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PRESS RELEASE DISCIPLINARY COMMITTEE INQUIRY FOR DR PANG AH SAN

1. A Disciplinary Committee (DC) Inquiry (“Inquiry”) was held for Dr Pang Ah San (“Dr Pang”), aged 57 years, a general surgeon practising at Mount Alvernia Hospital at the material time. The Inquiry was heard on 14 to 16 July, 18 July, 4 August, 30 September and 15 October 2014.
2. The Inquiry arose out of a complaint to the Singapore Medical Council (“**SMC**”) made on 29 September 2010 by the Ministry of Health (the “**Complaint**”). The Complaint pertained to Dr Pang having provided treatment – outside the context of a formal and approved clinical trial – to three (3) patients (the “**Patients**”) where such treatment was allegedly not generally accepted by the profession.
3. These treatments concerned the insertion of a “loop” percutaneous endoscopic gastrostomy tube (“**Loop PEG Tube**”) in the Patients (the “**Treatments**”). A Loop PEG Tube is an external feeding device inserted directly into the stomach and used by patients who are unable to swallow.
4. Three charges were preferred against Dr Pang for professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) for the Treatments performed on the Patients (the “**Charges**”). The Charges alleged that:
 - a. Dr Pang had recommended and carried out the insertion of a Loop PEG Tube for the three (3) Patients outside the context of a formal and approved clinical trial;

- b. The Loop PEG Tube was a novel device in that it differed from the normal percutaneous endoscopic gastrostomy tube (“**PEG Tube**”) in terms of design and inserted position and was therefore not a device that was generally accepted by the profession; and
 - c. That Dr Pang was therefore in breach of Clause 4.1.4 of the Ethical Code and Ethical Guidelines (“**ECEG**”) which provides, amongst other things, that a doctor shall not offer to a patient remedies that are not generally accepted by the profession except in the context of a formal and approved clinical trial.
5. Dr Pang claimed trial and, at the conclusion of the Inquiry, was found guilty of all 3 Charges.
6. The DC rejected Dr Pang’s argument that Clause 4.1.4 of the ECEG did not apply to him. The DC found that Clause 4.1.4 of the ECEG, in both letter and spirit, was binding and applicable to all doctors. Specifically, Clause 4.1.4 of the ECEG applied to the Treatments, especially considering that the Treatments are an invasive insertion of a device which involves an unknown and potentially high level of risk. The DC was of the view that Dr Pang’s position was devoid of logic as the very basis of a clinical trial was to provide a safe harbour where not generally accepted treatments could be practised, with oversight and accountability to an ethics committee.
7. The DC also referred to the Court of Three Judges’ Grounds of Decision reported at *Pang Ah San v Singapore Medical Council* [2014] 1 SLR 1094 (“**Pang v SMC**”) where the Court had rejected similar arguments that had been made by Dr Pang.
8. The DC also found that the Treatments were not generally accepted by the medical profession, and were therefore required to have been conducted in the context of a formal and approved clinical trial. In coming to this conclusion, the DC made the following findings:

- a. The Treatments were significantly different from the standard treatment using the PEG Tube in terms of design, methodology and insertion. The Loop PEG Tube was a novel device as there was a potential for rotation of the tube and the necessity of a double stoma also created significant differences, and added new and unknown risks into the equation.
 - b. There was no positive act of acceptance from the medical profession, such as scientific affirmation, in respect of the Treatments. It could not be said that the Treatments were generally accepted by the medical profession. In fact, Dr Pang conceded that the Loop PEG Tube was unique and had never, to his knowledge, been used by another doctor before. In addition, there was no medical literature published on the use of the Loop PEG Tube at the time that Dr Pang performed the Treatments.
 - c. The Treatments were considered research and not therapy. The DC rejected Dr Pang's contention that the Treatments were administered in the best interests of the Patients, and instead, found that Dr Pang had performed the Treatments with a motive to gather data to validate the Loop PEG Tube as a form of treatment. In any event, there was no evidence to suggest that the standard treatment using the PEG Tube was wanting or ineffective.
9. Therefore, the DC concluded that Dr Pang's conduct amounted to professional misconduct as he had intentionally and deliberately breached his ethical obligations as set out in the ECEG. The DC found that Dr Pang knew that the Treatments significantly differed from the standard treatment using the PEG Tube and were not generally accepted by the profession. Further, Dr Pang was well aware of the process necessary to obtain approval for the conduct of a clinical trial to perform the Treatments, but did not obtain such approval.
 10. In sentencing Dr Pang, the DC took into account the following aggravating factors:

- a. Dr Pang's complete lack of remorse for his actions. Dr Pang had already been subject to a prior DC inquiry into his use of the Loop PEG Tube under circumstances similar to those of the Treatments, and was found guilty of the same. Dr Pang appealed the DC's decision, which was subsequently upheld by the High Court. Notwithstanding this, Dr Pang chose to reprise the same arguments that he had raised in the appeal before the DC even though they had previously been unsuccessful twice.
- b. Dr Pang had a commercial interest in performing the Treatments. Shortly before he performed the treatment on the first patient, Dr Pang filed an application for the patent of a device which was, for all intents and purposes, the Loop PEG Tube. Further, Dr Pang's usage of the Loop PEG Tube was never in a life-or-death situation and there was no independent evidence that the standard treatment using the PEG Tube was ineffective.
- c. Dr Pang's offering of the Treatments to the Patients was not necessarily in their best interest. The trust of the Patients, and their families where they provided consent, had been accordingly abused.
- d. The Patients had significantly more lengthy stays in hospital after their procedures when compared with patients who had the standard treatment using the PEG Tube.
- e. It was reckless and highly experimental to use the Loop PEG Tube on the first patient, which was the first ever case where the Loop PEG Tube was used on a patient.
- f. Dr Pang knew at all material times the process necessary to obtain approval for a clinical trial, yet intentionally chose not to adhere to the ethical requirements governing treatments that are not generally accepted. This showed the deliberateness of Dr Pang's misconduct, which was of grave concern.

- g. Notwithstanding that Dr Pang had clear knowledge that his conduct pertaining to the Treatments was under review, he defiantly continued to offer and then perform the Treatments.
 - h. After a formal inquiry had been directed into Dr Pang's conduct *vis-a-vis* the Treatments, Dr Pang published an article which made reference to the use of the Loop PEG Tube on another unnamed patient, indicating his brazen disregard for the disciplinary process and the ECEG.
11. Having considered the submissions tendered and having taken into account all of the circumstances of the case, the DC ordered that Dr Pang:
- a. be suspended from medical practice for a period of **6 months** in total (being a suspension of a period of 3 months for each charge, with the first and second charges to run consecutively and the third charge to run concurrently with the second charge);
 - b. pay a penalty of **S\$10,000**;
 - c. be censured;
 - d. give a written undertaking to the SMC that he will not be engaged or offer any treatment plan or treatment which includes the insertion of the Loop PEG Tube or any variation thereof outside the context of a formal and approved clinical trial unless he obtains a waiver or exemption from the need to obtain such approval to use the same on patients from the appropriate authorities;
 - e. give a written undertaking to the SMC to comply with the provisions of the Ethical Code and Ethical Guidelines, and any future prevailing version of these; and
 - f. pay the full costs and expenses of and incidental to the proceedings, including the full costs of the solicitor to the SMC and the full costs of the Legal Assessor on an indemnity basis.

12. The DC indicated that it ordered costs on an indemnity basis due to Dr Pang's wilful and deliberate wasting of time and costs. The DC was of the view that many of Dr Pang's arguments were doomed to failure in light of the prior DC's decision which was affirmed by the Court of Three Judges, and his temerity in adopting this approach was a callous disregard for the decision in *Pang v SMC* and the disciplinary process as whole.
13. The DC also took into consideration Dr Pang's general attitude towards these proceedings which they found to be insolent and recalcitrant. Dr Pang's letters to counsel for the SMC and some of his submissions contained offensive and objectionable remarks which far exceeded the bounds of propriety, and produced an inordinate amount of additional and unnecessary work for SMC's counsel and introduced an unsavoury tone that was unacceptable and unbecoming the man and the noble profession he served.
14. The DC also ordered that the Grounds of Decision be published.
15. Dr Pang's 6-month suspension took effect from 29 December 2014 and will run to 28 June 2015 (both dates inclusive).

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