

**SINGAPORE DENTAL COUNCIL DISCIPLINARY INQUIRY AGAINST
(1) DR SHARIFAH NAZILAH SYED TAHA
(2) TAN CHU FEI PATRICIA**

25 and 26 January 2017

Disciplinary Committee:

Dr Loh Fun Chee
Dr Bruce Lee
Ms Margaret Lee
Mr Chua Thian Huat

Legal Assessor:

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

Counsel for the SDC:

Goh JP & Wong LLC
Mr Goh Teck Wee

Counsel for the Respondent:

M/s. MyintSoe & Selvaraj
Mr S Selvaraj / Mr Edward Leong

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 25 March 2015 by one Dr. Chen Fee Yuen, the SDC's Inspecting Officer. The relevant Complaints Committee had referred the matters in the Complaint for formal inquiry.
2. At all material times, the 1st Respondent is a registered dentist, practicing at Pristine Dental Works. The 2nd Respondent is an Oral Health Therapist ("OHT") working at the said practice.
3. The relevant facts are undisputed and set out in the Statement of Facts, which was read out and agreed to by the Respondents. In essence,
 - (1) The 1st Respondent had on multiple occasions on 16, 20, 21 and 28 June 2014 allowed the 2nd Respondent to practice dentistry without the supervision of a registered dentist, as well as act beyond the scope of work statutorily permitted by Section 22(1A) of the Dental Registration Act

(Cap.76) ("DRA") read with Regulation 40A of the Dental Registration Regulations (Cap. 76, Reg 1) ("DRR"); and

- (2) that the 2nd Respondent had on multiple occasions on 16, 20, 21 and 28 June 2014 practiced dentistry without the supervision of a registered dentist whose name appears in the first division of the Register of Dentists, as well as act beyond the scope of work statutorily permitted by Section 22(1A) of the DRA read with Regulation 40A of the DRR.

The Charges against both Respondents

4. The Charges against the 1st Respondent are:

(1) The Amended 1st Charge

“That you, DR SHARIFAH NAZILAH SYED TAHA, a registered dentist under the Dental Registration Act (Cap. 76) are charged that you, on or about 16 June 2014 at around 2.00 pm, did permit one Ms Tan Chu Fei Patricia, a registered Oral Health Therapist, to practice dentistry without the supervision of a registered dentist, to wit, by attending to a patient, examining and making a diagnosis of the complaint, recommending treatment by way of extraction under local anesthesia and administering the said treatment, and that in relation to the facts alleged you are guilty of professional misconduct pursuant to Section 21A(4) and punishable under Section 40 of the Dental Registration Act (Cap. 76).”

(2) The Amended 2nd Charge

That you, DR SHARIFAH NAZILAH SYED TAHA, a registered dentist under the Dental Registration Act (Cap. 76) are charged that you, on or about 20 June 2014 at around 10.23 am, did permit one Ms Tan Chu Fei Patricia, a registered Oral Health Therapist, to practice dentistry without the supervision of a registered dentist, to wit, by attending to a patient, examining the patient, recommending treatment by way of scaling, polishing and fillings and administering the said treatment, and that in relation to the facts alleged

you are guilty of professional misconduct pursuant to Section 21A(4) and punishable under Section 40 of the Dental Registration Act (Cap. 76).”

(3) The Amended 3rd Charge

“That you, DR SHARIFAH NAZILAH SYED TAHA, a registered dentist under the Dental Registration Act (Cap. 76) are charged that you, on or about 21 June 2014 at around 11.30 am, did permit one Ms Tan Chu Fei Patricia , a registered Oral Health Therapist, to practice dentistry without the supervision of a registered dentist, to wit, by attending to a patient, reviewing the treatment conducted on 16 June 2014, recommending restorative treatment by way of fillings, administering the said treatment and rendering advice on dental hygiene, and that in relation to the facts alleged you are guilty of professional misconduct pursuant to Section 21A(4) and punishable under Section 40 of the Dental Registration Act (Cap. 76).”

(4) The Amended 4th Charge

“That you, DR SHARIFAH NAZILAH SYED TAHA, a registered dentist under the Dental Registration Act (Cap. 76) are charged that you, on or about 28 June 2014 at around 2.30 pm, did permit one Ms Tan Chu Fei Patricia, a registered Oral Health Therapist, to practice dentistry without the supervision of a registered dentist, to wit, by attending to a patient, recommending restorative treatment by way of fillings, administering the said treatment and rendering advice on dental hygiene, and that in relation to the facts alleged you are guilty of professional misconduct pursuant to Section 21A(4) and punishable under Section 40 of the Dental Registration Act (Cap. 76).”

(5) The Amended 5th Charge

That you, DR SHARIFAH NAZILAH SYED TAHA, a registered dentist under the Dental Registration Act (Cap. 76) are charged that you, on or about 16 June 2014 at around 2.00 pm, did permit one Ms Tan Chu Fei Patricia, a registered Oral Health Therapist, to practice dentistry beyond the scope of work allowed by Section 22(1A) of the Dental Registration Act (Cap. 76) read with Regulation 40A of the Dental Registration Regulations (Cap. 76, Reg 1), to wit, by performing a dental extraction on a patient above 18 years

of age, and that in relation to the facts alleged you are guilty of an offence pursuant to Section 24(1) of the Dental Registration Act (Cap. 76) read with Section 22(1A) of the Dental Registration Act (Cap. 76) and punishable under Section 28 of the Dental Registration Act (Cap. 76).”

(6) The Amended 6th Charge

That you, DR SHARIFAH NAZILAH SYED TAHA, a registered dentist under the Dental Registration Act (Cap. 76) are charged that you, on or about 20 June 2014 at around 10.23 am, did permit one Ms Tan Chu Fei Patricia, a registered Oral Health Therapist, to practice dentistry beyond the scope of work allowed by Section 22(1A) of the Dental Registration Act (Cap. 76) read with Regulation 40A of the Dental Registration Regulations (Cap. 76, Reg 1), to wit, by performing a filling procedure on a patient above 18 years of age, and that in relation to the facts alleged you are guilty of an offence pursuant to Section 24(1) of the Dental Registration Act (Cap. 76) read with Section 22(1A) of the Dental Registration Act (Cap. 76) and punishable under Section 28 of the Dental Registration Act (Cap. 76).”

(7) The Amended 7th Charge

“That you, DR SHARIFAH NAZILAH SYED TAHA, a registered dentist under the Dental Registration Act (Cap. 76) are charged that you, on or about 21 June 2014 at around 11.30 am, did permit one Ms Tan Chu Fei Patricia, a registered Oral Health Therapist, to practice dentistry beyond the scope of work allowed by Section 22(1A) of the Dental Registration Act (Cap. 76) read with Regulation 40A of the Dental Registration Regulations (Cap. 76, Reg 1), to wit, by performing a filling procedure on a patient above 18 years of age, and that in relation to the facts alleged you are guilty of an offence pursuant to Section 24(1) of the Dental Registration Act (Cap. 76) read with Section 22(1A) of the Dental Registration Act (Cap. 76) and punishable under Section 28 of the Dental Registration Act (Cap. 76).”

(8) The Amended 8th Charge

“That you, DR SHARIFAH NAZILAH SYED TAHA, a registered dentist under the Dental Registration Act (Cap. 76) are charged that you, on or about 28

June 2014 at around 2.30 pm, did permit one Ms Tan Chu Fei Patricia, a registered Oral Health Therapist, to practice dentistry beyond the scope of work allowed by Section 22(IA) of the Dental Registration Act (Cap. 76) read with Regulation 40A of the Dental Registration Regulations (Cap. 76, Reg 1), to wit, by performing a filling procedure on a patient above 18 years of age, and that in relation to the facts alleged you are guilty of an offence pursuant to Section 24(1) of the Dental Registration Act (Cap. 76) read with Section 22(1A) of the Dental Registration Act (Cap. 76) and punishable under Section 28 of the Dental Registration Act (Cap. 76).

5. In respect of the 2nd Respondent, the relevant Charges are:

(1) The Amended 1st Charge

“You, MS TAN CHU FEI PATRICIA, a registered Oral Health Therapist under the Dental Registration Act (Cap. 76) are charged that you, on or about 16 June 2014 at around 2.00 pm, did practice dentistry without the supervision of a registered dentist whose name appears in the first division of the Register of Dentists, to wit, by attending to a patient, examining and making a diagnosis of the complaint, recommending treatment by way of extraction under local anaesthesia and administering the said treatment, and that in relation to the facts alleged you have been guilty of professional misconduct pursuant to Section 21 A(4) and punishable under Section 40 of the Dental Registration Act (Cap. 76).”

(2) The Amended 2nd Charge

“You, MS TAN CHU FEI PATRICIA, a registered Oral Health Therapist under the Dental Registration Act (Cap. 76) are charged that you, on or about 20 June 2014 at around 1 0.23 am, did practice dentistry without the supervision of a registered dentist whose name appears in the first division of the Register of Dentists, to wit, by attending to a patient, examining the patient, recommending treatment by way of scaling, polishing and fillings and administering the said treatment, and that in relation to the facts alleged you have been guilty of professional misconduct pursuant to Section 21 A(4) and punishable under Section 40 of the Dental Registration Act (Cap. 76).”

(3) The Amended 3rd Charge

You, MS TAN CHU FEI PATRICIA, a registered Oral Health Therapist under the Dental Registration Act (Cap. 76) are charged that you, on or about 21 June 2014 at around 11.30 am, did practice dentistry without the supervision of a registered dentist whose name appears in the first division of the Register of Dentists, to wit, by attending to a patient, reviewing the treatment conducted on 16 June 2014, recommending restorative treatment by way of fillings, administering the said treatment and rendering advice on dental hygiene, and that in relation to the facts alleged you have been guilty of professional misconduct pursuant to Section 21A(4) and punishable under Section 40 of the Dental Registration Act (Cap. 76).”

(4) The Amended 4th Charge

“You, MS TAN CHU FEI PATRICIA, a registered Oral Health Therapist under the Dental Registration Act (Cap. 76) are charged that you, on or about 28 June 2014 at around 2.30 pm, did practice dentistry without the supervision of a registered dentist whose name appears in the first division of the Register of Dentists, to wit, by attending to a patient, recommending restorative treatment by way of fillings, administering the said treatment and rendering advice on dental hygiene, and that in relation to the facts alleged you have been guilty of professional misconduct pursuant to Section 21A(4) and punishable under Section 40 of the Dental Registration Act (Cap. 76).”

(5) The Amended 5th Charge

“You, MS TAN CHU FEI PATRICIA, a registered Oral Health Therapist under the Dental Registration Act (Cap. 76) are charged that you, on or about 16 June 2014 at around 2.00 pm, did practice dentistry beyond the scope of work allowed by Section 22(1 A) of the Dental Registration Act (Cap. 76) read with Regulation 40A of the Dental Registration Regulations (Cap. 76, Reg 1), to wit, by performing a dental extraction on a patient above 18 years of age, and that in relation to the facts alleged you have been guilty of an offence pursuant to Section 22(1A) of the Dental Registration Act (Cap.

76) and punishable under Section 28 of the Dental Registration Act (Cap. 76).”

(6) The Amended 6th Charge

“You, MS TAN CHU FEI PATRICIA, a registered Oral Health Therapist under the Dental Registration Act (Cap. 76) are charged that you, on or about 20 June 2014 at around 10.23 am, did practice dentistry beyond the scope of work allowed by Section 22(1A) of the Dental Registration Act (Cap. 76) read with Regulation 40A of the Dental Registration Regulations (Cap. 76, Reg 1), to wit, by performing a filling procedure on a patient above 18 years of age, and that in relation to the facts alleged you have been guilty of an offence pursuant to Section 22(1) of the Dental Registration Act (Cap. 76) and punishable under Section 28 of the Dental Registration Act (Cap. 76).”

(7) The Amended 7th Charge

“You, MS TAN CHU FEI PATRICIA, a registered Oral Health Therapist under the Dental Registration Act (Cap. 76) are charged that you, on or about 21 June 2014 at around 11.30 am, did practice dentistry beyond the scope of work allowed by Section 22(1A) of the Dental Registration Act (Cap. 76) read with Regulation 40A of the Dental Registration Regulations (Cap. 76, Reg 1), to wit, by performing a filling procedure on a patient above 18 years of age, and that in relation to the facts alleged you have been guilty of an offence pursuant to Section 22(l) of the Dental Registration Act (Cap. 76) and punishable under Section 28 of the Dental Registration Act (Cap. 76).”

(8) The Amended 8th Charge

“You, MS TAN CHU FEI PATRICIA, a registered Oral Health Therapist under the Dental Registration Act (Cap. 76) are charged that you, on or about 28 June 2014 at around 2.30 pm, did practice dentistry beyond the scope of work allowed by Section 22(1A) of the Dental Registration Act (Cap. 76) read with Regulation 40A of the Dental Registration Regulations (Cap. 76, Reg 1), to wit, by performing a filling procedure on a patient above

18 years of age, and that in relation to the facts alleged you have been guilty of an offence pursuant to Section 22(1A) the Dental Registration Act (Cap. 76) and punishable under Section 28 of the Dental Registration Act (Cap. 76).”

The inquiry

6. At the hearing of this inquiry, Counsel for the SDC informed this tribunal that the SDC is proceeding with Charges 1, 2, 5 and 6 against each respective Respondent, with the remaining Charges to be taken into consideration for the purpose of sentencing. This was confirmed by Counsel for the Respondents.
7. The relevant 4 Charges 1, 2, 5 and 6 were then read to each of the Respondents, who then pleaded guilty to the said Charges.
8. The pleas of guilt were duly recorded by this Committee, and the Respondents’ Counsel was then called upon to enter their plea in mitigation.
9. In mitigation, the Respondents’ Counsel made various submissions, which were helpfully set out in written pleas of mitigation.
10. Counsel for the SDC then made a short reply, in particular drawing similarities between the case of *Re Dr. Jimmy Yap*¹ which was referred to by Counsel for the Respondents.

Our decision

11. We have spent considerable time deliberating on the appropriate factors relevant to the appropriate sentencing for the misconduct of both Respondents. In the course of the deliberations, we had considered all of the points raised by both Counsel.

¹ The decision can be assessed at <http://www.healthprofessionals.gov.sg/content/dam/hprof/sdc/docs/announcement/20140102%20Singapore%20Dental%20Council%20Press%20Release.pdf>.

The *Re Dr Jimmy Yap* decision

12. In particular, we had considered at length the decision of *Re Dr. Jimmy Yap* which was referred to by Counsel for the Respondents. In that case, the OHT had carried out an X-ray procedure without supervision. After a contested hearing, the dentist concerned, Dr. Yap was convicted of the misconduct of a failure to supervise his OHT. He was fined \$10,000. The OHT, who had pleaded to the charge of carrying out the X-ray procedure without supervision, pleaded guilty without any contest and was sentenced to a suspension of 24 months.
13. With respect, we have much difficulties with the case of *Re Dr. Jimmy Yap* in respect of the following aspects:
 - (1) We note that Dr Yap was punished, in our view, more leniently than the OHT by the imposition of a fine, rather than a period of suspension. Our view is that in such a situation where a failure to supervise an OHT was committed, the misconduct committed by the supervising dentist is of comparable gravity with that of the OHT's.
 - (2) We came to the above conclusion because the onus to supervise, and to implement any system of supervision, falls not on the OHT but also on the dentist concerned. This is all the more so since the dentist was responsible for the implementation of working procedures in the clinic, including any system of monitoring or supervision.
 - (3) The regime of the supervision of OHT is one that is not specifically audited by the Ministry of Health. In this regard, it is akin to an honour system where the compliance with the requirement of supervision is self-policed by the dental industry. The public, who will be exposed to any failing of the system in having unsupervised or unauthorized treatment performed on them by OHTs, are protected from this danger only by self-regulating actions of the dentists and OHTs.

- (4) In Dr Yap's case, this point was highlighted by the following extracts from the decision:

"32. The 1st Respondent [Dr Yap] has argued that the 2nd Respondent, as a professionally governed OHT, should know the rules. While this is true, the 1st Respondent is the registered dentist in charge of the 2nd Respondent with the responsibility to supervise her; and with the responsibility for ensuring that the clinic is run in accordance with the standards of the Dental Registration Act. The 1st Respondent was responsible for ensuring that patients were not treated by an OHT without supervision and that OHTs only carried out treatments prescribed by a registered dentist. Opening the clinic for significant periods of time when there is no registered dentist would be an open invitation to breach section 21 A(4).

33. If OHTs are permitted to treat patients without supervision, there is a grave risk to patients. Treatment permitted to be carried out by an OHT would be, in a number of cases, invasive and irreversible. It is therefore imperative that such treatment only be carried out under the supervision of the registered dentist, after examination and diagnosis by the registered dentist."

- (5) It follows that where such misconduct of non-supervision of an OHT had been committed, the supervising dentist concerned ought to be meted comparable punishment with the OHT.
- (6) However, notwithstanding the above, and coupled with the fact that unlike his OHT (who pleaded guilty and in our view had exhibited remorse), Dr. Yap contested the charge and was convicted of the misconduct, he was only fined \$10,000. In contrast, his OHT was suspended for a lengthy 24 months.
- (7) Finally, while we agree that the appropriate punishment for an OHT who had committed such misconduct will entail a period of suspension, we are of the view that the 24-month period imposed against the OHT in *Re Dr Jimmy Yap*

was unduly harsh. We come to this conclusion because Dr. Jimmy Yap, the supervising dentist was only punished with a fine. Secondly, and to put it in context, the maximum possible period of suspension under the Act was 36 months. The OHT was sentenced to 24 months.

14. For the above reason, while we had been advised by the learned Legal Assessor on the desirability of consistency in sentencing, we are compelled to depart from the sentences imposed in the *Re Dr Jimmy Yap*. We are of the view that it is better that we do so, than to build upon on what we see as a poor precedent for sentencing tariffs.

Our views on the appropriate factors affecting sentencing

15. We now turn to the factors that affected the sentencing in respect of the Respondents in the present case. They are:
 - (1) As we had stated above, we are of the view that the sentence of the 1st Respondent, as the supervising dentist, should be comparable with that of the 2nd Respondent's. This is to reflect the responsibility placed on dentists in supervising OHTs, since the dentists are responsible for the work environment and for implementing any system of supervision or monitoring of OHTs. We appreciate that dentists, as opposed to OHTs, have relatively greater control over this aspect of the OHTs' employment. We also note that unlike dentists, OHTs may not benefit financially to the same extent as dentists from the OHTs' work.
 - (2) We are of the view that the appropriate punishment in misconduct involving non-supervision of OHTs must necessarily involve a period of suspension. This is consistent with the importance of the duty and obligation of supervision of OHTs in the dental industry. To repeat, the regime of supervision is necessary for the protection of the public in respect of the work and treatment carried out by OHTs.

- (3) The supervision of OHTs is also important because any failure to do so is hard to detect; short of any third party audit or a complaint by patients. Patients are also likely ignorant of the supervising requirements / treatment limitations placed on OHTs and is poorly placed to detect them. In the present case, it was a CHAS audit that uncovered the misconduct.
- (4) Given the importance of supervision and monitoring, we are of the view that the imposition of a mere fine is insufficient to impress on the dental profession the consequences of any breach of the duty and obligation to supervise OHTs. There must be a deterrent effect to the dental profession such that dentists take seriously the duty and obligation of supervision of OHTs, since it involves the protection of the public.
- (5) We are also mindful that unlike the OHT in *Re Dr Jimmy Yap*, the 2nd Respondent here had carried out work and treatment that are beyond the scope of the work that she was supposed to carry out, as stipulated under the Act. In particular, the 2nd Respondent had carried out extraction of permanent teeth which is an invasive procedure. This justifies a greater punishment for her, to commensurate with her greater culpability in carrying out work beyond her scope, compared with the 1st Respondent's lesser role of a mere omission to supervise. We want to make it clear that had the 1st Respondent as the dentist been more active or deliberate in procuring the breaches, we would have no hesitation to a longer period of suspension for her.
- (6) We will also state that it is clear to this Committee that based on the facts, and from the answers provided by the Respondents to questions posed by the members of the Committee, the 1st Respondent did not have in place at her clinics any system for the supervision of the 2nd Respondent, or any system for the monitoring of the 2nd Respondent's work. Were it not for the CHAS audit, the misconduct would not have been detected.
- (7) In respect of mitigating factors, in the case of the 1st Respondent, we accept that she had demonstrated remorse and had, upon discovery of the

infractions, implemented a system of checks to ensure that the misconduct will not be repeated. We are also impressed with the fact that she had sold off her Jurong clinic so as to have better supervision over a smaller business operation.

- (8) We are also impressed by the 1st Respondent's contemporaneous evidence of public service, which is commendable. Equally, except for the misconduct in question, the 2nd Respondent appeared to be a dedicated OHT and had good referrals from her patients.
- (9) We are also mindful of the fact that in the present case, there was no harm caused to the 2 patients. This was largely due to the competence of the 2nd Respondent. We did not discount the fact that when the offences were uncovered, the 1st Respondent had on her own volition reviewed the affected patients.
- (10) Finally, both Respondents are first time offenders, and had readily cooperated with the authorities in respect of these proceedings. The Respondents pleaded guilty to the 4 Charges, saving time and costs in the prosecution of the Charges.
- (11) We had taken into account the above mitigating factors where relevant and had built in the appropriate reductions in respect of the suspension and fines to be imposed. The higher amount of fine imposed against the 1st Respondent and the imposition of costs of these proceedings against her reflects the greater culpability of her as employer, and her failure to implement any system of supervision of the 2nd Respondent.
- (12) We had also taken into account the facts in respect of the 4 other Charges 3, 4, 7, and 8.
- (13) In respect of the 1st Respondent's fines, we are of the view that the appropriate tariff is in the region of \$8,000 upwards per charge, but taking into account the number of charges, and the mitigating circumstances, we

are prepared to reduce it to \$5,000 per charge so that she is fined a total of \$20,000.

- (14) In respect of the 2nd Respondent's fines, we are of the view that the appropriate tariff is in the region of \$5,000 per charge, but taking into account the number of charges, we are prepared to reduce it to \$2,000 per charge so that she is fined a total of \$8,000.
16. Finally, we were advised on the sentencing principles involving the imposition of concurrent and consecutive periods of suspension. We are of the view that given the close proximity of the incidences, and in particular taking into account the cumulative effect of the punishment, the periods of suspension for each respective Charge are to run concurrently. For the avoidance of doubt, the sentencing in respect of similar misconduct in the future may be dealt with differently, depending on its facts.

The sentences imposed

17. In light of all of the circumstances, and after due consideration of the facts and factors in this case, this Committee determines as follows:
- (1) that the registration of the 1st Respondent in the Register of Dentists shall be suspended for 3 months, i.e. 3 months in respect of each of the 4 Charges 1, 2, 5 and 6, to run concurrently,
 - (2) that the 1st Respondent shall be fined the amount of \$20,000, being the sum of \$5,000 in respect of each of the 4 Charges 1, 2, 5 and 6. In default of payment of this fine, a period of 4 months for the suspension of the registration of the 1st Respondent in the Register of Dentists shall run consecutively to the period of suspension already imposed,
 - (3) that the registration of the 2nd Respondent in the Register of Oral Health Therapists shall be suspended for 6 months, i.e. 6 months in respect of each of the 4 Charges 1, 2, 5 and 6, to run concurrently,

- (4) that the 2nd Respondent shall be fined the amount of \$8,000, being the sum of \$2,000 in respect of each of the 4 Charges 1, 2, 5 and 6. In default of payment of this fine, a period of 3 months for the suspension of the registration of the 2nd Respondent in the Register of Oral Health Therapists shall run consecutively to the period of suspension already imposed,
 - (5) that both Respondents shall give a written undertaking to the SDC that they will not engage in the conduct complained of or any similar conduct;
 - (6) both Respondents shall be censured; and
 - (7) that the 1st Respondent shall pay the costs and expenses of and incidental to these proceedings, including the costs of counsel to the SDC and the Legal Assessor, and such reasonable expenses are as necessary for the conduct of these proceedings, to be taxed if not agreed.
18. 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 raise the standard of the dental profession. Members of the dental profession must take heed of the seriousness in any failure to adequately supervise OHTs in their employment.
19. This hearing is hereby concluded.

Dated this 26th day of January 2017.

Dr Loh Fun Chee
Chairperson, Disciplinary Committee

Ms Margaret Lee
Member, Disciplinary Committee

Dr Bruce Lee
Member, Disciplinary Committee