

**SINGAPORE DENTAL COUNCIL DISCIPLINARY INQUIRY AGAINST
DR. SNG WEE HOCK**

11 April 2013
7 June 2013
18 July 2013
4 and 5 September 2013
29 November 2013

Disciplinary Committee:

Dr. Eu Oy Chu (Chairperson)
Dr. Benjamin Long
Dr. Loh Poey Ling
Dr. Chong Jin Long (Lay Person)

Legal Assessor:

Mr Andy Chiok (M/s. Michael Khoo & Partners)

Counsel for the SDC (M/s. Colin Ng & Partners):

Ms. See Tow Soo Ling
Mr. Edwin Chia

Counsel for the Respondent (M/s MyintSoe & Selvaraj):

Dr. Myint Soe
Ms. Indulekshmi Rajeswari

DECISION OF THE DISCIPLINARY COMMITTEE

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

1. This inquiry arose out of a complaint dated 29 December 2010 by a patient, (the "Complainant") in respect of a treatment at the Respondent's clinic on 20 October 2009. The Respondent Dr. Sng Wee Hock is a dentist who practices under the name of "WH Dental Surgeons". There are 2 clinics operated by the Respondent, one in Punggol and the other at Hougang.
2. The SDC's Complaints Committee made various findings against the Respondent, which then led to 4 charges being framed against the Respondent. On 12 August 2013, after hearing counsel for the SDC and the Respondent, we ordered that there be no further proceedings in respect of 3 of the 4 charges. The inquiry continued in respect of the remaining charge, as amended by the SDC.
3. The relevant facts are:

- (1) The Complainant attended at the Respondent's clinic in the night of 20 October 2009 with a toothache. It is undisputed that she only saw the Respondent late, and left the clinic about midnight.
- (2) The Respondent's evidence was that his mother, Madam B was there at the clinic that night. She was collecting payments and supervising the staff.
- (3) When the Complainant was seen by the Respondent, her tooth number 36 required an extraction. It is not disputed that the issue of payment via claims against the Complainant's Medisave Account was discussed. The Complainant's case is that she was told by the Respondent that the cost of the dental implant is 100% claimable. On the other hand, the Respondent's version is that he only told her that surgical procedures could be claimed. His case is that she knew that the cost of the implant alone was \$3,000 to \$4,000, excluding other procedures like extraction. As it would be seen below, he also relied on a consent form containing certain terms.
- (4) The Respondent also claimed that after explaining treatment options, the Complainant opted for the placement of an implant, and that he carried out a surgical extraction of the tooth, an incision and drainage, and the placing of bone graft material.
- (5) The Complainant left the treatment after signing various forms and paid \$300 (by NETS payment) and \$90 through cash payment for the medicine and X-rays. The documents signed by the Complainant included a "Dental Implant Consent" form, which is relied upon by the Respondent in these proceedings.
- (6) According to the Complainant, after that her consultations with the Respondent, she checked online and found that \$2,450 was deducted from her Medisave Account. She also received a letter from the CPF Board informing her of the deduction. The Complainant's evidence is that she then called the CPF Board which advised her to consult the Respondent's clinic.

- (7) The Complainant called the Respondent's clinic and was told that there was an implant inserted. The Respondent's case is that this was not told; and that she was merely told that the first stage of the implant procedure was completed.
- (8) It is an agreed fact that in respect of dental implants procedure, the maximum amount that could be claimed from a patient's Medisave, including the cost of materials, is \$1,250. An additional \$950 could be claimed for bone grafting procedure.
- (9) On 24 April 2010, the Complainant consulted another dentist Dr. A. At her second consultation with him on 23 May 2010, an X-ray was carried out by him and no implant was seen.
- (10) The Complainant subsequently had an implant inserted by Dr. A.
- (11) On 29 December 2010, the Complainant lodged a complaint with the SDC.
- (12) We would add that it was undisputed that the Respondent's mother, Madam B had tried to meet the Complainant to try and settle the matter.

The Charge

4. The sole charge against the Respondent is:

"That on the 20th day of October 2009, at or about 10.30 p.m., you did, represent to the Complainant that the cost of the entire dental implant procedures is fully claimable from her Medisave Account with the Central Provident Fund Board where this representation is not true, and you are guilty of professional misconduct within the meaning of Section 40(1)(d) of the Dental Registration Act (Cap. 76, 2009 Rev. Ed.)."

5. The Respondent's case is that there was no such misrepresentation, and that he had explained to the Complainant the treatment options and she had elected for an implant to replace the tooth to be extracted.

Preliminary objections by the Respondent

6. As stated above, the Respondent took objections to the charges first framed against him. When the parties submitted written submissions, he raised objections to the only charge against the Respondent. There are 2 objections:
 - (1) The word "*fully*" cannot be used to replace the Complainant's own term "*100%*" when the Respondent had allegedly represented to the Complainant that her Medisave monies could be used.
 - (2) Secondly, that the charge had widened the allegation of misconduct to the cost of the "entire dental procedures" when the complaint only dealt with the cost of an "implant".
7. On the first point, we had previously determined that there is no substantial or discernible difference between these two terms. Even if the word "*fully*" is used, the Respondent would be aware of the thrust of this charge that he has to defend against.
8. On the second point, the question is what the Complainant had intended by the word "implant" when she had written that "*He also said that the cost of the implant is 100% claimable from my Medisave*" in her complaint to the SDC. The Respondent's case is that the term has a narrow meaning and does not include other treatments like the extraction or the incision and drainage that he carried out.
9. In the course of the examination of the Complainant, when asked whether the Respondent had explained what a dental implant entailed, she testified that to her, there were 3 stages: (1) the extraction, (2) insertion of the metal implant and (3) crown and that the Respondent also explained that what he did on 20 October

2009 was the “first stage” of the implant treatment. During the inquiry, the Complainant was also asked questions by the Respondent’s counsel on his narrower meaning of the word “implant”. Given this evidence, we do not think that there was any expansion in the charge of the matter raised in the complaint since the Complainant had intended the term “implant” to include the entire procedure of the implant treatment.

10. Finally, we had also noted that the Complaints Committee had on 12 July 2011 written to the Respondent to ask him that the Complainant had claimed that he had informed her “*the cost of the implant procedure would be 100% claimable by medisave*”, to which the Respondent replied that he did not.

The discontinued charges

11. During the inquiry, counsel for the SDC examined the Respondent in connection with whether he had in fact performed the incision and drainage, bone-grafting and surgical extraction procedures (as opposed to a normal extraction). The purpose of the examination is to show that the Respondent had not done these procedures, and, by making various claims from the Complainant’s Medisave Account, was able to raise sufficient monies which would then be used to pay for the dental implant procedure without the Complainant making payment by cash.
12. Counsel for the Respondent took objections in his submissions. He contended that these areas involved the subject matter of the 3 charges that were discontinued and hence are irrelevant. His position is that these are irrelevant matters which went beyond the boundaries of the only charge in this case and ought to be disregarded by this tribunal. In any event, the Respondent’s contention is that there is some evidence that these procedures were carried out.
13. We are mindful that the matters set out in the 3 discontinued charges are no longer in issue and are not relevant to this inquiry. To us, while the argument presented by the SDC explains how the Respondent could possibly carry out the alleged misrepresentation made to the Complainant without the need for her to pay any more cash payment, these aspects of the evidence are not essential

components of the charge in this inquiry. The main issue in this case is whether the Respondent had misrepresented to the Complainant that the cost of the dental implant procedure could be paid from her Medisave account when that is untrue. It is a narrow issue.

The Complainant's evidence

14. The Complainant's evidence was that she was told by the Respondent that the cost of the implant procedure would be "100% claimable" from her Medisave. This was what was told to her by the Respondent in the treatment room. The Complainant testified that the cost of treatment was "estimated" by the Respondent to be about \$4,000.
15. When she left the clinic that night, she had in her mind that the Respondent had started on a dental implant procedure. There was no mention to her by the Respondent that he had performed an incision and drainage, or a surgical extraction or bone grafting. Neither was there any mention to her of the separate cost of the performed procedures. She was under the impression that the extraction was a conventional non-surgical extraction and part of the dental implant procedure.
16. The Complainant's evidence is that she was under the impression that a metal implant had been inserted by the Respondent. The Complainant's evidence was that when she subsequently contacted the Respondent's clinic seeking the breakdown for the amount deducted from her Medisave Account, she was told that the "metal piece" had been inserted. It was only after Dr. A had carried out an X-ray some 7 months later in May 2010 that the Complainant was satisfied that there was no implant.
17. The Respondent contended that the Complainant was not concerned with the cost of the implant procedure as she had claimed. This line of reasoning was adopted to rebut the Complainant's version of the facts that she was concerned with cost, and hence the representation that the cost of the implant was fully claimable from her Medisave account was attractive to her. The submission was made by the

Respondent against this was that she was “*happy to pay Dr A an additional \$4,500/- for the implant done with him, and did not blink when substantial sums were demanded for the unclaimable part of the implant procedures.*”, and that this proves that she was not concerned with the cost of treatment, contrary to her assertion during the inquiry.

18. Our view is that the gist of the Complainant’s unhappiness with the Respondent contained in her complaint was her concern that she had an unnecessary irreversible extraction performed, such that the Respondent would profit by it. Collateral to that is the allegation by the Complainant that the Respondent had made the misrepresentation as charged. Our view is that whether the Complainant was actually swayed by the misrepresentation to do the implant is irrelevant (even it was her evidence that she could not afford it if it was not deductible from her Medisave). Once the untrue representation is made by the Respondent, then the misconduct would have been made out. In any case, and for completeness, the Complainant gave evidence that when she paid Dr. A, it was by way of credit card instalments, that helped explained how the Complainant could afford the fees charged by Dr. A.

Dr. A and his records

19. In his notes taken during the Complainant’s first consultation with him on 24 April 2010, Dr. A had recorded that the Complainant had told him that of her treatment by the Respondent, “*Dentist also said that it can be 100% claimed by medisave*”.
20. There was much debate in the written submissions whether the notes taken by Dr. A in April 2010 could corroborate the Complainant’s testimony. Counsel for the SDC relied on the notes as evidence supporting the Complainant’s version of the facts. To meet that, the Respondent raised the argument that Dr. A’s notes cannot corroborate the Complainant’s version because the contents of the notes emanated from the Complainant, and thus are not independent evidence.
21. The Respondent had in his submissions impressed the need for corroboration of the Complainant’s evidence. In the course of deliberations, the Legal Assessor

had informed us that the legal cases cited by the Respondent were in the context of criminal proceedings relating to sexual offences where the courts would be cautious about accepting the evidence of sexual offences' victims without corroborative evidence. The present case is not such a case, and we had assessed all of the evidence, including the overall credibility of all of the respective witnesses to arrive at our decision.

22. In the case of the notes taken by Dr. A, we are of the view that these notes are evidence of what was said by the Complainant to Dr. A when she consulted him. At the consultation on 24 April 2010, the Complainant sought advice from Dr. A on 2 main matters i.e. (1) whether a root canal treatment could have saved the tooth and (2) could the cost of an implant procedure be 100% claimable from Medisave?¹
23. We note the chronology of the relevant events:

	<u>Date</u>	<u>Event</u>
(1)	20.10.2009	Complainant treated by the Respondent.
(2)	24.4.2010	Complainant's first consultation with Dr. A.
(3)	13.5.2010	Complainant's email to the SDC.
(4)	14.5.2010	Reply by Dr. C, SDC to the Complainant. Also the Complainant's email to Dr. A.
(5)	15.5.2010	Telephone call by Madam B to the Complainant offering to settle the matter (put by Dr. Myint Soe to the Complainant during cross-examination).
(6)	23.5.2010	Complainant's second consultation with Dr. A, X-ray of empty socket of tooth 36 taken and absence of implant noted.
(7)	29.12.2010	Complaint lodged with the SDC.

24. The Respondent submitted that Dr. A's record of what the Complainant told him was not independent since it originated from her. While it is true that Dr. A had

¹ These 2 matters are set out in Dr. A's notes at the Agreed Bundle marked 3AB.

recorded what the Complainant told him, we do not think that no weight should be given to Dr. A's records, as contended by the Respondent. There is no evidence that when the Complainant spoke with Dr. A in April 2010, she had contemplated any complaint against the Respondent (her unhappiness with the Respondent was stated in her email to the SDC a few weeks later and a complaint was lodged in December 2010) or that she had explored with him the matter of raising a complaint. Her evidence was that she did not tell Dr. A about the complaint until she had written to the SDC.

25. More significantly, the main thrusts of the complaint against the Respondent in her subsequent email to the SDC were (1) whether her dental treatment was proper and (2) whether the extraction was done to benefit the Respondent monetarily. If the Complainant had intended to create a self-serving statement by consulting Dr. A, then we would expect to see more details on these aspects, which are absent from Dr. A's notes. In our view, Dr. A's notes are comprehensive, and these notes recorded by Dr. A are reliable accounts of the Complainant's state of mind at that time.
26. The contents of Dr. A's notes are also consistent with the Complainant's evidence that when she called the Respondent's clinic, she was informed that a metal implant had been inserted. The thought that an implant had been placed made a deep impression on the Complainant such that when she consulted Dr. A at the second consultation, she wanted to know whether the implant was placed by the Respondent and requested for an X-ray. We do not think that this was an elaborate fabrication by the Complainant. She had consulted Dr. A and had an X-ray done on 23 May 2010 to verify the existence or non-existence of the implant. She could have expressed this view to Dr. A at her first consultation on 24 April 2010 if the purpose was to concoct, but she did so only at the second consultation. This timing is consistent with the knowledge of the purported implant originating from her communication with Madam B on 15 May 2010. The fact of the communication between the Complainant and Madam B was put by the Respondent's counsel to the Complainant during cross-examination.

27. This evidence of how Dr. A carried out the X-ray in May 2010 is consistent with the state of the Complainant's mind and her version of the facts of how she came under the impression that a metal implant was inserted.
28. In his submissions, the Respondent described Dr. A as a "*very interested witness in favour of the complainant and who had benefitted from the subsequent implant done on the Complainant*"² i.e. that he is not an independent witness. With regard to the notes of Dr. A taken on his first consultation in April 2010 with the Complainant (which is the material portion in connection with the charge), we cannot see how on the face of it Dr. A could be said to have an interest when at that time, the Complainant had yet to decide whether she was to proceed with an implant by him. In the notes Dr. A recorded that she was to "*consider next step*".
29. The Respondent also submitted that the Complainant had in her email to Dr. A called him by his first name, and this shows that they were on friendly terms. We do not think that the Complainant's addressing of Dr. A by his first name demonstrates the alleged lack of independence of Dr. A as a witness. We note that even in her email to the SDC, the Complainant had started her email informally with "Hi" instead of a more formal salutation, even though she was writing to an organisation to lodge what she perceived to be a complaint against the Respondent.
30. Our impression of Dr. A and his notes are that he had been objective and acted properly in not commenting on whether a root canal treatment (or "RCT") by the Respondent would have been a better treatment in October 2009. He could have expressed an adverse view if he had wanted to profit from the Complainant as alleged by the Respondent, but he did not. While Dr. A may have subsequently carried out the implant on the Complainant, that treatment was agreed to by the Complainant and performed only *after* the Complainant had written to the SDC in mid-May 2010 expressing her unhappiness with the Respondent.

The Respondent's evidence

² This submission was made at paragraph 24 of the Respondent's Reply Submissions.

31. The Respondent testified under cross-examination that the implant would have cost about \$3,900 and that it would not include the cost of the extraction of the tooth for which he had made a claim under Medisave for \$950 as well as the surgical incision and drainage procedure. He did not inform the Complainant of this before the treatment. When asked why he did not, the Respondent acknowledged that he should have told her, and that he might have missed out this explanation, and it was a long session that was late into the night. He later conceded that he had forgotten to inform her.
32. Under cross-examination, the Respondent also testified that he may have missed out informing the Complainant of the cost of the surgical incision and drainage which resulted in his claim for \$250 from Medisave. He conceded that the Complainant did not know the cost of this procedure.
33. We are of the view that an integral part of a dentist obtaining patients' consent is to provide them with the cost of the procedures. For certain patients, this may well be the only consideration. It is not acceptable that the Respondent did not tell the Complainant the cost of the surgical incision and drainage as well as the cost of the surgical extraction, especially when he would be making claims against her Medisave Account. This non-disclosure by the Respondent undermines his credibility because apart from the cost of the implant which he claimed he had quoted her to be \$3,500 to \$4,000, these procedures would have added another \$1,200 to the claims against the Complainant's Medisave Account. It is a material fact that any dentist ought to inform the patient.
34. By his own evidence, the Respondent did not inform the Complainant of the cost of both the incision and drainage procedure and the surgical extraction of the tooth. No satisfactory explanation was offered for these lapses, except that the Respondent may have forgotten. These are material non-disclosures to the Complainant, and are factors that this Committee viewed as relevant and adverse to the Respondent's credibility.

35. Further, we find it disconcerting that on the evidence of the Respondent, his mother and the Complainant, apart from the non-disclosures as stated above, the Complainant also did not obtain a breakdown of the deduction of \$2,450 from her Medisave Account from the Respondent's clinic. This was the case even though it is undisputed that the Complainant had contacted the clinic to ask for the breakdown. While Madam B had testified that she had attended to the Complainant's request, neither the Respondent nor Madam B had actually provided the Complainant with the breakdown, when there is no reason not to do so. The failure to provide material disclosures to the Complainant as a patient also undermines the Respondent's credibility. No satisfactory explanation was provided for these material omissions.
36. It was undisputed that the various forms signed by the Complainant were signed after the treatment that night. Apart from the claim form for the claims against the Complainant's Medisave Account, the Complainant also signed a "Dental Implant Consent" form. The Respondent relied on this Dental Implant Consent form³ where it was stated that "*The cost of one dental implant is between \$3,000 to \$4,000 excluding medication, radiograph, removal of tooth/teeth and treatment of any other dental infections and pathology.*" The Respondent's contention in his closing submissions is

"58. Like all of us, he [the Respondent] understood the charge was based on the allegation in the Complaint that he told the complainant that the cost of the implant is 100% claimable from Medisave. The cost of the implant had been indicated to be \$3,900/-, consistent with the Dental Implant Consent form read and signed by the complainant which indicated a range of \$3,500/- to \$4,000/- ..." (words within [] added)

37. The point contended is that the charge that the cost of the entire dental implant procedure is fully claimable from Medisave had caught the Respondent by surprise since he had demarcated the cost of the implant from other procedures like "tooth removal (surgical extraction) and dental infections (incision and

³ The Dental Consent Form is at page 47 of the Agreed Bundle.

drainage) of an abscess.”⁴ Under examination, the Respondent reiterated that he had limited the quote of \$3,000 to \$4,000 to only the cost of the implant.

38. However, this position and evidence is inconsistent with the Respondent’s own case notes, where he had written down that

*“Advised options, patient wants remove + implant 36 = \$3,900
(underlining added)”⁵*

i.e. that notwithstanding the contents of the Dental Implant Consent form, it was discussed with the Complainant that the entire cost of treatment would be within the \$3,000 to \$4,000 range. We had also set out above the Complainant’s explanation of her understanding of the term “implant”, which encompassed the entire implant procedure, including extraction. The notes are consistent with the Complainant’s account of what transpired, than the Respondent’s testimony.

39. We next turn to the deposit of \$300 paid by the Complainant that evening. The Respondent submitted that this undermined the Charge because with this payment of the \$300, the entire cost of the dental implant treatment would not come from the Complainant’s Medisave account, contrary to the charge. We do not agree, because on the evidence, the \$300 was a deposit to be refunded if the dental implant treatment was carried out. It would not have been part of the payment for the procedure if the procedure had been completed by the Respondent. The \$300 was not agreed to be a part-payment of the dental implant treatment by either the Respondent or the Complainant.

The testimony of Madam B

40. The Respondent relied on the testimony of his mother Madam B to support his version of the facts. In his submissions, the Respondent had emphasized that Madam B is “.. a devout Buddhist who has been conferred a Sanskrit name, and

⁴ See paragraph 58 of the Respondent’s Closing Submissions.

⁵ The transcripts of the handwritten notes are at page 7 of the Agreed Bundle.

immersed in the concepts of humility and contentment. She helps in the clinics in addition to her religious activities. ..., presumably to enhance her credibility as a witness.

41. Madam B testified that the Respondent had told the Complainant that Medisave can be used for surgical procedures. Her evidence given to questions by the Respondent's counsel during her evidence-in-chief was that because the door separating the treatment room and the front desk (where she was stationed) was faulty and ajar, she overheard the conversation that the Respondent had with the Complainant:

"MS Look at pg 7, it is what dr sng wrote, a transcript of the notes. When the Complainant was in the room, where would you be?
 B At the counter.
 MS How far would you be from the treatment room?
 B Quite near.
 MS What separates the room from the reception?
 B The sliding door.
 MS What was the condition of the sliding door?
 B It was faulty
 MS So it was slightly open?
 B Yes.
 MS You would be able to hear what's going on?
 B Yes
 MS What did you hear?
 B I heard if the Complainant asking is medisave allowed to be used for implants?
 MS What was the answer?
 B He mentioned surgical removals only
 MS Surgical removals or procedures?
 B Procedures."

42. We are unable to accept this testimony for the following reasons:

- (1) The evidence presented was that the way the practice was run was that Madam B would often close the clinic at Punggol, and then make her way to the Hougang clinic to help with the day's takings⁶ and then go home with her son. The Respondent had stated in his submissions that "*She is used to*

⁶ See the Respondent's Reply Submissions at paragraph 64 where she was described as the "keeper of the purse".

staying up to midnight several times a month at that clinic.” Madam B herself said that she closes the accounts for both the Punggol and Hougang clinics every day, and the clinic closes at midnight “*quite often*”⁷.

- (2) When Madam B testified at this inquiry, it was already more than 3½ years after that event.
- (3) Given the above facts, the Complainant’s session with the Respondent (out of the many patients that would have attended at the clinic over the years) would not have been an out of the ordinary event that would warrant recollection by Madam B. However, in her examination led by the Respondent’s counsel, Madam B was somehow able to remember specific details of what the Complainant had asked, and the Respondent’s reply. One must bear in mind that Madam B was not testifying to what would have been the Respondent’s usual reply to patients’ queries on Medisave (which would have been more credible and plausible evidence from her), but specific details of a conversation that took place a few years ago with a specific patient in the course of the Respondent’s dental practice.
- (4) Further, since Madam B was there that night for the purpose of closing the accounts and collecting the day’s takings, it is reasonable that at that time she would be attending to her work rather than listening in to a conversation between the Respondent and a patient in an adjoining room. The volunteering of the information by Madam B that the door between the treatment room and the front desk was faulty and ajar appears to be contrived to facilitate her ability to provide such evidence.
- (5) Madam B’s testimony would have been more plausible if somehow she had some aide memoir of what she had remembered, even if this aide memoir was created when the Complainant’s unhappiness surfaced in May 2010. This was not the case.

⁷ See paragraph 69 of the Respondent’s Closing Submissions where this was stated.

- (6) We also note that while Madam B was able to recall this specific portion of the consultation, she could not recall the other aspects of the Complainant's treatment. The Respondent tried to explain⁸ that

“what would be covered by Medisave is a common question by patients and her ears would be tuned to hear such a mundane and usual question. She may not remember any technicalities regarding the various treatments.”

It is precisely that the matter of Medisave is such a “mundane” and “common question” by patients that we cannot accept how of all the patients that the Respondent had attended to (from October 2009 until the date of the inquiry), Madam B was somehow able to remember the exact specific details of what was purportedly said by the Complainant and the Respondent that single evening.

- (7) We would have thought that a better witness would have been the clinic assistant who had assisted the Respondent with the treatment. However, she had already left his employment and was not available as a witness.
43. In any case, even if we accept that the Respondent had told the Complainant that her Medisave monies could be used for “surgical procedures” (which we do not), this does not mean that no representation could have been made to the Complainant that the cost of her dental implant procedure could entirely come from her Medisave Account. It is noteworthy that when the Complainant was cross-examined by the Respondent's counsel, while it was suggested to her that the Respondent had advised her that surgical procedures are claimable from Medisave, it was never put to her that the Respondent had never represented to her that it was 100% claimable as she had alleged.
44. We had evaluated the evidence, including the answers given by the witnesses under examination, and had also observed the demeanor of the witnesses. We

⁸ This statement is set out at paragraph 69 of the Respondent's Reply Submissions.

find that the Complainant was consistent and firm in her oral testimony. Her answers were firm and unwavering. Where matters were not within her knowledge, she did not speculate and was candid with her ignorance. Contrary to the Respondent's submissions, we do not detect any vindictiveness or animosity on the Complainant's part. On the evidence, when Madam B offered to settle the matter and provide a refund to the Complainant, she refused to settle the matter. We do not interpret this as evidence of any animosity or vindictiveness of the Complainant. On the contrary, we think that she wanted to pursue the matter because, as stated in her email, she wanted the SDC to investigate into what she perceived as a "*possible loophole for dentists to claim from Medisave any amount that they want without any form of control.*"⁹

45. The Complainant's evidence was also supported by Dr. A's notes, which are a credible account of the Complainant's state of mind at the material time.
46. On the other hand, the Respondent's testimony contained inconsistencies, notably on the non-disclosure of material information to the Complainant that affected his credibility. He was reluctant to admit that he did not explain to the Complainant the cost of the procedures but did so finally, and his evasiveness is a relevant factor. The Respondent's version of the facts, in particular his claim that he had quoted \$3,000 to \$4,000 which excludes the cost of extraction, is also inconsistent with his own dental notes that the cost of the procedure, including the extraction, would cost \$3,900. We find the Complainant to be a more credible witness than the Respondent or Madam B, and we are convinced that, after considering all of the evidence, the Respondent did make the misrepresentation to the Complainant.
47. Finally, we note that the Respondent's counsel had stated in his submissions that he did not address numerous points raised by the SDC during the examination of witnesses because we had stated in a letter dated 26 August 2013 that we intend to complete the hearing in 2 days given that 3 of the 4 charges would be discontinued. The Respondent and his counsel now submitted that they would have taken more time to cross-examine the Complainant but "*it was a luxury*

⁹ This is stated at page 69 of the Agreed Bundle.

*which [they] could not afford*¹⁰. We do not appreciate this submission when during the hearing of this inquiry, we did not hasten or limit the examination of any witness by either counsel and had given them free rein. We would add that in our letter to both counsel, we had in fact stated that the “*third day to be held in reserve for any unforeseen contingency.*” If needed, the Respondent would have been accorded more time to examine the witnesses. No such request was made.

48. Based on all of the evidence presented during the inquiry, we are satisfied that the Respondent had indeed made the representation to the Complainant that the entire cost of the dental implant procedure could be paid from her Medisave account. We are of the view that this misrepresentation amounted to professional misconduct (as opposed to mere conduct that brings disrepute to the profession) because the misrepresentation made is likely to have an impact on a patient's decision to undergo the treatment. This is one factor that underpins the concept of informed consent, which is a serious matter.
49. The Respondent is found guilty of the charge in this inquiry, and we called for his counsel to address us in mitigation.

Sentencing and costs

50. In the course of addressing this tribunal in mitigation, counsel for the Respondent brought the following matters to our attention:
- (1) There was no financial loss suffered by the patient, as the Medisave audit committee had disallowed a portion of the monies paid by her. By the Dental Implant consent form signed by the patient, she would have to, in any case, pay the difference of any amount that was not allowed to be deducted from her Medisave Account.
 - (2) Counsel for the Respondent also highlighted that he had a hard journey to becoming a dentist, and is from a humble background.

¹⁰ See paragraph 85 of the Respondent's Reply Submissions.

- (3) Various testimonials in respect of the Respondent's character and his positive effect on various people, were tendered on his behalf. These included testimonials by his staff, patients and professional colleagues on his positive attitude.
- (4) In mitigation, counsel also highlighted that the Respondent and his wife had difficulty conceiving a child, and the adverse effect of these proceedings on them. Through the testimonial of his wife, the point was made of the Respondent's positive character.
- (5) Counsel urged us to take into account the adverse publicity that the conviction would bring to the Respondent, as a mitigating factor.
- (6) Finally, counsel cited certain cases involving misconduct of failure to obtain consent where fines were imposed.

51. On the other hand, counsel for the SDC contended:

- (1) The misrepresentation was made with a view to induce the patient to undergo treatment by way of the dental implant procedure. It was not made negligently but intentionally.
- (2) Counsel for the SDC also contended that the misconduct of making a misrepresentation is serious and she invited this tribunal to impose a sentence which suspends the Respondent's registration as a dentist. A precedent was cited to us which involved a medical practitioner who was found guilty of making a false representation to his patient where a sentence of 12 months' suspension was imposed and upheld upon appeal.
- (3) Counsel for the SDC accepts that the degree of harm to the patient in the present case is less than that in the authority cited by her.

- (4) Counsel for the SDC also sought an order that the costs of the inquiry be paid by the Respondent, that the costs be allowed in respect of all of the hearings in this inquiry, and that costs for 2 counsel be allowed.
52. On the matter of an appropriate sentence and award of costs, our views are:
- (1) The misconduct committed by the Respondent is a serious one, because it was a factor that influenced the patient's decision to undergo the procedure. The decision on the patient's choice of treatment i.e. a cheaper or a more extensive and expensive treatment would be affected.
 - (2) A misrepresentation to a patient undermines the trust between a dentist and his patient, and is a serious matter because patients rely on dentists to provide accurate and correct information to enable them to make decisions concerning their treatment. It is also troubling that when the patient requested a breakdown of the Medisave deductions, the Respondent did not provide the breakdown.
 - (3) We also take into account that the misconduct did not involve an issue of patient's safety, as well as the various mitigating factors that were presented. However, we are not impressed by the point that the Respondent's family would suffer as a result of any suspension of his practice, because this is a natural consequence of punishment for his misconduct.
 - (4) Our view is that misconduct involving the misrepresentation by a dentist, especially one involving using Medisave funds as an enticement, ought to be frowned upon, and a deterrent sentence involving suspension is warranted. However, in view of the lack of harm to the patient, the fact that there is only a single charge, and the sentencing precedents cited by counsel for the Respondent, it appears that a sentence involving suspension will be disproportionate. In the circumstances, a heavy fine would be imposed to reflect the seriousness of the case. We would add

that in future cases, the number of charges and the effects of the misrepresentation may well warrant a sentence involving suspension.

- (5) On the issue of the costs of the inquiry, we are of the view that some discount should be given for the fact that for the hearing in respect of the amendments and objections to the initial charges, 3 of the 4 charges were discontinued. However, these charges were discontinued during the hearing of these preliminary issues, which was heard at a half-day hearing. The inquiry in respect of the present charge took 2 full days. We are of the view that a discount of 20% is appropriate taking into account these facts.
- (6) We sought, and were advised by the Legal Assessor that costs for 2 counsel are only granted for complex cases which required more than one counsel to handle the work. We are of the view that the present case did not involve such complexity, and thus did not warrant an order for the costs for 2 counsel to be made. There would be no departure for costs to be awarded on the usual basis.

53. It is our decision that the appropriate sentence for the Respondent is:

- (1) a fine of \$15,000 shall be imposed on the Respondent;
- (2) the Respondent shall be censured;
- (3) that the Respondent shall provide a written undertaking to the SDC that he will not engage in the conduct complained of, or any similar conduct; and
- (4) the Respondent shall pay 80% of the costs and expenses of, and incidental to these proceedings, including the costs of the counsel to the SDC and the Legal Assessor.

54. Pursuant to Regulation 25 of the Dental Registration Regulations, we order that the grounds of our decision be published, for the benefit of the public and to provide a deterrent effect.

55. This hearing is hereby concluded.

Dated this 29th day of November 2013.

Dr Eu Oy Chu

Chairperson, Disciplinary Committee

Dr Benjamin Long

Member, Disciplinary Committee

Dr Loh Poey Ling

Member, Disciplinary Committee