

**SINGAPORE DENTAL COUNCIL
DISCIPLINARY COMMITTEE INQUIRY FOR DR NURUL AIZAT BIN ZAINUDIN
ON 30 MAY 2019**

Disciplinary Committee:

Dr. Hwang Yee Cheau (Chairperson)
Ms. Lee Show Feai
Dr. Rajendram Sivagnanam
Mr. Vijai Parwani (Lay Member)

Legal Assessor:

Mr. Giam Chin Toon, SC (M/s. Wee Swee Teow LLP)

Prosecution Counsel (M/s. Eversheds Harry Elias LLP):

Mr. Philip Fong
Mr. Sui Yi Siong
Mr. Kevin Koh

Respondent:

Absent and unrepresented

DECISION OF THE DISCIPLINARY COMMITTEE

1. Dr. Nurul Aizat Bin Zainudin ("Dr. Aizat") is a registered dentist practising at Family Dental Centre Pte Ltd ("FDC") situated at 24 Peck Seah Street #01-03, Nehsons Building, Singapore 079314.
2. The Complainant is a registered dentist practising at T32 Dental Centre Pte Ltd ("T32 Dental"). T32 Dental in turn is a shareholder of T32 Dental Pearl at Bedok Pte Ltd ("T32 Bedok").
3. Ms. A is a dental assistant working at T32 Bedok.
4. Dr. A is a registered dentist who practised at T32 Bedok until 1 May 2017 when he terminated his employment with T32 Dental to join FDC as the Clinical Director in late 2017.
5. By way of a Statutory Declaration dated 11 June 2017, the Complainant complained to the Singapore Dental Council ("SDC") that Dr. Aizat had texted Ms. A via a WhatsApp text message to offer her \$50.00 for each of Dr. A's patients that she would refer from T32 Dental to FDC for crown or implant treatment.
6. On 24 September 2018, Dr. Aizat appeared in the State Courts of Singapore charged under Section 6(b) of the Prevention of Corruption Act (Cap. 241) for corruptly offering a gratification of \$50.00 for each patient referred to FDC to an agent Ms. A, a

dental assistant employed by T32 Dental as an inducement for doing an act in relation to her principal's business namely, to refer patient from T32 Dental to FDC.

7. Dr. Aizat pleaded guilty to the said charge and was sentenced to pay a fine of \$15,000.00 in default 5 weeks imprisonment by District Judge Kessler Soh Boon Leng.
8. Pursuant to this, SDC preferred 2 charges against Dr. Aizat.

First Charge

*That you, **DR NURUL AIZAT BIN ZAINUDIN** on 28 May 2017, whilst practising as a dentist at Family Dental Centre Pte Ltd ("FDC") and being a director and shareholder of FDC, did attempt to profit at the expense of your professional colleagues at T32 Dental Centre Pte Ltd ("T32 Dental") and its subsidiary T32 Dental Pearl at Bedok Pte Ltd ("TDB") by canvassing or touting for their patients, to wit:*

Particulars

- a. *At about 2.09 pm on 28 May 2017, you contacted one Ms. A, who was a dental assistant at TDB, via the Whatsapp instant messaging service.*
- b. *Via a Whatsapp text message, you offered Ms. A S\$50.00 for every patient referred from TDB to FDC for crown or implant treatment, provided that these patients were treated by one Dr. A.*
- c. *Dr. A had terminated his employment with TDC on 1 May 2017 and was to have commenced employment with FDC in late 2017.*
- d. *At about 2.57 pm on 28 May 2017, you repeated your offer of S\$50.00 to Ms. A via a Whatsapp text message.*
- e. *The purpose of the offer of payment was to induce Ms. A to take steps to refer TDB patient to FDC to seek treatment under Dr. A, which is in breach of Clause 4.3.2 of the Council's Ethical Code and Ethic 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).

Second Charge

*That you, **DR. NURUL AIZAT BIN ZAINUDIN** are charged that whilst practising as a dentist at FDC, you were convicted on 16 October 2018 in the State Courts of Singapore, of an offence punishable under Section 6(b) of the Prevention of Corruption Act (Cap. 241), which was an offence involving fraud or dishonesty, to wit:*

Particulars

- a. On 24 September 2018, you were charged in the State Courts of Singapore with one charge as follows:

“You

NURUL AIZAT BIN ZAINUDIN

Are charged that you, on 28 May 2017 at about 2.10pm, in Singapore, did corruptly offer a gratification of \$50/- for each patient referred to Family Dental Centre Pte Ltd (“FDC”), to an agent, Ms. A, a dental assistant employed by T32 Dental Pte Ltd (“T32”), as an inducement for doing an act in relation to her principal’s business, namely to refer patients from T32 to FDC, and you have thereby committed an offence punishable under Section 6(b) of the Prevention of Corruption Act, Chapter 241.” (“the Charge”).

- b. Subsequently, on 16 October 2018, you pleaded guilty to and were convicted by the learned District Judge Kessler Soh Boon Leng of the Charge, and you were sentenced to pay a fine of \$15,000 (in default 5 weeks’ imprisonment”; and

that in relation to the facts alleged, you are thereby liable to be punished under Section 40(2) read with section 40(1)(a) of the Dental Registration Act (Cap. 76).

9. On 13 May 2019, Dr. Aizat informed SDC via email that he will be pleading guilty to the charges.
10. When asked by Counsel for SDC whether he would be attending the Disciplinary Committee hearing on 30 May 2019, he replied on 30 May 2019 as follows:

“Dear Kevin,

Thank you for the email.

Attached is the necessary document.

Kindly do note i will not be attending any of the hearing and will accept whatever the outcome.

Best regards,

Aizat”

11. Having been satisfied that:
- (i) Dr. Aizat has been served with the relevant documents for the hearing;
 - (ii) He was aware of the hearing dates and time and has chosen not to attend;
 - (iii) He wishes to plead guilty to the charges and will accept the outcome of the hearing,

the Disciplinary Committee proceeded with the hearing in the absence of Dr. Aizat.

FACTS

12. An Agreed Statement of Facts signed by both the solicitors for SDC and Dr. Aizat was tendered at the hearing.
13. The facts as set out in the Agreed Statement of Facts are briefly as follows:
 - (i) In April 2017, Dr. A accepted Dr. Aizat's offer to join FDC as a Clinical Director with effect from 15 August 2017.
 - (ii) Dr. A terminated his employment with T32 Dental on 1 May 2017. He requested Dr. Aizat to consider employing Dr. A's dental assistants or nurses with whom he was working at T32 Dental.
 - (iii) Dr. Aizat contacted Ms. A and offered her employment with FDC but Ms. A informed him she wanted to continue with her employment at T32 Dental.
 - (iv) On 28 May 2017 at 2.09 p.m., Dr. Aizat texted her via a WhatsApp text message to offer her \$50.00 for each of Dr. A's patients at T32 Dental she would refer to FDC for crown or implant treatment.
 - (v) This offer was repeated via WhatsApp text message on the same day at 2.57 p.m.
 - (vi) Dr. Aizat asked one Ms. B, a dental assistant at T32 Dental, who at the material time had intended to resign from T32 Dental to join FDC, to convey the same offer of \$50.00 to Ms. A.
 - (vii) The offer was made to induce Ms. A to take steps to refer T32 Dental's patients to FDC to seek treatment under Dr. A.
 - (viii) FDC and Dr. Aizat stood to profit from the referrals if it had happened as crown and implant treatments were expensive procedures. Dr. A's charges at T32 Dental for these procedures was about \$3,500.00 to \$5,000.00. It is estimated that FDC would have earned a profit of about \$50,000.00 half-yearly on these charges.
 - (ix) Dr. Aizat pleads guilty to the charges and admits the facts without qualification.
 - (x) He admits that he had attempted to profit at the expense of his professional colleagues at T32 Dental and T32 Bedok by canvassing or touting for their patients in breach of Clause 4.3.2 of the Council's Ethical Code and Ethical

Guidelines and is therefore guilty of professional misconduct under Section 40(1)(d) of the Dental Registration Act.

- (xi) He admits he has been convicted for an offence under Section 6(b) of the Prevention of Corruption Act (Cap 241).

14. We accordingly find Dr. Aizat guilty of the 2 charges made against him.

SENTENCING

15. Counsel for SDC, Mr. Philip Fong (“Mr. Fong”), submitted that in view of both the aggravating and mitigating factors in the present case and the need for general and specific deterrence, the appropriate punishment would be:

- (i) A suspension for a period of 3 years.
- (ii) Be censured.
- (iii) To give the usual undertaking not to repeat the conduct complained of; and
- (iv) To pay 100% of the Singapore Dental Council’s costs of the inquiry.

16. Mr. Fong cited the Singapore Court of Appeal case of *Wong Meng Hang v Singapore Medical Council [2019] 3 SLR 526* to support his submission that a suspension of 3 years is an appropriate punishment.

17. In that case, the Appellant was charged for causing the death of a patient undergoing liposuction procedure in administering an anaesthetic drug negligently. The Disciplinary Tribunal sentenced him to 18 months suspension. On appeals filed by both the SMC and Dr. Wong against sentence, the Court held that the appropriate order was to strike Dr. Wong off the register.

18. Sundaresh Menon CJ in his judgment stated as follows:

“73 *Where dishonesty is shown, but the circumstances are not such as we have set out in the preceding paragraph, the sentencing court or tribunal should examine all the circumstances of the case to determine whether striking off is nonetheless warranted. Taking reference from the approach we laid down in Chia Choon Yang at [40], the following non-exhaustive list of factors should be considered:*

- a) *The real nature of the wrong and the interest that has been implicated;*
- b) *The extent and nature of the deception;*
- c) *The motivations and reasons behind the dishonesty and whether it indicates a fundamental lack of integrity on the one hand or a case of misjudgment on the other;*

- d) *Whether the errant [doctor] benefited from the dishonesty; and*
- e) *Whether the dishonesty caused actual harm or had the potential to cause harm that the errant [doctor] ought to have or in fact recognised.”*

...

“81 As we stated at the outset, the facts presented in Dr. Wong’s case make it one of the most egregious cases of medical misconduct that have come before us. We reach this conclusion having regard to the harm-culpability matrix we have set out at [33] above.”

19. Following the principles laid down in *Wong Meng Hang’s* case:
- (i) Dr. Aizat was convicted of corruption by a court of law.
 - (ii) Dr. Aizat’s dishonesty was integral to his commission of the offence. He had gone behind the back of T32 Dental to approach Ms. A to offer the payment for referring patients to him.
 - (iii) He had attempted to induce Ms. A to act against the interests of her employer and misuse confidential information belonging to her employer.
 - (iv) He stood to profit if Ms. A had referred Dr. A’s patients to FDC and FDC could have earned about \$50,000.00 on a half yearly basis from the patients.
20. A sentence of 3 years suspension would be appropriate and appropriate sentence.
21. However, as Dr. Aizat was not present at the hearing, Mr. Fong pointed out that the following grounds of mitigation may be taken into consideration by the DC for the purpose of determining the appropriate sentence:
- (i) Dr. Aizat has a clean record and this is his first offence.
 - (ii) He has pleaded guilty to the 2 charges.
 - (iii) He has co-operated fully with both the authorities and the SDC in the investigations brought against him.

DECISION

22. We have considered the submissions of the SDC. We are of the view that on the facts, the case does not warrant striking out order against Dr. Aizat. The gravity of the offence is not the same as that in *Wong Meng Hang’s* case where death of a patient was caused by the gross negligence of the doctor. In fact, we do not agree that a suspension imposed for the maximum period of 3 years is appropriate either.

23. In the present case, Dr. Aizat was guilty of an attempt to bribe Ms. A, which in our view is a far cry from what had happened in *Wong Meng Hang's* case.
24. Further, Ms. A did not accept the offer from Dr. Aizat and there was no loss caused to T32 Dental.
25. In the premises, Dr. Aizat was convicted of a charge of attempted bribery and sentenced to pay a fine of \$15,000.00 for the offence of attempted bribery by the Court.
26. We note the fact that he had pleaded guilty and fully co-operated with both the authorities and the SDC in their investigations.
27. We note also that Dr. Aizat did not appear before the Disciplinary Committee to present his mitigation plea in person even though he was informed of the hearing.
28. We accept that a strong message has to be sent to members of the dental profession as well as the public that the professional misconduct for which he was charged with brings disrepute to the profession and will not be tolerated.
29. Taking into account the facts of the case, we are of the view that 2 years would be an appropriate period to impose on Dr. Aizat.
30. In the circumstances, we hereby order as follows:
 - (i) Dr. Aizat be suspended for a period of 2 years.
 - (ii) Dr. Aizat be censured in writing.
 - (iii) Dr. Aizat gives an undertaking to abstain in future from such conduct complained of.
 - (iv) Costs and expenses of and incidental to these proceedings including costs of the legal assessor be paid by Dr. Aizat.
31. It is hereby further ordered pursuant to Regulation 25 of the Dental Registration Regulations that the grounds of decision be published for the benefit of the public.
32. The hearing is hereby concluded.

Dated this 15th day of July 2019.

Dr. Hwang Yee Cheau

Chairperson, Disciplinary Committee

Ms. Lee Show Feai

Member, Disciplinary Committee

Dr. Rajendram Sivagnanam

Member, Disciplinary Committee

Mr. Vijai Parwani

Layperson, Disciplinary Committee