

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY COMMITTEE INQUIRY
FOR DR CHEE YEW WEN
HELD ON 20 TO 22 OCTOBER 2010, 27 TO 28 OCTOBER 2010,
3 JANUARY 2011 AND 27 TO 28 JUNE 2011**

Disciplinary Committee:

Prof Ho Lai Yun (Chairman)
A/Prof Siow Jin Keat
A/Prof Tan Puay Hoon
Ms Lee Sow Fong (Lay Member)

Legal Assessor:

Mr Giam Chin Toon, SC
(M/s Wee Swee Teow & Co.)

Prosecution Counsel:

Ms Melanie Ho
Ms Josephine Choo
Mr Roger Neo Li-Yang
(M/s Wong Partnership LLP)

Defence Counsel:

Mr Matthew Saw
Ms Cheryl Kam
Ms Sharon Chong
(M/s Lee & Lee LLP)

DECISION OF THE DISCIPLINARY COMMITTEE

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

CHARGES

- 1 You have been charged with two charges before the Disciplinary Committee ("DC") for:
 - (1) performing SmartLipo procedure on a patient ("the Patient") which was not the appropriate treatment for the Patient and thereby you are guilty of professional misconduct under s.45(1)(d) of the Medical Registration Act (Cap. 174);
 - (2) grossly mismanaging the post-procedure treatment of the Patient and thereby you are guilty of professional misconduct under s.45(1)(d) of the Medical Registration Act (Cap. 174).

- 2 Full particulars of the alleged offences are set out in the respective charges read out to you. Item (f) of the Particulars in the second charge has been amended to state the date of the next consultation with the Patient as 20 May 2008 instead of 21 May 2008. You claimed trial to both the charges.

OBJECTIONS TO 2ND CHARGE

- 3 Before evidence was led, your counsel raised preliminary objections to the second charge of gross mismanagement of the Patient's post procedure treatment.
- 4 Your counsel had submitted that there was a breach of the rules of natural justice when the Complaints Committee while investigating into the complaint of the Patient failed to notify you that they were inquiring into allegations of the second charge and you were not given a chance to respond to the said allegations.
- 5 The submission was based on the following undisputed facts:
 - (1) The Patient had not complained about your failure to immediately refer her to a plastic surgeon or about the stem cell activator protein administered to her.
 - (2) It was Dr A whom the Complaints Committee had called upon to assist in its investigations who made the complaint in his medical report dated 6 May 2009 addressed to the Complaints Committee.
 - (3) No copy of Dr A's medical report nor notice was given to you of such allegations and you had thereby not been given the opportunity to respond to them.
- 6 We agree that the second charge was the result of Dr A's comments in his medical report dated 6 May 2009 submitted to the Complaints Committee. This medical report was not shown to you when the Patient's complaint was investigated by the Complaints Committee. As a result, your exculpatory statement dated 1 June 2009 did not respond to the said allegations.
- 7 Subsequently, the Complaints Committee informed you on 5 August 2009 that a formal inquiry into the Patient's complaint will be held by a Disciplinary Committee.
- 8 You had sight of Dr A's report only on 8 April 2010 and by then it was too late to respond to the allegations made against you in the said report.
- 9 The DC has carefully considered your counsel's submissions. We accept that you have not been given the opportunity to answer the allegations made against you in the second charge when the complaint was investigated by the Complaints Committee. In the result, we find that the second charge has not been properly drawn up against you.
- 10 You are therefore discharged on the second charge.

BACKGROUND FACTS ON 1ST CHARGE

11 As regards the first charge, the facts as set out in the Agreed Statement of Facts can be summarized as follows:

- (1) The Patient had consulted you for aesthetic advice relating to her nose on or about 8 March 2008.
- (2) You informed the Patient that plastic surgery was the most common option and also presented the option of a SmartLipo procedure using Nd-Yag Laser.
- (3) On 20 March 2008, you performed a SmartLipo procedure on the Patient's nasal tip. The energy used was 150 mJ.
- (4) On 3 May 2008, the Patient consulted you and discussed the possibility of performing SmartLipo procedure again on her nasal tip.
- (5) On 16 May 2008, you performed a SmartLipo procedure on the Patient's nasal tip. The energy used was 480 mJ.
- (6) Unfortunately, the result of the operation was not successful as her nasal tip suffered a severe burn.
- (7) The Patient was referred by you to Dr B on 22 May 2008 who made the following observations:

"... She had sustained a full thickness burn over the tip on her nose on 16 May 2008 following a cosmetic procedure using laser SmartLipo."

"On examination, there was a 17x18 mm full thickness burn over her nasal tip with the thermal injury extending down to the alar cartilages."

PROSECUTION'S CASE

12 It is the Prosecution's case that the SmartLipo procedure to the nasal tip performed by you was not the appropriate treatment for the Patient. The appropriate and indicated treatment for the Patient ought to be open-tip Rhinoplasty with defatting of the nasal tip and possible plication of the alar cartilages with or without a cartilage graft.

- 13 The Prosecution called on two medical experts to testify in support of its case. They are:
- (1) Dr P1, Head and Senior Consultant Plastic Surgeon; and
 - (2) Dr P2, Consultant Plastic Surgeon
- 14 The Prosecution had also called on Dr A to give evidence as a factual and expert witness. Dr A had been referred the Patient for improving the condition of her nose tip to a more normal appearance on 13 February 2009.
- 15 As we have held that the second charge of gross mismanagement of the Patient's post procedure treatment against you was to be dismissed, we place no weight whatsoever on Dr A's testimony before us.
- 16 Dr P1's testimony is as follows:
- (1) The Patient did not have a bulbous nose. She had what would be described as a poorly defined nasal tip. Even if she had a bulbous nose, SmartLipo procedure would not be considered as an appropriate treatment for such a condition. The inter-domal fat is present in all noses, regardless of the shape or size.
 - (2) It is not standard practice to perform liposuction of the nasal tip and there is no current literature that describes it as a treatment option for the removal of the inter-domal fat pad at the nasal tip. The current accepted method of treatment for the removal or thinning of the inter-domal fat pad is Rhinoplasty, which is often considered as one of the most technically challenging surgical procedures in plastic surgery.
 - (3) Any review of the anatomical literature as well as dissection experience with the inter-domal fat pad will show that the actual size and volume of the structure is less than 1 cc for almost all noses. As such, SmartLipo is an inappropriate treatment to be offered to the Patient.
 - (4) The nasal tip is the confluence of vascular arcade that provides the blood supply to the nose and is therefore at most risk of devascularisation. The use of SmartLipo with a Nd-Yag laser to coagulate the blood vessels is therefore strongly contraindicated because of the high risk of devascularisation, with catastrophic results as seen in the Patient. The Patient suffered significant tissue loss to her nasal tip and would have an obvious deformity that would be extremely difficult to treat or correct.

- (5) One of the common risks of using laser devices is burns and necrosis of the affected areas, due to the focus of excessive energy on a specific target. The Patient sustained full thickness burn to the skin of the nasal tip and cartilage following the SmartLipo procedure.
- (6) Dr P1 is not aware of any case where liposuction, in any form, has been carried out on the nose, and he also has never heard of SmartLipo, instead of Rhinoplasty, being carried out on noses to achieve a reduced sized or sharper nasal tip. The indicated use of SmartLipo procedure is for the reduction/removal of fat under the chin, along the jaw line, or the cheek if carried out on the face, and forearms, upper part of the abdomen, and knees.
- (7) Referring to the two articles referred to by your counsel, namely, a) Inter-domal Fat Pad – an Important Anatomical Structure in Rhinoplasty by George K. Sun, and b) The New Anatomical Viewpoint of the Nose: the Inter-domal Fat Pad by Eray Copeu et al, Dr A's opinion is that the articles merely acknowledged the existence of inter-domal fat pad in some patients. The articles did not address the issue of whether SmartLipo procedure was an appropriate procedure.

17 Dr P2's testimony is as follows:

- (1) Dr P2 examined the Patient on 19 January 2010 for the purpose of the report. She had a scar on the tip of her nose with loss of nasal tip profile.
- (2) Dr P2's opinion of the Patient's pre-procedure photographs was that she did not appear to have a bulbous nose. She had a rounded nose typical of many Chinese girls. There may be very little if any fat in the nasal tip and the nasal tip is shaped by the cartilage and general thickness of the nasal skin.
- (3) Regardless of whether the Patient had a bulbous nose, SmartLipo is not an appropriate treatment for the purpose of removing fat from the nasal tip and/or to achieve a smaller sized and/or sharper nasal tip. He is not aware of liposuction being carried out on the nose. Likewise, he has never heard of SmartLipo procedure performed on the nose to achieve a reduced sized nasal tip or sharper nasal tip, instead of Rhinoplasty. The indicated use of SmartLipo procedure is for the reduction/removal of fat under the chin, along the jaw line, or the cheek if carried out on the face, and forearms, upper part of the abdomen, and knees.

- (4) Laser devices deliver light beams of specific wavelengths and, unlike conventional devices, would be effective if the target is correct even when energy levels are not large. The risks of using laser devices are burns and even necrosis on affected areas.
- (5) The SmartLipo procedure by the use of the Laser device has caused full thickness burns to the skin of the nasal tip and cartilage. The injury was exacerbated by the likelihood of very little or no nasal tip fat as a buffer from the heat energy. Based on the post-procedure photographs of the Patient, the skin condition had progressed from redness to necrosis after the SmartLipo procedure.
- (6) The intended effect of laser is the reduction of bleeding by coagulating blood vessels. As such, it is likely that the SmartLipo procedure performed by you had resulted in the skin injury to the tip of the Patient's nose, given the use of laser on the Patient's nose.
- (7) The appropriate treatment to reduce the nasal tip size for the Patient would have been a tip Rhinoplasty to trim off excess nasal tip fat and, if necessary, to surgically modify the nasal cartilage to achieve a sharper and slimmer nasal tip. SmartLipo is not to be considered or used as an alternative procedure.
- (8) Rhinoplasty, especially of the tip of the nose, is a difficult operation as it is a three-dimensional problem and the blood supply at the nose restricts the surgeon's options to shape the nose and still keep the cartilage and nasal skin viable.
- (9) Once the skin is burnt, as in this Patient, the nasal tip would have a deformity. Reconstruction of the tip is difficult as it is further away from the face and it is hard to find skin of the same texture and colour and thickness.
- (10) Regarding the two articles produced by the Defence, i.e. a) Inter-domal Fat Pad – An Important Anatomical Structure in Rhinoplasty by George K. Sun, and b) The New Anatomical View point of the Nose: the Inter-domal Fat Pad by Eray Copcu et al, Dr P2's opinion was that the articles acknowledged the existence of inter-domal fat pad in some Patients, but it did not state whether SmartLipo procedure was an appropriate procedure.

18 Both witnesses, therefore, testified that they have not heard of SmartLipo procedure being used in place of Rhinoplasty.

DEFENCE CASE

19 You gave evidence as follows:

- (1) You have been practising as a General Practitioner since 2000, and aesthetic medicine since 2001. You have conducted a wide range of aesthetic procedures and presently handle an average of about 16 aesthetic cases a day. You have also regularly attended aesthetic courses and training sessions over the years, both locally and overseas.
- (2) Since 2001, you have regularly performed laser based procedures such as Intense Pulsed Light (IPL), Nd-Yag Laser, CO2 Laser, Fractional Erbium: Laser and Infra-red and Radiofrequency procedures. You became interested in SmartLipo procedure when it was introduced to Singapore in 2006.
- (3) The SmartLipo procedure was a generally accepted practice approved by the US Food and Drug Administration (FDA), and for use in Europe. The benefits of the treatment include the minimally invasive nature of the procedure, with minimal side effects and reduced recovery time. It could also be used on areas considered as unsuitable for traditional liposuction like the face.
- (4) You attended a hands-on training course in Singapore, and said that you had successfully performed the SmartLipo procedure on the face of a patient during the training session.
- (5) You then began SmartLipo procedures in your practice of aesthetic medicine. You also attended a training course in Italy on SmartLipo. Prior to performing the SmartLipo procedure on the Patient, you had performed more than 50 SmartLipo procedures on numerous other patients over a period of about eight months. Ten of these procedures were performed on various parts of the face, with no complications.
- (6) In January 2008, you were informed by Dr D, a Korean plastic surgeon, that he had successfully performed the SmartLipo procedure on the nasal tip fat pad. You visited Dr D's clinic in Seoul, Korea and was briefed on his SmartLipo procedure to the nasal tip.
- (7) You subsequently did research and confirmed the existence of inter-domal fat pad in the nose, which could be the cause of excessive nasal tip width. The articles you referred to are: a) Inter-domal Fat Pad – An Important Anatomical Structure in

Rhinoplasty by George K. Sun, and b) The New Anatomical View point of the Nose: the Inter-domal Fat Pad by Eray Copcu et al.

- (8) You had performed a number of aesthetic procedures on the Patient for about half a year before the SmartLipo procedure. On 8 March 2008, the Patient consulted you on reducing her bulbous nose tip. You informed her that plastic surgery was the option, and you also presented the option of SmartLipo procedure to her. You informed her that you had not performed the SmartLipo procedure to the nasal tip fat pad before, and explained to her the usual and frequent risks of red marks, bruising, pain and bleeding that were associated with the procedure.
 - (9) On 20 March 2008, the Patient returned to your clinic and requested for the SmartLipo procedure on her nasal tip fat pad. You reminded her of the usual and frequent risks of the procedure and she signed the Consent Form for the procedure as a "new procedure". You then proceeded to perform the SmartLipo procedure on her nasal tip. The energy used was 150mJ.
 - (10) The Patient returned to your clinic on 3 May 2008, claiming that the change was not significant enough. The possibility of performing the procedure on her nasal tip fat pad for the second time was again discussed.
 - (11) On 16 May 2008, the Patient decided to proceed with for the SmartLipo procedure to produce a more significant reduction of her nose tip. You then performed the SmartLipo procedure on her nasal tip fat pad. The energy used was 480mJ. You had previously used more than twice that amount of energy when performing the procedure on other areas of the face of other patients, without complications. The Patient complained of pain during the procedure.
 - (12) The Patient returned to your clinic the next day, on 17 May 2008 after the procedure. You noted a small blister on her nasal tip and there were some yellow exudates oozing from her nose. She was prescribed a cream, Cantellase, and antibiotics.
 - (13) The Patient was reviewed on 20 May 2008. You noticed that a part of her nasal tip had a grayish appearance and that there was also decreased sensation. When you reviewed the Patient again on 21 May 2008, you made a diagnosis of "full thickness burn" and then decided to refer her to Dr B, a plastic surgeon.
- 20 You had an expert from Korea to testify on your behalf, Dr D, who is a Consultant Plastic Surgeon.

21 Dr D testified as follows:

- (1) He has been using the Nd-Yag 1064nm pulsed laser for laser lipolysis for more than six years. The machine has the same parameters as the SmartLipo machine used by you.
- (2) He has carried out approximately 13,000 traditional liposuction cases, 1,500 laser lipolysis cases and approximately 300 open Rhinoplasty cases a year. In general, he considered laser lipolysis to be useful for delicate small areas not easily accessible or ideally suitable for traditional liposuction. He had performed laser lipolysis on the chin, upper neck, zygomatic areas, naso-labial folds of the face, and the calves. He showed a video of laser lipolysis performed on the calf of a patient at the Inquiry.
- (3) He had carried out 26 cases of laser lipolysis on the nose, achieving satisfactory results with no complications. He did not publish these cases in any medical journal and he agreed that there were no known medical literature on such a procedure. He also agreed that the outcome of the SmartLipo procedure had not been established.
- (4) He further elaborated that the laser lipolysis procedure he carried out on the nasal tip was essentially empirical and experimental based on his personal experience without any known formula as a guide in the delivery of energy to the tissues. In general, the range of energy he used for the nose was in the range of 50 to 100 mJ. He opined that the energy of 480 mJ used by you on the Patient in the second procedure to be high and was the cause of the nasal burn.
- (5) He opined that the Oriental nose has more fibro-fatty subcutaneous tissue than the Caucasian nose. The technique for reducing the size of the nasal tip for the Oriental nose has to include a de-fatting procedure where the loose fibro-fatty tissue in the nasal tip is removed. He considered that the open Rhinoplasty surgery with defatting a technically challenging procedure, with possible complications like necrosis and irregularities. Therefore, less invasive alternatives should be considered. De-fatting by minimally invasive laser lipolysis is an alternative. This is done by introducing a 1 mm cannula bearing the fiber-optic Nd-Yag laser into the nasal tip. Laser lipolysis with the Nd-Yag 1064nm pulsed laser only coagulates the small blood vessels that are less than or equal to 0.05 mm in diameter. Therefore, the 1064nm pulsed laser lipolysis would not affect the four (4) major arterial supplies to the nasal tip. Dr D's hypothesis is that there will be inter-domal contracture after the defatting procedure. He also accepts that skin contracture causing flattening of the nasal tip can occur after the procedure.
- (6) You visited his Clinic in Seoul, South Korea in January 2008 and he told you about laser lipolysis on nasal tip fat pads. You did not observe any laser lipolysis procedure on the nasal tip in his Clinic.

- (7) He confirmed that he did not perform any further laser lipolysis procedures after the 26 cases as he has found an alternative method by injection to be more effective.

FINDING/VERDICT

22

- (1) Your Counsel had observed that you are charged with inappropriate treatment for two SmartLipo procedures carried out on the Patient.
- a) On 20 March 2008 which had no complications and caused no harm to the Patient; and
 - b) On 16 May 2008 which caused a full thickness burn.
- (2) It is submitted that Prosecution must prove beyond a reasonable doubt that the procedure on the 20 March 2008 which caused no harm to the Patient was inappropriate.
- (3) The DC finds that the use of SmartLipo to the nasal tip for the purpose of sharpening the nasal tip is an inappropriate procedure. Dr D puts it as an experimental and empirical procedure unsupported by peer review or publication.
- (4) The product insert does not specifically mention the use of SmartLipo to the nasal tip. The use of the SmartLipo as such was an experimental procedure thought out by Dr D.
- (5) Dr D's hypothesis is that the SmartLipo procedure after selectively destroying fat cells causes scarring in the inter-domal region which may then cause inter-domal contracture, thus sharpening the nasal tip. He agreed with the product insert that internal photo stimulation of the dermal collagen can induce shrinkage and consequent tightening of skin tissue. He agreed that this could lead to a flattening of the nose tip. He believed that he did not see this nasal tip flattening in his patients because he was able to place the probe deep enough to avoid contact with dermal collagen and that in his own hands, flattening of the nasal tip would not occur. Dr D, who claimed invention of this SmartLipo technique to the nasal tip agreed that this procedure could also cause nasal tip flattening. Dr D could not give guidelines on the amount of laser energy to be used nor how he gauged the depth of his laser insertion into the nasal tip. Thus the empirical nature of this procedure. Dr D believed the perceived satisfactory outcome for his patients was the result of his skills. He did share that he would not exceed 100 mJ.
- (6) Dr D's results have not been published neither does he know of any peer reviewed publication of the results of this procedure. Thus this procedure has not been subjected to scientific review. Dr D is not aware if there were any other doctors, besides you, who performed this procedure.

- (7) Dr D did not teach nor did he demonstrate how he performed this SmartLipo procedure to the nasal tip procedure . You learnt about this technique from discussion with Dr D when you visited him in Seoul in January 2008.
- (8) Dr D also shared that he had stopped using this method of SmartLipo procedure to the nasal tip after his initial 26 cases as he had found an alternative method using an injection rather than the laser. In general, an appropriate procedure with increasingly satisfactory post surgical results would affirm the robustness of the procedure. This has not been so for SmartLipo procedure to the nasal tip.
- (9) We find that it is reckless for a doctor to proceed to perform an inappropriate procedure on a patient based on the hearsay of another doctor who claims success in 26 cases when these cases have not been published in any peer review journal and that the procedure by Dr D's own admission was experimental in nature. You have not seen this procedure being done nor have you received any training before you embarked on performing this procedure on the nose of this patient.
- (10) We would also like to deal with one other point raised. It was submitted by your Counsel that the Prosecution's expert witnesses Dr A and Dr B had mistakenly thought that the SmartLipo machine is a long-pulsed Nd-Yag laser machine when it is not.
- (11) It follows that their opinions were based on the wrong premise and it would be unsafe for the DC to rely on their testimonies.
- (12) It is unfortunate that your Counsel did not clarify the point with the Prosecution's witnesses if it is your case that the opinions cannot be relied on because of the alleged mistaken assumption.
- (13) However, we find that Dr D had himself testified that he had been using the Nd-Yag 1064 nm pulsed laser for Laser lipolysis and that it has the same parameters as the Smartlipo machine used by you.
- (14) In any case, the view of the Prosecution's experts is that Rhinoplasty is the appropriate and indicated treatment for defatting the nasal tip fat pads.
- (15) We find that the specifications of the machine are not relevant here.

SENTENCE

24 We have considered the circumstances and the mitigation plea forwarded by your Counsel.

We are of the view that the appropriate sentence would be as follows:

- a) that your registration in the Register of Medical Practitioners shall be suspended for a period of six (6) months;
- b) that you shall be censured;
- c) that you shall provide a written undertaking to the SMC that you will not engage in the conduct complained of, and of any similar conduct; and
- d) that you shall bear the costs and expenses of and incidental to these proceedings, including the costs of the counsel to the SMC and the Legal Assessor.

25. We hereby order that the Grounds of Decision be published.

26. The hearing is hereby concluded.

Dated this 28th day of June 2011.