

**SINGAPORE MEDICAL COUNCIL
DISCIPLINARY COMMITTEE INQUIRY FOR DR TAN HUI HOON
HELD ON 28 SEPTEMBER 2011**

Disciplinary Committee:

Prof Ho Lai Yun (Chairman)
A/Prof Christopher Cheng
A/Prof Agnes Ng
Mr Foong Daw Ching (Lay Person)

Legal Assessor:

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

Counsel for SMC (Prosecution Counsel):

Ms Chang Man Phing
Ms Ng Yen Fang
(M/s Wong Partnership LLP)

Defence Counsel:

Mr Eric Tin
Ms Jessica Soo
(M/s Donaldson & Burkinshaw)

DECISION OF THE DISCIPLINARY COMMITTEE

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

1. The Respondent, Dr. Tan Hui Hoon, is a registered general practitioner having her practice at Drs Goh & Tan Family Clinic & Surgery located at Block 283 Bishan Street 22 #01-191, Singapore 570283 ("the Clinic") at the material time.
2. On 3 March 2009 and 12 June 2009, the Ministry of Health Regulatory Compliance Division inspected the Clinic. After reviewing the Drug Dispensing Register and medical records of selected patients of the Clinic, the Ministry of Health referred the matter to the Singapore Medical Council ("SMC") citing concerns over the prescribing practice of Dr Tan pertaining to hypnotics and codeine-containing cough mixtures.

The Charges

3. The Respondent pleaded guilty to 4 charges. The First, Second and Fourth Charges were as set out in the Re-Amended Notice of Inquiry dated 28 September 2011 (3rd Amendment) **Exhibit P-1**. The Third Charge was amended

after the Legal Assessor advised the Disciplinary Committee that the start date of the period of when the offence was committed pre-dated the enactment of the Medical Registration Act (Chapter 174 Rev Ed 2004) (“the relevant Act”). The third charge was then amended by the Counsel for SMC (who we shall refer hereinafter as Prosecution Counsel for convenience) as set out in **Exhibit P-2**. Parties made minor amendments to a set of Agreed Statement of Facts and this was admitted and marked as **Exhibit P-3**.

Course of Action taken by Respondent

4. The charges were read to the Respondent and she confirmed she understood the nature and consequences of her plea of guilt.

Prosecution’s Submissions on Sentence

5. The Prosecution confirmed that there was nothing known about any prior antecedents against the Respondent.
6. The Prosecution tendered to this Disciplinary Committee a bundle of document entitled “Disciplinary Inquiries Conducted by the Singapore Medical Council – Sentencing Precedents [External Copy]” and this was marked as “Exhibit P-4”. The gist of the Prosecution’s submission in this regard was that the sentencing norm for misconduct in relation to the prescription of benzodiazepines and codeine containing cough-mixtures attracted the penalty of suspension.
7. The Prosecution highlighted a recent decision of another Disciplinary Committee, who dealt with the Respondent’s husband who co-runs the same clinic where the Respondent practices, and who had pleaded guilty to 13 charges. In that case, Prosecution highlighted that the husband was sentenced to 3 month’s suspension, a fine of \$1,000, censured, ordered to given a written undertaking and ordered to pay the usual consequential orders as to costs and expenses of and incidental to the proceedings.

Defence Submission on Sentencing – Mitigation

8. Defence Counsel tendered a written mitigation plea which was marked as **Exhibit D-1**. Defence Counsel also provided a summary of precedent cases which was marked as **Exhibit D-2**.
9. Defence Counsel's thrust of the mitigation was that the Respondent was a first time offender, that she had fully cooperated with the authorities and SMC, that she had pleaded guilty and thus saved time and costs for all involved, and that a sentence of suspension would be unduly harsh.
10. Defence Counsel asserted that a sentence of suspension would be unduly harsh because the Respondent's clinic is run by her and her husband. The option of engaging locum doctors was not an option that the Respondent would consider due to previous unsatisfactory experience with locums and negative feedback from the Respondent's patients. Defence Counsel asserted that the Disciplinary Committee had no discretion to order that any order of suspension should start later than 30 days from the date that the Disciplinary Committee decides on the sentence of suspension. Defence Counsel pointed out that section 46 (9) read with 46 (10) of the relevant Act required that sentences of suspension shall not take effect until the expiration of 30 days after the order is made or, if there be good reasons, the Disciplinary Committee can order that the order for suspension starts before the 30 day period. The Defence Counsel states that there is no express provision allowing the Disciplinary Committee to delay the commencement date of any suspension order.
11. That being the Defence Counsel's views, the Defence Counsel proceeded to submit that if both the husband (who was sentenced on 19 September 2011) and the Respondent were to serve suspension sentences simultaneously, this would effectively put their clinic out of business. It was suggested that the husband and wife would be in dire financial straits if the Respondent was also suspended.
12. Defence Counsel also highlighted testimonials from patients and from members of the profession that spoke well of the Respondent.

13. Hence it was urged that this Committee should not impose any order for suspension.

Prosecution's Response in relation to Disciplinary Committee's Power to order that Suspension Order to start later than 30 days

14. The Prosecution Counsel disagreed with the Defence Counsel's interpretation of the relevant Act and submitted that it was open to any Disciplinary Committee to order that a suspension to commence later than 30 days. The basis of this submission was founded in section 45 (2) (g) of the relevant Act which states that the Disciplinary Committee may "*make such other orders as the Disciplinary Committee thinks fit*".

Decision of the Disciplinary Committee

15. The Disciplinary Committee had considered all the points raised in the mitigation plea including the above, and had come to the following conclusions:
 - a. Considering the submissions made and the advice of the Legal Assessor, we were of the view that the Disciplinary Committee did have the discretion and power to order that the suspension order to commence on a date later than 30 days from the date the Disciplinary Committee passes sentence. If we did not have the discretion, section 45 (2) (g) of the relevant Act would be meaningless and would not have been drafted and included into the relevant Act.
 - b. The infraction in respect of charges no. 1 and no. 2 are relatively minor
 - c. We accept and find that Dr Tan's predominant intention in respect of the treatment of her patients was to provide compassionate care. It was not for financial gain.

- d. The respondent is a first time offender and did plead guilty to save time and costs. In this case, and given the facts that were tendered in mitigation to this Committee, we accept that the plea of guilt to be a strong mitigation factor
- e. Compared with other cases that we were referred to, the number of charges was lower and as such, this matter should be treated less severely.
- f. The character references and the good that can be said of the Respondent were compelling.

SENTENCE

- 16. Taking into account the strong mitigating factors presented, this Committee determines and order as follows:-
 - a. That a fine of \$5,000 shall be imposed;
 - b. That the Respondent shall be censured;
 - c. That the Respondent shall provide a written undertaking to the SMC that she will not engage in the conduct complained of, or of any similar conduct; and
 - d. that the Respondent 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.
- 17. We hereby order that the Grounds of Decision be published.

Dated this 28th day of September 2011.