

**SINGAPORE DENTAL COUNCIL
DISCIPLINARY INQUIRY AGAINST DR CHUA CHEW KIAT SIMON JUDE
("THE RESPONDENT")
DC 2016/01**

Disciplinary Committee

Dr Long Benjamin Charles
Dr Soh Yi-Wei George
Dr Rajendram Sivagnanam
A/Prof Audrey Chia

Legal Assessor

Mr Liow Wang Wu, Joseph

Prosecution Counsel – Colin Ng & Partners LLP

Mr Chia Shengyou, Edwin
Ms Leo Zhi Wei

Respondent's Counsel – MyintSoe & Selvaraj

Mr S Selvaraj
Mr Leong Hoy Kok, Edward

DECISION OF THE DISCIPLINARY COMMITTEE

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

The Inquiry and Charge

1. This Disciplinary Committee was constituted after the Complaints Committee had deliberated over a complaint lodged by a patient ("**the Complainant**") with the Singapore Dental Council on or about 15 September 2015. The Complaint was made against the Respondent, Dr Chua Chew Kiat Simon Jude ("**the Respondent**").

2. Consequent to the findings of the Complaints Committee, disciplinary proceedings were commenced against the Respondent. A Notice of Inquiry was issued on 7 August 2017 by which the Respondent was charged as follows:-

That you, Dr Chua Chew Kiat Simon Jude, a registered dentist (DCR Number D22070A) practicing at "Advanced Dental Surgery Pte Ltd" during the period from 3 June 2014 to 21 May 2015, recommended and administer an orthodontic treatment plan for a patient ("**the Complainant**"), when you knew or ought to have known that you did not possess the appropriate knowledge, skill or required experience to do so, and should have referred

the Complainant to another dentist with the necessary expertise, and are thereby in breach of Article 4.1.1.6 of the Singapore Dental Council's Ethical Code and Guidelines ("ECG").

Particulars

- (a) Clause 4.1.1.6 of the ECG provides, amongst other things, that (i) the needs of the patient are the overriding concern and a dentist should practise within the limits of his own competence in managing a patient, (ii) where the dentist believes that the patient's condition or the treatment required is beyond his competence, the patient should be referred to another dentist, medical practitioner or specialist with the necessary expertise , and (iii) a dentist shall not persist in unsupervised practise of any dental procedure or treatment modality without having the appropriate knowledge, skill or required experience.
- (b) You first met with the Complainant at your clinic (which was then located at Block 484 Tampines Street 43 #01-224 Singapore 520484) (the "Clinic") on 3 June 2014.
- (c) On or about 26 June 2014, you examined the Complainant at your Clinic and according to your treatment notes, you proposed three possible orthodontic treatment plans to the Complainant, namely, (i) non-extraction of tooth with interproximal reduction, expansion and extraction of tooth at #63, to move transposed tooth at #23 across the tooth at #24, and to keep in view the possible recession of the tooth at #23; (ii) extraction of the teeth at #44, #34, #14, and #24 or #23; and (iii) orthognathic surgery and braces.
- (d) The Complainant proceeded with option (c)(i), ie non-extraction of tooth with interproximal reduction, expansion and extraction of tooth at #63, to move transposed tooth at #23 across the tooth at #24, and to keep in view the possible recession of the tooth at #23.

- (e) The option in (c)(i) should not have been offered to the Complainant because, amongst other reasons, (i) there was a high risk of gum recession for the tooth at #23 in moving transposed tooth at #23 across the tooth at #24, (ii) there was already insufficient space and/or overcrowding in the upper arch, and orthodontic treatment without any extraction of tooth would cause the Complainant's existing protrusion of the teeth to be more pronounced and/or would result in the worsening of the Complainant's overbite and/or overjet.

and that in relation to the facts alleged, you are guilty of professional misconduct within the meaning of Section 40(1)(d) of the Dental Registration Act (Cap. 76, 2009 Rev. Ed.).

Respondent Pleads Guilty

3. It is not in dispute that the Respondent informed the prosecution that he was prepared to take a certain course of action on 26 September 2017.
4. The Respondent pleaded guilty to the aforesaid charge after the charge was read to him. The Disciplinary Committee confirmed with the Respondent that he understood the charge and that the Disciplinary Committee had the power to mete out any of the punishments as provided for in section 40(2)(a) to (g) of the Dental Registration Act ("**the Act**").

Submissions by Respondent's Counsel – Mitigation

5. The Respondent graduated from the National University of Singapore in 2009 and started his career in the government service where he appeared to rise through the ranks. He was made the Deputy Head, Dental Office in Charge of the National Healthcare Group Polyclinics, Ang Mo Kio Dental Clinic. He entered into the private practice in October 2012.
6. The Respondent's counsel submitted that there was a timely plea of guilt and that the plea of guilt had saved much time and resources of all parties involved. It was also suggested that the harm occasioned to the Complainant was limited and that it was capable of being rectified. The Respondent asserted that he had advised the Complainant to come for regular review

sessions, that the Complainant did not do so and as such, in the absence of a timely review, the Respondent was not able to detect the occurring complication, execute the requisite intervention and to proceed with the extraction plan contemplated earlier.

7. The Respondent has undertaken to be more careful and to work with his orthodontist course instructor more closely as well as with a specialist, one Dr Eugene Wee. According to the Respondent, he has referred complex cases to Dr Eugene Wee for management since 13 June 2016.
8. The Respondent had no prior antecedents. He had a clean record prior to this incident. He offered his personal circumstances, relating to his upbringing, his family financial commitments and sought to persuade this Committee to be sympathetic to such circumstances. The Respondent asserted that a suspension from dental practice would cause his dependents a great deal of hardship.
9. Numerous testimonials which the Respondent received from his peers, staff and patients were presented. The Respondent highlighted all his voluntary work to the local and international community as well as his research efforts. He also demonstrated that he was committed to continued dental education.
10. Counsel for the Respondent sought to persuade this Committee that a punishment of suspension would be too harsh on the Respondent. Counsel, in particular, sought to persuade the Committee to consider exercising its discretion to apply anonymity to the identity of Dr Chua on the basis that the publication of his professional misconduct would severely taint this young dentist's remaining years in the profession.

Submissions by Prosecution Counsel of Sentence

11. Prosecution, on the other hand, sought for the Respondent to be suspended. Counsel for the prosecution sought to persuade the Committee that an appropriate period of suspension would be at least 3 months.
12. On behalf of the prosecution, it was also contended that, quite apart from the punishment of suspension, the Committee should also make the following orders:-
 - (a) that the Respondent be censured;

- (b) that the Respondent to provide a written undertaking to the effect that he will not engage in the conduct complained of, or any similar conduct; and
 - (c) the Respondent be made to pay the full costs and expenses of, and incidental to these proceedings, including the costs of counsel to the Singapore Dental Council and the Legal Assessor.
13. In support of its position, particularly as to why the Respondent should suffer the punishment of suspension, counsel for the prosecution argued that the general principles in sentencing in medical and dental disciplinary procedures are those as were expounded in *Ang Peng Tiam v Singapore Medical Council and another matter [2017] SGHC 143*. That case, states at para [89], that *“the overarching consideration in sentencing is that the sentence imposed must be fair and just in the light of all the circumstances of the case.”* and that the *“sanctions in medical disciplinary proceedings serve two functions: first, to ensure that the offender does not repeat the offence so that the public is protected from the potentially severe outcomes that may arise from the conduct of errant doctors; and second, to uphold the standing of the medical profession. Further in a case like the present, we consider that the sentence may be informed, in particular, by the sentencing objective of general deterrence. The sentence will further be affected by the personal mitigating or aggravating circumstances.”*
14. Counsel for prosecution argued that the respondent’s plea of guilt should have only minimal weight as the facts in this case make it clear that the respondent had little choice but to plead guilty since, in this case, the condition presented by the Complaint for treatment was complex and the Respondent did not have any experience in the treatment he administered. By the Respondent’s own testimony when questioned by the members of the Committee, he had stated that he had only observed such treatment being done before but had never done it himself. Prosecution also submitted that the respondent’s good character and unblemished record would not be relevant as, firstly, a tribunal should not judge the moral worth of a person; secondly, that such considerations have no relevance to the culpability of the respondent or to the harm which he has caused. Thirdly, giving weight to the contributions of a respondent may be unfair because it favours the privileged who are in a better position to make contributions to society because of their station in life, rather than is the case for less privileged offenders.

15. It was additionally argued that the impact of any sentence on the family of a respondent should be disregarded since hardship arising from suspension would be a natural consequence of the punishment for misconduct.
16. Whilst conceding that there is no element of dishonesty, prosecution emphasized that the offence is a serious breach of the ECG and there are negative and painful consequences to the Complainant.

Matters considered for sentencing purposes

17. At the Introduction section of the ECG, it is said that the ECG sets out the minimum standard required of all practitioners in their discharge of their professional duty. Paragraph 4.1.1.6 thus makes it a minimum requirement that where a dentist believes that his patient's condition or treatment required is beyond his competence, the patient should be referred to another dentist with the necessary expertise.
18. It is paramount that a dentist causes his patient no harm. The Disciplinary Committee is of the view that (a) the patient in this case suffered harm, (b) that harm suffered was significant and (c) the breach of the ECG in this case was a serious one given the harm that could and, in this unfortunate case, did result.
19. Subsequent to the treatment administered by the Respondent, the Complainant complained that his condition of crooked teeth had become worse and that he now had an exposed root surface on his upper left permanent canine tooth (at #23) as a result of the treatment; besides experiencing difficulty in eating and chewing, he also suffered bleeding of the gum and sensitivity of the affected tooth. See Agreed Statement of Fact at para [2] and [3].
20. As set out in paragraph 11 and 12 of the Agreed Statement of Fact, It is not disputed that:-
 - a. There was a high risk of gum recession for the tooth at #23 in moving transposed tooth at #23 across the tooth at #24.
 - b. There was already insufficient space and/or overcrowding in the upper arch, orthodontic treatment without any extraction of tooth would cause the Complainant's existing

protrusion of the teeth to be more pronounced and/or would result in the worsening of the Complainant's overbite and/or overjet.

- c. The Complainant's condition when he first visited the Respondent on 3 June 2014, was a complex one.
 - d. The treatment ought to involve extractions of teeth to create the space to correct the problem.
 - e. Further, the attempt to protract #23 forward, across #24, would involve high risk of gingival recession of #23. Moreover, even if this can be carried out, there will still be the problem of whether there is enough space to align #23. In the event that the teeth are straightened after orthodontics treatment without resorting to extraction to create arch space, there will be an obvious protrusion of the teeth.
 - f. Orthodontic treatment was carried out by the Respondent without due consideration to prepare the arch to avoid risk of gingival recession of tooth #23. Early protraction of tooth #23 without sufficient tooth control using an inappropriate archwire made the situation more difficult to manage.
 - g. Given the amount of training that the Respondent had received at the time he performed the orthodontic treatment on the Complainant, and that he had never performed such a treatment before, he should not have attempted to perform the treatment as he did not have the requisite experience and training. While the Respondent might have some basic knowledge to allow him to perform orthodontic treatment for simpler cases, he should have referred the Complainant's case to an orthodontic specialist. An orthodontic specialist would have received requisite training and practical experience, and thereby have the appropriate knowledge, skill and experience to handle the Complainant's case.
 - h. The x-rays of tooth #23 taken on 7 December 2015 indicate that #23 crown has tipped forward while the root was still lagging behind.
21. The Respondent also admitted that he did not offer the Complainant the option of being referred to an orthodontic specialist for treatment. [See paragraph 13 of the Agreed Statement of Facts].

22. The Disciplinary Committee is of the view that the subsequent corrective treatment that would be required as a result of the treatment administered to the Complainant would involve extraction of the affected canine. This is necessary since the tooth was moved out of the bone. Furthermore, it is now necessary to remove a few other teeth to provide a reasonable treatment outcome. There is also a possibility that the patient may require jaw surgery to achieve positive occlusion. As such, we do not agree with the paragraph 15 of the Mitigation Submission where it was said the 'impairment was limited'. The rectification or corrective procedures are not, in our view, easy fixes as counsel for the Respondent suggests. The patient is left worse off than before his treatment started. He has now lost the bone support for the canine and his arch asymmetry had worsened. His anterior reverse bite has also consequently worsened.
23. Given his obvious lack of expertise in the field of orthodontics, we are of the view that there is a need to ensure that interest of the public is protected. The public need to be assured that their dentist who treat them have the necessary competence and experience to render adequate treatment. In this instance, the Respondent had recommended and administered a treatment for a condition which would have had a high degree of complexity. One of the dangers of attempting to provide any particular treatment which is not within one's capability or experience is that it puts your patient at risk. There were other alternatives such as working in consultations with other experts or generally incrementally increasing your knowledge and experience. Given the risk that the respondent may be tempted to attempt any complex treatment beyond his competency after his period of suspension which we will be imposing, we consider that a condition to restrict his orthodontic practice to be necessary. We sincerely hope that during this time of restriction, he will make use of this time to further his orthodontic education and training so as to be better equipped once his period of restriction is over.
24. We cannot accept the Respondent's counsel's submission that only a fine should be imposed. In this case, there was a serious breach of Article 4.1.1.6 of the Singapore Dental Council's Ethical Code and Guidelines. As stated above, the harm caused to the patient was significant. We are also guided by the case of *Singapore Dental Council v Dr Lee Wai Han (decided in 2012)* where the dentist there was given a suspension of 6 months. As such, it is our view that a sentence of suspension is appropriate.

25. There is also a need to deter like-minded persons such as the Respondent from carrying out treatment beyond their competency. This is another reason why suspension, as a punishment, is appropriate.
26. Given that there was a financial benefit to the Respondent as a result of treating the patient for over a period of 1 year, we also considered a financial penalty to be appropriate as well. This would serve to disgorge any financial benefit as well as to deter any repetition of such conduct by the Respondent.
27. We agree with the submission of the prosecution that the mitigating factors presented have little weight. That is not to say that they carried no weight at all; the Committee also considered the fact that there was delay in bringing this matter to its present conclusion. The complaint was made in a Statutory Declaration dated 28 July 2015 which was received by the Singapore Dental Council on 15 September 2015. The Respondent was told of the complaint made against him on 23 September 2015 and was told in writing that if he wished to offer a written explanation, he should provide one by 14 October 2015. The Respondent complied with this deadline and gave his written explanation on 13 October 2015, one day before the deadline. Some 7 months later, on 23 May 2016, the Respondent was then told that a Complaints Committee had considered the complaint and recommended that it be reviewed by a Disciplinary Committee. On 7 August 2017, after a period of over 14 months, the Notice of Inquiry was served giving the respondent notice that he was to attend the meeting of the Disciplinary Committee on 12, 13 and 16 October 2017. In the case of *Ang Peng Tiam*, the Court of three judges held that delay of over 4 years would have caused the respondent great anxiety and distress. The Court was prepared to accept that anxiety and distress from having one's matter delayed was a matter of natural inference (see *Ang Peng Tiam*, para [123]).
28. We are of the view that there was some delay in bringing this prosecution against the Respondent.
29. But for these mitigating factors, our sentence for suspension would have been longer than what we ultimately imposed. We would have adopted the period of 6 months as the period

of suspension; this was the punishment meted out in the case of *SDC v Dr Lee Wai Han*. The facts of that case had much similarities to this present case.

30. With respect to the suggestion by counsel for the prosecution that we censure the respondent, we decline to make any order for a censure given the fact that it would serve no useful purpose when this Committee intends to make an order for suspension. The suspension would clearly indicate to the respondent and to the public at large that his misconduct was unacceptable and it is difficult to see how a censure, typically in form of a warning letter, would have any further useful effect.
31. With regards to the application of the respondent that his name be not made public in the finding that we intend to make, we consider it inappropriate to grant anonymity to the respondent. Any suspension would lose its ability to deter the respondent or any dentist inclined to disregard their professional and ethical obligations if anonymity was granted. It may be argued that future would-be offender may consider it worthwhile taking a risk and deliberately breaching the provisions of the ECG if his professional misconduct is not made a matter of public knowledge.
32. For the aforesaid reasons, we impose the following to be the appropriate sentence:-
 - (1) That the Respondent be suspended for a period of three (3) months;
 - (2) That the Respondent to pay a penalty of \$15,000.00;
 - (3) That the following condition shall be imposed on the practice of the Respondent in that the Respondent shall not be permitted to provide any orthodontic services which shall include, but not limited to, any consultation, treatment planning, treatment procedures, review of any of his completed orthodontic cases, for a period of 24 months commencing from the date of this decision; and
 - (4) That the Respondent bears the costs and expenses of and incidental to these proceedings including the costs of the solicitor for the Council and the legal assessor. These costs, if not agreed, are to be taxed in accordance with the provisions of the Singapore Dental Registration Act.
33. This Disciplinary Committee further hereby orders that the findings of this Disciplinary Committee shall be published.

34. At the request of the Respondent at the conclusion of this hearing, we granted the Respondent's application to have his suspension commence on 21st October 2017.

Dated this 13th day of October 2017.

*Dr Long Benjamin Charles
Chairman*

Dr Soh Yi-Wei George

Dr Rajendram Sivagnanam

*A/Prof Audrey Chia
Lay Person*