SINGAPORE MEDICAL COUNCIL DISCIPLINARY INQUIRY
FOR DR ABU HELD ON 15, 16, 18 NOVEMBER 2010
AND 7 MARCH 2011

Disciplinary Committee:
Prof Ho Lai Yun (Chairman)
Prof Tay Boon Keng
Dr Desmond Wai Chun Tao
Mr Chia Chor Leong (Lay Person)

Legal Assessor:
Mr Joseph Grimberg
(M/s Drew & Napier LLP)

Prosecution Counsel:
Ms Chang Man Phing
Ms Kylee Kwek
Ms Maxine Ung
(M/s WongPartnership LLP)

Defence Counsel:
Mr Christopher Chong
Ms Sharon Liu
(M/s Rodyk & Davidson LLP)

DECISION OF THE DISCIPLINARY COMMITTEE

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

VERDICT:

The Respondent

1. Dr ABU ("**the Respondent**") is a registered medical practitioner under the Medical Registration Act (Cap 174), with a registered specialty in Obstetrics and Gynaecology. He practises at Clinic A (formerly known as "**[name of clinic redacted]**") ("**the Clinic**"), located at **[address of clinic redacted]**.

The Complaint

2. By a letter dated 3 September 2007, the Clinical Assurance and Audit Branch, Health Regulation Division of the Ministry of Health ("**the**

Complainant") lodged a complaint ("**the Complaint**") with the Singapore Medical Council ("**SMC**") against the Respondent, in respect of an advertisement on the Clinic ("**the Advertisement**") published in the 2007 edition of "*The Guide to Singapore's Private Medical & Dental Specialist Care*" ("**the Directory**").

The Charges

3. Pursuant to the Complaint, and by a Notice of Inquiry dated 9 September 2009, SMC preferred the following charges against the Respondent:

1st Charge

"*That you DR ABU are charged that whilst practising at Clinic A located [at]* ***[address of clinic redacted]*** *('the Clinic'), you did offer, in your Clinic's advertisement published in 'The Guide to Singapore's Private Medical & Dental Specialist Care' in 2007 ('the Advertisement'), a procedure which is not medically proven as a treatment, namely, stem cell treatment for cellular rejuvenation, outside the context of a formal and approved clinical trial.*

Particulars

(a) You offered stem cell treatment under the 'Clinic A Stem Cells Programme' to your patients for cellular rejuvenation.

(b) Part of the stem cell treatment under the 'Clinic A Stem Cells Programme' was to be carried out overseas, inter alia, in Switzerland and Kuala Lumpur, by an organisation called ***[name of organisation redacted]****.*

(c) ***[Name of Organisation redacted]*** *is not a private hospital, medical clinic, clinical laboratory or healthcare establishment licensed under the Private Hospitals and Medical Clinics Act*

(Chap. 248) (1998 Rev. Ed) to provide medical services in Singapore.

(d) *Stem cell treatment for cellular rejuvenation is not medically proven as a treatment. Accordingly, stem cell treatment for cellular rejuvenation is required to be carried out as a clinical trial with ethics approval.*

(e) *You did not obtain ethics approval for the stem cell treatment for cellular rejuvenation to be carried out as a clinical trial.*

and that in relation to the facts alleged, you have breached paragraphs 4.1.4 and 4.1.6 of the SMC Ethical Code and Ethical Guidelines and you are thereby guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) (2004 Rev. Ed.)".

2nd Charge

"*That you DR ABU are charged that whilst practising at Clinic A located [at]* ***[address of clinic redacted]*** *('the Clinic'), you did offer, in your Clinic's advertisement published in 'The Guide to Singapore's Private Medical & Dental Specialist Care' in 2007 ('the Advertisement'), a procedure namely, Colonic Irrigation as 'Detox Medicine', which is not medically proven as a treatment.*

Particulars

(a) *In the Advertisement, you offered Colonic Irrigation as one of the treatments provided by the Clinic under 'Detox Medicine'.*

(b) *Colonic Irrigation is not medically proven as a treatment for detoxification.*

and that in relation to the facts alleged, you have been guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) (2004 Rev. Ed.)".

3rd Charge

"*That you DR ABU are charged that whilst practising at Clinic A located [at]* ***[address of clinic redacted]*** *('the Clinic'), you did offer, in your Clinic's advertisement published in 'The Guide to Singapore's Private Medical & Dental Specialist Care' in 2007 ('the Advertisement'), a procedure namely, Chelation, as 'Detox Medicine', which is not medically proven as a treatment.*

Particulars

(a) In the Advertisement, you offered Chelation as one of the treatments provided by the Clinic under 'Detox Medicine'.

(b) Chelation is not medically proven as a treatment in the absence of confirmed toxicity.

and that in relation to the facts alleged, you have been guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) (2004 Rev. Ed.)".

4th Charge

"*That you DR ABU are charged that whilst practising at Clinic A located [at]* ***[address of clinic redacted]*** *('the Clinic'), you did offer, in your Clinic's advertisement published in 'The Guide to Singapore's Private Medical & Dental Specialist Care' in 2007 ('the Advertisement'), a procedure namely, Detoxification for Heavy Metals as 'Detox Medicine', which is not medically proven as a treatment.*

Particulars

(a) In the Advertisement, you offered Detoxification as one of the treatments provided by the Clinic under 'Detox Medicine'.

(b) Detoxification for heavy metals is not medically proven as a treatment in the absence of confirmed toxicity.

and that in relation to the facts alleged, you have been guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) (2004 Rev. Ed.)".

5th Charge

"*That you DR ABU are charged that in or about July to August 2007, whilst practising at Clinic A located [at]* ***[address of clinic redacted]*** *('the Clinic'), you did offer a procedure namely, Face Treatment using Oxygen, which is not medically proven as a treatment.*

Particulars

(a) You offered Face Treatment using Oxygen to your patients in the Clinic after carrying out Laser and IPL (Intensive Pulse Light) Treatments on their faces.

(b) Face Treatment using Oxygen is not medically proven as a treatment.

and that in relation to the facts alleged, you have been guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) (2004 Rev. Ed.)".

6th Charge

"*That you DR ABU are charged that in or about July to August 2007, whilst practising at Clinic A located [at]* ***[address of clinic redacted]***

('the Clinic'), you did offer a procedure namely, Lymphatic Drainage in the process of non-surgical facelift, which is not medically proven as a treatment.

Particulars

(a) You offered Lymphatic Drainage to your patients in the process of non-surgical face-lifts.

(b) The use of Lymphatic Drainage in the process of non-surgical face-lifts is not medically proven as a treatment.

and that in relation to the facts alleged, you have been guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) (2004 Rev. Ed.)".

7th Charge

"*That you DR ABU are charged that in or about July to August 2007, whilst practising at Clinic A located [at]* ***[address of clinic redacted]****, you offered a procedure namely, Nutritional Therapy in the form of vitamins and antioxidant supplements, which is not medically proven as a treatment.*

Particulars

(a) You offered Nutritional Therapy in the form of vitamins and antioxidant supplements to your patients.

(b) The use of Nutritional Therapy in the form of vitamins and antioxidant supplements in the absence of deficiency of these substances, is not medically proven as a treatment.

and that in relation to the facts alleged, you have been guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) (2004 Rev. Ed.)".

The 1st Charge

4. The Respondent raised a preliminary objection before this Disciplinary Committee ("**the Committee**") in respect of the 1st Charge, on the ground that he had previously been charged with the same offence, to which he had pleaded guilty and for which he had already been punished. The Respondent therefore pleads *autrefois convict*, and relies on the legal maxims "*nemo debet bis vexari pro una et eadem causa*" and "*nemo debet bis puniri pro uno delicto*".

5. The previous charge referred to by the Respondent ("**the Previous Charge**") arose out of a complaint dated 20 June 2007 made by Dr C against the Respondent. It was as follows:

"*That you DR ABU are charged that whilst practising at Clinic A located* ***[address of clinic redacted]*** *('the Clinic'), you did, in your Clinic's advertisement published in 'The Guide to Singapore's Private Medical & Dental Specialist Care' in 2007 ('the Advertisement'), a copy of which is annexed at Annex A, make laudatory and/or misleading statements in breach of paragraph 4.4.2 of the Singapore Medical Council ('SMC') Ethical Code and Ethical Guidelines.*

Particulars

(a) In the Advertisement, you stated:-

> *'Clinic A belongs to an international chain. In Singapore, Dr. ABU one of the foremost age management experts in Asia. Its mission is to employ the many breakthroughs in age management of the 21st century medicine to enable their clients to have a longer and healthier life. The key to its*

success is by simply adopting a 'Preventive Medical Approach' to aging and by using Stem Cells treatment to prevent, slow and reverse the aging process. What seems to be a dream fantasy is now a reality and Dr ABU is making it happen perhaps for the first time in Asia under the all comprehensive umbrella of Anti Aging Medicine.

Clinic A is unconventional in the sense that it helps you prevent the ravages of degenerative diseases of aging such as Arthritis, hypertension, diabetes, Parkinson's degeneration and cancer with its medical programmes. If you are unfortunate to be already in a disease state, Clinic A can help you treat it in a holistic and integrated way. It also acts as a 'Specialist Concierge' where you can be referred to the best physicians available in Singapore and worldwide. These include eye surgeons, cardiologists and oncologists.

CURRCULUM VITAE

Dr ABU has been studying, researching and practising Age Management medicine over the past 25 years. He was trained Singapore, UK, France, USA and Switzerland. With his wide base knowledge from all these countries, he is able to assimilate the best practices from all these countries and produce a most comprehensive programme under one roof for 'Preventive Aging Management', with the advent of use of 'stem cells'. Dr ABU is one of the pioneers to use 'stem cells' more meaningfully to help repair and rejuvenate cells and organs before they become totally dysfunctional. Dr ABU does not believe that stem cells should only be used after the disease has ravaged the organs. He believes that stem cells should be used in the 98% of the relating population who are still healthy but with minor ailments. In so doing, this 'Preventive Repair Therapy' is much more

useful both physically and economically for the nation as a whole.

In other word, 'why repair the vehicle (body) after the accident when you can initiate the repair (of the human body) before the accident'.

There is a worldwide movement in advance developed countries in subscribing to this type of medicine rather than to treat after the fact.'

(b) The statements in the Advertisement are laudatory and/or misleading in that they give the impression that:-

(i) You are one of the pioneers of stem cell treatment; and/or

(ii) You are part of an internationally established medical group which practises innovative and advanced techniques and treatments, including stem cell treatment; and/or

(iii) Stem cell treatment is a medically accepted and effective therapy both for the treatment and prevention of degenerative diseases of ageing such as 'Arthritis, hypertension, diabetes, Parkinson's degeneration and cancer'.

and that in relation to the facts alleged, you have been guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) (2004 Rev. Ed.)." [sic]

6. The Committee had noted that the advertisement which featured in the Previous Charge was the same Advertisement which features in the 1st Charge in the present case.

7. The Committee had further noted that:

(a) The statements made in the Advertisement which according to the Previous Charge were laudatory and/or misleading included statements about stem cell treatment;

(b) These statements were said to be laudatory and/or misleading because they gave the impression that, amongst other things, stem cell treatment is a medically accepted and effective therapy both for the treatment and prevention of degenerative diseases of ageing such as 'Arthritis, hypertension, diabetes, Parkinson's degeneration and cancer';

(c) The subject matter of the 1st Charge in the present case is also stem cell treatment, which is said to be a procedure which is not medically proven.

8. However, the Committee was of the view that the offence comprised in the Previous Charge is not the same, nor substantially the same, offence as that which is comprised in the 1st Charge in the present case:

(a) In the case of the Previous Charge, the offence is the making of laudatory and/or misleading statements about stem cell treatment;

(b) In the case of the 1st Charge in the present case, however, the offence is the offering of that treatment;

(c) Although the act of making the statements and the act of offering the treatment were both done in the same Advertisement, the acts were nevertheless distinct – one was making laudatory and/or misleading statements about the procedure, whilst the other was actually offering that procedure as a treatment. A person can make statements about a procedure without actually offering to perform it, and vice versa.

9. The Committee was therefore of the view that neither the legal maxim "*nemo debet bis vexari pro una et eadem causa*" nor the legal maxim "*nemo debet bis puniri pro uno delicto*" applied to the 1st Charge, and the Respondent's plea of *autrefois convict* had no merit, and accordingly rejected the Respondent's preliminary objection.

10. Pursuant to the Committee's rejection of the Respondent's preliminary objection, the Respondent pleaded guilty to the 1st Charge.

The 2nd Charge

11. The Committee is mindful of its duty *not* to exceed the ambit of the charge. A finding of guilt or innocence, as the case may be, must therefore be based on the charge *as framed*.

12. The crucial parts of the 2nd Charge are set out below:

"*That you [the Respondent] are charged that … you did offer, in [the Advertisement], … Colonic Irrigation as 'Detox Medicine', which is not medically proven as a treatment.*

Particulars

(a) In the Advertisement, you offered Colonic Irrigation as one of the treatments provided by the Clinic under 'Detox Medicine'.

(b) Colonic Irrigation is not medically proven as a treatment for detoxification.

… "

13. Given the form of the 2nd Charge, the Committee notes at the outset that:

(a) The Respondent is accused of having *offered* the procedure *in the Advertisement*. Whether he offered, or had in fact performed, the

procedure in his Clinic, or anywhere else, is therefore outside the ambit of the charge and is irrelevant;

(b) The charge simply states that Colonic Irrigation is not medically proven as a treatment for detoxification. There are no qualifications to this statement. More particularly, the charge does not say that Colonic Irrigation is not medically proven as a treatment for detoxification in a given set of circumstances. The Prosecution's case, therefore, must be that Colonic Irrigation is not "medically proven" as a treatment for detoxification *at all*.

14. During the Inquiry, however, the Prosecution had expanded its case beyond the scope of the 2nd Charge:

(a) In the Prosecution's Opening Statement, the Prosecution states:

At paragraph 23:

"*23. The Prosecution's case in relation to Colonic Irrigation … is that [this procedure is] not medically proven as [a treatment] for the purposes of detoxification and general well-being*." [emphasis added]

At Paragraph 26:

"*26. The Respondent provides Colonic Irrigation … under the umbrella of 'Detox Medicine' … Further, the Respondent also does not provide colonic irrigation only to patients with problems such as chronic constipation, colostomies, as well as for bowel preparation prior to procedures such as [colonoscopy]. These are the only types of treatments for which colonic irrigation is supported by randomized studies. As Professor PE pointed out, these procedures come under the umbrella of complementary therapy which is done for the purposes of maintaining wellbeing. Such*

complementary therapies are not evidence-based and are not generally accepted by the medical profession." [emphasis added]

(b) In the Prosecution's Closing Submissions, the Prosecution states:

At Paragraph 11:

"*11. … paragraph 4.1.4 of the ECEG must apply to all the 6 procedures offered by Dr ABU even if they are detox/preventive therapies for seemingly healthy patients.* …" [emphasis added]

At Paragraph 19:

"*19. From the documents such as the Advertisement and Dr ABU's Clinic websites, it is very clear that Dr ABU offers Colonic Irrigation as a detoxification/preventive measure for healthy patients (Advertisement at AB Tab 2 pg 13; Websites at AB Tab 8 pg 104 and Tab 9 pg 116). … Whether Colonic Irrigation is offered as a treatment or as a preventive procedure, this would still fall within the ambit of paragraph 4.1.4 of the ECEG* …" [emphasis added]

At Paragraph 21:

"*21. Dr PE also referred to the National Health Service ('NHS') website wherein it states that 'Colonic irrigation is a complementary therapy, and there is currently no medical or scientific evidence to prove its effectiveness…' … Therefore, even from an institutional view, the position is that Colonic Irrigation is considered as complementary therapy and there is no scientific evidence to prove its effectiveness*." [emphasis added]

(c) The Prosecution also adduced evidence to show that Colonic Irrigation is not medically proven as a preventive or complementary therapy for maintaining general well-being.

15. The Committee is of the view that it is not permissible for the Prosecution to go beyond the ambit of the 2nd Charge as it is framed. The issues, as far as the 2nd Charge is concerned and in the way it is framed, are simply these:

(a) Whether the Respondent had offered Colonic Irrigation as "Detox Medicine" in the Advertisement;

(b) Whether Colonic Irrigation is medically proven *as a treatment for detoxification*;

(c) If Colonic Irrigation is not medically proven as a treatment for detoxification, whether that means that Colonic Irrigation is not generally accepted by the medical profession as a treatment for detoxification, and hence the Respondent, by offering Colonic Irrigation as "Detox Medicine" in the Advertisement, had breached paragraph 4.1.4 of SMC's Ethical Code and Ethical Guidelines ("**ECEG**") and, by virtue of that breach, the Respondent had been guilty of professional misconduct.

16. The question of whether Colonic Irrigation is medically proven as a complementary or preventive therapy for maintaining general well-being, and the question of the kind of patients to whom the Respondent had actually provided the procedure, are irrelevant to the 2nd Charge.

17. It is not disputed that the Respondent had offered Colonic Irrigation as "Detox Medicine" in the Advertisement.

18. It is, however, on the second issue as stated in paragraph 15 above, that the Prosecution fails in its case.

19. The Prosecution's own expert witness, Assoc Professor PE ("**AP PE**"), gave the following evidence in her report dated 19 May 2009 ("**AP PE's Report**"):

"*Various forms of colonic irrigation ('washout') are recognized as treatment for patients with chronic constipation, colostomies, as well as for bowel preparation prior to procedures such as colonoscopy. These are supported by randomized control studies*. …" [emphasis added]

20. In AP PE's Report, she referred to information published by the United Kingdom's National Health Service ("**NHS**") concerning Colonic Irrigation as a form of complementary therapy. This information was published in NHS's website.

21. The information published by NHS in its website, however, included the following statement:

"*Colonic irrigation, also sometimes known as colonic hydrotherapy, is a procedure for removing waste and toxins from the bowel. Some of the waste products that colonic irrigation can remove include:*

- *impacted faeces (dried-up stools),*
- *dead tissue, and*
- *parasites and worms*." [emphasis added]

22. The above statement was not challenged by the Prosecution. Indeed, in her testimony during the inquiry, AP PE agreed that Colonic Irrigation is a procedure for removing waste and toxins from the bowels.

23. Given the evidence described above, the Committee is of the view that the Prosecution has failed to prove beyond a reasonable doubt that Colonic irrigation is not medically proven as a treatment for detoxification. It may well be (and the Committee expresses no opinion thereon) that Colonic Irrigation is not medically proven as a treatment for detoxification in an otherwise healthy patient merely for the purpose of maintaining his

or her general well-being. However, the 2nd Charge is not qualified in that manner, and it cannot be said that Colonic Irrigation is not medically proven as a treatment for detoxification at all.

24. Accordingly, the Committee finds that the Respondent is not guilty of the 2nd Charge.

The 3rd Charge and the 4th Charge – Preliminary Objection

25. In the Respondent's Closing Submissions, the Respondent raised the preliminary objection that the 3rd Charge and the 4th Charge are for the same offence and hence should be considered jointly and not as separate charges. The Respondent submits that both "*Chelation*" and "*Detoxification for Heavy Metals*" refer to the same procedure, as chelation is used to remove heavy metals and detoxification for heavy metals is carried out by chelation.

26. The crucial parts of the 3rd Charge are set out below:

"*That you [the Respondent] are charged that … you did offer, in [the Advertisement] … , Chelation, as 'Detox Medicine', which is not medically proven as a treatment.*

Particulars

(a) In the Advertisement, you offered Chelation as one of the treatments provided by the Clinic under 'Detox Medicine'.

(b) Chelation is not medically proven as a treatment in the absence of confirmed toxicity.

…"

27. The crucial parts of the 4th Charge are set out below:

"*That you [the Respondent] are charged that … you did offer, in [the Advertisement], … Detoxification for Heavy Metals as 'Detox Medicine', which is not medically proven as a treatment.*

Particulars

(a) In the Advertisement, you offered Detoxification as one of the treatments provided by the Clinic under 'Detox Medicine'.

(b) Detoxification for heavy metals is not medically proven as a treatment in the absence of confirmed toxicity.

… "

28. There was no dispute that the Respondent had offered "*Chelation*" and "*Detox for Heavy Metals*" in the Advertisement, both under the heading "*Detox Medicine*".

29. The Committee notes that "*Chelation*" and "*Detox for Heavy Metals*" were offered in the Advertisement as separate items.

30. In AP PE's Report, she gave the following evidence:

"*Chelation is a chemical process in which a substance is used to bind (chelate) molecules, such as metals or minerals, so that they can be removed from the body. …*

A type of chelation therapy which is performed intravenously is EDTA 'chelation therapy'. In EDTA 'chelation therapy', the substance that binds and removes metals and minerals is ethylene diamine tetra-acetate (EDTA), a synthetic amino acid which is delivered intravenously. …" [emphasis added]

31. Further on in AP PE's Report, she said:

"*Detoxification for heavy metals makes sense in patients who are shown to have excessive or toxic amounts of heavy metals in a bioavailable form, which threaten clinical toxicity*…." [emphasis added]

32. The Respondent himself had made the following statements:

(a) In the written statement dated 13 November 2007 given by the Respondent to the Complaints Committee, the Respondent made the following statements:

"*The procedures like colonic irrigation and oral chelation with nutritional therapies eg. Vitamin C, xeolites, magnesium, and alpha lipoic acid are performed in Clinic A Singapore.*

As explained to the Ministry of Health, the intravenous chelation and autologous stem cells treatment are performed overseas. …

Intravenous chelation is a recognised procedure in Switzerland and Malaysia and most states in U.S.A., Europe, Australia, New Zealand, Hong Kong and Taiwan. It is a global practice except in Singapore. …" [emphasis added]

(b) In the written statement dated 16 November 2010 given by the Respondent to this Committee at the Inquiry, the Respondent made the following statement (at paragraph 21):

"*Chelation is a process where a substance is introduced into a patient and that substance binds with the unwanted metal or mineral in a chemical process, which is then passed out from the body*." [emphasis added]

33. Based on the foregoing evidence, it is clear that:

(a) "*Chelation*" is a procedure for removing metals *or minerals* from the body, whereas "*Detoxification for Heavy Metals*" is a procedure specifically for removing heavy metals from the body;

(b) Whilst "c*helation*" is a procedure which can be used for removing heavy metals from the body, it is not necessarily used only for the purpose of removing heavy metals from the body. It can also be used to remove minerals from the body;

(c) "*Chelation*" is a procedure that can be performed orally or intravenously, and the Respondent himself recognized the distinction between the two.

34. The Committee also notes that in the Advertisement:

(a) "*Chelation*" was offered without any distinction between oral chelation and intravenous chelation;

(b) "*Detox for Heavy Metals*", however, was not only offered as a separate item, but was specifically offered as "*I/V Detox for Heavy Metals*" [emphasis added].

35. In light of the foregoing, the Committee is of the view that the procedure offered as "*Chelation*" in the Advertisement and the procedure offered as "*Detox for Heavy Metals*" in the same Advertisement are not necessarily the same procedure, nor necessarily for the same purpose.

36. Accordingly, the Committee rejects the Respondent's objection that the 3rd Charge and the 4th Charge are for the same offence and therefore should be considered jointly and not as separate charges.

The 3rd Charge

37. The crucial parts of the 3rd Charge have been set out in paragraph 26 above.

38. Again, the Committee is mindful of the following:

(a) The Committee must not exceed the ambit of the charge;

(b) The 3rd Charge relates only to what had been offered by the Respondent *in the Advertisement*. Therefore, as far as innocence or guilt of the charge is concerned, what the Respondent actually did in his Clinic is irrelevant. On what patients the Respondent had actually performed the procedure is also irrelevant.

39. It was not disputed that the Respondent had, in the Advertisement, offered Chelation under "*Detox Medicine*".

40. However, given the manner in which the 3rd Charge is framed, the issues before the Committee are the following:

(a) Whether the Respondent had, *in the Advertisement*, not only offered Chelation as a treatment for detoxification, but had offered it as a treatment for detoxification *in the absence of confirmed toxicity*;

(b) If the Respondent had done so, whether Chelation is medically proven as a treatment for detoxification in the absence of confirmed toxicity.

41. In considering the first issue stated in paragraph 40(a) above, the Committee must look at the whole Advertisement, to determine the context in which Chelation had been offered.

42. In this respect, the Committee notes the following features of the Advertisement:

(a) The Advertisement was published in the Directory under the category of "*Anti-Aging Medicine*";

(b) In the Advertisement, the Respondent's credentials included the statement that he is an "*Anti-Aging Consultant*";

(c) The Advertisement began with the following statement:

"*The Swiss Science of Age Management holds the key to a healthier you with added years to your life*." [emphasis added]

(d) The rest of the Advertisement was in the following terms:

"*Clinic A belongs to an international chain. In Singapore, Dr. ABU one of the foremost age management experts in Asia. Its mission is to employ the many breakthroughs in age management of the 21st century medicine to enable their clients to have a longer and healthier life. The key to its success is by simply adopting a 'Preventive Medical Approach' to aging and by using Stem Cells treatment to prevent, slow and reverse the aging process. What seems to be a dream fantasy is now a reality and Dr ABU is making it happen perhaps for the first time in Asia under the all comprehensive umbrella of Anti Aging Medicine.*

Clinic A is unconventional in the sense that it helps you prevent the ravages of degenerative diseases of aging such as Arthritis, hypertension, diabetes, Parkinson's degeneration and cancer with its medical programmes. If you are unfortunate to be already in a disease state, Clinic A can help you treat it in a holistic and integrated way. It also acts as a 'Specialist Concierge' where you can be referred to the best physicians available in Singapore and worldwide. These include eye surgeons, cardiologists and oncologists.

CURRCULUM VITAE

Dr ABU has been studying, researching and practising Age Management medicine over the past 25 years. He was trained Singapore, UK, France, USA and Switzerland. With his wide base knowledge from all these countries, he is able to assimilate the best practices from all these countries and produce a most comprehensive programme under one roof for 'Preventive Aging Management', with the advent of use of 'stem cells'. Dr ABU is one of the pioneers to use 'stem cells' more meaningfully to help repair and rejuvenate cells and organs before they become totally dysfunctional. Dr ABU does not believe that stem cells should only be used after the disease has ravaged the organs. He believes that stem cells should be used in the 98% of the relating population who are still healthy but with minor ailments. In so doing, this 'Preventive Repair Therapy' is much more useful both physically and economically for the nation as a whole.

In other word, 'why repair the vehicle (body) after the accident when you can initiate the repair (of the human body) before the accident'.

There is a worldwide movement in advance developed countries in subscribing to this type of medicine rather than to treat after the fact." [emphasis added]

(e) The description of the services provided by the Clinic then followed upon this text.

43. In the Committee's view, the thrust and focus of the Advertisement was clearly on *preventive* therapies to combat or manage the effects of aging, *before* the onset of actual illnesses. Although there was a reference in the Advertisement to the situation where the client is "*unfortunate to be already in a disease state*", this was clearly a reference to an incidental situation, and does not detract from the main thrust and focus of the Advertisement.

44. Seen in the context of the Advertisement as a whole, Chelation was clearly offered as a preventive therapy, before the onset of an actual medical condition – i.e., in the words used in the Advertisement, before the "disease state" or "the accident". Given the purpose of Chelation, this must mean before the client actually suffers from toxicity.

45. The Committee is reinforced in this view by the following statements made by the Respondent himself:

(a) In the written statement dated 13 November 2007 given by the Respondent to the Complaints Committee, the Respondent made the following statements:

"*Clinic A specializes in Anti Aging Medicine and emphasis is placed on "Preventive" medicine. Most of our clients are relatively healthy and seek not only a longer life span but one that is free of chronic illness.*" [emphasis added]

"… *In Anti Aging Medicine, we seek to prevent and pre-empt, but the majority of us, as taught in medical schools, adopt this idea of 'if it ain't broken don't fix it'. I was one like that before but I have followed the changes in time and adopted a global paradigm shift.*" [emphasis added]

(b) In the Respondent's Reply to the Prosecution's Closing Submissions, the Respondent made the following statements

At paragraph 6

"*Guideline 4.1.4 does not contemplate and therefore ought not be applicable to services for wellness and prevention such as colonic irrigation, chelation / detoxification for heavy metals and nutritional therapy, which were not offered by Dr ABU for the treatment for any particular illness / medical condition.*" [emphasis added]

At paragraph 29

"… *First, it has not shown that Guideline 4.1.4 is applicable in the present situation where the services which are the subject of the 6 contested charges against Dr ABU are not offered as medical treatment for any medical illness / condition,* …" [emphasis added]

46. In light of the foregoing evidence, the Committee is satisfied that Chelation was offered by the Respondent in the Advertisement as treatment for detoxification in the absence of confirmed toxicity.

47. In AP PE's Report, she gave the following evidence:

(a) Chelation is usually used to treat patients where there is evidence of excess or toxic metals in the body;

(b) There is limited evidence on the safety and efficacy of chelation therapy;

(c) Neither chelation nor detoxification for heavy metals is generally accepted by the profession as standard therapy in the absence of confirmed toxicity;

(d) Chelation therapy for general well-being is not generally accepted as a standard form of therapy in the medical profession.

48. The Respondent did not adduce any expert evidence. Indeed, the Respondent himself made the following statements:

(a) In the written statement dated 13 November 2007 given by the Respondent to the Complaints Committee, the Respondent made the following statement:

"*Intravenous chelation is a recognised procedure in Switzerland and Malaysia and most states in U.S.A., Europe, Australia, New*

Zealand, Hong Kong and Taiwan. It is a global practice <u>except in Singapore</u>." [emphasis added]

(b) In the written statement dated 16 November 2010 given by the Respondent to this Committee at the Inquiry, the Respondent made the following statement (at paragraph 23):

"*I do, however, agree that Chelation should be carried out on a patient <u>only</u> where there is evidence of excess toxic metals in the body*. …" [emphasis added]

(c) In the Respondent's Closing Submissions, the Respondent made the following statement (at paragraph 29):

"*Dr ABU does not dispute that Chelation should be carried out <u>only</u> where there is evidence of excess toxic metals in the body* …" [emphasis added]

49. In light of the foregoing evidence, the Committee is satisfied that Chelation is not medically proven, and is not generally accepted by the medical profession in Singapore, as a treatment for detoxification in the absence of confirmed toxicity.

50. It therefore appears that the Respondent had breached paragraph 4.1.4 of the ECEG, which states as follows:

"*4.1.4 <u>Untested practices and clinical trials</u>*

A doctor shall treat patients according to generally accepted methods and use only licensed drugs for appropriate indications. A doctor shall not offer to patients, management plans or remedies that are not generally accepted by the profession, except in the context of a formal and approved clinical trial.

A doctor who participates in clinical research must put the care and safety of patients first. If a doctor wishes to enter a patient into a clinical trial, he must ensure that the trial is approved by an ethics committee and conforms to the Good Clinical Practice Guidelines. In addition, informed consent must be obtained from the patient.

It is not acceptable to experiment or authorise experiments or research which are not part of a formal clinical trial and which are not primarily part of treatment or in the best interest of the patient, or which could cause undue suffering or threat to the life of a patient."

51. The Respondent contends, however, that paragraph 4.1.4 of the ECEG is not applicable to procedures for wellness and prevention which do not purport to treat, and were not offered for the treatment of, any particular medical condition or disease. The Respondent therefore submits that he did not breach paragraph 4.1.4 of the ECEG, for the very reason that the procedures offered by him in the Advertisement were for wellness and prevention, were not held out as generally accepted methods of treatment of any medical condition or disease, and were not offered to treat any particular illness or medical condition or disease.

52. With respect, the Committee is unable to agree, for the reasons stated below.

53. In the Introduction of the ECEG, it is stated as follows:

"*The SMC has the role of promulgating the Ethical Code and Ethical Guidelines on acceptable professional practice and behaviour …*

This Ethical Code represents the fundamental tenets of conduct and behaviour expected of doctors practising in Singapore. The Ethical Guidelines elaborate on the application of the Code and are intended as a guide to all practitioners as to what SMC regards as the minimum standards required of all practitioners in the discharge of their

professional duties and responsibilities in the context of practice in Singapore. …" [emphasis added]

54. The Ethical Code is set out in Section 3, in which it is stated as follows:

"*Patients and the public must be able to trust doctors implicitly with their lives and well being. To justify this trust, doctors have to maintain a good standard of care, conduct and behaviour. The SMC prescribes an ethical code which doctors are expected to uphold. These principles are applicable to a wide variety of circumstances and situations. Adherence to this Code will enable society to have trust and confidence in the profession.*

Doctors must use the Code as a yardstick for their own conduct and behaviour. … " [emphasis added]

55. The Ethical Code then sets out certain general principles, among which are the following:

- "*Be dedicated to providing competent, compassionate and appropriate medical care to patients*." [emphasis added]

- "*Be an advocate for patients' care and well being and endeavour to ensure that patients suffer no harm*." [emphasis added]

56. Section 4 sets out the Ethical Guidelines. In the opening paragraph of the Ethical Guidelines, it is stated as follows:

"*The Ethical Code enunciated in the previous section shall be applied to clinical practice and all areas of professional activity conducted by doctors. The following section provides interpretation and guidance on how the Code shall be applied to various areas of professional activity. Obviously it is impossible to be exhaustive, but doctors shall conscientiously study the guidelines, endeavour to follow them and*

extend their application to areas that may not be addressed specifically. …" [emphasis added]

57. The paragraph of the ECEG which the Respondent is said to have breached is paragraph 4.1.4. It is one of the guidelines set out in the Ethical Guidelines, under the heading "*Standard of Good Medical Practice*".

58. Having regard to the passages in the Ethical Code and the Ethical Guidelines cited above, it is clear that:

(a) Paragraph 4.1.4 represents an application of the Ethical Code;

(b) Paragraph 4.1.4 must therefore be construed in the context of the Ethical Code as a whole, and in a manner which gives effect to the underlying intention of the Ethical Code and fulfils the general principles embodied therein.

59. Construing paragraph 4.1.4 in that manner, the Committee is of the view that:

(a) The requirements laid down in paragraph 4.1.4 are intended to represent some of the fundamental tenets of conduct and behaviour expected of doctors practising in Singapore;

(b) These requirements, in relation to their subject matter, represent what constitutes acceptable professional practice and behaviour, and are the minimum standards required of all practitioners in the discharge of their professional duties and responsibilities in the context of practice in Singapore;

(c) The objective of these requirements is to ensure that doctors shall, amongst other things, provide competent and appropriate medical care to patients and will not, by their conduct or behaviour or professional activity, cause any patient to suffer harm;

(d) It is by doctors adhering to these requirements and the other requirements in the Ethical Code and Ethical Guidelines that patients and the public can have trust and confidence in the medical profession;

(e) Paragraph 4.1.4 is therefore applicable to any treatment given by a doctor, so long as that treatment is given by the doctor in his professional capacity as a medical practitioner, or as part of his professional practice or professional activity. In that event, the doctor must, as a fundamental tenet of his professional conduct and in discharge of his professional duty and responsibility, give such treatment only in accordance with generally accepted methods and use only licensed drugs for appropriate indications;

(f) Similarly, paragraph 4.1.4 is applicable to any management plan or remedy which is offered by a doctor, so long as that management plan or remedy is offered by the doctor in his professional capacity as a medical practitioner, or as part of his professional practice or professional activity. In that event, the doctor must, as a fundamental tenet of his professional conduct and in discharge of his professional duty and responsibility, offer only management plans or remedies which are generally accepted by the medical profession, except when a management plan or remedy is offered in the context of a formal and approved clinical trial.

60. The Committee agrees with the Respondent's submission that his personal concessions during the Inquiry as to the interpretation of paragraph 4.1.4 should be disregarded.

61. However, on an objective interpretation of paragraph 4.1.4, the Committee is of the view that:

(a) The restrictive interpretation given by the Respondent to the meaning of "*management plans or remedies*", limiting them to only management plans and remedies which are offered for the treatment of a particular illness or medical condition or disease, is not and cannot be justified;

(b) In the application of paragraph 4.1.4, there is no distinction between a management plan or remedy which is offered as a treatment for a particular illness or medical condition or disease, and a management plan or remedy which is offered as a preventive therapy for the purpose of maintaining general well-being in the absence of a particular illness or medical condition or disease.

62. Chelation is clearly a "management plan or remedy", and the Respondent had undoubtedly offered it in his professional capacity as a medical practitioner, or as part of his professional practice or professional activity. On the evidence, Chelation is not medically proven and is not generally accepted by the medical profession in Singapore as a treatment for detoxification in the absence of confirmed toxicity.

63. In the premises, the Prosecution has proven its case beyond a reasonable doubt and the Committee finds the Respondent guilty of the 3rd Charge.

The 4th Charge

64. The crucial parts of the 4th Charge have been set out in paragraph 27 above.

65. The Respondent elected to treat "*Chelation*" and "*Detoxification for Heavy Metals*" as the same procedure, and thus offered the same defence for both.

66. Again, the Committee is mindful of the following:

(a) The Committee must not exceed the ambit of the charge;

(b) The 4th Charge relates only to what had been offered by the Respondent *in the Advertisement*. Therefore, as far as innocence or guilt of the charge is concerned, what the Respondent actually did in his Clinic is irrelevant. On what patients the Respondent had actually performed the procedure is also irrelevant.

67. It was not disputed that the Respondent had, in the Advertisement, offered Detoxification for Heavy Metals under "*Detox Medicine*".

68. Again, given the manner in which the 4th Charge is framed, the issues before the Committee are the following:

(a) Whether the Respondent had, *in the Advertisement*, not only offered Detoxification for Heavy Metals as a treatment for detoxification, but had offered it as a treatment for detoxification *in the absence of confirmed toxicity*;

(b) If the Respondent had done so, whether Detoxification for Heavy Metals is medically proven as a treatment for detoxification in the absence of confirmed toxicity.

69. In considering the first issue stated in paragraph 68(a) above, the Committee must again look at the whole Advertisement, to determine the context in which Detoxification for Heavy Metals had been offered.

70. In this respect, and for the same reasons stated in paragraphs 42 and 43 above, the Committee finds that Detoxification for Heavy Metals was offered as a preventive therapy, before the onset of an actual medical condition – i.e., in the words used in the Advertisement, before the "disease state" or "the accident". Given the purpose of Detoxification for Heavy Metals, this must mean before the client actually suffers from toxicity.

71. The Committee has also taken into account the Respondent's statements cited in Paragraph 45 above, to come to the conclusion that Detoxification for Heavy Metals was offered by the Respondent in the Advertisement as treatment for detoxification in the absence of confirmed toxicity.

72. In AP PE's Report, she gave the following evidence:

    (a) There is currently no clear cut evidence to suggest clinical benefit for heavy metal chelation therapy where there is no heavy metal toxicity or evidence of increase tissu/ plasma or urine concentrations of such metals;

    (b) Neither chelation nor detoxification for heavy metals is generally accepted by the profession as standard therapy in the absence of confirmed toxicity.

73. As stated above, the Respondent treats Chelation and Detoxification for Heavy Metals as the same procedure. He must therefore be taken to have used the terms "*Chelation*" and "*Detoxification for Heavy Metals*" interchangeably, to mean the same thing.

74. The Committee has therefore taken into account the statements made by the Respondent himself, as cited in Paragraph 48 above.

75. Based on AP PE's evidence (which was not challenged by any expert witness adduced by the Respondent) and the Respondent's own statements, the Committee is satisfied that Detoxification for Heavy Metals is not medically proven, and is not generally accepted by the medical profession in Singapore, as a treatment for detoxification in the absence of confirmed toxicity.

76. It therefore appears that the Respondent had breached paragraph 4.1.4 of the ECEG.

77. As to the Respondent's contention that he did not breach paragraph 4.1.4 of the ECEG because the procedures offered by him in the Advertisement were for wellness and prevention, were not held out as generally accepted methods of treatment of any medical condition or disease, and were not offered to treat any particular illness or medical condition or disease (see Paragraph 51 above), the Committee repeats its remarks made in Paragraphs 52 to 61 above.

78. Detoxification for Heavy Metals is clearly a "management plan or remedy", and the Respondent had undoubtedly offered it in his professional capacity as a medical practitioner, or as part of his professional practice or professional activity. On the evidence, Detoxification for Heavy Metals is not medically proven and is not generally accepted by the medical profession in Singapore as a treatment for detoxification in the absence of confirmed toxicity.

79. In the premises, the Prosecution has proven its case beyond a reasonable doubt and the Committee finds the Respondent guilty of the 4th Charge.

The 5th Charge

80. The crucial parts of the 5th Charge are set out below:

"*That you [the Respondent] are charged that in or about July to August 2007, whilst practising at [the Clinic], you did offer a procedure namely, Face Treatment using Oxygen, which is not medically proven as a treatment.*

Particulars

(a) You offered Face Treatment using Oxygen to your patients in the Clinic after carrying out Laser and IPL (Intensive Pulse Light) Treatments on their faces.

(b) Face Treatment using Oxygen is not medically proven as a treatment.

… " [emphasis added]

81. At the outset, the Committee notes that the 5th Charge relates to what was offered by the Respondent in the Clinic, as opposed to what was offered in an advertisement or elsewhere.

82. Given the form of the 5th Charge, the issues before the Committee are as follows:

(a) Whether the Respondent did, or did not, offer in his Clinic, and in or about July to August 2007, "Face Treatment using Oxygen" to his patients after carrying out Laser and Intensive Pulse Light (IPL) Treatments on their faces;

(b) If he did, whether Face Treatment using Oxygen after Laser and IPL treatment is medically proven as a treatment.

83. In a letter dated 3 August 2007 from the Complainant to the Respondent, the Complainant made the following request:

"*Please provide the Ministry with details on the following practices which, as indicated in your letter [of 27 July 2007], <u>are being carried out in your clinic</u> in Singapore:*

…

(d) … <u>Oxygen Therapy</u>" [emphasis added]

84. In the Respondent's reply dated 10 August 2007, the Respondent stated as follows:

"*We have an oxyjet machine for face treatment. It also produces oxygen for usage through a mask*." [emphasis added]

85. It will immediately be apparent that:

(a) The Respondent did not deny that "*Oxygen Therapy*" was being carried out in the Clinic, and that was during August 2007;

(b) "*Oxygen Therapy*" was carried out by the use of an "*oxyjet machine*";

(c) "*Oxygen Therapy*", using an "oxyjet machine", consisted of:

(i) "*Face treatment*"; and/or

(ii) Administering oxygen through a mask.

86. In the Complaint dated 3 September 2007, it was stated that:

"*In a letter to the Ministry, Dr ABU further admitted that lymphatic drainage, face treatment using oxygen, and nutritional therapy were performed in his clinic*." [emphasis added]

87. In the Respondent's response dated 13 November 2007, the Respondent did not deny or challenge the above statement made in the Complaint. Instead, the Respondent said:

"*We have a machine that supplies oxygen for breathing. We also use it over the face after laser and IPL treatment. It is not a contra indication. It helps healing. Breathing oxygen from the equipment is hardly a controversy in medical practice and spraying it over the face is also a normal practice after laser treatment*." [emphasis added]

88. The reference to "*a machine*" and "*the equipment*" was clearly a reference to the "oxyjet machine".

89. Again, the Respondent did not deny or challenge the statement that "*face treatment using oxygen*" was performed in the Clinic.

90. Supplying oxygen for breathing and spraying oxygen over the face are clearly two different things.

91. From the Respondent's own statements, therefore, it is apparent the oxyjet machine used by the Respondent had at least two different functions, namely:

    (a) To supply oxygen for breathing; ***and***

    (b) To spray oxygen over the face after laser and IPL treatment.

92. Based on the Respondent's own statements made in his letters of 10 August 2007 and 13 November 2007, read together and in context, the Committee finds that:

    (a) The Respondent did, in his Clinic and in or about August 2007, offer "*Oxygen Therapy*" to his patients;

    (b) "*Oxygen Therapy*" was administered by the use of an "oxyjet machine";

    (c) "*Oxygen Therapy*", as offered by the Respondent, consisted of two different treatments, namely:

        (i) Supplying oxygen through a mask for breathing; and

        (ii) Spraying oxygen over the face after laser and IPL treatment;

    (d) The reference to "*Face treatment using oxygen*" is a reference to the procedure of spraying oxygen over the face after laser and IPL

treatment, and this procedure was one of the forms of "*Oxygen Therapy*" offered by the Respondent in his Clinic in or about August 2007.

93. At the Inquiry, the Respondent contended that:

(a) The medical treatment offered by him was laser and IPL treatment, and not oxygen;

(b) He did not offer "*Face treatment using oxygen*" as a medical treatment. He used oxygen only to cool and soothe the skin on the face after laser and IPL treatment. This was not a medical treatment, and was merely a procedure which was ancillary to the primary procedure which was laser and IPL treatment;

(c) Laser and IPL treatments are recognised and accepted treatments.

94. The Committee respectfully disagrees, for the reasons stated below.

95. There is no doubt, and the Respondent himself had admitted, that he had offered the procedure of spraying oxygen over the face after laser and IPL treatments. This is the so-called "*Face treatment using oxygen*" after laser and IPL treatments.

96. The procedure of spraying oxygen over the face after laser and IPL treatment is clearly a "*management plan or remedy*" within the meaning of paragraph 4.1.4 of the ECEG:

(a) As explained in Paragraphs 53 to 61 above, the Committee is of the view that there is no distinction between a management plan or remedy which is offered as a treatment for a particular illness or medical condition or disease, and a management plan or remedy which is offered as a preventive therapy for the purpose of

maintaining general well-being in the absence of a particular illness or medical condition or disease;

(b) For the same reasons, the Committee is also of the view that there is no distinction between a management plan or remedy which is a "primary treatment", and a management plan or remedy which is merely "ancillary" to that "primary treatment";

(c) Therefore, so long as the management plan or remedy, whether primary or ancillary, is offered by a doctor in his professional capacity as a medical practitioner, or as part of his professional practice or professional activity, paragraph 4.1.4 of the ECEG applies to that management plan or remedy.

97. The question, therefore, is whether spraying oxygen over the face after laser and IPL treatment is medically proven as a treatment. The question of whether laser and IPL treatments are themselves recognised and accepted as treatments is entirely irrelevant.

98. The Respondent's case at the Inquiry is that he had used oxygen only to cool and soothe the skin on the face after laser and IPL treatments. The Committee, however, does not accept this:

(a) In the Respondent's letter of 10 August 2007 to the Ministry of Health, he said that he had "*an oxyjet machine for face treatment*". He said nothing about using oxygen to cool and soothe (let alone *only* to cool and soothe) the face. Simply spraying oxygen over the face to cool and soothe the skin would hardly have been described by the Respondent as "*face treatment*";

(b) In the Respondent's letter of 13 November 2007 to the Complaints Committee, he had expressly stated that he sprayed oxygen over the face after laser and IPL treatment because "*It helps healing*". Again, he said nothing about using oxygen to cool and soothe (let alone *only* to cool and soothe) the face;

(c) If the Respondent had used oxygen to cool and soothe the face after laser and IPL treatments, and even more so if he had used oxygen only to cool and soothe the face after such treatments, he would have said so in either, if not both, of the aforesaid letters;

(d) Although he testified, during the Inquiry, that "*Oxygen is important for cells to heal … there might be some beneficial effect on healing*", what he said immediately before that was *"[blowing oxygen over the face] is purely for cooling purposes*" [emphasis added];

(e) The Respondent's testimony during the Inquiry is therefore contradictory.

99. The Prosecution's expert witness, Assoc Professor PE2 ("**AP PE2**"), gave the following evidence in his report dated 30 June 2009 ("**AP PE2's Report**"):

"*Giving oxygen to a patient is only justifiable in one who is suffering from oxygen lack and is breathless with an explainable cause for example in a patient with a heart failure or respiratory failure.*

Although giving oxygen for breathing, and over the face after laser and IPL treatment is not likely to be harmful, it is doubtful if it has a place in an asymptomatic patient. (Criterion 1 – no sound logic; Criterion 2 – use in wrong context)" [emphasis added]

100. Earlier in AP PE2's Report, he gave the following evidence:

"*Based on the above definitions, the criteria for non-evidence based treatment will include:*

- *Criterion 1 – It is treatment that is scientifically unsound in logic, and or*

- *Criterion 2 – It is evidence based treatment which is used in a wrong context.*"

101. The upshot of AP PE2's evidence, therefore, is that giving oxygen to an asymptomatic patient, i.e. one who is not suffering from oxygen lack and is not breathless, is not justified, and such a treatment is scientifically unsound in logic and is non-evidence based.

102. Therefore, whether oxygen was used by the Respondent only to cool and soothe the face after laser and IPL treatments, or whether it was used to help healing, the evidence before the Committee is that the use of oxygen on the face after laser and IPL treatments for either (or even both) of such purposes is not medically proven as a treatment. The Respondent adduced no evidence whatsoever to prove otherwise, despite being invited to do so.

103. In the premises, the Prosecution has proven its case beyond a reasonable doubt and the Committee finds the Respondent guilty of the 5th Charge.

The 6th Charge

104. The crucial parts of the 6th Charge are set out below:

"*That you [the Respondent] are charged that in or about July to August 2007, whilst practising at [the Clinic], you did offer a procedure namely, Lymphatic Drainage in the process of non-surgical facelift, which is not medically proven as a treatment.*

Particulars

(a) You offered Lymphatic Drainage to your patients in the process of non-surgical face-lifts.

(b) *The use of Lymphatic Drainage in the process of non-surgical face-lifts is not medically proven as a treatment.*

… " [emphasis added]

105. Again, the Committee notes at the outset that the 6th Charge relates to what was offered by the Respondent in the Clinic, as opposed to what was offered in an advertisement or elsewhere.

106. Given the form of the 6th Charge, the issues before the Committee are as follows:

(a) Whether the Respondent did, or did not, offer in his Clinic, and in or about July to August 2007, Lymphatic Drainage in the process of non-surgical facelifts;

(b) If he did, whether Lymphatic Drainage in the process of non-surgical face-lifts is medically proven as a treatment.

107. The Respondent does not deny that he had offered, in the Clinic and during the period in question, Lymphatic Drainage in the process of non-surgical facelifts.

108. Indeed, the very plank of the Respondent's defence is that Lymphatic Drainage was offered by him *in the process of* non-surgical facelifts. His case, however, is that Lymphatic Drainage was not only offered by him in the process of non-surgical facelifts, but was actually *a part* of non-surgical facelifts.

109. In a letter dated 3 August 2007 from the Complainant to the Respondent, the Complainant made the following request:

"*Please provide the Ministry with details on the following practices which, as indicated in your letter [of 27 July 2007], are being carried out in your clinic in Singapore:*

…

(c) Lymphatic Drainage

… "

110. In the Respondent's reply dated 10 August 2007, the Respondent stated as follows:

"*We use a cellutron machine for lymphatic drainage. It uses RFS technology.*"

111. In the Complaint dated 3 September 2007, it was stated that:

"*In a letter to the Ministry, Dr ABU further admitted that lymphatic drainage, … were performed in his clinic*."

112. In the Respondent's response dated 13 November 2007, the Respondent said:

"*In aesthetic medicine the use of Radio Frequency machine that can do superficial lymphatic drainage in the process of non surgical face lift is standard practice. ….*" [emphasis added]

113. In the written statement dated 16 November 2010 given by the Respondent to this Committee at the Inquiry, the Respondent states:

"*35. … As stated in my explanation letter to the SMC…, superficial lymphatic drainage is carried out as part of the non surgical face lift.*

36. In my letter to the MOH…, I had stated that we had a cellutron machine that uses RFS technology for lymphatic drainage. That machine is the one referred to in my explanation letter to carry out non-surgical face lift, as part of the clinic's aesthetic practice.

…

38. In short, the superficial lymphatic drainage that is carried out is simply part of the non-surgical facelift treatment, and not a stand-alone medical treatment." [emphasis added]"

114. In the Committee's view, the question is not so much whether the lymphatic drainage performed by the Respondent at the Clinic is "superficial" lymphatic drainage, but whether it was lymphatic drainage which was performed as *part of* (and not just in the process of) non-surgical facelift.

115. The Prosecution relies on the Clinic's advertisement on its CS Stem Cells Programme, in which Lymphatic Drainage was offered, to say that Lymphatic Drainage was offered as a primary, as opposed to an ancillary, treatment. This reliance is misconceived:

(a) The procedure that was offered in the advertisement was not necessarily the procedure that was actually offered or performed in the Clinic;

(b) The charge against the Respondent, however, relates to what was actually offered *in the Clinic*, and not to what was offered in advertisements;

(c) Even if the Respondent had not made any distinction *in the advertisement* between Lymphatic Drainage being offered as a primary treatment and that procedure being offered as an ancillary procedure, this did not necessarily mean that the distinction was not made, or did not exist, in relation to the procedure which was actually offered *in the Clinic*.

116. The Prosecution also relies on the fact that in the Respondent's letter dated 10 August 2007 to the Ministry of Health, he did not raise the fact that Lymphatic Drainage was an ancillary procedure, and there was no mention of the words "laser", "IPL" or "non surgical facelift".

117. However, If the Committee is invited to consider the import of the Respondent's words in his letter of 10 August 2007, then the Committee should also have due regard for the words used in his letter of 13 November 2007 to the Complaints Committee, in which the Respondent did explain that the Lymphatic Drainage that he performed was "*superficial lymphatic drainage*" performed "*in the process of non surgical face lift*", using a "*Radio Frequency machine*" which was obviously a reference to the "*cellutron machine*" mentioned in his letter of 10 August 2007 to the MOH.

118. The Prosecution did not adduce any evidence to show that the Lymphatic Drainage that was actually offered in the Clinic was offered as a primary, or "stand-alone", treatment. Indeed, the Prosecution did not adduce any evidence as to what was actually done in the Clinic at all.

119. The Prosecution also did not adduce any evidence to show that the cellutron machine, or RFS or radio frequency technology:

(a) Could be used for purposes other than lymphatic drainage;

(b) Could be used for lymphatic drainage other than as part of non-surgical facelift;

(c) Was in fact used in the Clinic for purposes other than lymphatic drainage; or

(d) Was in fact used in the Clinic for lymphatic drainage other than as part of non-surgical facelift.

120. The Committee is of the view that any benefit of a doubt must be given to the Respondent, and accordingly the Committee accepts the Respondent's evidence that he had, in the Clinic, offered Lymphatic Drainage only as part of non-surgical facelift.

121. In AP PE2's Report, he referred to the Respondent's letter of 10 August 2007, and then said:

"*What remains unclear from his communication are the following questions:*

- *Who are the persons that had the lymphatic drainage treatment done viz are they normal persons or are they people with swelling from lymphadoedema?* [sic]
- *What is the mechanism of action of the machine he uses?*"

122. Neither AP PE2 nor the Prosecution had attempted to answer these questions.

123. AP PE2, in his Report, then referred to the Respondent's latter dated 13 November 2007, and went on to say:

"*Comments:*

- *From the medical literature, attempts at lymphatic drainage are done only where there is swelling in the body part (lymphaeodema)* [sic] *e.g. in breast cancer related lymphaoedema* [sic] *of the limb and chest.*
- *The implementation of lymphatic drainage in patients without swelling from lymphatic obstruction will be regarded not scientifically supported. (Criterion 1 – no sound logic; and Criterion 2 – use in a wrong context).*"

124. The medical literature, however, was not produced, and AP PE2 said nothing about lymphatic drainage being done as part of non-surgical facelift.

125. On the other hand, the Respondent relied on the Guidelines on Aesthetic Practices for Doctors (updated in October 2008) ("**Aesthetic Guidelines**"), to show that the use of lymphatic drainage as part of non-surgical facelifts is in fact medically proven as a treatment.

126. Paragraph 10 of the Aesthetic Guidelines sets out, amongst other things, a list (described as "List A Aesthetic Practices") of "Non-invasive" aesthetic treatments and procedures, which are expressly stated as being aesthetic treatments and procedures "*that are supported by moderate to high level of scientific evidence and/or have local medical expert consensus that the procedures are <u>well-established and acceptable</u>*" [emphasis added].

127. The "Non-invasive" aesthetic treatments and procedures listed in the List A Aesthetic Practices include "*Radiofrequency, Infrared and other devices e.g. for skin tightening procedures*".

128. The Respondent's case is that:

(a) What was offered in the Clinic was the use of radiofrequency (via the cellutron machine) for lymphatic drainage, which was non-invasive, as part of the facelift treatment, which was a skin tightening procedure;

(b) The lymphatic drainage offered in the Clinic was therefore one of the procedures listed in the List A Aesthetic Practices and, as expressly stated in paragraph 10 of the Aesthetic Guidelines, are "*supported by moderate to high level of scientific evidence and/or have local medical expert consensus that the procedures are well-established and acceptable*".

129. The Prosecution argues that the Aesthetic Guidelines are irrelevant because these guidelines were released in or about October 2008, after the material time of 2007 when the offence was alleged to have been committed. The Committee respectfully disagrees:

(a) The Aesthetic Guidelines were *<u>updated</u>* in October 2008. This does not mean that they were released only in October 2008;

(b) Paragraph 1 of the Aesthetic Guidelines expressly states that the guidelines were based on, among other things, the *Report of the Workgroup on Recommendations on the Regulation and Training of Aesthetic Medicine in Singapore* which, according to Footnote 1, was issued in 2007;

(c) Even if the Aesthetic Guidelines were released in October 2008, they did not come about overnight. A treatment or procedure which was already well-established and acceptable as at October 2008 might already have been well-established and acceptable well before that time;

(d) Indeed, the fact that the guidelines were based on a report issued in 2007, and the fact that a procedure is then stated in those guidelines as being well-established and acceptable, suggest that the procedure was already well-established and acceptable in 2007 or even earlier.

130. The Prosecution also argues that the Aesthetic Guidelines are irrelevant because these guidelines do not form part of the Prosecution's case and none of the Prosecution experts referred to or relied on them in their expert opinions. This is a curious argument and the Committee again respectfully disagrees. The fact that these guidelines do not form part of the Prosecution's case and are not relied on by either the Prosecution or its experts does not mean that the guidelines are therefore irrelevant. If this argument is correct, it would mean that only evidence which is favourable to the Prosecution is relevant, which is absurd. The fact is that these guidelines form part of the ***Respondent's*** case and the ***Respondent*** is relying on them. For the reasons stated in Paragraph 129 above, these guidelines are clearly relevant.

131. The Prosecution did not adduce any evidence to show that the treatments and procedures listed in the List A Aesthetic Practices were in fact not yet well-established and acceptable in 2007, when the offence was allegedly committed.

132. The Prosecution also argues that although it may be the case that the radiofrequency machine used by the Respondent falls within the List A Aesthetic Practices, the Aesthetic Guidelines make no mention of Lymphatic Drainage. The Committee is of the view that this argument does not assist the Prosecution:

(a) If the Prosecution agrees that the radiofrequency machine used by the Respondent falls within the List A Aesthetic Practices, the Prosecution is in effect also agreeing that the radiofrequency machine used by the Respondent was used for skin tightening procedures;

(b) In any event, the fact that "*lymphatic drainage*" was not expressly mentioned in the Aesthetic Guidelines does not necessarily mean that it is not or cannot be part of the non-invasive treatment or procedure described in the List A Aesthetic Practices as "*Radiofrequency, Infrared and other devices e.g. for skin tightening procedures*".

133. It is the Respondent's evidence that the radiofrequency machine was used to carry out lymphatic drainage as part of non-surgical facelift, which is a non-invasive skin tightening procedure. That being so, lymphatic drainage as offered in the Clinic was "*supported by moderate to high level of scientific evidence and/or have local medical expert consensus that the procedures are well-established and acceptable*".

134. The Prosecution did not adduce any evidence to show any of the following:

(a) That the non-invasive treatment or procedure described in the List A Aesthetic Practices as "*Radiofrequency, Infrared and other devices e.g. for skin tightening procedures*" did not or cannot include using radiofrequency to carry out lymphatic drainage as part of non-surgical facelift; or

(b) That the Respondent did not use radiofrequency to carry out lymphatic drainage at all, or that the lymphatic drainage carried out in the Clinic was not carried out by the use of radiofrequency; or

(c) That although the Respondent carried out lymphatic drainage in the process of non-surgical facelift, he did not do so as *part of* non-surgical facelift.

135. In the premises, the Committee is of the view that the Prosecution had not proven its case beyond reasonable doubt, and according finds the Respondent not guilty of the 6th Charge.

The 7th Charge

136. The crucial parts of the 7th Charge are set out below:

"*That you [the Respondent] are charged that in or about July to August 2007, whilst practising at [the Clinic], you offered a procedure namely, Nutritional Therapy in the form of vitamins and antioxidant supplements, which is not medically proven as a treatment.*

Particulars

(a) You offered Nutritional Therapy in the form of vitamins and antioxidant supplements to your patients.

(b) The use of Nutritional Therapy in the form of vitamins and antioxidant supplements in the absence of deficiency of these substances, is not medically proven as a treatment.

… " [emphasis added]

137. The Committee again notes that the 7th Charge relates to what was offered by the Respondent in the Clinic, as opposed to what was offered in any advertisement or elsewhere.

138. Given the form of the 7th Charge, the issues before the Committee are as follows:

(a) Whether the Respondent did, or did not, offer in his Clinic, and in or about July to August 2007, Nutritional Therapy in the form of vitamins and antioxidant supplements to his patients;

(b) If he did, whether he had offered Nutritional Therapy in the form of vitamins and antioxidant supplements to his patients in the absence of deficiency of these substances;

(c) If he had offered Nutritional Therapy in the form of vitamins and antioxidant supplements to his patients in the absence of deficiency of these substances, whether Nutritional Therapy in the form of vitamins and antioxidant supplements in the absence of deficiency of these substances is medically proven as a treatment.

139. The Respondent did not deny that he offered Nutritional Therapy in the form of vitamins and antioxidant supplements to his patients.

140. In AP PE2's Report, he gave the following evidence:

"*Comments:*

- *By offering the vitamins and supplements to his patients as "Nutritional Therapy", Dr ABU is giving the impression to his patients that it is a medical treatment when in fact it is not so.*
- *Vitamins and supplements have no proven value unless there is a deficiency of these substances. (Criterion 1 – unsound logic; Criterion 2 – wrong context)*
- *The use of anti-oxidants in this context too is not of proven value. (Criterion 1 – unsound logic)*.

…

… the items of treatment … such as … vitamins, anti-oxidant …therapy are not useful or indicated in the asymptomatic individual. (Criterion 1 – unsound logic; Criterion 2 – wrong context).

… The items of … nutritional therapy are likely to be without any efficacy in the context of a normal person."

141. During the Inquiry, however, Dr PE2 gave the following evidence:

"*Q: If there is no such deficiency and yet a person is given vitamins and supplements, what is the effect?*

A: Depends on how much you give. Mega vitamin therapy practiced – if you give within range of toxicity, it is safe. Some vitamins given in excess, e.g. Vitamin C in big doses, person will end up with stones. Mega dose of vitamin C not that right. Vitamin A – cause headaches if too much. Example in the expedition to the North Pole, the people ate bear liver and suffered from great headaches due to Vitamin A toxicity. Vitamins in overdose can cause problems." [emphasis added]

"*Q: Wait until patient develops a deficiency eg scurvy before you prescribe vitamin C?*

A: Risk assessment – based on risk. Eg adult male, no need folic acid. Pregnant woman – run risk of folic acid deficiency. To be safe, take it. Advice needs to be predicated on risk and sufficiency." [emphasis added]

142. In the Prosecution's Closing Submissions, the Prosecution itself said (at paragraph 92):

"*For such 'high-risk' patients, doctors need not necessarily conduct tests to determine that a patient is deficient before prescribing vitamin and antioxidant supplements.* …"

143. In the Respondent's Closing Submissions, the Respondent made the following statement:

> "*53. Both Dr PE and A/Prof PE2 also agreed that there were instances where vitamins could be prescribed in the absence of any deficiency in the substances, as their documented benefits outweighed the low risks*."

144. The Prosecution did not challenge or dispute the above statement made by the Respondent, even though the Prosecution had the opportunity to do so in its Reply Submissions.

145. The Prosecution's own expert evidence therefore shows that:

(a) There are instances where nutritional therapy in the form of vitamins and antioxidants may be offered even in the absence of actual deficiency of those substances;

(b) An example of such an instance is where the individual in question may be at risk of being deficient in those substances, before being actually deficient in those substances;

(c) In such instances, nutritional therapy in the form of vitamins and antioxidants is generally accepted by the medical profession, so long as those substances are administered within their recommended dosage.

146. It is therefore not true to say, in unqualified terms, that nutritional therapy in the form of vitamins and antioxidants in the absence of deficiency of those substances is not generally accepted by the medical profession.

147. Such therapy may well not be generally accepted by the medical profession in instances where the patient in question is not at risk of being deficient in those substances, or where those substances are

administered in excessive quantities, but the 7th Charge, as framed, is not qualified in those terms.

148. The Committee is therefore of the view that the Prosecution has not proven its case beyond a reasonable doubt in respect of the 7th Charge as framed, and accordingly finds the Respondent not guilty of the 7th Charge.

149. The Committee will now hear submissions on the sentence to be imposed in respect of the Charges on which the Respondent has been found guilty.

SENTENCE:

150. Having regard to the above submissions made by both counsel on the appropriate sentencing and taking into consideration the nature of the misconduct and our views as expressed above, it is this Committee's decision that the appropriate sentence is as follows:-

a. that the Respondent be fined the sum of **$10,000**;

b. that the Respondent be censured;

c. that the Respondent provides a written undertaking to the Medical Council that he will not engage in the conduct complained of or any similar conduct; and

d. that the Respondent pays the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC and the Legal Assessor.

151. The hearing is hereby concluded.

Dated this 7th day of March 2011.