDATION

Within the above-noted factual context and Dr. Din's guilty plea and his acknowledgements that he has committed acts of professional misconduct, has contravened various Articles in the College's *Code of Ethics*, and various sections in By-Law No. 11 of the College and has displayed a lack of knowledge, skill and/or judgment in the practice of medicine, the Panel's responsibility is to determine the appropriate disposition of the charges outlined in the Amended Notice of Inquiry.

The Panel has had the benefit of a Joint Recommendation as to Disposition made by counsel for the Investigation Committee and counsel for Dr. Din. The Joint Recommendation is detailed and has been thoughtfully prepared to specifically address the unique circumstances of this case. The Joint Recommendation is outlined below.

"1. Pursuant to subsection 59.6 of *The Medical Act*:

a. Dr. Din will be reprimanded by the Panel [ss. 59.6(1)(a)].

b. Commencing 2400 of June 19, 2018, Dr. Din will be suspended from the practice of medicine for a period of 12 months, a portion of which will be deemed to have served by Dr. Din equal to the time Dr. Din has been out of practice between March 1, 2017 and the date on which this suspension commences [ss. 59.6(1)(b)].

c. Pursuant to subsection 59.6(1)(e)(viii), Dr. Din will participate in ongoing psychiatric counselling and/or treatment in accordance with the following terms:

i. Dr. Din must attend at this psychiatrist an average of at least three times a month, or on a more frequent basis as determined by the psychiatrist, until the Investigation Chair is satisfied that his attendance at this frequency is no longer required to protect the public. Dr. Din may apply to the Investigation Chair no earlier than one year after his return to practice to change the necessity for and/or frequency with which attendance is required and the Investigation Chair will consider any reasonable request made by Dr. Din for a modification of the frequency or necessity for psychiatric counselling.

ii. Dr. Din must demonstrate that his psychiatrist has been provided with sufficient information pertaining to the subject matter of the discipline and any other information which, in the Investigation Chair's sole discretion, it considers relevant, including information from any other disciplinary action(s) and complaint(s).

iii. In attending for the counselling Dr. Din must:

    1. fully and frankly discuss and acknowledge the conduct underlying the Inquiry Panel's findings of guilt in the matter with his psychiatrist; and

    2. comply with any reasonable recommendations arising from psychiatric and/or psychological counselling.

iv. Dr. Din's psychiatrist must provide monthly reports to the Investigation Chair attesting to Dr. Din's attendance.

v. If Dr. Din's psychiatrist thinks that Dr. Din should cease practicing for any reason:

    1. Dr. Din's psychiatrist must immediately notify the Investigation Chair in writing;

    2. Dr. Din must immediately cease practice; and

    3. Dr. Din will have the right to submit further information to the Investigation Chair to reconsider any recommendation from the psychiatrist that Dr. Din cease practice and the onus will be on Dr. Din to establish to the satisfaction of the Investigation Chair that Dr. Din should be allowed to resume practice.

2. Pursuant to subsection 59.6(1)(e) of *The Medical Act*, upon Dr. Din's return to practice, the following conditions are imposed upon Dr. Din's entitlement to practice medicine:

   a. Dr. Din will not engage in solo practice.

   b. A practice supervisor acceptable to the Investigation Chair must supervise Dr. Din's practice as determined by the Investigation Chair in whatever setting in which he is practicing.

   c. Dr. Din will not communicate with patients outside of their attendance at the clinic or other facility at which he provides medical care, except for communicating to any patient abnormal test results, or where he is communicating with a patient about patient health issues that cannot reasonably be dealt with in a regularly scheduled appointment. He must document the details of any such communications in the patient's chart.

   d. Dr. Din must have an attendant present as a chaperone for encounters with female patients as determined by the Investigation Chair. Dr. Din and the attendant must document the attendance of the chaperone in a form acceptable to the Investigation Chair.

   e. Dr. Din must place in the office reception and examination rooms conspicuous signage respecting the requirement for a chaperone in the form and with content acceptable to the Investigation Chair. Upon request, Dr. Din must produce to the Investigation Chair records evidencing compliance with the chaperone and signage requirements.

   f. Dr. Din must notify all clinical and office staff at Dr. Din's practice location(s) of the conditions imposed on Dr. Din's entitlement to practice in a form and with consent acceptable to the Investigation Chair.

   g. Dr. Din will restrict his prescribing and his participation in the Manitoba Prescribing Practices Program ("MPPP") such that he will not prescribe benzodiazepines or any drugs requiring a MPPP prescription without the prior approval of his practice supervisor, which must be documented in the patient record.

   h. Dr. Din will not provide any samples of clinic stock of benzodiazepines or any medications requiring a MPPP prescription to any patients. If providing samples of any other medications, Dr. Din must document all pertinent details of the medication provided, including the quantity and instructions to the patient for use.

i. Dr. Din's practice supervisor must agree to provide the Investigation Committee with progress reports on a schedule and in a form determined by the Investigation Chair indicating compliance with the practice conditions set out above.

3. The Investigation Committee and/or the Investigation Chair shall:

a. monitor Dr. Din's practice of medicine, including his compliance with the conditions herein.

b. have full and complete authority to vary these terms and conditions, provided that:

i. Dr. Din will not apply for variance of any of these terms earlier than one year after his return to practice; and

ii. the onus is on Dr. Din to prove that variance is in the public interest; and

c. Release Dr. Din from the restrictions imposed on his prescribing and the provision of samples or clinic stock set out in paragraph 2(g) and (h) herein one year after he returns to practice provided that no concerns about his prescribing or handling of samples or clinic stock arise in the interim.

4. Pursuant to subsection 59.6(2), Dr. Din shall pay all costs arising from or incidental to the conditions described herein and the monitoring by the Investigation Committee described in paragraph 3.

5. If there is any disagreement between the parties respecting any aspect of the Inquiry Panel 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.

6. Dr. Din must pay to the College costs of the investigation and inquiry in the amount of $29,637.90 on the basis of the attached cost calculation payable in full by certified cheque or Dr. Din's lawyer's firm's trust cheque on or before the date of the inquiry.

7. There will be publication in the usual course set out in *The Medical Act*, including Dr. Din's name, as determined by the Investigation Committee.

8. The College, at its sole discretion, may provide information regarding this disposition to such person(s) or bodies as it considers appropriate."

ANALYSIS

In assessing whether or not the Joint Recommendation as to Disposition ought to be accepted and which Order or Orders ought to be granted pursuant to subsection 59.6 of the *Act*, it is useful to consider the objectives of such Orders. On the basis of a review of several judicial authorities and of the decisions of other Panels in Manitoba and equivalent bodies in other jurisdictions, those objectives include:

(a) the protection of the public. Orders under subsection 59.6 of *The Medical Act* are not simply intended to protect the particular patients of the physician involved or those who are likely to come into contact with the physician, 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 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 to the public; and

(g) proportionality between the conduct of the physician and the orders granted under subsection 59.6 of the *Act*.

The above-noted objectives do not constitute an exhaustive list. Numerous authorities have referred to other factors which ought to be considered, or which may be particularly applicable in specific cases. Additional factors which are relevant in this case are:

(a) the nature and gravity of the misconduct;

(b) the impact of the misconduct on those affected by it;

(c) the vulnerability of those affected by the misconduct; and

(d) the role of the physician in acknowledging what had occurred.

As outlined earlier in these Reasons, all of the charges outlined in the Amended Notice of Inquiry dated September 13, 2017 have been proven. Dr. Din is therefore guilty of professional misconduct, and of contravening Articles 1, 2, 12 and 23 of the *Code of Ethics* of the College and of contravening sections 2, 7, 21, 22 and 27 of By-Law No. 11 of the College, and of displaying a lack of knowledge, skill and/or judgment in the practice of medicine.

Dr. Din's misconduct went far beyond transmitting an extraordinary number of salacious and manifestly unprofessional and inappropriate text messages to Patient A. He also committed other serious boundary violations in relation to Patient A, such as meeting her outside of the Clinic for personal reasons on at least five occasions, giving her a series of expensive gifts and offering to loan her $4,000.00 to assist in the purchase of a car.

Dr. Din's inappropriate prescribing of various medications, in circumstances in which Dr. Din allowed his relationship with Patient A to influence his clinical judgment in circumstances and for conditions in which Dr. Din's actions were not in accordance with the recognized standard of care, were profoundly concerning. Patient A overdosed and was hospitalized after taking medications prescribed to her by Dr. Din. Patient A's interactions with Dr. Din resulted in her health and wellness being seriously compromised.

In addition, Dr. Din misled the College in his written communications and in his interview with the Investigator by minimizing the nature and extent of his personal relationship and interactions with Patient A, and by providing inaccurate and incomplete information about his prescription of Adderall to her on or about February 17, 2017. He also breached his undertaking to the College dated April 28, 2017.

Dr. Din's professional misconduct and his contraventions of various professional standards, caused Patient A harm and are very serious and disturbing. Patient A was young and vulnerable. Dr. Din was well aware, or should have been well aware of those vulnerabilities, but acted in a selfish, indulgent way. He fulfilled his own

needs while being insensitive to Patient A's circumstances. His actions were entirely inconsistent with his professional obligations and responsibilities towards Patient A.

The seriousness of Dr. Din's professional misconduct and other breaches, must be reflected by an Order or Orders granted by the Panel.

The Joint Recommendation provides for substantial punishment of Dr. Din in the following ways:

(a) The reprimand pursuant to 59.6(1)(a) of the *Act* is a formal denunciation of Dr. Din's misconduct by the Panel;

(b) The period of suspension, which will likely last until at least November 2018, in combination with the fact that Dr. Din has been under suspension and has not practiced since January 18, 2018, and has only practiced intermittently since March 2017 has had, and will continue to have, a major negative financial impact upon Dr. Din by way of a significant loss of income;

(c) The Joint Recommendation also involves additional negative financial consequences because Dr. Din will be responsible for all costs arising from or incidental to complying with the conditions contemplated by the Joint Recommendation and for the costs of the investigation and inquiry in the amount of $29,637.90; and

(d) Publication, including Dr. Din's name, as determined by the Investigation Committee is also punitive, given the embarrassment and disgrace associated with such publication.

The fundamental purpose of Orders made under subsection 59.6 of the *Act* is the protection of the public, both in the sense of protecting the patients and others with whom the physician will come into contact, and in the sense of protecting the public generally by the maintenance of high standards of competence and integrity among physicians.

This fundamentally important objective of public protection will be fulfilled by Dr. Din's compliance with the extensive conditions set forth in the Joint Recommendation, which include:

(a) his participation in psychiatric counselling pursuant to strict specific conditions; and

(b) a return to practice, subject to a set of rigorous and very specific conditions designed to address the types of circumstances which resulted in Dr. Din's

> boundary violations and breaches of professional standards in relation to Patient A. The conditions contemplated by the Joint Recommendation are restrictive. For example, the conditions prevent Dr. Din from engaging in solo practice, stipulate that he is to practice under supervision, require a chaperone to be present for any interactions with female patients, restrict his prescribing practices and involve Dr. Din's supervisor submitting progress reports to the Investigation Chair.

In terms of the protection of the public, the Joint Recommendation also contemplates a monitoring by the Investigation Committee and/or the Investigation Chair of Dr. Din's practice, including his compliance with the conditions to be imposed. An important feature of such monitoring is that the Investigation Chair and/or the Investigation Committee will have the full and complete authority to vary those terms and conditions, and that Dr. Din will not be entitled to apply for a variance earlier than one year after his return to practice, and that the onus will be upon Dr. Din to prove that any variance is in the public interest.

The Panel is aware of the important roles to be played by Dr. Din's attending psychiatrist and his practice supervisor. The Panel is also aware that the Investigation Committee and/or Investigation Chair will play a very significant role, not only in independently monitoring Dr. Din's practice, but also ensuring that Dr. Din's attending psychiatrist and practice supervisor fulfill their responsibilities pursuant to the Joint Recommendation.

In assessing the appropriateness of the Joint Recommendation in relation to the seriousness of Dr. Din's misconduct, the Panel also carefully reviewed the authorities submitted to it by the parties, and specifically considered the penalties imposed in other cases involving somewhat analogous circumstances. The length of suspension and other punitive elements contemplated by the Joint Recommendation are within a reasonable range of outcomes as defined by those authorities. Many of those cases featured sexual contact initiated by the physician, which is absent in this case. The Panel is aware that the length of suspension contemplated by the Joint Recommendation is arguably in the higher range of the suspensions referred to in the authorities which were submitted.

The Panel is also aware that the College frequently adopts a rehabilitative approach in physician misconduct cases, recognizing that the public good will often be served by allowing a properly trained and educated physician to provide medical services to the public. As noted earlier, the Joint Recommendation contains a significant punitive element. However, it also provides for the rehabilitation of Dr. Din and sets forth a path by which Dr. Din will likely return to the practice of medicine. Rehabilitation is appropriate in this case, because there is a reasonable prospect that given Dr. Din's education, training and experience as a physician, and the courses which he has recently taken and the psychiatric counselling which he has been receiving and will continue to receive, he

will be able to provide competent medical care to patients in a safe, ethical manner, within a properly structured environment.

The Panel is acutely conscious that Dr. Din initially failed to recognize the seriousness of his misconduct, minimized his responsibility for the transgressions which had occurred and failed to fully recognize the harm and emotional trauma which he caused to Patient A. However, through counselling, and the courses which he has already taken, Dr. Din has moved towards a recognition of the gravity of his misconduct and an acceptance of responsibility for the harm which he has caused. His decision to enter a plea of guilty represents an acceptance of responsibility for his actions and spared Patient A the anxiety which would have been associated with her further participation in these proceedings.

Specific deterrence of Dr. Din will be fulfilled by the punitive aspects of the Joint Recommendation and by the conditions imposed on Dr. Din. General deterrence, in the sense of educating the profession about the consequences of misconduct as set forth in the Amended Notice of Inquiry, will be achieved by publication, as determined by the Investigation Committee.

It is, therefore, the conclusion of the Panel that the Joint Recommendation fulfills the purposes and objectives of Orders under subsection 59.6 of the *Act*.

In reaching its decision, the Panel was also referred to the Supreme Court of Canada's 2016 decision in *R v Anthony-Cook [2016] 2 SCR 2004*, which emphasized that there is a high threshold for departing from joint Recommendations made by counsel. Adopting the "public interest test", the Supreme Court determined that a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

In this case, the Panel is satisfied that the Joint Recommendation protects the public interest. There is nothing in the Joint Recommendation which would bring the administration of justice into disrepute or is otherwise contrary to the public interest. A properly informed and reasonable member of the public would recognize that the Joint Recommendation fulfills the objectives of Orders under subsection 59.6 of the *Act*. In short, there is nothing in the Joint Recommendation which is contrary to the public interest.

CONCLUSION

Based on all of the foregoing, the Inquiry Panel has decided that the Joint Recommendation as to Disposition made by the Investigation Committee of the College

and by Dr. Din is accepted and hereby issues an Order, as more fully and particularly set forth in the Resolution and Order issued concurrently herewith and attached hereto.

DATED this 12th day of September 2018.