

**SINGAPORE DENTAL COUNCIL DISCIPLINARY INQUIRY AGAINST
DR MYLES EDWARD HOLT**

14 and 15 October 2015

Disciplinary Committee:

Dr Go Wee Ser
Ms Margaret Lee Yong Ching
Dr Rajendram Sivagnanam
A/Prof Tay Cho Jui

Legal Assessor:

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

Counsel for the SDC:

Yeo-Leong & Peh LLC
Mr Kenny Chooi
Mr Kelvin Fong

Counsel for the Respondent:

M/s. Allen & Gledhill LLP
Mr Tham Hsu Hsien
Mr Hoh Jian Yong

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 15 July 2014 by the SDC's Inspecting Officer, in respect of a breach of Section 31 of the Dental Registration Act (Cap. 76) by the Respondent.
2. At the material time, the Respondent was a registered dentist, and was also the head trainer and director of the Australasian Academy of Dento-Facial Aesthetics (AADFA), a private education business.
3. The relevant facts are undisputed and set out in the Agreed Statement of Fact. In essence, the Respondent had used a qualification that was not approved by the SDC when he issued a certificate of completion for a course when he conducted in June 2014. The qualification that he had used was "FIADFE (New York)".

4. It is undisputed that this qualification was, and is not approved by the SDC for the Respondent's use.
5. It is also undisputed that previously, by a letter of warning dated 4 September 2013 to the Respondent, the SDC had addressed the non-approval for use of the "FIADFE (New York)" qualification and had informed the Respondent that it required the "... *prompt removal of these qualifications from your correspondence, clinic stationery and signboards with immediate effect or disciplinary proceedings may be initiated.*"

The Charge

6. The Charge against the Respondent is:

"That you Myles Edward Holt are charged that on or about 14 June 2014 in Singapore, you (as a registered dentist) used a qualification other than the qualifications which are entered in the Register of Dentists in respect of you, or which had been approved by the Singapore Dental Council for your use.

Particulars

- (1) You issued a certificate dated 14 June 2014 to a participant at a training course in Singapore referred to as "Module 1: "FREEZE" Fundamental DentoFacial Botulinum Toxin Training for Dentists", signed on the said certificate, and stated your qualifications as being "BDS (Syd.) FIADFE (New York)"
- (2) "FIADFE (New York)" is not a qualification which is entered in the Register of Dentists in respect of you, or which has been approved by the Singapore Dental Council for your use

and that in relation to the facts alleged you have been guilty of improper conduct which brings disrepute to the dental profession, under section 31 (1) read with section 31(4) of the Dental Registration Act (Cap. 76)."

7. For completeness, the relevant portions of Section 31 are:

"31.—(1) A registered dentist or registered oral health therapist shall not use any qualification other than the qualifications which are entered in the Register of Dentists in respect of him, or which have been approved by the Council for his use.

...

(4) Any registered dentist or registered oral health therapist who contravenes subsection (1), (2) or (3) may be subject to disciplinary proceedings under Part V and for the purposes of that Part, such contravention shall be deemed to be an act which brings disrepute to the profession of a registered dentist or registered oral health therapist, as the case may be."

8. The Respondent pleaded guilty to the Charge and his counsel was called upon to enter his plea in mitigation.
9. In mitigation, his Counsel made various submissions, which may be summarised as follows:
- (1) That the Respondent did not falsely assume a title that he did not have in order to intentionally or maliciously mislead patients, nor did he assume a title that does not exist. He claimed that the "FIADFE (New York)" title is a legitimate term that is used by dentists internationally.
 - (2) The Respondent's use of the title in the certificate was in the context of the training courses provided by him in his capacity as head trainer and director of AADFA.
 - (3) The Respondent also claimed that he is a well-respected member of the dental profession. He claimed to have contributed significantly to the field of dento-facial aesthetics, and in particular to the education of his fellow dentists, as well as dental students, in that field.

- (4) The Respondent also submitted that there may be a lack of understanding amongst dentists as to the acceptable usage of non-approved titles.
 - (5) There was in fact no harm done to any patient or misleading impression conveyed to the members of the public in the issuing of the Certificate.
 - (6) The Respondent has recognised that he can take further measures to avoid unapproved uses of the Title in the future, including removing the Title from the certificates issued under his AADFA training courses in Singapore. There will not be a repeat occurrence.
 - (7) The Respondent has pleaded guilty to the charge, saving the Disciplinary Committee time and costs in the prosecution.
 - (8) The Respondent addressed this Committee personally and confirmed that after he received the SDC's letter of warning dated 4 September 2013, he had ceased using the unapproved qualification for his clinical practice, but had overlooked the use of the qualification for the certificate, which was a course that he had conducted arising from his education business in Australia.
10. Counsel for the SDC raised the following points:
- (1) The conduct of the Respondent is a serious one. Counsel pointed out that a breach of Section 31 of the DRA is akin to those misconduct where a dentist had been convicted in Singapore or elsewhere of an offence involving fraud or dishonesty. He relied on the procedure in Section 34(3), where such matters bypassed the Complaints Committee, directly to a formal inquiry by the Disciplinary Committee. The point made is that the bypass procedure is in place for matters which are treated seriously, like where a dentist had been convicted in Singapore or elsewhere of an offence involving fraud or dishonesty.
 - (2) Section 34(3) states:

“34(3) Where a registered dentist or registered oral health therapist has contravened section 31 or 31A, or has been convicted in Singapore or elsewhere of an offence involving fraud or dishonesty, the Council shall, notwithstanding subsection (1) or (2), immediately refer the matter to a Disciplinary Committee under section 37.”

- (3) Counsel for the SDC also tendered certificates which showed that the Respondent had used the unapproved qualification in August 2013 when he conducted similar courses.
- (4) The Counsel for the SDC also made much of the fact the warning letter of 4 September 2013 was sent to the Respondent, and yet he repeated the conduct in June 2014, some 9 months later. This forms the basis for the argument that a serious punishment be imposed.

Our decision

11. Having considered the points raised in mitigation, during deliberations we had considered the following:
 - (1) On the point about Section 34(3) of the DRA, we were advised by the Legal Assessor that he had researched the Parliamentary reports in connection with the DRA and is unable to locate any debate in Parliament which could have shed light on how Section 34(3) came to be enacted. He had also extended the search to similar provisions under the Medical Registration Act which also did not yield any result.
 - (2) Given this, we are unable to accept with certainty that the argument made by Counsel for the SDC. While that argument may have been the reason for the provision, it could equally be intended to expedite the process to avoid a lengthy process involving the Complaints Committee. This may be the case since like convictions, a misconduct under Section 31 is likely to be undisputed given that it can be proven by reference to the list of qualifications approved for use by the SDC.

- (3) Nonetheless, we appreciate that a breach of Section 31 can be a serious one. In our view, the intent of the said section is that the dentists in Singapore can only use the qualifications and titles approved for use by the SDC. The term "use" as defined is very wide and is clearly intended to prevent any inaccurate misrepresentation by the dentist that such qualification or title had been approved when it was not.
- (4) The qualifications and titles acceptable to the SDC are constantly under review and updates are made periodically. The SDC determines what qualifications are acceptable and may be approved and by doing so, maintains standards which are acceptable to the dental profession in Singapore. Further, the regulation of qualifications and titles is important because members of the public and dental professionals rely on and/or are influenced by the qualifications adopted by a dentist to determine his training and expertise.
- (5) Further, persons (whether public or practitioners) may unknowingly think that the unapproved title had in fact been approved by the SDC. This point is supported by the Respondent's own mitigation where he stated that "*...Used in this context, it gives dentists attending these events assurances that the presenters are well versed in the field of dental-facial aesthetics and thus suitably qualified to conduct the courses or speak on the topics in question.*" One unfortunate effect is that reasonably, the course participants or any looking at the issued certificate may conclude that the unapproved qualification had been approved by Section 31.
- (6) Following from the above, the use of any unapproved qualification undermines the scheme of regulation under Section 31, and could potentially misrepresent to any person relying on that qualification that the person possesses that qualification, or alternatively that the said qualification had been approved by the SDC when in fact it is not so approved. This is all the more so serious when the qualification was used in connection with the

conduct of courses for fellow dentists. On this aspect, we agree with Counsel for the SDC that paragraph 4.4.3 of the Ethical Guidelines is relevant:

"4.4.3. Public speaking, broadcasting and publications

All information to fellow dentists or the public must conform to the standards referred to in 4.4.2. This includes information or advice given in the context of education for dentists or the public, in talks, interviews and seminars organized by professional bodies or healthcare institutions, or in articles or columns in professional journals or other publications. Unsolicited information for the public domain must come with the added responsibility not to be persuasive, laudatory or misleading."

Paragraph 4.4.2 in turn stipulates the requisite standard:

"In general dentists may provide information about their qualifications, areas of practice, practice arrangements and contact details. Such information must be factually accurate and capable of being substantiated, and must not be exaggerated, false, misleading or deceptive."

- (7) The Legal Assessor had also, given the argument of the SDC's Counsel that the breach of Section 31 is akin to convictions involving fraud and dishonesty, drawn our attention to the recent decision in *Singapore Medical Council v Kwan Kah Yee* [2015] SGC3J01. In that case, the Court had raised the matter of a heavier punishment in misconduct involving dishonesty, and the need to ascertain the reason for the misconduct in question. In fairness to the Respondent, we had taken into account his explanation that the reason for the use of the unapproved title was his oversight in not removing the title in respect of his education business, although that was done for his clinical practice. Given the lack of evidence on this point, we cannot conclude that the Respondent had been dishonest when he used the unapproved title.

- (8) Counsel for the Respondent also cited the case of *Low Chai Ling v Singapore Medical Council* [2012] SGHC 191 to emphasis the distinction between professional misconduct and conduct that brings disrepute to the profession. However, we are unable to see any principle stated in that case that the latter will invariably attract a lighter sentence. We also note that at paragraph 76 of that decision, the Court had observed that "... *We would add that had a clear cease-and-desist directive by the regulators been served on the applicant, the outcome of the case against her might then justifiably have been different.*" This is relevant to the present case since a warning letter had been sent to the Respondent.
- (9) We are of the view that the Respondent should be more mindful of the use of the unapproved title and the breach of Section 31, given that he had received a warning letter from the SDC. Such letters are usually not taken lightly by practitioners and rightly so. This factor carries considerable weight on the matter of sentencing. For clarity, we state that with regard to the August 2013 certificates, we do not think that these are relevant to the matter of sentencing since they pre-dated the warning letter and the June 2014 certificate.
12. While we are of the view that the breach of Section 31 is a serious one that should attract a punishment involving a period of suspension of his registration, we had also taken into account the fact that the Respondent had pleaded guilty at the onset when the hearing of the inquiry commenced, and this had saved some time in the conduct of the inquiry. We also accept that the Respondent is remorseful and contrite for his misconduct. Finally, we also considered the financial impact of a suspension, as well as the impact of the publicity of these proceedings on the Respondent as a trainer.
13. In light of all the circumstances, after due consideration this Committee determines as follows:
- (1) that the Respondent shall be fined the maximum fine of \$50,000;

- (2) that the Respondent, within 60 days from today, reissues all certificates previously issued by him without the unapproved qualification, and provides the SDC with evidence that such reissued certificates had been sent by post to the participants, together with a covering letter seeking the return of the certificate originally issued;
 - (3) that the Respondent shall give a written undertaking to the SDC that he will not engage in the conduct complained of or any similar conduct; and
 - (4) that the 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.
14. 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.
15. This hearing is hereby concluded.

Dated this 15th day of October 2015.

Dr Go Wee Ser
Chairperson, Disciplinary Committee

Ms Margaret Lee Yong Ching
Member, Disciplinary Committee

Dr Rajendram Sivagnanam
Member, Disciplinary Committee