

IN THE REPUBLIC OF SINGAPORE

SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL

[2019] SMCDT 1

Between

Singapore Medical Council

And

Dr Chia Kiat Swan

... Respondent

FOUNDATIONS OF DECISION

Administrative Law — Disciplinary Tribunals

Medical Profession and Practice — Professional Conduct — Suspension - Fine

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Singapore Medical Council

v

Dr Chia Kiat Swan

[2019] SMCDT 1

Disciplinary Tribunal — DT Inquiry No. 1 of 2019

Dr Tham Tat Yean (Chairman), Adj A/Prof Lee Cheng and Mr David Lim (Legal Service Officer)

16 January 2019

Administrative Law — Disciplinary Tribunals

Medical Profession and Practice — Professional Conduct — Suspension — Fine

25 March 2019

GROUNDS OF DECISION

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

The Charges against the Respondent

1. In this case, Dr Chia Kiat Swan (“the Respondent”) faced 12 charges (including five (5) amended charges) under section 53(1)(d) of the Medical Registration Act (Cap. 174) (“the Act”) arising from his breaches of Guidelines 4.1.1.6, 4.1.2 and 4.1.3 of the 2002 edition of the Singapore Medical Council’s Ethical Code and Ethical Guidelines (“2002 ECEG”). The charges are set out in Annex A of the Grounds of Decision.

The Respondent’s plea

2. At the inquiry before the Disciplinary Tribunal (“DT”) on 16 January 2019, the Respondent —

- (a) pleaded guilty without reservation to the following eight (8) charges:
- (i) the 1st, Amended 4th, Amended 7th and Amended 10th Charges — of inappropriately prescribing benzodiazepines (i.e. Dormicum, Valium and/or Librax respectively) to his patients, in breach of Guideline 4.1.3 of the 2002 ECEG;
 - (ii) the 2nd, 5th and 11th Charges — of failing to keep medical records of sufficient detail of his patients’ history, examination(s), diagnosis, symptoms and/or advice, in breach of Guideline 4.1.2 of the 2002 ECEG; and
 - (ii) the 3rd Charge — of failing to refer a patient to a psychiatrist or medical specialist with the necessary expertise for the further management of the patient’s sleep problem(s) and/or the patient’s need for benzodiazepine medication, in breach of Guideline 4.1.1.6 of the 2002 ECEG;
- (b) admitted, without qualification, to the Agreed Statement of Facts (which is set out in Annex B); and
- (c) consented to the remaining 6th, Amended 8th, Amended 9th and 12th Charges to be taken into consideration for the purpose of sentencing.

Counsel’s submissions on sentence

3. Prior to the hearing, both Counsel for the Singapore Medical Council (“SMC”), Mr Burton Chen (“Mr Chen”) and Counsel for the Respondent, Ms Mak Wei Munn (“Ms Mak”) had tendered their written submissions with respect to the sentences to be imposed on the Respondent¹. However, after the Respondent’s pleas had been taken, Mr Chen informed the DT that he and Ms Mak had conferred and reached a common position on the following recommended sentences for the Respondent, namely:

- (a) suspension of his registration for a period of **16 months**;
- (b) a penalty of **\$15,000**; and
- (c) the usual consequential orders.

¹ The written submissions for the SMC were entitled “Prosecution’s Submission on Sentencing on behalf of SMC” (“PSS”) and “Prosecution’s Submissions on the Respondent’s Argument of Inordinate Delay” (“PSID”). The written submissions for the Respondent were entitled “Sentencing Submissions & Plea in Mitigation on behalf of Dr Chia Kiat Swan” (“RS”).

4. Mr Chen explained that the recommended sentences were arrived at on the following basis:
 - (a) given the circumstances of the Respondent's offences, the appropriate period of suspension to be imposed should, as a starting point, be two (2) years; but
 - (b) SMC was prepared to concede that there was inordinate delay in the prosecution of the proceedings and as such, a one-third discount on the 2-year period of suspension should be given, such that the recommended period of suspension should be 16 months.
5. Ms Mak informed us that the Respondent was remorseful for his offences and was prepared to accept the recommended sentences if the DT agreed with them.

The DT's decision

6. After deliberation, we found the recommended sentences to be appropriate and fair. As such, we ordered that —
 - (a) the Respondent's registration be suspended for a period of **16 months** under section 53(2)(b) of the Act;
 - (b) the Respondent pay a penalty of **\$15,000** under section 53(2)(e) of the Act;
 - (c) the Respondent be censured under section 53(2)(f) of the Act;
 - (d) the Respondent give a written undertaking to the SMC under section 53(2)(g) of the Act that he will not engage in the conduct complained of or any similar conduct; and
 - (e) the Respondent pay the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC, under section 53(5) of the Act.
7. We now state our grounds as to why we found the recommended sentences to be appropriate and fair.

The sentencing matrix in Wong Meng Hang’s case

8. In their respective written submissions, both Mr Chen and Ms Mak were in agreement that the harm/culpability sentencing matrix prescribed by the Court of Three Judges in the case of *Wong Meng Hang v Singapore Medical Council* [2018] SGHC 253 (“*Wong Meng Hang*”) should be applied.

Harm Culpability	Slight	Moderate	Severe
Low	Fine or other punishment not amounting to suspension.	Suspension of 3 months to 1 year.	Suspension of 1 to 2 years.
Medium	Suspension of 3 months to 1 year.	Suspension of 1 to 2 years.	Suspension of 2 to 3 years.
High	Suspension of 1 to 2 years.	Suspension of 2 to 3 years.	Suspension of 3 years or striking off.

A. *Harm & culpability*

9. For the purposes of applying the sentencing matrix, the Court of Three Judges in *Wong Meng Hang* (at paragraph 30 of their judgment) defined “harm” and “culpability” as follows:

- (a) *Harm* refers to the type and gravity of the harm or injury that was caused to the patient and indeed to society by the commission of the offence. It should also be noted that the more direct the connection between the specific type of harm that has been occasioned and the misconduct in question, the weightier a consideration this will be. The harm in question can take various forms, including bodily injury, emotional or psychological distress, even serious economic harm, increased predisposition to certain illnesses, loss of chance of recuperation or survival, and at the most severe end of the spectrum, death. Regard may also be had to the *potential* harm that could have resulted from dangerous acts of misconduct, even if it did not actually materialise on the given facts. In accordance with the position taken in criminal cases (see *Neo Ah Luan v Public Prosecutor* [2018] SGHC 188 (“*Neo Ah Luan*”) at [67]), potential harm should only be taken into account if there was a *sufficient likelihood* of the harm arising; it would plainly not be appropriate to consider every remote possibility of harm for the purposes of sentencing.
- (b) However, an unyielding focus on harm would yield an incomplete picture. With the best efforts of a doctor, a patient may nonetheless suffer serious injuries. And even where the harm is caused by a failure on the part of the doctor, different punitive and professional consequences will follow depending on the nature of that failure. This is why it is essential to also examine the *culpability* of the offender, by which we mean the degree of blameworthiness disclosed by the misconduct. This may be assessed by

reference to the extent and manner of the offender's involvement in causing the harm, the extent to which the offender's conduct departed from standards reasonably expected of a medical practitioner, the offender's state of mind when committing the offence, and all of the circumstances surrounding the commission of the offence. Harm may be caused in a variety of ways, usually ranging in severity from negligent or careless acts, to grossly negligent acts, to knowing incompetence and recklessness. In some situations, it may even include intentional acts."

B. *The 4 steps*

10. The Court of Three Judges also prescribed (at paragraphs 30 to 43 of their judgment) the following 4 steps for the application of this matrix —
 - (a) Step 1 - Identify the level of harm caused by the Respondent as well as his level of culpability;
 - (b) Step 2 - Identify the applicable indicative sentencing range from the matrix;
 - (c) Step 3 - Identify the appropriate starting point within the indicative sentencing range; and
 - (d) Step 4 – Make adjustments to the starting point to take into account any offender-specific factors.

Applying the matrix in the Respondent's case

A. *Harm caused by the Respondent*

11. In their respective written submissions, both Mr Chen and Ms Mak were of the same view that the harm arising from the Respondent's offences was moderate, in that his inappropriate prescription of benzodiazepines to his patients over long periods of time had the effect of placing his patients at a very real risk of developing dependence on those benzodiazepines, with potential to cause further harm².
12. Mr Chen further pointed out that —
 - (a) dependence or addiction to benzodiazepines has been identified as a serious concern not just in respect of the individual patient(s) involved, but also with regards to society at large³; and

²See PSS paragraphs 35 & 40(b); RS paragraph 16.

³ See PSS paragraph 36 & 38.

- (b) the Respondent's failure to appropriately and effectively manage his patients' medical conditions resulted in their prolonged suffering from such medical conditions⁴.

B. The Respondent's culpability

- 13. Mr Chen argued in his written submissions that the Respondent's culpability was "high" because he was aware of, but had, over a long period (of time of up to 11 years and 8 months), repeatedly and to a serious extent failed to adhere to the 2002 Prescribing Guidelines, the 2008 Prescribing Guidelines and the 2008 Administrative Guidelines by inappropriately prescribing benzodiazepines to the patients concerned patients and in excessive amounts⁵.
- 14. Ms Mak, on the other hand, argued in her written submissions that the Respondent's culpability was "medium" because (notwithstanding the significant amounts of benzodiazepines prescribed by the Respondent to the patients concerned) there was no suggestion that the Respondent had acted maliciously or been deliberately indifferent or reckless as to his patients' wellbeing. Instead, the Respondent's actions ought to be viewed in the light of a genuine but misguided attempt to help the patients concerned to continue to function in their respective lives⁶. Furthermore, the Respondent had —
 - (a) in his letter of 18 September 2015⁷ to the SMC —
 - (i) explained that he had made attempts to conduct careful clinical reviews of his patients, to advise them on the management of their sleep issues as well as the potential side effects of long term benzodiazepine use and, in the case of long-term patients, to gradually taper their doses and routinely observe their behaviour⁸; and
 - (ii) recognised and accepted that he had erred by failing to comply with the 2008 Administrative Guidelines; and
 - (b) upon receiving the Notice of Complaint and obtaining legal advice on his breaches, stopped prescribing the patients with hypnotics and taken steps to make appropriate referrals to specialists⁹.

⁴ See PSS paragraphs 40(a) and (c).

⁵ See PSS paragraphs 43 to 47.

⁶ See RS paragraph 20 & 23.

⁷ See page 129 of the Agreed Bundle of Documents (ABD).

⁸ See RS paragraph 21 & 22.

⁹ See RS paragraph 22.

The Tribunal's findings

A. Respondent's levels of harm and culpability

15. After carefully considering both Counsel's submissions in the light of the Agreed Statement of Facts, we agreed with the analysis of both Counsel that the harm caused by the Respondent as a result of his offences was "moderate".
16. In the case of culpability, after carefully considering the written submissions of both Counsel as well as the circumstances as summarised in paragraphs 13 and 14 above, we felt that the Respondent's culpability lay somewhere at the upper range of the "medium" level or the lower range of the "high" level.

B. Period of suspension

17. The sentencing matrix prescribed in *Wong Meng Hang's case* indicates —
 - (a) a period of suspension of one to two years for an offence involving "moderate" harm and "medium" culpability; and
 - (b) a period of suspension of two to three years for an offence involving "moderate" harm and "high" culpability.
18. Given our findings that —
 - (a) the harm caused by the Respondent through his offences was "moderate"; and
 - (b) his culpability lay somewhere at the upper range of the "medium" level or the lower range of the "high" level, we agreed with both Counsel on their recommendation that the appropriate period of suspension to be imposed should, as a starting point, be two (2) years.

C. Discount for delay

19. Mr Chen had conceded that the period of two years and eight months from the time of the issue of the Notice of Complaint against the Respondent to the service of the Notice of the Inquiry on him amounted to an "inordinate delay" in the prosecution of the proceedings, and both Counsel recommended that the Respondent be given a one-third discount on the period of suspension to be imposed. We felt that a discount of one-third was fair and appropriate in the circumstances given that the period of delay fell short of the benchmark period of

three years that attracted a discount of 50% on the period of suspension in some past cases¹⁰.

D. Monetary penalty

20. Both Counsel had, in their written submissions, submitted that the amount of the penalty to be imposed on the Respondent should be \$15,000, and this was the same amount which they recommended at the beginning of the inquiry. Having carefully considered the circumstances of the case and the period of suspension to be imposed, we felt that the monetary penalty of \$15,000 was fair and appropriate.

Conclusion

21. For the above reasons, we accepted the recommendation of Counsel and imposed the recommended sentences on the Respondent.

Publication of decision

22. We order that the Grounds of Decision be published with the necessary redaction of identities and personal particulars of persons involved.
23. The hearing is hereby concluded.

Dr Tham Tat Yean
Chairman

Adj A/Prof Lee Cheng

Mr David Lim

Mr Burton Chen and Ms Junie Loh (M/s Tan Rajah and Cheah)
for Singapore Medical Council; and
Ms Mak Wei Munn, Ms Koh En Ying and Mr Pek Wen Jie (M/s Allen & Gledhill LLP)
for the Respondent.

¹⁰ See for example *Ang Peng Tiam v Singapore Medical Council and another matter* [2017] SGHC 143; *Jen Shek Wei v Singapore Medical Council* [2017] SGHC 294; *Disciplinary Inquiry against Dr Chan Heang King Calvin* (22 November 2017).

AMENDED 1ST CHARGE

1. That you, **Dr Chia Kiat Swan**, are charged that between 11 December 2002 to 25 August 2014, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you inappropriately prescribed a benzodiazepine, namely Dormicum, to your patient, **P1** (“**Ms P1**”), and the particulars of such prescription are set out in Item 1 of Re-amended Schedule 1 annexed hereto.

PARTICULARS

- (a) Ms P1’s sleep problem(s) should not have been treated by the prescription of Dormicum.
- (b) On ~~23~~24 occasions, you prescribed 60 tablets of Dormicum 15mg and on 1 occasion, you prescribed 100 tablets of Dormicum 15mg, which were excessive in terms of the dosage and/or the quantity.
- (c) You routinely prescribed Ms P1 with Dormicum 15mg tablets over a period of approximately 11 years and 8 months, when Dormicum ought not to have been prescribed for long-term use.

And that in relation to the facts alleged, you have breached guideline 4.1.3 of the 2002 edition of the Singapore Medical Council’s Ethical Code and Ethical Guidelines (“**2002 ECEG**”) and accordingly, you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

2ND CHARGE

2. That you, **Dr Chia Kiat Swan**, are charged that between 11 December 2002 to 25 August 2014, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you failed to keep medical records of sufficient detail of **Ms P1**’s, history, examination(s), diagnosis, symptoms and/or advice given in relation to your prescription of a benzodiazepine, namely Dormicum, to her.

PARTICULARS

- (a) Your medical records did not or did not sufficiently document Ms P1’s medical history.
- (b) Your medical records did not or did not sufficiently document your examination(s) of Ms P1 and diagnosis of her sleep problem(s).
- (c) Your medical records did not or did not sufficiently document your justification(s) for your prescriptions of Dormicum 15mg tablets to Ms P1.

- (d) Your medical records did not or did not sufficiently document your advice to Ms P1 on the side-effects of long-term use of Dormicum.
- (e) Your medical records did not or did not sufficiently document whether Ms P1 exhibited any sign(s) of dependency.

And that in relation to the facts alleged, you have breached guideline 4.1.2 of the 2002 ECEG and accordingly, you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

3RD CHARGE

- 3. That you, **Dr Chia Kiat Swan**, are charged that between 11 December 2002 to 25 August 2014, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you failed to refer, or refer in a timely manner, **Ms P1** to a psychiatrist or medical specialist with the necessary expertise for the further management of her sleep problem(s) and/or her need for benzodiazepine medication.

PARTICULARS

- (a) You repeatedly prescribed Dormicum 15mg tablets to Ms P1 for the management of her sleep problem(s) over a period of approximately 11 years and 8 months.
- (b) At no time during your management and treatment of Ms P1 did you refer her to a psychiatrist or appropriate medical specialist for further management of her condition(s).

And that in relation to the facts alleged, you have breached guideline 4.1.1.6 of the 2002 ECEG and accordingly you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

AMENDED 4TH CHARGE

- 4. That you, **Dr Chia Kiat Swan**, are charged that between 15 April 2008 to 9 June 2015, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you inappropriately prescribed a benzodiazepine, namely Dormicum, to your patient, **P2** ("**Mr P2**"), and the particulars of such prescription are set out in Item 2 of Re-amended Schedule 1 annexed hereto.

PARTICULARS

- (a) Mr P2's insomnia should not have been treated by the prescription of Dormicum.

- (b) You routinely prescribed Mr P2 with Dormicum 15mg tablets over a period of approximately 7 years and 2 months, when Dormicum ought not to have been prescribed for long-term use.

And that in relation to the facts alleged, you have breached guideline 4.1.3 of the 2002 ECEG and accordingly, you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

5TH CHARGE

5. That you, **Dr Chia Kiat Swan**, are charged that between 15 April 2008 to 9 June 2015, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you failed to keep sufficient medical records of **Mr P2's**, history, examination(s), diagnosis, symptoms and/or advice given in relation to your prescription of a benzodiazepine, namely Dormicum, to him.

PARTICULARS

- (a) Your medical records did not or did not sufficiently document Mr P2's medical history.
- (b) Your medical records did not or did not sufficiently document your examination(s) of Mr P2 and diagnosis of his insomnia.
- (c) Your medical records did not or did not sufficiently document your justification(s) for your prescriptions of Dormicum 15mg tablets to Mr P2.
- (d) Your medical records did not or did not sufficiently document your advice to Mr P2 on the side-effects of long-term use of Dormicum.
- (e) Your medical records did not or did not sufficiently document whether Mr P2 exhibited any sign(s) of dependency.

And that in relation to the facts alleged, you have breached guideline 4.1.2 of the 2002 ECEG and accordingly, you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

6TH CHARGE (TIC)

6. That you, **Dr Chia Kiat Swan**, are charged that between 15 April 2008 to 9 June 2015, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you failed to refer, or refer in a timely manner, **Mr P2** to a psychiatrist or medical specialist with the necessary expertise for the further management of his insomnia and/or his need for benzodiazepine medication.

PARTICULARS

- (a) You repeatedly prescribed Dormicum 15mg tablets to Mr P2 for the management of his insomnia over a period of approximately 7 years and 2 months.
- (b) You only referred Mr P2 to Dr F, a psychiatrist, on or around 25 August 2015.

And that in relation to the facts alleged, you have breached guideline 4.1.1.6 of the 2002 ECEG and accordingly you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

AMENDED 7TH CHARGE

7. That you, **Dr Chia Kiat Swan**, are charged that between 2 October 2007 to 14 July 2015, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you inappropriately prescribed benzodiazepines, namely Lexotan and Valium, to your patient, **P3** (“**Mr P3**”), and the particulars of such prescription are set out in Item 3 of Re-amended Schedule 1 annexed hereto.

PARTICULARS

- (a) Mr P3’s anxiety should not have been treated by the long-term prescription of Lexotan.
- (b) Your prescription of Lexotan 3mg tablets three times a day and a Valium 10mg tablet at night to Mr P3 were excessive in terms of the dosage and/or the quantity.
- (c) You routinely prescribed Mr P3 with Lexotan 3mg tablets over a period of period of approximately 7 years and 9 months, when Lexotan ought not to have been prescribed for long-term use.
- (d) You routinely prescribed Mr P3 with Valium 10mg tablets over a period of approximately 7 years and 9 months, when Valium ought not to have been prescribed for long-term use.
- (e) On 24 occasions, you prescribed Lexotan and Valium concurrently to Mr P3, when the benzodiazepines ought not to have been concurrently prescribed.

And that in relation to the facts alleged, you have breached guideline 4.1.3 of the 2002 ECEG and accordingly, you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

AMENDED 8TH CHARGE (TIC)

8. That you, **Dr Chia Kiat Swan**, are charged that between 2 October 2007 to 14 July 2015, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you failed to keep sufficient medical records of Mr P3's history, examination(s), diagnosis, symptoms and/or advice given in relation to your prescription of benzodiazepines, namely Lexotan and Valium, to him.

PARTICULARS

- (a) Your medical records on Mr P3 did not or did not sufficiently document Mr P3's medical history.
- (b) Your medical records did not or did not sufficiently document your examination(s) of Mr P3 and diagnosis of his medical conditions.
- (c) Your medical records on Mr P3 did not or did not sufficiently document your justification(s) for your prescriptions of Lexotan 3mg and/or Valium 10mg tablets to Mr P3.
- (d) Your medical records did not or did not sufficiently document whether Mr P3 exhibited any sign(s) of dependency.

And that in relation to the facts alleged, you have breached guideline 4.1.2 of the 2002 ECEG and accordingly, you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

AMENDED 9TH CHARGE (TIC)

9. That you, **Dr Chia Kiat Swan**, are charged that between 2 October 2007 to 14 July 2015, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you failed to refer, or refer in a timely manner, Mr P3 to a psychiatrist or medical specialist with the necessary expertise for the further management of his medical conditions and/or his need for benzodiazepine medication.

PARTICULARS

- (a) You repeatedly prescribed Lexotan and Valium to Mr P3 for the management of his anxiety and insomnia respectively over a period of approximately 7 years and 9 months.
- (b) At no time during your management and treatment of Mr P3 did you refer him to a psychiatrist or appropriate medical specialist for the further management of his conditions.

And that in relation to the facts alleged, you have breached guideline 4.1.1.6 of the 2002 ECEG and accordingly you are guilty of professional misconduct within the meaning of Section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under Section 53(2) of the said Act.

AMENDED 10TH CHARGE

10. That you, **Dr Chia Kiat Swan**, are charged that between 4 March 2008 to 22 August 2015, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you inappropriately prescribed benzodiazepines, namely Librax, Lexotan and Dormicum, to your patient, P4 (“Mr P4”), and the particulars of such prescription are set out in Item 4 of Re-amended Schedule 1 annexed hereto.

PARTICULARS

- (a) Mr P4’s insomnia should not have been treated by the prescription of Dormicum.
- (b) Mr P4’s anxiety should not have been treated by the prescription of Lexotan.
- (c) Mr P4’s gastrointestinal medical condition(s) should not have been treated by the prescription of Librax.
- (d) You routinely prescribed Mr P4 with Dormicum 15mg tablets over a period of approximately 6 years and 2 months, when Dormicum ought not to have been prescribed for long-term use.
- (e) You routinely prescribed Mr P4 with Lexotan 3mg tablets over a period of approximately 7 years and 3 months, when Lexotan ought not to have been prescribed for long-term use.
- (f) You routinely prescribed Mr P4 with Librax tablets over a period of approximately 7 years and 4 months, when Librax ought not to have been prescribed for long-term use.
- (g) On 67 occasions in the period 4 March 2008 to 22 August 2015, you concurrently prescribed more than one type of benzodiazepine, namely, Librax, Lexotan and/or Dormicum, to Mr P4, when the benzodiazepines ought not to have been concurrently prescribed.

And that in relation to the facts alleged, you have breached guideline 4.1.3 of the 2002 ECEG and accordingly, you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

11TH CHARGE

11. That you, **Dr Chia Kiat Swan**, are charged that between 4 March 2008 to 22 August 2015, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you failed to keep sufficient medical records of **Mr P4's** history, examination(s), diagnosis, symptoms and/or advice given in relation to your prescription benzodiazepines, namely Librax, Lexotan and/or Dormicum, to him.

PARTICULARS

- (a) Your medical records on Mr P4 did not sufficiently document Mr P4's medical history.
- (b) Your medical records did not or did not sufficiently document your examination(s) of Mr P4 and diagnosis of his medical conditions.
- (c) Your medical records on Mr P4 did not sufficiently document your justification(s) for your prescriptions of Dormicum 15mg, Lexotan 3mg and/or Librax tablets to Mr P4.
- (d) Your medical records did not sufficiently document whether Mr P4 exhibited any sign(s) of dependency.

And that in relation to the facts alleged, you have breached guideline 4.1.2 of the 2002 ECEG and accordingly, you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

12TH CHARGE

12. That you, **Dr Chia Kiat Swan**, are charged that between 4 March 2008 to 22 August 2015, whilst practising as a general practitioner at Vernon Clinic & Surgery, 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001, you failed to refer, or refer in a timely manner, **Mr P4** to a psychiatrist, a gastroenterologist or medical specialist with the necessary expertise for the further management of his medical conditions and/or his need for benzodiazepine medication.

PARTICULARS

- (a) With regards to Mr P4's insomnia and anxiety:
 - (i) You repeatedly prescribed Dormicum to Mr P4 for the management of his insomnia over a period of approximately 6 years and 2 months.
 - (ii) You repeatedly prescribed Lexotan to Mr P4 for the management of his anxiety over a period of approximately 7 years and 3 months.

- (iii) At no time during your management and treatment of Mr P4 did you refer him to a psychiatrist or appropriate medical specialist for further management of his insomnia and/or anxiety.
- (b) With regards to Mr P4's gastrointestinal medical condition(s):
 - (i) You repeatedly prescribed Librax to Mr P4 for the management of his gastrointestinal medical condition(s) over a period of approximately 7 years and 4 months.
 - (ii) You only advised Mr P4 to see a gastroenterologist for management of his condition(s) on or around 14 September 2015.

And that in relation to the facts alleged, you have breached guideline 4.1.1.6 of the ECEG and accordingly you are guilty of professional misconduct within the meaning of section 53(1)(d) of the Medical Registration Act (Cap. 174) which is punishable under section 53(2) of the said Act.

AGREED STATEMENT OF FACTS

1. The Respondent is a registered medical practitioner who, at all material times, was practising as a General Practitioner at a clinic known as “*Vernon Clinic & Surgery*” located at 100 Jalan Sultan, #02-25/26 Sultan Plaza, Singapore 199001.
2. On or around 9 June 2014 and 13 June 2014, officers from the Ministry of Health conducted an audit of the medical records at Vernon Clinic & Surgery.
3. By a letter dated 7 July 2014 from the Ministry of Health, the Singapore Medical Council (“**SMC**”) received information relating to the prescribing practices of the Respondent.
4. By a letter dated 26 December 2014, after considering the information provided by the Ministry of Health, the matter was referred by the SMC to the Chairman of the Complaints Panel pursuant to Section 39(3)(a) of the Medical Registration Act (Cap. 174) (the “**MRA**”).
5. The SMC appointed a Complaints Committee to investigate the matter, and the Respondent received a notice of complaint from the SMC dated 16 July 2015 (the “**Notice of Complaint**”). The Respondent was requested to submit his written explanation in response to the complaint by 6 August 2015, as well as copies of certain medical records, including 12 patients’ medical records which had been audited by the Ministry of Health (“**Audited Medical Records**”).
6. On 25 August 2015, by way of a letter which was sent by email, the Respondent sought clarification from the SMC on the Audited Medical Records to be submitted to the SMC. The SMC replied by email to the Respondent’s queries on the same day.
7. On 27 August 2015, by way of a letter which was sent by email, the Respondent sought further clarification on the Audited Medical Records and requested for an extension of time of 3 weeks to submit his written explanation and the medical records that had been requested by the SMC in the Notice of Complaint.
8. On 28 August 2015, the SMC responded to the Respondent’s letter dated 27 August 2015 and granted an extension of time for the Respondent to submit his written explanation and the requested medical records to 18 September 2015. The Respondent provided his written explanation in a letter dated 18 September 2015 enclosing the requested medical records.
9. On 16 November 2015, the SMC emailed the Respondent to request for additional patient medical records from the Respondent. The Respondent provided the requested additional patient medical records in a further letter dated 23 November 2015.

10. On 17 February 2017, the Complaints Committee informed the Respondent of its decision to refer the matter to a Disciplinary Tribunal for a formal inquiry. Subsequently, the SMC issued a Notice of Inquiry (“**the NOI**”) dated 28 March 2018 setting out 12 charges against the Respondent, with amendments shown as in the Amended Charges in the NOI dated 17 September 2018 and Re-amended Schedule 1. The charges relate to professional misconduct in the Respondent’s prescription of benzodiazepines to, and his care and management of, four of his patients: -
- (a) P1 (“**Ms P1**”);
 - (b) P2 (“**Mr P2**”);
 - (c) P3 (“**Mr P3**”); and
 - (d) P4 (“**Mr P4**”).
11. The Ministry of Health’s Guidelines for Prescribing Benzodiazepines dated 17 August 2002 (“**2002 Prescribing Guidelines**”) provide that:
- (a) Paragraph 1(5): “*The need for a repeat prescription should be assessed and the following clearly documented in the case notes:*
 - (a) *Justification for repeat prescription*
 - (b) *Comprehensive assessment of the patient*
 - (c) *Diagnosis*
 - (d) *Psychosocial history of the patient*
 - (e) *Evidence that the psychosocial aspects have been attended to*”;
 - (b) Paragraph 3(1): “*Benzodiazepines are only indicated for the short-term relief of anxiety that is:*
 - (a) *severe or disabling, or*
 - (b) *causing unacceptable distress, occurring alone or in association with insomnia or short-term psychosomatic, organic or psychotic illness*”;
 - (c) Paragraph 4(2): “*when a benzodiazepine is used as a hypnotic, treatment should – if possible – be intermittent on an as necessary basis*”;
 - (d) Paragraph 4(4): “*Medical practitioners should warn patients about rebound insomnia with the use of benzodiazepines. They should limit chronic benzodiazepine hypnotic prescription where possible and refer patients with refractory insomnia to psychiatrists for further management*”;
 - (e) Paragraph 5(5): “*The concurrent prescription of two or more benzodiazepines should be avoided*”; and
 - (f) Paragraph 7(1): “*The dependence potential is common to all benzodiazepines, more so for those with greater potency and shorter half-lives e.g. lorazepam,*

triazolam, midazolam and alprazolam... These benzodiazepines should be avoided if possible”.

12. The Ministry of Health’s Clinical Practice Guidelines 2/2008 “Prescribing of Benzodiazepines” dated September 2008 (“**2008 Prescribing Guidelines**”) provide that:

- (a) Paragraph 2.3: “... *Additive CNS depression may occur when benzodiazepines (or other hypnotic/sedatives) are administered with other CNS depressants (including alcohol). Care should be exercised in such circumstances to avoid excessive sedation and overdose toxicity*”;
- (b) Paragraph 3.1.1: “... *Patients with insomnia should be referred to an appropriate specialist if physical, psychological or benzodiazepine/substance abuse/dependence problems are suspected*”;
- (c) Paragraph 3.1.3 “... *Hypnotic drug use in patients with chronic insomnia (longer than 4 weeks) should be avoided as far as possible because efficacy is not clearly established*”;
- (d) Paragraph 3.4: “... *Benzodiazepines are indicated for the short-term relief (2-4 weeks only) of anxiety that is severe, disabling or subjecting the individual to unacceptable distress, occurring alone or in association with insomnia or short-term psychosomatic, organic, or psychotic illness...* ”;
- (e) Paragraph 5.1.1: “... *Extended use of benzodiazepines (especially those with short half-lives) beyond 2-4 weeks is not recommended, even when prescribed at the therapeutic dosages...* ”; and
- (f) Paragraph 5.1.2: “... *Oral midazolam (e.g. Dormicum®) and nimetazepam (e.g. Erimin®) are not recommended for routine outpatient prescription as they are highly addictive and commonly abused by drug addicts in Singapore.*”

13. The Ministry of Health’s Administrative Guidelines on the Prescribing of Benzodiazepines and Other Hypnotics dated 14 October 2018 (“**2008 Administrative Guidelines**”) provide that:

- (a) Annex A Item (c): “*The following information must be documented in the medical record of every patient who is prescribed with benzodiazepines/ other hypnotics:*
 - (i) *Comprehensive history, including psychosocial history and previous use of benzodiazepines or other hypnotics;*
 - (ii) *Comprehensive physical examination findings, including evidence of misuse of benzodiazepines or other drugs; and*
 - (iii) *Withdrawal symptoms to benzodiazepines/ other hypnotics previously experienced by the patient, if any*”;

- (b) Annex A Item (d): *“The following information must be documented in the medical records of every patient each time he/she is prescribed benzodiazepines / other hypnotics either initially or as repeat prescriptions:*
 - (i) *The prescribed type/name of benzodiazepine/hypnotic, its dosage and duration of use;*
 - (ii) *Indication(s) and/or justification(s) for prescribing benzodiazepines/ other hypnotics; and*
 - (iii) *Physical signs or evidence of tolerance, physical/psychological dependence or any illicit use or misuse of benzodiazepines or other drugs (eg. needle tracks on skin, inappropriate lethargy)”;*
- (c) Annex A Item (e): *“Medical practitioners are strongly discouraged from prescribing highly addictive benzodiazepines such as midazolam and nitmetazepam (except for midazolam use in surgical procedures)”;*
- (d) Annex A Item (i): *“The concurrent prescribing of two or more benzodiazepines should be avoided”;* and
- (e) Annex A Item (n): *“The following categories of patients should not be further prescribed with benzodiazepines / other hypnotics and must be referred to the appropriate specialist for further management:*
 - (i) *Patients who require or have been prescribed benzodiazepines / other hypnotics beyond a cumulative period of 8 weeks...”.*

Facts Relating to Ms P1

14. In the period 11 December 2002 to 25 August 2014, Ms P1 made 26 visits to the Respondent for the treatment and management of her sleep problem(s), which were recorded by the Respondent to be the inability to sleep, frequent travels and stress from the financial downturn. At each visit, the Respondent prescribed Ms P1 with a benzodiazepine, namely Dormicum 15mg tablets, as shown in Item 1 of the Re-amended Schedule 1. Dormicum is a highly addictive midazolam benzodiazepine. On 24 occasions, the Respondent prescribed 60 Dormicum 15mg tablets, and on 1 occasion, the Respondent prescribed 100 Dormicum 15mg tablets to Ms P1.
15. The prescription of Dormicum to Ms P1 was inappropriate as Ms P1’s sleep problem(s) should not have been treated by the prescription of Dormicum. The prescription of 100 tablets of Dormicum 15mg tablets and 24 prescriptions of 60 Dormicum 15mg tablets were inappropriate as they were excessive in terms of the dosage and/or quantity. Moreover, the routine prescription of Dormicum 15mg tablets to Ms P1 over a period of approximately 11 years and 8 months was inappropriate as Dormicum should not have been prescribed for long-term use. The prescriptions above made by the Respondent did not comply with the relevant and applicable guidelines relating to the prescription of

benzodiazepines issued by the Ministry of Health, specifically, paragraphs 4(2) and 7(1) of the 2002 Prescribing Guidelines and paragraphs 5.1.1 and 5.1.2 of the 2008 Prescribing Guidelines.

16. Further, the Respondent failed to keep medical records of sufficient detail of:
- (a) Ms P1's medical history;
 - (b) The Respondent's examination(s) and diagnosis of Ms P1's sleep problem(s);
 - (c) The Respondent's justification(s) for his prescriptions of Dormicum 15mg tablets;
 - (d) The Respondent's advice to Ms P1 on the side-effects of long-term use of Dormicum; and
 - (e) Whether Ms P1 exhibited any sign(s) of dependency on benzodiazepines,

and therefore, failed to comply with paragraph 1(5) of the 2002 Prescribing Guidelines and Annex A Item (c) of the 2008 Administrative Guidelines.

17. Despite repeatedly prescribing Ms P1 with Dormicum 15mg tablets over a period of approximately 11 years and 8 months, at no time during the Respondent's management and treatment of Ms P1 did the Respondent refer Ms P1 to a psychiatrist or appropriate medical specialist for further management of her sleep problem(s) and/or her need for benzodiazepine medication. The Respondent failed to comply with paragraph 4(4) of the 2002 Prescribing Guidelines and Annex A Item (n)(i) of the 2008 Administrative Guidelines.

18. Therefore, the Respondent has:
- (a) By reason of the matters set out at paragraphs 14 and 15 above, inappropriately prescribed a benzodiazepine, namely Dormicum, to Ms P1, in breach of guideline 4.1.3 of the 2002 edition of the Singapore Medical Council's Ethical Code and Ethical Guidelines ("2002 ECEG"), as set out in the **Amended 1st Charge**;
 - (b) By reason of the matters set out at paragraph 16 above, failed to keep medical records of sufficient detail of Ms P1's history, examination(s), diagnosis, symptoms and/or advice, in breach of guideline 4.1.2 of the 2002 ECEG, as set out in the **2nd Charge**; and
 - (c) By reason of the matters set out at paragraph 17 above, failed to refer Ms P1 to a psychiatrist or medical specialist with the necessary expertise for the further management of her sleep problem(s) and/or her need for benzodiazepine medication, in breach of guideline 4.1.1.6 of the 2002 ECEG, as set out in the **3rd Charge**.

Facts Relating to Mr P2

19. In the period 15 April 2008 to 9 June 2015, Mr P2 made 106 visits to the Respondent for the treatment and management of his insomnia. At each visit, the Respondent prescribed Mr P2 with Dormicum 15mg tablets as shown in Item 2 of the Re-amended Schedule 1. Dormicum is a highly addictive midazolam benzodiazepine.
20. The prescription of Dormicum to Mr P2 was inappropriate as Mr P2's insomnia should not have been treated by the prescription of Dormicum. Moreover, the routine prescription of Dormicum 15mg tablets to Mr P2 over a period of approximately 7 years and 2 months was inappropriate as Dormicum should not have been prescribed for long-term use. The prescriptions made by the Respondent did not comply with the relevant and applicable guidelines relating to the prescription of benzodiazepines issued by the Ministry of Health, specifically, paragraph 7(1) of the 2002 Prescribing Guidelines and paragraphs 3.1.3 and 5.1.2 of the 2008 Prescribing Guidelines.
21. Further, the Respondent failed to keep medical records of sufficient detail of:
 - (a) Mr P2's medical history;
 - (b) The Respondent's examination(s) and diagnosis of Mr P2's insomnia;
 - (c) The Respondent's justification(s) for his prescriptions of Dormicum 15mg tablets;
 - (d) The Respondent's advice to Mr P2 on the side-effects of long-term use of Dormicum; and
 - (e) Whether Mr P2 exhibited any sign(s) of dependency on benzodiazepines,and therefore, failed to comply with paragraph 1(5) of the 2002 Prescribing Guidelines and Annex A Item (d) of the 2008 Administrative Guidelines.
22. Therefore, the Respondent has:
 - (a) By reason of the matters set out at paragraphs 19 and 20 above, inappropriately prescribed a benzodiazepine, namely Dormicum, to Mr P2, in breach of guideline 4.1.3 of the 2002 ECEG, as set out in the **Amended 4th Charge**; and
 - (b) By reason of the matters set out at paragraph 21 above, failed to keep medical records of sufficient detail of Mr P2's history, examination(s), diagnosis, symptoms and/or advice, in breach of guideline 4.1.2 of the 2002 ECEG, as set out in the **5th Charge**.

Facts Relating to Mr P3

23. In the period 2 October 2007 to 14 July 2015, Mr P3 made 44 visits to the Respondent for the treatment and management of his anxiety and insomnia. At each visit, the Respondent prescribed Mr P3 with at least one benzodiazepine, namely Lexotan 3mg

and/or Valium 10mg tablets, as shown in Item 3 of the Re-amended Schedule 1. On 24 occasions, the Respondent concurrently prescribed Mr P3 with both Lexotan and Valium.

24. The Respondent's prescriptions of Lexotan and Valium to Mr P3 were inappropriate in the following aspects:
- (a) Mr P3's anxiety should not have been treated by the long-term prescription of Lexotan;
 - (b) The prescription of Lexotan 3mg tablets three times a day and a Valium 10mg tablet at night was excessive in terms of the dosage and/or quantity;
 - (c) Lexotan and Valium were routinely prescribed to Mr P3 over a period of approximately 7 years and 9 months when both of these medications should not have been prescribed for long-term use; and
 - (d) For the 24 occasions on which Lexotan and Valium were concurrently prescribed, they should not have been concurrently prescribed because benzodiazepines should not be concurrently prescribed.
25. The prescriptions made by the Respondent did not comply with the relevant and applicable guidelines relating to the prescription of benzodiazepines issued by the Ministry of Health, specifically, paragraphs 3(1), 4(2) and 5(5) of the 2002 Prescribing Guidelines and paragraphs 3.4, 5.1.1 and 2.3 of the 2008 Prescribing Guidelines.
26. Therefore, the Respondent has, by reason of the matters set out at paragraphs 23 to 25 above, inappropriately prescribed benzodiazepines, namely Lexotan and Valium, to Mr P3, in breach of guideline 4.1.3 of the 2002 ECEG, as set out in the **Amended 7th Charge**.

Facts Relating to Mr P4

27. In the period 4 March 2008 to 22 August 2015, Mr P4 made 86 visits to the Respondent for the treatment and management of his insomnia, anxiety and gastrointestinal medical condition(s). At each visit, the Respondent prescribed Mr P4 with at least one benzodiazepine, namely Dormicum 15mg, Lexotan 3mg and/or Librax tablets, as shown in Item 4 of the Re-amended Schedule 1. Dormicum is a highly addictive midazolam benzodiazepine. On 67 occasions, the Respondent concurrently prescribed Mr P4 with more than one type of benzodiazepine.
28. The Respondent's prescriptions of Dormicum, Lexotan and Librax to Mr P4 were inappropriate in the following aspects:
- (a) Mr P4's insomnia should not have been treated by the prescription of Dormicum;
 - (b) Mr P4's anxiety should not have been treated by the prescription of Lexotan;
 - (c) Mr P4's gastrointestinal medical condition(s) should not have been treated by the prescription of Librax;

- (d) Dormicum 15mg tablets were routinely prescribed to Mr P4 over a period of approximately 6 years and 2 months when Dormicum should not have been prescribed for long-term use;
 - (e) Lexotan 3mg tablets were routinely prescribed to Mr P4 over a period of approximately 7 years and 3 months when Lexotan should not have been prescribed for long-term use;
 - (f) Librax tablets were routinely prescribed to Mr P4 over a period of approximately 7 years and 4 months when Librax should not have been prescribed for long-term use; and
 - (g) For the 67 occasions on which Dormicum, Lexotan and/or Librax were concurrently prescribed, they should not have been concurrently prescribed because benzodiazepines should not be concurrently prescribed.
29. The prescriptions made by the Respondent did not comply with the relevant and applicable guidelines relating to the prescription of benzodiazepines issued by the Ministry of Health, specifically, paragraphs 3(1), 5(5) and 7(1) of the 2002 Prescribing Guidelines, paragraphs 3.1.3 and 3.4 of the 2008 Prescribing Guidelines and Annex A Items (i) and (e) of the 2008 Administrative Guidelines.
30. Further, the Respondent failed to keep medical records of sufficient detail of:
- (a) Mr P4's medical history;
 - (b) The Respondent's examination(s) and diagnosis of Mr P4's medical conditions;
 - (c) The Respondent's justification(s) for his prescriptions of Dormicum 15mg, Lexotan 3mg and/or Librax tablets; and
 - (d) Whether Mr P4 exhibited any sign(s) of dependency on benzodiazepines,
- and therefore, failed to comply with paragraph 1(5) of the 2002 Prescribing Guidelines and Annex A Item (d) of the 2008 Administrative Guidelines.
31. Therefore, the Respondent has:
- (a) By reason of the matters set out at paragraphs 27 to 29 above, inappropriately prescribed benzodiazepines, namely Librax, Lexotan and Valium, to Mr P4, in breach of guideline 4.1.3 of the 2002 ECEG, as set out in the **Amended 10th Charge**; and
 - (b) By reason of the matters set out at paragraph 30 above, failed to keep medical records of sufficient detail of Mr P4's history, examination(s), diagnosis, symptoms and/or advice, in breach of guideline 4.1.2 of the 2002 ECEG, as set out in the **11th Charge**.

Conclusion

32. In the circumstances, the Respondent is guilty of professional misconduct under section 53(1)(d) of the Medical Registration Act (Cap 174).

33. The Respondent is hence liable to be punished under section 53(2) of the said Act for the 2nd, 3rd, 5th and 11th Charges in the NOI and the Amended 1st, 4th, 7th and 10th Charges, with the 6th and 12th Charges in the NOI and the Amended 8th and 9th Charges taken into consideration for sentencing.