

**SINGAPORE DENTAL COUNCIL DISCIPLINARY INQUIRY AGAINST
DR THAM KAR YENG AND DR JADE FOO SEE THENG**

16 July 2018

Disciplinary Committee:

Dr Hwang Yee Cheau
Dr George Yi-Wei Soh
Dr Lee Chi Hong Bruce
Dr Tyrone Goh

Legal Assessor:

Mr P Selvadurai (M/s Tan Rajah & Cheah)

Counsel for the SDC (M/s Eversheds Harry Elias):

Mr Philip Fong
Mr Sui Yi Siong

Counsel for the Respondent (M/s Donaldson & Burkinshaw):

Mr Eric Tin
Ms Cheryl Tsai

DECISION OF THE DISCIPLINARY COMMITTEE

(Note: Certain information may be redacted or anonymised to protect the identity of the parties.)

1. The Respondents in this Inquiry are **Dr Tham Kar Yeng** (“1st Respondent”) and **Dr Jade Foo See Theng** (“2nd Respondent”) and the single charge against each brought against them jointly by the Singapore Dental Council (“SDC”) was as follows:-

2(a) **Dr Tham Kar Yeng (1st Respondent)**

“That you, Dr Tham Kar Yeng on 21 December 2016, whilst practising as a dentist at Caring Dental (Punggol) located at 665A Punggol Drive, #01-02, Singapore 821665 (the “Clinic”), failed to provide supervision of Dr Jade Foo See Theng (“Dr Foo”) who was registered as a dentist on conditional registration under Section 14A of the Dental Registration Act (Cap 76), to wit:

PARTICULARS

- a You were approved by the Council as the fully registered dentist to supervise Dr Foo from 20 July 2015 to 19 July 2017;
 - b On 21 December 2016 from around 9.00am to around 11.00am, you allowed Dr Foo to work independently at the Clinic and failed to supervise Dr Foo;
 - c You breached your duties as a supervisor of Dr Foo as set out in the Council's pronouncements including Circular SDC 11:4 Vol 4 dated 30 July 2014 and Circular SDC 8:4 Vol 5 dated 29 January 2015 thereby being in breach of Regulation 16 of the Dental Registration Regulations and/or Clause 2 of the Council's Ethical Code and Guidelines; and
- that in relation to the facts alleged, you have been guilty of professional misconduct under section 40(1)(d) of the Dental Registration Act (Cap. 76)."

2(b) Dr Jade Foo See Theng (2nd Respondent)

"That you, Dr Jade Foo See Theng on 21 December 2016, whilst practising as a dentist at Caring Dental (Punggol) located at 665A Punggol Drive, #01-02, Singapore 821665 (the "Clinic"), failed to work under supervision whilst still under conditional registration, to wit:

PARTICULARS

- a You were registered as a dentist with conditional registration under Section 14A(1) of the Dental Registration Act (Cap. 76);

- b Dr Tham Kar Yeng (“Dr Tham”) was approved by the Council as the fully registered dentist to supervise you from 20 July 2015 to 19 July 2017;
 - c On 21 December 2016 from around 9.00am to around 11.00am, you worked independently and without the supervision of Dr Tham while working at the Clinic;
 - d You breached your conditions of conditional registration including Section 14A(4) of the Dental Registration Act (Cap.76) and/or the Council’s pronouncements including Circular SDC 11:4 Vol 4 dated 30 July 2014 and Circular SDC 8:4 Vol 5 dated 29 January 2015 thereby being in breach of Regulation 16 of the Dental Registration Regulations and/or Clause 2 of the Council’s Ethical Code and Guidelines; and
- that in relation to the facts alleged, you have been guilty of professional misconduct under Section 40(1)(d) of the Dental Registration Act (Cap. 76).”

3. Both Respondents pleaded guilty as charged. The primary facts relating to the charges are conveniently collated in the Agreed Statement of Facts (“ASOF”) between the SDC and the Respondents duly agreed by Counsel for the Prosecution and the Respondents. Dr Tham and Dr Foo each faced a single charge of professional misconduct under Section 40(1)(d) of the Dental Regulations Act (Cap 76). While Dr Tham was charged for failing to supervise Dr Foo on 21 December 2016, Dr Foo, a conditionally registered dentist, was charged for working without supervision on 21 December 2016 (see paragraph 9 of the ASOF). And according to the Council’s pronouncements as stated in Circular SDC 11:4 Vol 4 dated 30 July 2014 and Circular SDC 8:4 Vol 5 dated 29 January 2018, a supervisor of a conditionally registered

dentist must ensure that the conditionally registered dentist is supervised at work at all times. In addition, Regulation 16 of the Dental Registration Regulations states that “every registered person shall observe the Council’s pronouncements on professional matters and professional ethics issued from time to time” (see paragraph 10 of the ASOF).

4. According to paragraph 11 of the ASOF, Dr Tham, the 1st Respondent breached her duties as Dr Foo’s supervisor by allowing Dr Foo, the 2nd Respondent to work independently and without supervision on 21 December 2016, while Dr Tham was away from the Clinic from about 9.20am to 11.00am, during which period Dr Foo had completed treating two patients and was about to commence treatment of a third patient, when Dr Tham returned to the Clinic at around 11.00am. By working independently without Dr Tham’s supervision on 21 December 2016, Dr Foo breached the conditions of her conditional registration.

5. By their respective conduct on 21 December 2016, Dr Tham and Dr Foo were guilty of one count of professional misconduct under Section 40(1)(d) of the Dental Registration Act (Cap 76). Both Respondents have pleaded guilty to the Charge against each of them (see paragraphs 13 and 14 of the ASOF).

6. It was clear from the evidence presented at this Inquiry by Counsel for the SDC and the two Respondents, that the facts relating to the gravamen of the Charge against each of the two Respondents could not be simpler. Hence, the decision by the Respondents to plead guilty as charged so that the resulting issue would resolve itself into the penalty to be imposed on each Respondent by the Disciplinary Committee for their respective professional misconduct.

7. It was argued by Counsel for the Respondents that there were no aggravating factors on the facts of this case. At worst, there were poor judgment calls by the Respondents, which were not egregious in any sense of the word. There was no obvious deceit or dishonestly involved. And the facts of this case were distinguishable from the facts of the **Sng Wee Hock** case, or **Sharifah Nazilah's** case, or **Jimmy Yap's** case dealt with previously by the Disciplinary Committees. Indeed, none of the facts and circumstances of the past decisions of the Disciplinary Committees were comparable to the facts and circumstances of the instant case with the consequence that the Disciplinary Committee in this case had the freedom to impose penalties that would serve the two purposes of firstly dissuading the Respondents from repeating the respective misconduct and secondly reminding the profession of the overriding importance of the system of conditional registration in the dental registration framework and supervision by the Dental Council. In this context, it would bear repeating that past decisions of the Disciplinary Committees were not binding on this Committee. They were merely persuasive.

8. What was before the Disciplinary Committee for consideration and decision, were the careless and irresponsible conduct of two trained dentists in the form of the 1st and 2nd Respondents who were not mindful of the requirements of the duties and responsibilities involved in the training of dentists with conditional registration. The situation therefore required a ruling by the Disciplinary Committee which would have the effect of preventing conduct among the profession of the kind committed by the 1st and 2nd Respondents in this case but which would at the same time be fair and just.

9. In this regard, reference is made to the judgment by the Court of Three Judges in the case of **Kwan Kah Yee**, a Singapore Medical Council case, in which it was clarified that sanctions in medical disciplinary proceedings serve two functions: first, to

ensure that the offender did not repeat the offences; and second to uphold the standing of the medical profession. And by parity of reasoning, it was argued by the Prosecution here that *“it is in the public interest to ensure that only duly qualified and competent dentists are allowed to treat patients”*. So the unsupervised treatment of a patient or patients in this case by a conditionally registered dentist needed to attract a sanction with sufficient deterrence.

10. In short, the legal liability was absolute. When the 1st Respondent took the brief time off from the Clinic on the morning of 21 December 2016, to deal with what was thought to be an emergency situation concerning her 3-year-old son who had suddenly taken ill, she could have left instructions with the staff at the Clinic for Dr Foo not to treat any patients until Dr Tham returned. Alternatively, Dr Tham could have herself telephoned Dr Foo that morning, to tell her of her absence and to instruct Dr Foo not to treat any patient till Dr Tham returned. As for Dr Foo, there was no urgency that morning for her to see and treat the two patients with the routine and simple procedures that she performed. She could have waited for Dr Tham’s return to the Clinic before treating the patients. Therefore, the professional misconduct committed by both Respondents on 21 December 2016 was avoidable with a bit of thought and common sense.

11. Finally, on the question of parity of treatment of the Respondents for sentencing purposes which was argued before the Disciplinary Committee, the Committee was satisfied on the evidence that the 1st Respondent was the more culpable by virtue of her status as a fully registered dentist and supervisor with no less than seven years’ experience and should be held to a higher standard, as was done in the case of **Dr Sng Wee Hock**. There was no excuse for Dr Tham to have allowed Dr

Foo to work unsupervised, in the context of the numerous reminders sent by the Council in various circulars and at the Town Hall meeting.

12. After careful and due consideration of the facts and evidence presented in this case by Counsel for both Respondents and the guilty pleas registered by the Respondents as charged, this Disciplinary Committee ordered that:

- (1) the 1st Respondent, that was Dr Tham Kar Yeng –
 - (a) pay a penalty of \$8,000;
 - (b) be censured;
 - (c) give a written undertaking to the Singapore Dental Council that she would not in future engage in the conduct complained of and any similar conduct; and
 - (d) pay 80% of the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SDC;and

- (2) the 2nd Respondent, that was Dr Jade Foo See Theng:
 - (a) pay a penalty of \$3,000;
 - (b) be censured;
 - (c) give a written undertaking to the Singapore Dental Council that she will not in future engage in the conduct complained of and any similar conduct; and
 - (d) pay 20% of the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SDC.

- (3) Pursuant to Regulation 25 of the Dental Registration Regulations, the Disciplinary Committee orders that the grounds of its decision herein be published.

Dated this 15th day of October 2018

Dr Hwang Yee Cheau

Chairperson, Disciplinary Committee

Dr George Yi-Wei Soh

Member, Disciplinary Committee

Dr Lee Chi Hong Bruce

Member, Disciplinary Committee

Dr Tyrone Goh

Layperson, Disciplinary Committee