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Media Release

February 22, 2019
For Immediate Release

Statement Regarding *Public Hospitals Act* Process Regarding Dr Albert Kadri

WINDSOR, ON. Dr. Albert Kadri is a Nephrologist who has been a member of Windsor Regional Hospital's (WRH/the Hospital) Professional Staff since 1998. He is one of a total of five Nephrologists who hold privileges at WRH; however, Dr. Kadri's privileges were suspended on an immediate mid-term basis (Mid-Term Action) on June 1, 2019 (Suspension), and is currently not able to exercise those privileges. Dr. Kadri, like the majority of physicians in Ontario who work at public hospitals, are not employees. Rather, as members of the Professional Staff, they hold "privileges". Professional Staff includes members of the Medical Staff, Dental Staff, Extended Class Nursing Staff, and Medical Staff. The granting of privileges is for a maximum of one year and based on a process set out in the *Public Hospitals Act* (PHA) and our Hospital's By-Law. Briefly stated, this process involves recommendations being made regarding each Professional Staff member's appointment/reappointment through WRH's Credentials Committee; to our Medical Advisory Committee (MAC); to our Board of Directors (Board). The Hospital's By-Law also provides for the Mid-Term Action in a number of circumstances, including where the behaviour of a Professional Staff member exposes or is reasonably likely to expose patient(s) or employees or other persons to harm or injury either within or outside of the Hospital.

The Credentials Committee and the MAC are comprised of other Professional Staff members. For the MAC, this includes all of the Hospital's Medical Leadership (all Chiefs of Clinical Departments) and the executive members of our Professional Staff (President, Vice-Presidents, and the Secretary/Treasurer) who have been elected by their Professional Staff peers.

Concerns about a Professional Staff member that may put their privileges at risk may relate to their clinical competency and/or professional conduct. When concerns are raised regarding a Professional Staff member's reappointment, as in the case of Mid-Term Action, the Professional Staff member is entitled to a special meeting of the MAC during which only voting Professional Staff members are in attendance. The Professional Staff member may attend that meeting along with her/his legal counsel. The MAC will make a recommendation to the Board regarding reappointment after considering relevant information and documentation, including any information/documentation provided to the MAC by the Professional Staff member. When providing the Professional Staff member and the Board with notice of their recommendation, the MAC is required to provide detailed written reasons. In Dr. Kadri's case the recommendation of the MAC was provided to the Board on March 5, 2018.

If the Professional Staff member wishes to challenge the MAC's recommendation, they may request a hearing before the Board. If that occurs, the Board will act as an impartial administrative tribunal under the PHA and the *Statutory Powers Procedures Act* (Board Hearing). Board Hearings are typically multi-day "court-like"

proceedings, following which the Board will deliberate on whether or not to implement the MAC's recommendation, providing written reasons for their decision. In Dr. Kadri's case the Board Hearing was held on October 30, 31, November 1, 2, 3 and 4, 2018. The decision of the Board was issued on January 14, 2019 (Board Decision).

The Board Decision concludes with:

[734] The Panel has considered the MAC Recommendation and found that the Recommendation should be approved without revision or amendment. Consequently, the Panel has directed that Dr. Kadri shall not be reappointed to WRH's Professional Staff for 2017/2018 and 2018-2019 credentialing years. Further, the Panel has directed the suspension of Dr. Kadri's privileges at WRH will continue pending Dr. Kadri exhausting his rights of appeal under the PHA.

In summary, the Board has revoked Dr. Kadri's privileges.

The Board Decision was 168 pages in total (plus more than 50 additional pages of appendices, including related Board Rulings). Some very relevant summary comments in the Board Decision can be found at paragraphs 699-707:

[699] The Hospital Administration proposed a Model of Care to the MAC. The MAC received and assessed the proposed Model of Care and unanimously approved it. Likewise, the Model of Care was proposed to the WRH Board of Directors and was approved.

[700] The Model of Care was implemented with the understanding and expectation that it would be fully supported and followed by physicians and staff in the Renal Program. Together, as a team, the delivery of renal care would be improved to the benefit of the patients served by the Renal Program. If there were flaws that became evident during the operation of the Model of Care, the expectation is that the team will address and overcome the challenges, or propose a better Model of Care.

[701] The MAC consists of a group of leadership physicians. This group of about 14 physicians represent peers of Dr. Kadri. They operate as independent contractors who practice medicine at the Hospital, under the authority of the Hospital's By-Laws. These physicians understand the process for recruiting new physicians, longitudinal patient care, MRP, the guidelines for professional conduct, billings for medical services, granting of Hospital privileges, and patient safety and care.

[702] This group of physicians also works in the Hospital, alongside members of the Hospital staff and administration. They are motivated to provide outstanding care to patients. They are not motivated to make the Hospital profitable, nor do they want to support a Model of Care that could be harmful to patients.

[703] At the MAC Special Meeting (February 2018), Dr. Kadri had the opportunity to present his case, and explain his actions. He was also allowed to answer questions from the other physicians on the MAC.

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[705] At the conclusion of the MAC Special Meeting, following discussion among the meeting participants, the MAC arrived at a conclusion that unanimously supported the MAC Recommendation.

[706] Therefore, it is not just a group of Hospital administrators, or Nephrologists, that view Dr. Kadri's conduct to be inappropriate and detrimental to the Hospital operation, it is also his peers who serve as physician leaders at the Hospital.

[707] The Panel found that there were many opportunities for Dr. Kadri to cooperate or collaborate with his colleagues and the Hospital's leadership to avert the need for a Mid-Term Action, Special MAC Meeting, suspension of privileges and the Board Hearing as a team, the delivery of renal care would be improved to the benefit of the patients served by the Renal Program. If there were flaws that became evident during the operation of the Model of Care, the expectation is that the team will address and overcome the challenges, or propose a better Model of Care.

The Board Decision went on further at paragraphs 713-719:

[713] Dr. Kadri has been uncompromising. The evidence in this case indicates that he has formulated a position regarding the manner in which renal care should be delivered, who should be the MRP, who should bill the CTF, how new nephrologists should be recruited, and how the Renal Program should operate. He has not demonstrated a willingness to move away from these positions. It is this failure to compromise with others that has resulted in the escalation of tensions between the MAC /WRH and Dr. Kadri.

[714] It is apparent to the Panel that Dr. Kadri does not regret the position that he has taken, and has not indicated a willingness to compromise or work with the Hospital Administration, MAC or Renal Program in returning under anything less than full privileges.

[715] This is not a case of a person not "fitting in", nor is it a case where one individual has been "targeted" or is the victim of "mobbing".

[716] Dr. Kadri has chosen to set himself apart from his colleagues, the MAC, and the Hospital. It is his disruptive conduct, in attempting to obstruct, resist, confuse and undermine the Model of Care that lie at the heart of the issue.

[717] It was clear to the Panel that the MAC, Hospital Administration, and Renal Program leadership are unified in their belief, efforts and commitment to excellent renal care through the Model of Care. It is this unity of purpose and vision, in contrast to the singular opposition of Dr. Kadri, which gives the appearance of a "gang mentality" or "mobbing".

[718] It was apparent to the Panel that the other four (4) Nephrologists are committed to make the WRH Renal Program, under the Model of Care, a success. There was no evidence provided that the ORN, LHIN, Ministry, Hospital staff, MAC, or the four Nephrologists believe the Model of Care is a danger to patients. On the contrary, collectively they feel that patients may be at risk if they are not afforded the opportunity to utilize the MCKD Clinic in preparation for transition to dialysis. Collectively, if the other four (4) Nephrologists believe the Model of Care is a risk or danger to patients, they have a responsibility, as physicians, to voice that concern to the MAC and Hospital leadership.

[719] The Panel found that this is not a case of "capitulating" or "knuckling under", rather it is a stubborn, unwillingness to work in collaboration with the Hospital and colleagues to find alternatives, opportunities and compromises, for the betterment of patients.

Pursuant to the PHA, physicians have an automatic right to appeal a board decision to not reappoint them to the Professional Staff or to restrict/place conditions on their privileges to an external tribunal – the Health Professions Appeal and Review Board (HPARB). Pursuant to the PHA, either party may appeal HPARB's decision to Divisional Court.

Clearly the By-Law and PHA process is a lengthy one.

Dr. Kadri appealed the Board Decision to HPARB on January 18, 2019.

We are expecting the HPARB hearing will take place in 2019. In the meantime, given the Suspension, Dr Kadri's cannot practice at the Hospital. This is detailed on the College of Physicians and Surgeons of Ontario website <https://www.cpso.on.ca/DoctorDetails/Albert-Kadri/0056648-68236>

On June 1, 2018, Windsor Regional Hospital ("WRH") notified the College of Physicians and Surgeons of Ontario, pursuant to s.33 of the Public Hospitals Act and s.85.5 of the Health Professions Procedural Code, Regulated Health Professions Act, that Dr. Albert Kadri's privileges at WRH were suspended on an immediate mid-term basis, effective June 1, 2018.

On February 4, 2019, WRH provided an update to the College of its notice of June 1, 2018. The update notified the College, pursuant to s.33 of the Public Hospitals Act and s.85.5 of the Health Professions Procedural Code, Regulated Health Professions Act, that Dr. Kadri has not been re-appointed to the professional staff of WRH for the 2017/2018 and 2018/2019 credentialing years and that the suspension of his privileges will continue pending Dr. Kadri exhausting his rights of appeal under the Public Hospital Act.

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