

COLLEGE OF PHYSICIANS & SURGEONS OF MANITOBA

**RE: Dr. JOHN ALEXANDER KREML
APPLICATION FOR REINSTATEMENT**

REASONS FOR RESOLUTION AND ORDER

INTRODUCTION AND BACKGROUND

Dr. John Alexander Kreml (Dr. Kreml) graduated from the Faculty of Medicine at the University of Manitoba in 1978. Following one year of family medicine residency, and approximately one year of practice in the United States as a general practitioner, Dr. Kreml returned to Manitoba and commenced a family practice. He continued in family practice until June 30, 2009, when his right to practice medicine was suspended by the College of Physicians & Surgeons of Manitoba (the College), on an interim basis.

In the late 1990s, Dr. Kreml began consuming alcohol to excess. In 2000, as a result of an intervention by family members, he went to the Homewood Health Centre, a residential addiction treatment centre in Guelph, Ontario. Following his discharge from the Homewood Health Centre, Dr. Kreml generally maintained sobriety subject to certain relapses. During his relapses, one in 2003, and another in 2006, he was arrested and charged with driving under the influence of alcohol.

In 2008 and 2009, Dr. Kreml practiced pursuant to a formal undertaking to the College, which required him to subject to body fluid monitoring, to participate in addiction support groups, and to regularly attend specified caregivers, including an addiction medicine physician, a psychiatrist, and a family physician. His compliance with those conditions was monitored by the Physician Health Program of the College.

By the spring of 2008, Dr. Kreml had begun to use opioids and benzodiazepines, which he obtained from a variety of sources, including misusing medications prescribed to family members and taking back medications from patients to whom he had prescribed the medications.

In April, 2009, Dr. Kreml self-reported to the College that he had been self-medicating and misusing prescription medications, and that he was concerned that he had become addicted to the medications. At the same time, the College had been contacted by some patients of Dr. Kreml expressing concerns about his behaviour.

On April 9, 2009, Dr. Kreml signed an undertaking to cease practicing medicine and not to resume practice without the express written approval of the Standards Committee Chair. On April 13, 2009, Dr. Kreml met with the Deputy Registrar of the College in relation to his misuse of prescription medications, and provided false and incomplete information to the College, about the extent of his misuse of prescription

medications, and failed to disclose the narcotic sharing arrangements he had with certain patients.

In early June, 2009, the College became aware that Dr. Kreml had written prescriptions after April 1, 2009, in breach of his undertaking not to practice medicine.

In late June, 2009, Dr. Kreml was drinking heavily. As a result of an intervention by colleagues on June 27, 2009, he was admitted to Portage la Prairie Hospital for treatment of substance abuse pending his readmission to Homewood Health Centre. He was admitted to Homewood Health Centre on July 9, 2009, and was discharged on August 5, 2009.

On June 30, 2009, Dr. Kreml's right to practice medicine was suspended by the College on an interim basis, and he has not practiced medicine since that date.

On May 17, 2010, Dr. Kreml was charged with professional misconduct, contravening By-Law No. 1 of the College, contravening Articles 1, 2 and/or 15 of the Code of Conduct of the College, and contravening Statement 805 of the College. As a specific result of the foregoing allegations, Dr. Kreml was also charged with displaying a lack of knowledge, or a lack of skill and judgment in the practice of medicine.

The Amended Notice of Inquiry dated May 17, 2010 particularized the charges against Dr. Kreml by alleging, among other things, that Dr. Kreml had:

- i) exploited certain patients for his own personal advantage by involving those patients in his unethical prescribing practices;
- ii) issued a Temazepam prescription to a patient without taking an adequate history, or conducting an adequate physical examination, and without creating any medical record respecting the patient;
- iii) issued narcotic prescriptions to certain patients without creating any medical record respecting the specific patient visit;
- iv) falsified medical records respecting certain patients by recording prescriptions as though they were issue solely for the use of the patient, when in fact they were partially for his own use;
- v) breached his undertaking dated April 9, 2009 not to practice medicine;
- vi) provided false information to the College during the course of an interview on April 13, 2009 with the Deputy Registrar of the College.

Dr. Kreml entered a plea of guilty to all of the charges in the Amended Notice of Inquiry. He agreed to a disposition of the charges which was ultimately set forth in the Resolution and Order of the Inquiry Panel dated October 7, 2010, pursuant to which his registration and license under *The Medical Act* was cancelled, and he was ordered to contribute to the costs of the College by payment of the sum of \$15,000.00 to the College.

Dr. Kreml requires an order of reinstatement prior to becoming entitled to resume the practice of medicine.

Section 59 of *The Medical Act* states:

Reinstatement

59.13 The executive committee may, on application by a person whose registration or license 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 the costs arising from the imposition of such conditions.

On March 11, 2011, Dr. Kreml appeared before the Executive Committee of the College and applied to be reinstated to the Manitoba Medical Register (the Register) subject to certain terms and conditions. The Investigation Committee of the College supported Dr. Kreml's application for reinstatement subject to those terms and conditions.

PRINCIPLES APPLICABLE TO REINSTATEMENT APPLICATIONS

Counsel for Dr. Kreml and counsel for the Investigation Committee, in their respective written and oral submissions, identified various principles which are applicable to reinstatement applications. Counsel for the Investigation Committee also referred to various other factors which the Investigation Committee had considered in reaching its decision to support Dr. Kreml's request for reinstatement, subject to certain terms and conditions.

Although generally speaking the College utilizes a remedial model in dealing with physicians who are addicted to various substances, when the physicians in question also engage in acts of serious misconduct, punishment and discipline normally are elements of the College's response to the physician's conduct and behaviour.

In this case, Dr. Kreml committed serious acts of misconduct. Therefore, it was appropriate that punishment and discipline be imposed upon Dr. Kreml.

In considering Dr. Kreml's application to be reinstated to the Register, the Executive Committee has considered each of the principles referred to by counsel for Dr. Kreml and counsel for the Investigation Committee, including the appropriateness of the punishment and discipline imposed by the Inquiry Panel by its order dated October 7, 2010, whether or not there were mitigating circumstances, whether or not Dr. Kreml has been rehabilitated, and the protection of the public. In terms of the protection of the public, the Executive Committee specifically considered:

- a) whether or not Dr. Kreml's medical knowledge and his medical skill and judgment are sufficient to enable him to practice medicine safely;

- b) whether or not Dr. Kreml has the necessary insight into his previous misconduct to ensure that he will be able to practice safely and competently, if he is allowed to return to practice.

REASONS

In reaching its decision, the Executive Committee was mindful that Dr. Kreml has struggled with addictions to both alcohol and narcotic drugs, and that within the last ten years, he has suffered relapses and significant setbacks in his efforts to overcome those addictions. Nonetheless, after reflecting on the principles referred to by counsel for Dr. Kreml and counsel for the Investigation Committee, the Executive Committee decided to grant Dr. Kreml's application to be reinstated to the Register, subject to the terms and conditions jointly recommended by the Investigation Committee and Dr. Kreml. The specific reasons for the Executive Committee's decision are outlined below.

1. The Executive Committee is satisfied that the penalties which have been imposed upon Dr. Kreml are appropriate and adequate to achieve the important objectives of discipline, namely the specific deterrence of Dr. Kreml, and the deterrence of members of the medical profession generally. In assessing the adequacy and appropriateness of the penalties imposed upon Dr. Kreml, the Executive Committee was mindful that:
 - a) Dr. Kreml has been suspended on an interim basis, and has not practiced medicine since June 30, 2009, a period of approximately 21 months;
 - b) His registration under *The Medical Act*, and his license to practice medicine were revoked as of October, 2010;
 - c) The relevant background circumstances, and the findings and order of the Inquiry Panel have been published, identifying Dr. Kreml by name;
 - d) The interim suspension and the ultimate revocation of his license to practice medicine have undoubtedly constituted a significant financial hardship to Dr. Kreml. Dr. Kreml has also been required to pay \$15,000.00 to the College as a contribution to the costs of the investigation.

Therefore, the combined effect of these various elements constitutes a serious form of discipline, with adverse financial personal and professional consequences. Such discipline was justified because of the nature of Dr. Kreml's misconduct, and his disregard for the actual damage and potential harm that his actions and behaviour caused his patients and others.

Having recognized that the discipline imposed on Dr. Kreml was appropriate in the circumstances, the Executive Committee is also satisfied that such discipline, in combination with some of the factors outlined below, should be sufficient and adequate to deter Dr. Kreml from misconducting himself in the future. On the best basis of the evidence submitted to it, and Dr. Kreml's own remarks, the Executive Committee is satisfied that Dr. Kreml understands that a repetition of

the behaviour which resulted in his interim suspension, and the revocation of his license will be damaging to himself and others and potentially ruinous of his career.

The Executive Committee is also satisfied that the severity of the disciplinary penalties imposed on Dr. Kreml will fulfill the purpose of general deterrence.

2. In assessing Dr. Kreml's medical history from the late 1990s to the present, and his professional conduct during that time, the Executive Committee recognizes that Dr. Kreml suffers from an illness, and that his illness has been a cause of his significant professional difficulties. Evidence was presented to the Executive Committee that Dr. Kreml has insight into the debilitating nature of the addictive illness from which he suffers. There is also much evidence that he has made considerable efforts at rehabilitation and that his efforts have progressed satisfactorily. His family physician, an addiction specialist, and a psychiatrist have all provided written reports which attest to his understanding of the disease from which he suffers, and to his ongoing commitment to abstinence from alcohol and drugs, including narcotic drugs. Those reports speak to his commitment to his own recovery, and his compliance with his treatment programs. Each of the reports recommend that he be allowed to return to the practice of medicine, subject to certain terms and conditions.

In addition, Dr. Kreml has participated in, and continues to participate in various treatment programs, including the programs recommended by his professional caregivers.

The Executive Committee is satisfied that his significant efforts at rehabilitation have been substantially successful, and that he understands the necessity of continuing to rely on his caregivers, and to participate in his treatment programs in order to prevent a relapse.

Dr. Kreml's comments, both at the hearing before the Executive Committee and before the Inquiry Panel, demonstrate a well developed understanding, not only of the nature of the addictive illness from which he suffers, but also of the type of commitment needed to maintain abstinence. He also recognizes, now more than ever, the critical importance of the supports which are available to him, including the treatment programs in which he is participating, the advice and treatment of his professional caregivers, and the assistance, encouragement and structure provided by colleagues who are aware of his past problems, and from family members and friends.

3. The Executive Committee is also satisfied that Dr. Kreml's medical knowledge, skill and judgment, and overall competence is sufficiently high that he is able to practice medicine safely and competently. Although Dr. Kreml's prescribing practices, caused by his own addictions, were seriously problematic, the quality of care provided by Dr. Kreml to his patients was reasonable in other respects.

4. As noted earlier, the Executive Committee seriously considered the protection of the public in reaching its decision. Dr. Kreml's caregivers, the Investigation Committee and Dr. Kreml himself all recognize that his re-entry into the practice of medicine must be subject to terms and conditions which will protect his patients, and will support his continued rehabilitation. The Executive Committee is satisfied that the terms and conditions which are being proposed are appropriate. Generally those terms and conditions:
 - a) severally restrict his prescribing privileges;
 - b) impose a supervisor for his practice;
 - c) require a body fluid monitoring plan; and
 - d) require regular attendance on his professional caregivers and continued participation in his support groups and programs.

The Executive Committee has concluded that the terms and conditions which have been proposed will enable Dr. Kreml to practice medicine safely. The body fluid monitoring requirements, and Dr. Kreml's participation in the support program will minimize the risk to the public that Dr. Kreml will re-offend.

5. The Executive Committee has also concluded that the reinstatement of Dr. Kreml, subject to the terms and conditions which have been proposed, ought not to harm the standing of the profession and the respect for the profession on the part of the reasonably informed public. Notwithstanding mounting public awareness and concern with respect to addictions on the part of doctors to narcotic medications, the Executive Committee believes that the penalties imposed upon Dr. Kreml, the treatment which he has received and is continuing to receive, and his conscientious and ongoing rehabilitation efforts, in combination with the terms and conditions with which he must comply upon his return to practice will enable him to practice medicine safely and competently and to minimize the risk of public harm. All of those factors should be sufficient to maintain the good standing of the profession and the public's respect for the profession.

DECISION

For all of the foregoing reasons, the Executive Committee hereby grants the application of Dr. Kreml to be reinstated to the Manitoba Medical Register. Dr. Kreml's reinstatement shall be subject to the terms and conditions which have been jointly proposed by Dr. Kreml and the Investigation Committee, as more particularly set forth in Appendix "A" to the Resolution and Order of the Executive Committee, which is being issued concurrently herewith.

APPENDIX "A"

TERMS AND CONDITIONS

Abstinence

1. Subject to paragraph 2 herein, Dr. Kreml must not ingest in any manner whatsoever:
 - (a) any drug that is listed in Schedule "A" hereto,
 - (b) any acetaminophen with codeine,
 - (c) any benzodiazepine, or
 - (d) any alcohol.

2. If a physician prescribes to Dr. Kreml for medical reasons any of the drugs listed on Schedule "A" hereto, any acetaminophen with codeine or any benzodiazepine:
 - (a) Dr. Kreml must ingest the drug only if it is prescribed for medical reasons, and
 - (b) Dr. Kreml must instruct the prescribing physician to provide to the College and to the Monitoring Physician within 14 days of the date of the prescription, full particulars of the medical indications for the prescription and of the treatment plan.

Prescribing Restriction

3. Dr. Kreml must not prescribe:
 - (a) any drug that is listed in Schedule "A" hereto;
 - (b) any acetaminophen with codeine, or
 - (c) any benzodiazepine.

Body Fluid Monitoring

4. Dr. Kreml must comply with the College's program of random body fluid monitoring ("the Program") which Program includes:
 - (a) Monitoring by a physician(s) to be appointed by the College;
 - (b) Authorization for the monitoring physician(s) and any subsequent monitoring physician(s) to report the results of all analysis to the College;
 - (c) Dr. Kreml must submit to all requests for testing with no more than six hours notice;
 - (d) All specimens are to be collected at a place or places designated from time to time by the monitoring physician(s);
 - (e) All testing shall follow uniform Department of Transport procedures completed by the designate of the monitoring physician collected under the direct observation of the Monitoring Physician or his/her designate;
 - (f) Testing shall include all drugs listed on Schedule "A" hereto, acetaminophen with codeine, benzodiazepines and alcohol;
 - (g) Dr. Kreml will be required to attend for testing at least 12 times per year;

- (h) Dr. Kreml must not leave Manitoba for a period in excess of 72 hours without notice to the monitoring physician(s). If requested to do so, Dr. Kreml shall submit to testing prior to and upon returning to Manitoba;
- (i) Dr. Kreml must pay all costs associated with the Program which will include laboratory services and payment to the monitoring physician. Dr. Kreml must pay the costs to the College within 30 days of any account rendered to him;
- (j) In the event of a positive test result or in the event Dr. Kreml refuses to provide a specimen when requested to do so, such conduct shall constitute and be deemed to be a breach of these terms and conditions.

Support Group Participation

- 5. Dr. Kreml must attend the following meetings each and every week:
 - (a) Physicians-at-Risk group meetings;
 - (b) Alcoholics Anonymous meetings; and
 - (c) any other meetings recommended to Dr. Kreml by his treating physicians.

Psychiatric Care

- 6. Dr. Kreml must continue to attend his psychiatrist, or such other psychiatrist as may be approved in writing by the Investigation Committee, as his treating psychiatrist. Attendance must be in accordance with the frequency of attendance fixed by the Investigation Committee from time to time.

Family Medicine Care

- 7. Dr. Kreml must continue to attend his family physician, or such other physician as may be approved in writing by the Investigation Committee, as his family physician. Attendance must be in accordance with the frequency of attendance fixed by the Investigation Committee from time to time.

Addiction Medicine Specialist Care

- 8. Dr. Kreml must continue to attend his specialist in addiction medicine, or such other specialist in addiction medicine as may be approved in writing by the Investigation Committee, as his specialist in addiction medicine. Attendance must be in accordance with the frequency of attendance fixed by the Investigation Committee from time to time.

Compliance with Treatment Prescribed

- 9. Dr. Kreml must comply with the treatment prescribed by his treating psychiatrist, his specialist in addiction medicine and/or his family physician for the continuing management and monitoring of his addiction.

Cessation of Practice

- 10. If Dr. Kreml's treating psychiatrist, specialist in addiction medicine and/or family physician advises him to restrict, suspend or cease the practise of medicine for a temporary or intermittent period, Dr. Kreml must comply with that direction subject to his right to take issue with it as set out in paragraph 11 herein.

11. In the event that Dr. Kreml disagrees with any direction referred to in paragraph 10 herein, he must give written notice of his objection to the College whereupon the College will appoint an independent psychiatrist to whom Dr. Kreml must attend. Any direction given to Dr. Kreml by his family physician, specialist in addiction medicine or treating psychiatrist in accordance with paragraph 10 shall continue unless the independent psychiatrist appointed by the College determines that Dr. Kreml is fit to safely practice medicine without the restriction imposed pursuant to paragraph 10 herein.

Practice Location Restrictions

12. Dr. Kreml's practice must be restricted to the Parkview Professional Centre Walk-In Clinic at 2110 Main Street, Winnipeg and must be in accordance with the plan annexed hereto as Schedule B.
13. Dr. Kreml must not change his practice location without the prior written consent of the Investigation Committee and he must not practice at any location which has not been approved by the Investigation Committee in writing prior to any practice at the location.

Patient Restriction

14. Dr. Kreml must not provide care to any patient with chemical dependence or a substance abuse disorder.

Records

15. Dr. Kreml must create a complete and accurate record of each patient encounter in accordance with the requirements of By-Law No. 1 of the College. Without limiting the generality of the foregoing, for each prescription written by Dr. Kreml, he must fully document the patient's history, his examination, any investigation ordered, his diagnosis and his treatment plan.

Practice Supervision

16. Dr. Kreml must practice under the supervision of an on-site physician supervisor acceptable to the Investigation Committee who must:
 - (a) on a monthly basis, review Dr. Kreml's chart entries, discuss with him the patient care he has provided, and provide him with advice, instructions or guidance as to the proper management of the patients;
 - (b) document any advice or instructions provided to Dr. Kreml
17. The requirement for on-site supervision does not prohibit Dr. Kreml from practising if his Practice Supervisor is temporarily unavailable (e.g. for lunch, personal errands, etc.) or for periods of his Practice Supervisor's vacation or illness of not greater than two consecutive weeks. If Dr. Kreml's Practice Supervisor is unavailable for periods of vacation or illness for greater than two consecutive weeks, Dr. Kreml must either cease practice for the entire period the Practice Supervisor is absent or arrange for a substitute Practice Supervisor, who must be approved by the Investigation Chair.

Notification by Physician

18. If Dr. Kreml wishes to change practice locations or if Dr. Kreml wishes to change his practice arrangement, he must provide a copy of these terms and conditions to:
 - (a) the Chief Medical Officer of any Regional Health Authority where he applies for privileges,
 - (b) the supervisor or chief executive officer at any facility or business whatsoever where he obtains employment or acts as an independent contractor, and
 - (c) any physician with whom he proposes to enter a practice arrangement, whether as a partner, associate or otherwise.

Monitoring

19. The Investigation Committee shall continue to monitor Dr. Kreml's practice of medicine, including his compliance with the conditions herein.
20. The Investigation Committee shall have full and complete authority to vary these terms and conditions, provided that the onus is on Dr. Kreml to prove that variance is in the public interest.

Costs

21. Dr. Kreml shall pay any and all costs arising from or incidental to the conditions described herein and the monitoring by the Investigation Committee described in paragraph 19.

Schedule B

Dr. Kreml's practice plan is as follows:

1. All physicians at the Parkview Professional Centre must be informed of the terms and conditions on Dr. Kreml's practice, and a physician approved by the Investigation Chair must agree to supervise Dr. Kreml's practice in accordance with the terms and conditions.
2. Work hours to be limited to Monday to Friday, 8:30 a.m. to 5:30 p.m.
3. No on call duties.
4. No hospital or nursing home privileges.