

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY COMMITTEE INQUIRY
FOR DR ABX HELD ON 6 DECEMBER 2010, 11, 13 TO 15 JULY 2011 AND
6 DECEMBER 2011**

Disciplinary Committee:

Dr Lim Cheok Peng - Chairman
Prof Ho Lai Yun
A/Prof Lee Jon Choon Evan
Dr Eu Oy Chu (Lay Person)

Legal Assessor:

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

Prosecution Counsel (M/s Harry Elias Partnership):

Mr Francis Goh
Mr Nirev M Shah

Defence Counsel (M/s Donaldson & Burkinshaw):

Mr Eric Tin
Ms Kang Yixian
Ms Sheryl Loh

DECISION OF THE DISCIPLINARY COMMITTEE

1. The Respondent, Dr ABX was at all material times a Senior Consultant Ophthalmic Surgeon at Clinic A. This inquiry arose from a complaint made by one C on 29 October 2007 following her treatment by the Respondent.
2. The treatment by the Respondent took place from 19 July 2007 to 16 August 2007. It involved an eye examination on 19 July 2007 and a Lasik surgery on 15 August 2007. After a review on 16 August 2007, the Complainant ceased to be a patient of the Respondent.
3. The main basis for the complaint is that the Respondent failed to diagnose the existence of a cataract in the Complainant's right eye and had proceeded with Lasik surgery on the eye. The existence of a cataract was diagnosed and disclosed to the Complainant during the

- course of a series of consultations by the Complainant with various physicians after the Lasik surgery. These consultations were with Dr PW1 on 2 October 2007, Dr PW2 on 4 October 2007 and Dr PW3 on 6 October 2007.
4. In a nutshell, the Respondent is charged for professional misconduct in failing to detect a cataract in the Complainant's right eye when she was undergoing treatment by him. The main basis for the SMC's case is the findings of the existence of the cataract by Dr PW1, Dr PW2 and Dr PW3. In addition, the SMC relies on the expert evidence of A/Prof PE.
 5. There are 3 main issues before this Disciplinary Committee:
 - (1) Whether the cataract was in existence from 19 July 2007 to 15 August 2007 when the Lasik surgery was performed?
 - (2) If the cataract existed then, whether the cataract could reasonably have been detected by the Respondent but he had failed to do so?
 - (3) Finally, whether the Respondent's failure to detect the cataract amounted to professional misconduct?

The first issue – existence of the cataract

6. On the first issue, the SMC's main evidence lies in the findings of the 3 doctors who examined the Complainant in October 2007. The SMC's case is that given the nature of cataracts, in particular that the cataract detected in October 2007 was a moderate one, it must have existed some months earlier in July and August 2007. This position is supported by the conclusion of A/Prof PE who opined that there was no significant

- factor that would contribute to the accelerated growth of the cataract after the Complainant left the Respondent's care.
7. We also note that during cross-examination, the Respondent's expert Dr DE agreed that in the absence of an actual examination of the Complainant in July to August 2007, it is fair that one uses the records of the physicians who examined the Complainant in October 2007. He agreed that there were findings of moderate opacity.
 8. It is noteworthy that in his exculpatory statement made to the SMC on 15 January 2008, the Respondent stated that when he examined the Complainant, "no significant cataract was detected". This phrase was the subject of much debate during the inquiry, with the Respondent taking the position that it meant that there was no cataract, and the SMC taking the converse position that it amounted to an admission that a cataract was detected, albeit with a view that the formation was not significant. A/Prof PE testified that with the use of the word "significant" it meant that there was a "moderate" cataract "of a certain degree".
 9. On the totality of the evidence, and in particular after having heard the evidence on the nature and growth of cataracts, it is our view that as of July or August 2007, a cataract had existed in the Complainant's right eye. The next question to consider is whether the Respondent could reasonably have, but failed to detect it.

The second issue: Detection of the cataract

10. The SMC's main case on this issue is that given the existence of a moderate cataract in October 2007, the existence of this cataract would have been apparent to the Respondent just over a few months earlier. The Respondent's case is that there was no detection of any cataract

when he conducted a slit-lamp examination of the Complainant's right eye.

11. It is the common view of both expert witnesses that during a slit-lamp examination, with the eye appropriately dilated; a cataract would reasonably be detected. Dr DE testified that such an examination is an adequate test for the detection of cataracts, and nothing further needs to be done. A/Prof PE agreed that using a slit-lamp examination would be the best way to examine an eye.
12. We hesitate to make a finding that the severity of the cataract in July to August 2007 was such that the Respondent could reasonably be expected to detect it. A/Prof PE was candid in his testimony and stated that he was unsure of the severity of the cataract as of July 2007. He also agreed that the question of the extent of the cataract would involve speculation. Against this, we have the Respondent's unequivocal testimony that he did not detect any cataract during the slit-lamp examination of the Complainant, coupled with the undisputed evidence that any cataract would reasonably be detected by a slit-lamp examination. It is also pertinent that the Complainant only went for the removal of the cataract in 2009, which in our view is indicative of its severity in 2007.
13. After considering all of the evidence, we find that there is reasonable doubt whether in July or August 2007, the cataract in the Complainant's right eye was of sufficient severity such that the Respondent should have detected it, but failed to do so, and proceeded to perform Lasik surgery.
14. Given our finding on this issue, it is not necessary to consider the third issue whether there was professional misconduct. However, we would add that given the evidence before us, on that issue we would again

- hesitate to make a finding of professional misconduct, especially when the Respondent appeared to have carried out the appropriate examinations and no harm was occasioned to the Complainant.
15. On the above basis, the charge framed against the Respondent has to be dismissed, and we order accordingly.
 16. As the charge is dismissed, we will not make the usual order that this outcome be published, to avoid any prejudice to the Respondent.
 17. We now turn to the issue of costs. After hearing submissions, we find that in view of the above findings, there was a reasonable basis for the complaint that was made. Considering the material that was put before the Complaints Committee, including the contents of the Respondent's explanation to it, we also take the view that the Complaints Committee had a basis to refer the complaint for formal inquiry. Bearing those considerations in mind as well as the fact that the purpose of the inquiry is to conduct an investigation in the interest of the public and for its protection, we order that the SMC and the Respondent are to bear their own costs.
 18. The hearing is hereby concluded.

Dated this 6th day of December 2011.