

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY COMMITTEE INQUIRY
FOR DR KWAN WAI CHEE HELD ON 12 MARCH 2012**

Disciplinary Committee:

Dr Wong Sin Yew (Chairman)
A/Prof Siow Jin Keat
A/Prof Wong Kim Eng
Dr K Thomas Abraham (Lay Person)

Legal Assessor:

Mr Joseph Liow
(M/s Straits Law LLC)

Prosecution Counsel:

Mr Anand Nalachandran
Mr Kevin Ho
(M/s Braddell Brothers LLP)

Defence Counsel:

Mr Lek Siang Peng
(M/s Rodyk & Davidson)

Respondent-in-Person:

Dr Kwan Wai Chee

DECISION OF THE DISCIPLINARY COMMITTEE

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

1. The Respondent is one Dr Kwan Wai Chee ("the Respondent").
2. These proceedings arose out of a letter of complaint made against the Respondent on 22 December 2008 by the Ministry of Health to the Singapore Medical Council (the "SMC").

The Charges

3. The particulars of the individual charges of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) are set out in the Notice of Inquiry by the Disciplinary Committee ("NOI") dated 20 October 2011.

4. In brief, the Respondent was charged with twenty (20) charges of professional misconduct relating to events that occurred between the periods from 2004 to 2008, during such time when she was practising as a general practitioner at Bishan Grace Clinic, Singapore. She was charged with failing to provide appropriate care, management and treatment to her various patients. In each charge, the Respondent was accused of inappropriately prescribing cough mixtures containing codeine and/or prescribing Hypnotics, failing to maintain sufficient details in the Patient's Medical Records ("PMR"), failing to maintain records of her assessment of her patients, failing to warn her patients of potential addiction to such cough mixtures (containing codeine) or Hypnotics. Further particulars of such failure to provide appropriate care, management and treatment of her patient included a failure to refer her patients to a medical specialists and/or psychiatrist. In some cases, the particulars included instances where there were concomitant prescriptions of two Hypnotics.

Charges proceeded on and charges 'taken into consideration for sentencing'

5. At the commencement of the hearing of this matter before the Disciplinary Committee, the counsel for the SMC indicated that an agreement had been reached with the counsel representing the Respondent.
6. Prosecution proceeded on ten (10) out of the original twenty (20) charges, namely charges numbered # 1, 2, 3, 6, 10, 11, 12, 13, 14 and 18. The other charges were agreed to be taken into consideration for sentencing.

The Proceedings

7. The Respondent confirmed through her solicitors that she understood the charges that she faced and consented to the charges that were being proceeded on to be treated as read. The Respondent unequivocally entered a plea of guilty to the ten charges indicated in paragraph 6 herein.

8. The Agreed Statement of Facts was then treated as read. The Counsel for the Respondent in this instance also agreed to Agreed Statement of Facts to be treated as read, whereupon the Respondent confirmed that she admitted to all the facts set out therein without any qualification.
9. The Respondent further confirmed and without qualification that she agreed to have the ten (10) remaining charges against her to be taken into consideration for the purposes of sentencing.
10. The Disciplinary Committee was satisfied that the Respondent had entered a plea of guilt with full understanding of the nature of her plea. In view of her unqualified admission to the facts set out in the Agreed Statement of Facts and her agreement to have the balance ten (10) charges to be taken into consideration, we proceeded to find the Respondent guilty of the 10 charges referred to in paragraph 6.

Submission On Sentence

11. We then invited the prosecuting counsel and defence counsel to make submissions on sentencing.
12. The prosecuting counsel, Mr Nalachandran, in his submission stated that the benchmark for the offence of such nature appears to include a term of suspension of between 3 to 6 months. Mr Nalachandran stated that prosecution was not pressing for a deterrent sentence.
13. Counsel for the Respondent asserted that there were circumstances that existed which would entitle this Disciplinary Committee to treat the Respondent with leniency. In particular, Mr Lek, counsel for the Respondent, highlighted that the Respondent had ceased prescribing such medications since the audit by the Ministry of Health and she has made efforts to upgrade her medical competency to gain a deeper understanding of the management of psychiatry-related conditions.

14. In mitigation, Mr Lek highlighted that the Respondent was a first-time offender and had made substantial contributions to the community. The Respondent also exhibited various written testimonies in her Mitigation Plea which she obtained from her peers and patients.

Our decision on Sentencing

15. In considering the submission made and in our review of the documents that form part of the Agreed Bundle, we have made the following observations, which in our view, are matters which we must consider in sentencing the Respondent.
16. From our review of the sentencing precedents placed before us, it appears to us that in the cases which closely matches the present case in terms of the nature of the misconduct and in terms of the number of charges preferred and proceeded upon, the benchmark for such offences would merit a suspension order being made which would range between 3 – 6 months. In each of the cases, that were brought to our attention, a fine was imposed, with the usual orders for a censure to be made, undertaking to be provided and for the costs and expenses of the disciplinary proceedings to be borne by the Respondent.
17. We note that in cases where 6 month's suspension was ordered, the Disciplinary Committee in those cases expressed a public policy need to deter like-minded persons who may commit such misconduct.
18. In reviewing the documents found in the Agreed Bundles, we have noted the inadequate notes made in the Patient's Medical Records which did not appear to contain any plan for the management of her patients.
19. What was particularly troubling was the unusually high volume of medication prescribed to some of the patients, for example:-

- Based on Schedule 2 of the Agreed Statement of Fact (“ASOF”), the relevant patient was prescribed 653 Dormicum tablets over a period of 3 ½ years;
 - Based on Schedule 11 of the ASOF, the relevant patient was prescribed 673 Erimin 5 tablets over a period of 4 years; and
 - Based on Schedule 14, the relevant patient was prescribed over 36 litres of Dhasedyl over a period of 4 years.
20. Having reviewed the documents in the Agreed Bundle, we have noted that the amounts that the Respondent had charged in respect of some of the medications which she had prescribed. We have conservatively estimated that the Respondent had, in the 4 years preceding the audit conducted by MOH, would have charged and collected a significant amount from these 20 patients.
21. However, in sentencing, we took note that the prosecution was not seeking a deterrent sentence. We also gave consideration to the fact that the Respondent was a first-time offender and had pleaded guilty which did save some time and costs.
22. It is the Committee’s decision that the appropriate sentence to be meted against the Respondent shall be as follows:
- (a) that the Respondent be suspended from practice for a period of **4 months**;
 - (b) that the Respondent be fined the sum of **\$5,000.00**;
 - (c) that the Respondent shall be censured;

- (d) that the Respondent shall give a written undertaking to the SMC that she will not engage in the conduct complained of or any similar conduct; and
 - (e) that the Respondent shall pay the costs and expenses of and incidental to these proceedings including the costs of the solicitors to the SMC and the Legal Assessor.
23. We also order that the grounds of decision and outcome of this Inquiry be published.
24. This hearing is hereby concluded.

Dated this 12th day of March 2012.