

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY INQUIRY AGAINST
DR ABF HELD ON 19 JANUARY 2010**

Disciplinary Committee:

Prof Ong Yong Yau (Chairman)
Prof Walter Tan (Member)
Prof Quak Seng Hock (Member)
A/Prof Leong Kwong Sin (Lay Member)

Legal Assessor:

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

Prosecution Counsel (M/s WongPartnership LLP):

Ms Melanie Ho
Mr Liew Kuang Ping

Defence Counsel (M/s Donaldson & Burkinshaw):

Mr Eric Tin
Mr Hadi Haryadi

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 15 July 2008 by Dr C, Deputy Director, Ministry of Health to the Singapore Medical Council (the "SMC").

The Charges

2. The particulars of the individual charges of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) are set out in the Notice of Inquiry by the Disciplinary Committee ("NOI").
3. In brief, you were charged with twenty two (22 charges) of professional misconduct relating to events that occurred between the periods from August 1998 to September 2008, during such time when you were practising as a general practitioner at Clinic A located at [**address of clinic redacted**]. You have been charged that you had failed to exercise

due care in the management of various patients, in the use of Buprenorphine (Subutex), Benzodiazepine and/ or Codeine.

4. In each of these cases, you had failed to exercise due care to such an extent as to amount to professional misconduct, in particular, you had, with many of your patients:-
 - (a) Made improper prescriptions of benzodiazepine and cough mixtures containing codeine.
 - (b) Carried out inappropriate management of your patients in that you did not formulate any long term management plan for the treatment of the patient's medical condition.
 - (c) Failed to record or document in the patient's Patient Medical Records with or any sufficient details of the patient's diagnosis, symptoms and condition throughout the period of treatment save for the initial consultation.
 - (d) Failed to carry out an adequate assessment of the patient's medical condition over the period of treatment.
 - (e) Failed to refer the patient to a medical specialist for further assessment and management.
 - (f) Breached paragraphs 6, 6.1, 6.1.3, 6.1.4 and 6.2 of MOH Guidelines dated 26 October 2005 for the treatment of Opiate Dependence.

- (g) In some cases, prescribing Subutex in combination with a Benzodiazepine i.e. Nitrazepam.
 - (h) You breached the MOH Benzodiazepine Guidelines and its General Advice of Prescribing Benzodiazepines.
5. Of these 22 charges, the majority of charges related to prescription of Benzodiazepines; three related to Subutex (with the 1st and 2nd charges relating to both prescription of Subutex and Benzodiazepines); whilst the charges 7, 8, 17, 20 and 21 relating to prescriptions of both Benzodiazepines and cough mixture containing Codeine.

The Proceedings

6. You had consented to the charges as set out in the NOI (together with the relevant Schedules) to be deemed as read at the hearing today and you had unequivocally entered a plea of guilty to all the charges.
7. Prosecution and Defence Counsels agreed that all the Inquiry Bundles marked as Volumes 1, 2(a), (b), (c) and Volume 3 be admitted with the authenticity and contents of the statement as agreed. An Agreed Statement of Facts was tendered and read to this Disciplinary Committee.
8. We were informed that both counsels had agreed to accept the opinion of Dr. PE. We were told by Ms. Ho for the prosecution that the evidence of Dr. PE is to be considered as accepted by both parties as the evidence of a joint expert.

9. Having found you guilty of all the charges as set out in the NOI, we invited prosecuting counsel and defence counsel to make submissions on sentencing.

10. The prosecuting counsel, Ms. Ho, urged this Committee to consider the sentencing precedents that she had submitted to this Committee. In particular she referred to the finding of another Disciplinary Committee which sat on 12 May 2008 where the defence counsel here was the same defence counsel in the other case. In that case, the other doctor faced 16 charges. That doctor was sentenced to a suspension of 3 months, a \$2,000 fine, censured with the usual undertaking and ordered to pay the costs and expenses related to those proceedings. Ms. Ho also cited another DC inquiry conducted over 3 tranches ending on 13 March 2009 where in that case the doctor had claimed trial to all 21 charges against him. In that case, after that DC found him guilty of 20 out of the 21 charges, he was struck off the Register.

11. In response, your counsel, Mr. Tin, submitted a written Mitigation Plea. He made the following submissions to us:-
 - (a) That despite the fact that some of these patients were seeing the doctor for a long period of time, if one considers the actual medical case notes, some of your patients have not approached you for extended periods of time (the longest was said to have been 625 days).

 - (b) That the plea of guilt was entered voluntarily and had saved much time and costs for this Disciplinary Committee and all parties involved. In particular we noted that your intention to plead guilty to

all the charges preferred against you was made even prior to the issuance of the Notice of Inquiry.

- (c) Only 5 charges relate to improper prescriptions of benzodiazepines and cough mixtures containing codeine.
- (d) You had attempted to record in patient's case notes, reasons for relapse, marital status, etc. Initial history was recorded, initial CNB referrals were made and checks for intravenous drug abuse were done and documented. For other patients, advice given to patients relating to sleeping pill abuse was documented. Your counsel sought to convince us that whilst your record keeping was less than satisfactory, it was not completely bereft of any case note.
- (e) You did not refer all 22 patients to specialist because you were of the view that you were capable of managing them. Your patients were also not willing to attend to physicians at the IMH due to the perception of your patients that IMH was meant for only "serious cases". Some of your patients also viewed a trip to IMH as 'inconvenient'. Sometimes, when your patients did agree to go to IMH, appointments made by IMH were so far down the road that you felt that you should consider treating your patients until that time.
- (f) You had treated your patients in the manner in which you were taught at CAMP i.e. that drug addiction is a chronic relapsing disorder and the aim of therapy was sustained remission. You had adhered to supervised opiate withdrawal method which included supportive care, health care, medical treatment and pharmacotherapy with substitute opiate (in this case Subutex) followed by gradual dose reduction.

- (g) You were taught, and did not give up, even on the most difficult cases and had helped patients who were homeless.
- (h) You had stated that your prescription of cough mixture containing codeine did not exceed the DMS Directive.
- (i) That you were a first time offender with 30 years of blemish-free medical record.
- (j) That you are generally of good character and demonstrated professionalism in your work based on numerous testimonials to this effect.
- (k) Your various contributions to society and the community in general.
- (l) That a suspension and fine will put you under severe financial strain as you are the sole breadwinner of your family and you have 3 sons whom you are still supporting; one of whom is in his first year in medical school, the other performing national service with the youngest son starting in primary 1 this year.

12. We then took time to deliberate our findings and decision.

Sentence by this Committee

- 13. Having found you guilty of 22 charges of professional misconduct within the meaning of section 45(1)(d) of the Act, we considered the submission made to us by respective counsels to decide on the appropriate orders to be made against you.
- 14. We find that mismanagement of patients relating to Subutex to be particularly troubling and given the rising incidences of undesirable

conduct of medical practitioners either in indiscriminately prescribing opiates, hypnotics or cough mixtures containing codeine, we are of the view that public policy requires us to treat these misconduct seriously and to deter you and any other like-minded medical practitioners from committing similar acts.

15. Let us first say that we do not consider an order to strike you off the Register as an appropriate punishment. That would be manifestly harsh.
16. We accept some but not all of the mitigating factors which your counsel has ably highlighted. We agree with his submission that your early plea of guilt, thus showing remorse and saving time and costs for all parties involved, is a strong mitigating factor. We also considered and took note of the fact that you are a first time offender and given the strong testimonial of your character and contribution to society, that you are unlikely to repeat this misconduct again. We do accept your counsel's submission that you did not refer your clients to specialist because you felt that you were capable of managing them and that you did treat them in the manner as you were taught at CAMP. Whilst this may not have been borne out by your case notes for your patients, we are prepared to give you the benefit of the doubt, particularly when prosecuting counsel did not challenge this fact raised in mitigation.
17. What we cannot accept is the argument that the fact that there were only 5 instances of improper prescriptions, this should be considered mitigatory. In the whole scheme of things, this further pointed out the systematic failure on your part to conduct yourself in a professional manner as a doctor. We also do not accept that your recording of initial information of your clients to be mitigatory and that poor record keeping was acceptable. In cases where you are dealing with hypnotic drugs, the duty to keep accurate and precise records and case notes is much more acute.

18. We unequivocally reject your counsel's argument that your prescription of cough mixture containing codeine is a mitigation point. As your counsel correctly conceded, the prescription of benzodiazepine with codeine cough mixtures, in the manner as set out in the charges, contravenes the MOH guidelines.

Sentencing

19. Having regard to the representations made by both Counsels, it is our view that there is merit in treating you more leniently. Without such mitigation factors in your favour, we would have been justified in taking a stronger position in this matter.
20. It is the Committee's decision that the appropriate sentence to be meted against you shall be as follows:
- (a) that you be suspended from practice for a period of **6 months**;
 - (b) that you be fined the sum of **\$5,000.00**;
 - (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 including the costs of the solicitors to the SMC and the Legal Assessor.
21. This hearing is hereby concluded.

Dated this 19th day of January 2010.