

**SINGAPORE DENTAL COUNCIL  
DISCIPLINARY COMMITTEE INQUIRY AGAINST MS EE MAN WAH JOYCE  
ON 2 FEBRUARY 2023, 20 MARCH 2023 AND 10 MAY 2023**

**10 May 2023**

**Disciplinary Committee:**

Dr Go Wee Ser (Chairman)

Ms Janelle Joy Foo

Dr Adeline Wong

Mr Stanley Low (Observer)

**Legal Assessor:**

Mr Kenny Chooi

(Adsan Law LLC)

**Counsel for the SDC:**

Mr Sui Yi Siong

(Harry Elias Partnership LLP)

**Respondent in Person:**

Ms Ee Man Wah Joyce

**DECISION OF THE DISCIPLINARY COMMITTEE**

**INTRODUCTION**

1. The Respondent, Ms Ee Man Wah Joyce, is a registered oral health therapist (“**OHT**”) under Part II of the Register of Oral Health Therapists (“**Register**”).
2. As a registered OHT under Part II of the Register, the Respondent’s scope of practice is prescribed under Section 22(1A) of the Dental Registration Act (“**DRA**”) read with regulation 40A(b) of the Dental Registration Regulations (“**DRR**”).
3. The Respondent was employed by OrthoSmile Dental Practice LLP at Novena Medical Center @ Square 2, 10 Sinaran Drive #09-29 Singapore 307506

("Novena Clinic"), and Coronation Plaza, 587 Bukit Timah Road #03-03 Singapore 269707 ("**Coronation Plaza Clinic**").

4. These proceedings arose out of a complaint dated 19 September 2019 from a senior manager from the Healthcare Finance Division of the Ministry of Health against the Respondent for having performed a filling on a 26 year old patient.
5. Investigations subsequently revealed that the Respondent had performed oral procedures involving the restoration of teeth using direct restorative materials for 10 persons older than 18 years of age.
6. Pursuant to the said complaint and investigations, the Singapore Dental Council ("**SDC**") preferred one charge against the Respondent, as set out in the Notice of Inquiry dated 5 October 2022.

## **CHARGE**

7. The Charge against the Respondent is as follows:

"That you, **EE MAN WAH JOYCE**, a registered Oral Health Therapist ("**OHT**") under Part II of the Register of Oral Health Therapists (the "**Register**"), are charged that between 25 August 2018 and 2 February 2019, whilst practising in Singapore as an OHT employed by OrthoSmile Dental Practice LLP, you practised beyond the prescribed scope of practice for a registered OHT in breach of section 22(1A) of the Dental Registration Act (Cap. 76) ("**DRA**") read with regulation 40A(b) of the Dental Registration Regulations ("**DRR**"), by performing restorations of teeth using direct restorative materials for ten (**10**) patients above 18 years of age, to wit:-

## **PARTICULARS**

- a. As an OHT with registration under Part II of the Register, you were aware at all times that your prescribed scope of practice is specified in Part II of the Fourth Schedule of the DRR pursuant to regulation 40A(b) of the DRR.
- b. In particular, you were aware at all times that your prescribed scope of practice restricted you to performing oral procedures involving the restoration of teeth using direct restorative materials to persons of 18 years of age or younger.

- c. Despite your awareness of your prescribed scope of practice under the DRR, you performed oral procedures involving the restoration of teeth using direct restorative materials for ten (10) persons older than 18 years of age on the following occasions:
- (i) On 25 August 2018, you performed an oral procedure involving the restoration of teeth using direct restorative materials on one **WYJ**, ("**Patient 1**") who was 24 years and 2 months old at the time of the procedure.
  - (ii) On 22 September 2018, you performed two oral procedures involving the restoration of teeth using direct restorative materials on one **CEH**, ("**Patient 2**") who was 19 years and 4 months old at the time of the procedure.
  - (iii) On 2 November 2018, you performed two oral procedures involving the restoration of teeth using direct restorative materials on one **EML** ("**Patient 3**") who was 36 years old at the time of the procedure.
  - (iv) On 2 November 2018, you performed an oral procedure involving the restoration of teeth using direct restorative materials on one **TK** ("**Patient 4**") who was 47 years and 3 weeks old at the time of the procedure.
  - (v) On 29 November 2018, you performed an oral procedure involving the restoration of teeth using direct restorative materials on one **LJW**, ("**Patient 5**") who was 29 years and 9 months old at the time of the procedure.
  - (vi) On 4 December 2018, you performed an oral procedure involving the restoration of teeth using direct restorative materials on one **PC** ("**Patient 6**") who was 18 years and 1 week old at the time of the procedure.
  - (vii) On 14 December 2018, you performed an oral procedure involving the restoration of teeth using direct restorative materials on one **EH** ("**Patient 7**") who was 32 years and 2 weeks old at the time of the procedure.
  - (viii) On 24 November 2018, you performed three oral procedures involving the restoration of teeth using direct restorative materials on one **YTC** ("**Patient 8**") who was 19 years and 8 months old at the time of the procedure.
  - (ix) On 29 January 2019, you performed an oral procedure involving the restoration of teeth using direct restorative materials on one **CAL** ("**Patient 9**") who was 48 years and 7 months old at the time of the procedure.
  - (x) On 2 February 2019, you performed an oral procedure involving the restoration of teeth using direct restorative materials on one **RN** ("**Patient 10**") who was 25 years and 10 months old at the time of the procedure.

- d. By performing oral procedures involving the restoration of teeth using direct restorative materials for Patients 1 to 10 who were older than 18 years of age at the time of their procedures, you had practiced beyond the prescribed scope of practice for an OHT with registration under Part II of the Register in breach of s 22(1A) DRA read with regulation 40A(b) DRR;

and your aforesaid conduct amounts to such serious negligence that it objectively portrays an abuse of the privileges which accompany registration as an oral health therapist, and that in relation to the facts alleged you are guilty of professional misconduct under Section 40(1)(d) of the Dental Registration Act (Cap.76), and liable to be punished under Section 40(2).”

8. The Respondent was unrepresented during the hearing. She pleaded guilty to the aforesaid Charge. She confirmed that she understood the nature and consequences of her plea and the punishment prescribed for the offence.

### **THE ADMITTED FACTS**

9. The Respondent admitted to the Agreed Statement of Facts (“**ASOF**”) without qualification. The salient agreed facts in the ASOF are set out in the paragraphs below.
10. The prescribed scope of practice of an OHT with registration under Part II of the Register is specified in Part II of the Fourth Schedule of the DRR pursuant to regulation 40A(b) of the DRR.
11. Regulation 40A(b) of the DRR states as follows:

**40A.** For the purposes of section 22(1A) of the Act, the prescribed scope of practice for a registered oral health therapist who has in force a practising certificate is as follows:

...

(b) the scope of practice specified in Part II of the Fourth Schedule for persons of 18 years of age or younger where the registered oral health therapist holds a qualification under section 21A(1)(b)(i)(A) or (2)(b) of the Act.

12. Part II of the Fourth Schedule of the DRR states as follows:

PREScribed SCOPE OF PRACTICE FOR REGISTERED ORAL HEALTH THERAPISTS WITH QUALIFICATIONS UNDER SECTION 21A(1)(b)(i)(A) OR (2)(b) of Act

1. Cleaning and polishing of teeth.
  2. Scaling of teeth.
  3. Any application to the teeth of solutions of sodium or stannous fluoride or such other similar prophylactic solutions as the Council may, from time to time, determine.
  4. Application of fissure sealants.
  5. Application of rubber dam.
  6. Extraction of primary teeth.
  7. Restoration of teeth using direct restorative materials.
  8. Exposure of radiographic films intraorally or extraorally for the investigation of lesions of the mouth, jaws, teeth and associated structures.
  9. Usage of infiltration anaesthesia in procedures such as scaling or direct restorative procedure.
  10. Taking alginate impressions of the upper and lower dentition.
  11. Giving of advice on matters related to dental hygiene.
13. As an OHT with registration under Part II of the Register, the Respondent was aware at all times that her prescribed scope of practice is specified in Part II of the Fourth Schedule of the DRR pursuant to regulation 40A(b) of the DRR.
14. In particular, the Respondent was aware at all times that her prescribed scope of practice restricted her to performing oral procedures involving the restoration of teeth using direct restorative materials to persons of 18 years of age or younger.
15. The relevant information relating to the Respondent having performed oral procedures involving the restoration of teeth using direct restorative materials for 10 patients older than 18 years of age is set out in the Charge.
16. The owner of the practice at the Novena Clinic and the Coronation Plaza Clinic is one Dr Canon Chong (“**Dr Chong**”). According to Dr Chong:

- (1) The Respondent is supposed to work within her prescribed job scope as a hygienist and cases referred to her are within her job scope. The clinic nurses would explain to patients the difference between an OHT and a dentist when asked.
  - (2) In the event that the Respondent finds other dental indications beyond her job scope, the protocol is for her to refer the patient back to Dr Chong for a follow-up visit or call for an *ad-hoc* consult with him. Dr Chong is the only dentist in the practice.
17. The Respondent performed oral procedures involving the restoration of teeth using direct restorative materials on the 10 Patients on the occasions stated in the Charge despite her awareness of her prescribed scope of practice under the DRR.
  18. By performing oral procedures involving the restoration of teeth using direct restorative materials on the 10 Patients who were older than 18 years of age at the time of their procedures, the Respondent had practised beyond the prescribed scope of practice for an OHT with registration under Part II of the Register in breach of s 22(1A) DRA read with regulation 40A(b) DRR.

### **SUBMISSIONS ON LIABILITY**

19. Counsel for the SDC submitted that the Charge is brought under the second limb of the test for professional misconduct in ***Low Cze Hong v Singapore Medical Council*** [2008] 3 SLR(R) 612 at [37], namely that the Respondent's conduct amounts to "*such serious negligence that it objectively portrays an abuse of the privileges which accompany registration as a medical practitioner*", or an OHT in this case.
20. The test for professional misconduct under the second limb of Low Cze Hong requires the court or tribunal to engage in a three-stage inquiry (see ***Singapore Medical Council v Lim Lian Arn*** [2019] 5 SLR 739 at [28]):

- (1) The first stage is to establish the relevant benchmark standard that is applicable to the medical professional;
  - (2) The second stage is to establish whether there has been a departure from the applicable standard; and
  - (3) The third stage is to determine whether the negligent departure from the applicable standard was so serious that objectively, it portrays an abuse of the privileges of being registered as a medical professional.
21. The SDC submitted that based on the admitted facts in the ASOF, the Respondent's conduct amounts to professional misconduct under the serious negligence limb of *Low Cze Hong*, and that the Charge is proven beyond a reasonable doubt:
- (1) *First*, it is not disputed that the scope of practice of a registered OHT is limited to what is prescribed by the DRA read with the DRR, and this was applicable to the Respondent at all times. In this regard, the Respondent's prescribed scope of practice restricted her to performing oral procedures involving the restoration of teeth using direct restorative materials to persons of 18 years of age or younger.
  - (2) *Second*, it is not disputed by the Respondent that she departed from this applicable standard. In performing fillings and scaling and polishing for each of the 10 patients even though they were above 18 years old, the Respondent had departed from the applicable standard.
  - (3) *Third*, the Respondent's conduct amounted to a negligent departure from the applicable standard that was so serious that objectively, it portrays an abuse of the privileges of being registered as an OHT. She practised beyond the scope of her practice over 6 months on no less than 10 patients, which shows that this was a prolonged act of misconduct rather than a one-off incident. She also had no good explanation or excuse for her actions.

22. The Respondent did not dispute or rebut the SDC's above submissions in relation to her liability. Instead, she stated that she regretted her actions and merely pleaded for leniency.

### **PROSECUTION'S SUBMISSIONS ON SENTENCING**

23. Counsel for the SDC submitted that the following orders should be made against the Respondent:

- (1) That the Respondent be suspended for a period of 6 months;
- (2) That the Respondent be censured and ordered to give an undertaking to abstain in future from the conduct complained of; and
- (3) That the Respondent be ordered to pay the costs of and expenses of and incidental to these proceedings, including the costs of counsel to the SDC and the legal assessor to the Disciplinary Committee, and such reasonable expenses as are necessary for the conduct of these proceedings to be taxed if not agreed.

24. The SDC submitted that based on the sentencing framework in *Wong Meng Hang v SMC* [2019] 3 SLR 526 ("**Wong Meng Hang**") and considering all relevant circumstances as well as the sentencing precedents, the appropriate sentence to be imposed on the Respondent is a suspension term of 6 months on the following grounds:

- (1) The harm caused by the Respondent's conduct was slight. None of the 10 patients were directly harmed by the Respondent's conduct, and the potential harm that could have been caused to the patients was minimal considering that the Respondent was only doing fillings, scaling and polishing.



- (2) The Respondent's culpability should be assessed as medium. She did not have any excuse for her conduct. This was not a one-off incident, but the Respondent treated 10 patients over a prolonged period of 6 months.
- (3) The indicative sentencing range is a suspension term of between 3 months to 1 year. The most relevant sentencing precedent is the decision of *Disciplinary Committee Inquiry against Mr Muhammad Hafiz B Ruslan* ("**Ruslan**"). In *Ruslan*, the respondent who had pleaded guilty to practising beyond the scope of his prescribed scope of work under the DRA by performing orthodontic procedures on a patient when he was not legally permitted to do so as an OHT was sentenced inter alia to 3 months' suspension for each charge to run concurrently.
- (4) Given the more serious nature of the Respondent's misconduct, the starting point (which should be an uplift from the suspension term imposed in *Ruslan*) is a suspension term of 6 months.
- (5) Minimal mitigating weight should be given to the Respondent's plea of guilt given the overwhelming evidence against her. It is clear from the 10 patients' dental note reports that they were above 18 years of age when the Respondent treated them. The Respondent knew or ought to have known of their age, given that she was the one who prepared these dental note reports.

### **RESPONDENT'S MITIGATION PLEA**

25. In her mitigation plea dated 5 February 2023, the Respondent basically pleaded for leniency.
26. The Respondent said that she has pleaded guilty to the offences at the first opportunity and has cooperated with the SDC in the submission of all the required documents. Her intention was never to cause any harm to the patients, and neither was it for any personal gain. Whatever she did could have been

avoided right at the beginning by referring all patients over 18 to the doctor for fillings.

27. The Respondent also said that she regretted her actions and has been adhering to the regulations of the SDC and working within the prescribed scope of dentistry for the past 3 years upon receiving the notice of complaint from SDC.

### **DECISION OF THE DISCIPLINARY COMMITTEE**

28. The Respondent had pleaded guilty to the Charge and had also admitted to having performed oral procedures involving the restoration of teeth using direct restorative materials for 10 persons older than 18 years of age over a 6-month period, as stated in the Charge and the ASOF.
29. The undisputed evidence shows that the Respondent's conduct, in relation to the 10 patients, had departed from the applicable standard prescribed for OHTs registered under Part II of the Register and the scope of practice specified in Part II of the Fourth Schedule of the DRR.
30. The Respondent had been grossly negligent when she practised beyond her prescribed scope of practice as an OHT, and her conduct amounts to such serious negligence that it objectively portrays an abuse of the privileges which accompany registration as an oral health therapist.
31. As such, having regard to the Respondent's plea of guilt, her admission to the ASOF without qualification and the evidence before us, we find the Respondent guilty of the Charge and convict her accordingly.
32. We now move on to consider the issue of the appropriate sentence to be imposed in the present case.

***Level of Harm and Culpability***

33. The SDC has submitted that the harm caused by the Respondent was *slight* because none of the 10 Patients were directly harmed in any way by the Respondent's conduct, and that the potential harm that could have been caused to the patients was "*minimal*".
34. Although the Disciplinary Committee is prepared to accept the SDC's submission that the harm caused by the Respondent was slight, we are of the view that the level of harm should be on the ***higher end*** of ***slight***. In this respect, while no actual harm may have been caused by the Respondent, the potential harm that could have been caused was more than "*minimal*", due to the sizeable number of *10 patients* who she had treated in breach of her prescribed scope of practice.
35. In relation to the Respondent's culpability, the Disciplinary Committee finds that her level of culpability was ***medium***. The duration of the Respondent's offending behaviour was over a sustained period of *6 months* in respect of her treatment of *10 patients*. This was clearly not an isolated or a one-off offence.
36. Although the Respondent has said in her mitigation plea that she did not intend to cause any harm to the patients, she was nonetheless seriously negligent or simply indifferent to the patients' welfare or her own professional duties. As such, her conduct was at least moderately blameworthy.
37. In this regard, the Respondent has admitted to the ASOF which stated inter alia that she was *aware* at all times that her prescribed scope of practice had restricted her to performing oral procedures involving the restoration of teeth to persons of 18 years of age or younger, and that for dental indications beyond her job scope, the "*protocol is for her to refer to the patient back to Dr Chong*".
38. Further, the Respondent clearly *knew* that the ages of each of the 10 patients was above 18 years of age when she treated them, since their ages and dates of birth were listed on their respective dental note reports that she *herself* had prepared.

39. Despite the Respondent's aforesaid knowledge, she had nonetheless acted in breach of her prescribed scope of practice when she treated the 10 patients in question.

***Applicable indicative sentencing range and appropriate starting point***

40. According to the sentencing matrix set out in *Wong Meng Hang*, the applicable indicative sentencing range would be a suspension of 3 months to 1 year for cases involving slight harm and medium culpability.
41. As explained above, since the harm caused by the Respondent is at the *higher end* of slight, the appropriate starting point within the indicative sentencing range would be a suspension of 9 months.
42. In this regard, we agree with the SDC's submissions that the Respondent's misconduct is more serious than the misconduct in *Ruslan* (where the OHT was suspended for a period of 3 months).
43. First, the Respondent had practised beyond the prescribed scope of work in respect of *10 patients*, whereas the OHT in *Ruslan* had only treated *1 patient*.
44. Second, unlike the OHT in *Ruslan* who was placed in a difficult position to refuse the instruction of his superior to do the procedures which he was not permitted, the Respondent in the present case had no such excuse. Instead, the Respondent has admitted that the protocol was for her to refer the patient back to Dr Chong for a follow-up visit in the event she found that there were dental indications beyond her job scope.
45. Third, the nature of the treatments provided by the Respondent (ie. involving the restoration of teeth using direct restorative materials) was more invasive than the OHT in *Ruslan* (who had merely engaged in the fixing of separators on a patient's molars and the application and removal of elastic modules).

***Offender-specific aggravating and mitigating factors***

46. The SDC has not raised any aggravating factors in the present case.
47. The SDC does not dispute that the Respondent has pleaded guilty at the earliest opportunity, having said at the first pre-inquiry conference that she admitted to the Charge and was willing to plead guilty. However, the SDC has submitted that any mitigating value that could be attached to this is outweighed by the fact that the evidence against the Respondent was overwhelming, and that there was simply no way that the Respondent could deny what she had done (see *Wong Kai Chuen Philip v Public Prosecutor* [1990] 2 SLR(R) 361).
48. On balance, we find that no adjustments need to be made to the starting point of a suspension of 9 months.


**CONCLUSION**

49. Having carefully considered the submissions and documents before us, and having also taken into account all the circumstances of the case, the Disciplinary Committee orders as follows:
  - (1) The Respondent be suspended for a period of 9 months;
  - (2) The Respondent be censured;
  - (3) The Respondent is to give a written undertaking to the SDC that she will not engage in the conduct complained of or any similar conduct in the future; and
  - (4) The Respondent is to pay the costs and expenses of and incidental to these proceedings, including the costs of counsel to the SDC and the Legal Assessor to the Disciplinary Committee, and such reasonable expenses as are necessary for the conduct of these proceedings.

50. We further order that the grounds of our decision be published.

51. The hearing is hereby concluded.

Dated this 10<sup>th</sup> day of May 2023



**Dr Go Wee Ser**

Chairman, Disciplinary Committee



**Ms Janelle Joy Foo**

Member, Disciplinary Committee



**Dr Adeline Wong**

Member, Disciplinary Committee



**Mr Stanley Low**

Observer, Disciplinary Committee