

**DECISION OF THE COUNCIL
IN THE MATTER OF PENALTIES
FOR DR. RYAN KYLIUK'S UNPROFESSIONAL CONDUCT**

Mr. Peter Fenton for Dr. Ryan Kyliuk

Ms. Gwen Goebel for the College of Physicians and Surgeons of Saskatchewan

REASONS OF COUNCIL RESPECTING PENALTIES

INTRODUCTION

1. On June 22, 2007, after oral representations by legal counsel for Dr. Ryan Kyliuk and legal counsel for the College of Physicians and Surgeons of Saskatchewan ("the College") and after reviewing documents from the College, Council of the College unanimously passed a resolution to revoke Dr. Kyliuk's educational licence to practice medicine in Saskatchewan. By majority vote, the Council of the College also passed a resolution not to impose a financial penalty. Council indicated that reasons for its decisions would follow by the next Council meeting in September 2007. What follows are those reasons.

BACKGROUND

2. Dr. Kyliuk was a surgical resident in Saskatoon when the College received a complaint in October 2006 that he had stolen and used a surgeon's triplicate prescription pad. The complaint was investigated and his case was placed before the College's Executive Committee in February 2007 in response to the receipt of evidence that he had forged four prescriptions for narcotics which he then consumed. Dr. Kyliuk was at that time enrolled in the Saskatchewan Medical Association's Physician Support Program (PSP) and had completed inpatient addiction treatment with the support of the PSP.

3. After Dr. Kyliuk completed the inpatient addiction treatment, additional information came to light that raised significant issues. Dr. Kyliuk's former girlfriend filed a complaint alleging that he had prescribed a number of prescriptions in her name which were not for her but were for his own use. The College also learned of allegations that Dr. Kyliuk had returned to narcotic use immediately upon completion of inpatient treatment.

4. The Executive Committee of the College decided at its May 30, 2007 meeting to lay charges of unprofessional misconduct against Dr. Kyliuk.

5. Council held a penalty hearing on June 22, 2007.

REASONS/ANALYSIS

6. Council noted that the charges of unprofessional misconduct were not disputed by Dr. Kyliuk or by counsel on his behalf prior to or during the penalty hearing, and that Dr. Kyliuk submitted a written admission of guilt.

7. Council also noted that counsel for Dr. Kyliuk indicated during the penalty hearing that Dr. Kyliuk did not oppose the College Registrar's Office's recommendation for revocation of licence, but indicated that he was not expressly consenting and particularly asked that conditions not be placed on the revocation of licence. Counsel for Dr. Kyliuk further argued that the College's costs had been minimal as Dr. Kyliuk had pleaded guilty and the College avoided the costs of appointing a professional investigation committee.

8. Council reviewed the charges included in a memorandum from the Associate Registrar dated June 15, 2007 and related appended material. Council considered the nature of Dr. Kyliuk's unprofessional misconduct, noting that: he repeatedly prescribed narcotics for himself; he signed the prescriptions with the names of other physicians and fictitious residents; upon discovery, he was given a fair opportunity to address his addiction during a period of investigation but immediately returned to the unprofessional misconduct as soon as he was released from inpatient treatment; he further prescribed controlled substances for himself and, using his girlfriend's name, for himself through her. Council concluded that each of these acts constitute a very serious instance of professional misconduct and breach of the public trust. Council also gave considerable weight to the fact that Dr. Kyliuk engaged in these acts repeatedly, including following treatment, and involved other parties.

9. Council also considered the report from the PSP which indicated a poor prognosis for Dr. Kyliuk's controlling his addiction. Combined with the nature of the misconduct, this persuaded Council that Dr. Kyliuk presents a high risk of reoffending.

10. Council considered representation by counsel for Dr. Kyliuk indicating that Dr. Kyliuk has been pursuing other corrective measures since moving to live with family in Winnipeg this spring, including admission to detoxification treatment followed by attendance in a transition group through the Health Sciences Centre twice a week, enrolment in a 12-step program, seeing an addictions psychiatrist, attending group meetings under the auspices of the Manitoba PSP, and taking low-dose Paxil for depression. Council noted that, while these steps are encouraging, they do not constitute evidence of recovery sufficient to warrant the public trust inherent in a licence to practice medicine. Council also noted that counsel for Dr. Kyliuk did not have knowledge of whether or not these steps are proving successful for Dr. Kyliuk. Council also noted that no evidence was given that Dr. Kyliuk has been engaged in random urine testing, something that would be essential to demonstrate control of his addiction over time. Council was of the view that it is reasonably unlikely that Dr. Kyliuk will be able to remain abstinent unless he is able to participate in an intensive inpatient program of reasonable duration.

11. In view of the egregiousness of Dr. Kyliuk's repeated acts of professional misconduct, the probability that Dr. Kyliuk's conduct amounted to criminal offences, the imperative to protect the public, and the desirability of deterring future such conduct through the strongest possible sanction, Council voted to revoke Dr. Kyliuk's educational licence to practice medicine in Saskatchewan.

12. Although neither the College nor counsel for Dr. Kyliuk suggested placing any conditions upon revocation of Dr. Kyliuk's licence, Council did briefly consider whether any conditions should be added. In light of the severity of the sanction and considering that Dr. Kyliuk would doubtless have to answer on the question of control of his addiction should he apply for medical licensure in any jurisdiction, Council decided not to place conditions on the revocation.

13. With respect to costs, Council considered the recommendations of the Associate Registrar not to impose costs and noted the concurrence of counsel for Dr. Kyliuk with that recommendation. In particular, Council considered as mitigating factors that the College had been able to avoid significant costs as a result of Dr. Kyliuk pleading guilty and that Dr. Kyliuk is an unemployed medical graduate having been suspended from his surgical residency program. Council also considered its general practice of not issuing an order for costs in similar cases. While not unanimous, Council voted not to impose costs.

ORDER

14. That, pursuant to Section 54(1)(a) of *The Medical Profession Act, 1981*, the Council of the College of Physicians and Surgeons of Saskatchewan directs that the name of Dr. Ryan Kyliuk be struck from the education register and that his licence be revoke.