

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY INQUIRY AGAINST
DR AAN HELD ON 25 & 26 FEBRUARY 2008;
18, 20 & 21 AUGUST 2008 AND 10, 12 & 13 MARCH 2009**

Disciplinary Committee:

Prof Raj Nambiar (Chairman)
Dr Lim Cheok Peng (Member)
Dr Koo Wen Hsin (Member)
Ms Catherine Chua (Lay Member)

Legal Assessor:

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

Prosecution Counsel (Wong Partnership LLP):

Ms Melanie Ho
Ms Chang Man Phing
Ms Kylee Kwek

Defence Counsel (M/s Donaldson & Burkinshaw):

Mr Charles Lin
Mr Eric Tin
Mr Haryadi Hadi

DECISION OF THE DISCIPLINARY COMMITTEE

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

1. These proceedings arose out of a letter of complaint made against you on 8 November 2004 by Dr C, for the Director of Medical Services, Ministry of Health to the Singapore Medical Council (the "SMC").
2. Following the complaint, the following documents were submitted to the Complaints Committee:
 - a) A written response dated 4 May 2005 by you;
 - b) on 15 June 2005, a further explanation by you, accompanied by your expert witness, Dr. DE's report dated 6 June 2005;
 - c) on 10 February 2006, Dr PE provided an expert opinion; and
 - d) on 10 January 2007 a further opinion was rendered by Dr PE.

The Charges

3. The complaint was referred to this Committee. In the Amended Notice of Inquiry dated 1 April 2008 (3PB1-61), the SMC framed 21 charges ("the Charges") against you, in which it alleged that by reason of your conduct as set out in these

Charges, you failed to exercise due care in the management of the patients referred to in the Charges.

The Proceedings

4. The SMC relied on the expert evidence and testimony of Dr. PE as part of its case against you.
5. As part of your evidence and apart from your own testimony, the following witnesses gave evidence:
 - a) PW1
 - b) PW1
 - c) PW3
 - d) PW4
 - e) PW5
 - f) PW6
6. An expert witness Dr. DE was to testify in your Defence but the Committee was subsequently informed that he would not be called to testify. The Committee does not find it necessary to consider the question whether adverse inference for the last minute withdrawal of Dr. DE ought to be drawn.
7. In respect of the witness statements of the patients who were named as witnesses but did not appear to testify, the Committee is of the view that no reliance can be placed on the contents of these witness statements and these statements ought to be withdrawn from the record. Similarly, the Committee did not find it necessary to consider the question whether adverse inferences ought to be drawn in respect of the non-calling of other patients as witnesses.
8. We now turn to the specific elements of the Charges against you.
 - (i) **Appropriateness of prescription of hypnotic medication**
9. The first element common to all of the Charges against you is that “you inappropriately prescribed hypnotic medication” to your patients referred to in the

Charges. The prescriptions are contained in the Schedules or Re-amended Schedules set out in the Re-amended Notice of Inquiry.

10. It is a key point of the SMC's case that you had been providing hypnotic medication to your patients on a long term basis, and this is not in accordance with the Guidelines for Prescribing Benzodiazepines, which states that usage of such medication should be short-term and when used as hypnotics for chronic insomnia should not exceed 2 weeks.
11. It is undisputed on the evidence that the patients referred to in the Charges had been or are on long term usage of benzodiazepines prescribed by you. It is the evidence of Dr. PE and/or from the long-term usage that these patients would have developed dependency on such medication.
12. In your testimony, you have testified, *inter alia* that:
 - a) the patients suffered from chronic insomnia and anxiety;
 - b) the treatment for each patient depends on the individual and the circumstances. The prescription was necessary to enable the patients to live their lives and work properly; and
 - c) you have adopted a "therapeutic dosage" or a maintenance level for your patients on a long-term basis, and that you were capable of managing these patients. You have also counselled them on the side-effects of and dangers of dependency on such medication.
13. The Committee takes the view that prescription of benzodiazepines must be closely supervised by the dispensing physician. In the present case, the evidence shows that in your management plan, the patients' views or desire for the prescription appeared to be an important factor, which cannot be the basis for a good and acceptable standard of prescribing benzodiazepines.
14. You were unable to provide any satisfactory answer whether you have attempted to taper down the medication to address the patients' dependence on such medication, and were also unable to reconcile your practice on prescription with

the standards set out in the Guidelines for Prescribing Benzodiazepines, or the standards for prescribing such medication before the introduction of the Guidelines. While arguably such a management plan may be plausible if supported by an opinion of a specialist and a properly documented withdrawal strategy, the Committee finds that this is not the case here.

15. The Committee doubts if your purported management plan namely, to taper off the dosages of benzodiazepines to a “maintenance” level or dosage acceptable to the patients, their family and you had any positive effect on the reduction of their dependency on such medication. The Committee takes the view that such a management plan, in the absence of any specialist opinion recommending it, is a departure from the acceptable standards of the medical profession.
16. The Committee also takes the view that even if any deviation from the Guidelines was warranted (which on the facts it was not), there were drastic departures from the Guidelines in the present case, given the extremely long term prescription of the medication, without any specialist recommendation for them.
17. The Committee notes your counsel’s argument that due consideration must be given to the fact that there was no harm to the patients. Given the evidence of dependency on such medication by the patients, the Committee cannot agree that there was no harm to the patients as claimed. The Committee notes from the *Low Cze Hong* case that “Whether a particular course of conduct will be regarded as misconduct is to be determined from the nature of the conduct and not from its consequences.”
18. The Committee therefore agrees with the SMC’s case that you had inappropriately prescribed hypnotic medication to the patients in that:
 - a) the relevant patients had developed a dependency on such medication prescribed by you; and
 - b) it is not an accepted standard of the medical profession that such medication be prescribed on a long term basis or on a maintenance dosage in the

manner as prescribed by you, even for the treatment of chronic insomnia or anxiety.

(ii) Adequate or proper documentation of patients' records

19. The second element common to the Charges is the claim that you did not record or document in your patients' Patient Medical Records details or sufficient details of the patients' diagnosis, symptoms and/or condition and/or advice given and/or any management plan such as to enable you to properly assess the medical condition of the patient over the period of treatment.

20. In the course of the proceedings, the Committee had been referred to your medical records of the patients in respect of the Charges. The Committee notes the following aspect of the evidence relating to these medical records:
 - a) a large proportion of the records is hardly legible;
 - b) save for records of the medication prescribed, there are scant details relating to the patients' condition;
 - c) there is insufficient information recorded of your diagnosis of the patients, advice given or of any management plan of treatment that you may have such that you could properly assess the medical condition of the patient over the period of treatment; and
 - d) there is no record of any withdrawal strategy or plan to taper down the medication dosage for the patients.

21. While you had stated in your evidence that it was difficult in your practice to keep fully documented records of your patients, but this was not accepted by the Committee as a legitimate excuse. This Committee note that in paragraph 4.1.2 of the Ethical Code and Guidelines, it is stated that:

"Medical records kept by doctors shall be clear, accurate, legible and shall be made at the time that a consultation takes place, or not long afterwards. Medical records shall be of sufficient detail so that any other doctor reading them would be able to take over the management of a case. All clinical details, investigation results, discussion of treatment

options, informed consents and treatment by drugs or procedures should be documented”

22. To the above, the Committee also observed that the need for clear documentation was emphasised in the Guidelines for repeated prescription of benzodiazepines.
 23. In the present case, the Committee finds that in the course of your testimony, you were unable to satisfactorily rely on these records to assist you with the management of the patients. The records were also inadequate in that any referral by you to the patients to see a psychiatrist was not recorded.
 24. In the circumstances, the Committee is unable to take the view that there was, on the face of the medical records, any or an adequate or proper management plan by you in respect of your patients.
- (iii) Failure to refer patients to specialists for further management**
25. The final element of each Charge is that you failed to refer the relevant patient to a medical specialist and/or psychiatrist for further management.
 26. It is the main thrust of the SMC’s case that you did not refer your patients to see a psychiatrist for the underlying disorder for which you were treating.
 27. In your response to the Complaints Committee, there was no indication that you had advised your patients to see a psychiatrist. We note that under cross-examination, you stated that you have referred some of your patients to see a psychiatrist but you were unable to identify them. You have also admitted that you did not insist that your patients see a psychiatrist. You have also insisted that you are capable of managing these patients by the control of the medication to them.
 28. You have also drawn the Committee’s attention to paragraph 4.2.4.1 of the Ethical Code i.e. that a doctor shall respect a patient’s choice of accepting or

rejecting advice / treatment that is offered, and that there is nothing you can do if the patient refuses to see a medical specialist and/or psychiatrist for further management. The Committee does not share your view that the portion of the Code cited excuses you of the duty to refer your patients to see a medical specialist and/or psychiatrist for further management.

29. Finally, while the Committee accepts that there were few instances when advice to see a specialist was given by you, the overall impression from the evidence is that you left it to the patients to determine for themselves whether they need a medical specialist and/or psychiatrist for further management. A few of the patients also expressly stated that they were not advised by you to see a psychiatrist.

Finding of the Committee

30. Apart from the above views and findings, the Committee also questions the credibility of your testimony. Notably, the Committee accepts the SMC's case that you had changed your case on the use of benzodiazepines for certain patients for anxiety when it was your initial case that the treatment was for chronic insomnia. In any event, the Committee does not accept that it is proper to prescribe benzodiazepines for the treatment of anxiety in the manner carried out by you, given the circumstances of each patient's case.
31. The Committee also notes that in justifying your prescription methods, you also disagreed with the contents of Dr. DE's report on concurrent prescription.
32. In the opinion of the Committee, of the 21 Charges made against you, on the evidence presented to the Committee, the SMC had successfully proven the elements of all of the Charges, save for Charge No. 15 in respect of the management of P15 for which the alleged conduct under these charges had not been completely made out by the SMC.
33. The Committee therefore finds that you are guilty of the professional misconduct described in the Charges, except for the single charge set out above.

34. For the avoidance of any doubt, the Committee had at all times borne in mind that on the Charges as framed, the SMC had the burden of proving all of the three elements of each charge for the charge to be completely made out.

Sentencing

35. In the course of mitigation, your counsel had relied upon inter alia the following:
- a) A statement by Dr. DE in respect of your practice in prescribing the medication, which is the subject matter of the convictions,
 - b) the present case is not one like the syndicated case involving [name of polyclinic redacted]
 - c) you are active in the community and had been recognised for valuable contributions as well as voluntary work arising from various appointments, and
 - d) you had exercised a degree of care in respect of your patients.
36. The SMC had cited various aggravating factors and pressed for a deterrent sentence that you be removed from the Register. In support of its case, the SMC referred the Committee to various sentencing principles applied by the Courts in respect of criminal offences. In particular, emphasis was laid upon the principle of deterrence “in order to drive home the message to other like-minded persons that such offences will not be tolerated...”. The element of public interest is an important one in such cases. The Committee notes, however, that the punishment must not be so much as to be unjust in the circumstances of the case.
37. The long term prescription of benzodiazepines and hypnotics may lead to drug dependence and tolerance, and harm to patients. This is the reason why in such cases, invariably a period of suspension and a fine are imposed on the defaulting practitioner.
38. This Committee had deliberated long and hard over the issue of an appropriate sentence in this matter. While it had been referred to, and borne in mind the

sentences meted in similar offences, the present case is unique in the light of the following circumstances:

- a) You had been convicted in 1993 of 7 charges of over-prescription of Somese, a hypnotic drug and one charge of failing to keep proper records. Your name was removed from the Register and was restored to it 2 years later.
 - b) During your application for restoration, you had assured the Council of better management and treatment of your patients. In spite of that assurance, the misconduct which is the basis for the convictions today has the same elements as the previous convictions under which your name was removed from the Register. Given this fact, the Committee is not convinced that you were truly remorseful for your acts.
 - c) The circumstances under which you were convicted of the present offences, while it arguably did not involve substantial elements of over-prescription, it involved long periods of usage of benzodiazepines and hypnotics by the patients involved, with little attempt on your part to taper off the dosage and eradicate the dependence of these patients on such medication.
 - d) The Committee had also taken into consideration the public interest element i.e. the necessity of keeping away from the public harm which may be caused by wrongful and irresponsible practice of prescribing medication.
 - e) While the Committee is aware of your counsel's submission of the right of a medical practitioner to resist the charges, it takes the view that given the facts of the present case, and the overwhelming evidence supporting the charges and upon which the convictions are founded, the Committee is of the view that it is entitled to take the fact that there was no plea of guilt into consideration, when determining an appropriate punishment.
39. Finally, the Committee also determines that a clear signal be sent to all medical practitioners that blatant disregard of the standards of the profession, or of guidelines prescribed to the profession will not be taken lightly.
40. Having regard to the representations made by both counsel, it is the Committee's decision that the appropriate sentence is as follows:-
- a) That your name be removed from the Register of Medical Practitioners; and

- b) that you pay the costs and expenses of and incidental to these proceedings, including the costs of the solicitor to the Medical Council and the Legal Assessor.

41. The hearing is hereby concluded.

Dated this 13th day of March 2009.