

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY INQUIRY AGAINST
DR ABC HELD ON 10 DECEMBER 2009**

Disciplinary Committee:

A/Prof Benjamin Ong (Chairman)
A/Prof Siow Jin Keat (Member)
Dr Tham Tat Yean (Member)
Ms Maggie Tan (Lay Member)

Legal Assessor:

Mr Joseph Liow (M/s. Straits Law Practice LLC)

Prosecution Counsel (M/s WongPartnership LLP):

Ms Melanie Ho
Mr Liew Kuang Ping

Defence Counsel (M/s Rodyk & Davidson LLP):

Mr Lek Siang Pheng
Ms Mar Seow Hwei

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 2 August 2007 by Dr. T, for the Director of Medical Services, Ministry of Health to the Singapore Medical Council (the "SMC").
2. The complaint indicated that officers of the Clinical Assurance and Audit (CAA) Branch of HRD had inspected your clinic on 23 August 2006.

Documents before the Disciplinary Committee

3. At the commencement of the proceedings, the Disciplinary Committee was informed by Prosecution Counsel that it would be proceeding on 14 charges with charges no. 8 and 16 to be withdrawn.
4. Prosecution Counsel tendered the following documents:-
 - a) Three (3) Volumes referred to as Inquiry Bundle which were agreed to be admitted as agreed documents;
 - b) Agreed Statement of Facts (admitted as exhibit P-1);

- c) Antecedents summary and decisions of the Disciplinary Inquiry on 20 November 2008 and 10 September 2009 (marked as exhibit P-2); and
 - d) A bundle of fifteen schedules relating to 15 different patients (marked as P-3).
5. Defence Counsel tendered the following documents:-
- a) Mitigation Plea marked as "D-1"; and
 - b) Respondent's Submission on Sentence "D-2".

The Charges

6. The 14 charges are set out in P-1 at pages 1 to 46 of Volume 1.

The Proceedings

7. You had confirmed that you were aware of the charges set out in pages 1 to 46 of exhibit P-1 and entered a plea of guilt in respect of charges numbered 1 to 7 and 9 to 15; a total of 14 charges. Charges 8 and 16 were withdrawn.
8. Prosecution Counsel had highlighted that you had appeared before two other Disciplinary Committees prior to these present proceedings. These two other Disciplinary Committee Inquiries were concluded on the 20 November 2008 (2008 proceedings) and 10 September 2009 (2009 proceedings) respectively.
9. Prosecution Counsel had addressed us on sentencing and submitted that if we were considering any sentence of suspension, we should order that the suspension to run after your current suspension period which you were ordered to serve by a separate Disciplinary Committee on 10

September 2009. Prosecution Counsel highlighted to this Committee the case of *Public Prosecutor v Abdul Karim bin Mohamed Kuppai Khan* [2007] SGDC 250 for the proposition that in appropriate circumstances, the general rule that sentences should commence from the date a tribunal passes sentence can be departed from. Prosecution Counsel, in citing two other cases referred to in that judgment, suggested that if we were to order any suspension, we should exercise our discretion and order your suspension to commence only after your present suspension order expires. Prosecution Counsel submitted that this should be so as a concurrent sentence of suspension would render our punishment of your professional misconduct inconsequential. Further, this Committee should also consider whether the totality of the sentence to be served is proportional to the inherent gravity of your professional misconduct of all three proceedings (i.e. the 2008 proceedings, 2009 proceedings and the present proceedings).

10. Your Defence Counsel pointed out that in the 2008 proceedings, amongst other orders, you had been ordered to serve a suspension of 6 months and a fine of \$5,000. In the 2009 proceedings, amongst other orders, you were ordered to serve a suspension of 30 months and a fine of \$10,000.
11. Your Defence Counsel therefore urged this Committee to consider that the present proceedings could have (but was not) dealt with in either of the two earlier proceedings. This was alluded to at page 5 of your counsel's mitigation plea where it stated "Dr. ABC would humbly ask that the Disciplinary Committee take into account the fact that he has been punished for his mistakes."

Findings by this Committee

12. Having considered counsel's submissions and the advice of the legal assessor, we are of the view that there are reasons for us to depart from the general rule that your sentence run from the date of this Order.
13. We took into account the fact that around March 2006, your clinic was raided which led to the 2008 proceedings which related to the prescription of Subutex and benzodiazepines to patients. The Subutex and benzodiazepines charges for which you face today were in relation to another separate and distinct raid which took place in August 2006.
14. We further noted that the charges for which you were convicted and sentenced in relation to the 2009 proceedings **did not** relate to Subutex but rather in relation to the prescription of hypnotics and cough mixtures containing codeine.
15. Having considered this, it appears to us that you, despite the March 2006 raid, nonetheless continued to prescribe Subutex and benzodiazepine.
16. We have however considered that there might be fairly said to have been some 'overlap' in respect of the benzodiazepine charges in these proceedings and the 2009 proceedings.

Sentencing

17. Having considered all of the above, the Committee do hereby orders as follows:-
 - (a) that you be suspended from practice for a period of **3 months** and the period of suspension will commence from the expiry of your present suspension (which ends on 9 April 2012);
 - (b) that you be fined the sum of **\$5,000**;

- (c) that you be censured;
 - (d) that you give a written undertaking to the SMC that you will not engage in the conduct complained of or any similar conduct; and
 - (e) that you pay the costs and expenses of and incidental to these proceedings and the costs of the solicitors to the SMC and the Legal Assessor.
18. It is this Committee's view that your periods of suspension should run consecutively and not concurrently. We take the view that to run the suspension period concurrently would make any punishment ordered by us inconsequential. As we have pointed out, you continued with your recalcitrant behaviour despite the first raid. We do not form the view that the punishment that you have received so far in the 2008 and 2009 proceedings and our orders made today are disproportionate to your transgressions given the gravity of all the charges you have faced.
19. This hearing is hereby concluded.

Dated this 10th day of December 2009.