SINGAPORE MEDICAL COUNCIL DISCIPLINARY COMMITTEE INQUIRY FOR DR SAIFUDDIN BIN SIDEK HELD ON 1 AND 2 FEBRUARY 2012

Disciplinary Committee:
A/Prof Siow Jin Keat (Chairman)
A/Prof Ong Sin Tiong
Dr Chua Hong Choon
Ms Mabel Ong (Lay Member)

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

Counsel for the SMC:
Ms Josephine Choo
Ms Emily Su
(M/s WongPartnership LLP)

Counsel for the Respondent:
Dr Myint Soe
(M/s Myint Soe & Selvaraj)

DECISION OF THE DISCIPLINARY COMMITTEE

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

1. These proceedings arose out of a letter of complaint dated 25 May 2010 by the Complainant to the Singapore Medical Council (the "SMC") made in respect of the Respondent, Dr Saifuddin Bin Sidek (the "Respondent"), an obstetrician and gynaecologist, having his medical practice at Sidek Clinic For Women Pte Ltd. There is a supplemental complaint dated 1 September 2010.

2. Following the said complaint, the SMC communicated with the Respondent, who then provided an exculpatory statement dated 26 September 2010 to the Complaints Committee. The complaint was then referred by the Complaints Committee to this Disciplinary Committee (the "DC") for a formal inquiry.

3. The Respondent faces 2 charges involving the daughter of the Complainant (the "Patient"). The charges in the original Notice of Inquiry were amended, and the amended charges are:

First Charge:

1. That you, DR SAIFUDDIN BIN SIDEK, are charged that in the period between on or about August 2007 to April 2010, whilst practising as a registered medical practitioner at Sidek Clinic for Women, located at 3 Simei Street 6 #04-26 Eastpoint Singapore 528833 ("the Clinic"), you errantly prescribed Benzodiazepines to the Patient:

PARTICULARS

a. You prescribed Xanax and or Valium to the Patient as set out in Amended Schedule 1 annexed hereto;

b. You failed to carry out clinical review of the Patient at the material time of the prescription such as to enable you to properly assess the medical condition of the Patient;

c. You had prescribed Xanax and or Valium to the Patient in advance in the following manner:-

i. In relation to the prescriptions set out in S/Nos. 9 and 10 of Amended Schedule 1, you had prescribed Xanax and or Valium to the Patient in advance by delivering such prescriptions to the Patient via post on or about 16 January 2010;

ii. In relation to the prescription set out in S/No. 12 of Amended Schedule 1, you had prescribed Xanax and or Valium to the Patient in advance by delivering such prescriptions to the Patient on or about 23 February 2010;

d. Your prescription pattern as set out in Amended Schedule 1 did not indicate any form of management plan to wean the Patient off Xanax and or Valium; and that in relation to the facts alleged you have guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap. 174) (2004 Rev. Ed.)

Second Charge

2. That you, DR SAIFUDDIN BIN SIDEK, are charged that whilst practicing as a registered medical practitioner at Sidek Clinic for Women, located at 3 Simei Street 6 #04-26 Eastpoint Singapore 528833 ("the Clinic"), you conducted yourself inappropriately with the Patient, whilst she was a patient under your care.

PARTICULARS

a. The Patient first consulted you in relation to her gynaecological issues sometime on or about June 2007;

b. You knew or ought to have known that the Patient had emotional issues arising out of broken relationships;

c. Between August 2007 to April 2010, you prescribed Benzodiazepines to the Patient;

d. You checked the Patient into the following hotels on the following dates:-

i. Orchard Parade Hotel on 14 December 2009;

ii. Elizabeth Hotel on 11 May 2010; and

iii. Lion City Hotel on 15 May 2010.

e. You claimed to have developed an "avuncular social relationship" which caused you to prescribe Benzodiazepines to the Patient;

f. Your conduct was not above suspicion;

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.)"

4. At the hearing of the inquiry, the Respondent pleaded guilty to both charges and admitted to the facts set out in the Agreed Statement of Facts. The DC then called for him to present his mitigation.

5. Briefly, counsel for the Respondent had in mitigation submitted various factors which were comprehensively set out in his written submission of mitigation. We will elaborate on these factors below.

6. In response, counsel for the SMC cited various precedents and contended that the appropriate sentence is one involving the suspension of the Respondent's registration as a medical practitioner. In particular, emphasis was made of the fact that this punishment is usually meted out for inappropriate prescriptions of Benzodiazepines. Counsel for the SMC

also presented precedents which showed that severe punishment, including removal of the practitioner's name from the medical register, is appropriate in cases involving a physician's sexual relationship with his patient.

Decision on the First Charge

7. The DC had considered all the points raised in the plea in mitigation, and in respect of the First Charge involving the prescription of Benzodiazepines, the following conclusions were made:

(a) Benzodiazepines are prescribed as hypnotic medication for patients who have insomnia or as anxiolytics for the short term relief of anxiety. However, it is known that long-term consumption of benzodiazepines may lead to drug dependence and tolerance. It is incumbent on all medical practitioners to be appraised of current medical standards and prescribing practice, in the interests of their practice and patients.

(b) The DC considers that the Respondent had acted in disregard of his professional duties since the prolonged prescription of benzodiazepines without specialist referral or proper medical records is inappropriate and unprofessional.

(c) The DC is of the view that the misconduct of improper prescription of benzodiazepines attracts substantial punishment, which usually involves a period of suspension for the medical practitioner concerned. This is clear from the precedents cited to us where the practitioners are usually suspended for a period of time.

8. In the present case, the DC is of the view that the Respondent had been very lax in his prescription of Benzodiazepines to the Patient. In particular, the DC finds the following matters to be relevant and are of grave concern:

(a) It is not in dispute that the Respondent had prescribed Benzodiazepines on 14 occasions up to 7 April 2010, in the dosages and quantities as set out in Amended Schedule 1. The Respondent did not maintain any patient medical records in respect of the prescriptions of Benzodiazepines to the Patient. Such failure invariably meant that the Respondent was not in any position to conduct any clinical review of the Patient which is a crucial aspect of treatment involving Benzodiazepines. The Respondent's prescription of medication to the Patient appears to be based on his ad hoc assessment of her condition depending on his communication and/or meeting with her, which were all undocumented.

(b) The Respondent did not adequately supervise the usage of the high dosage prescriptions, which were left to the Patient to consume on her own. Further, the DC is unable to find any evidence that the Respondent had tried to wean or taper down the dosages of the Patient's consumption of Benzodiazepines.

(c) Not only was there no documented evidence of any attempt to wean the Patient off her addiction, the Respondent had also facilitated her addiction by delivering Benzodiazepines to her personally and by providing her with post-dated prescriptions of Benzodiazepines through the post. These practices are highly irregular and it illustrates the extent by which the Respondent had

overstepped the boundaries, which included his duty as a physician to ensure that no harm would be caused to his patients.

(d) It is the Respondent's case that he was unaware of the Patient's treatment with Dr X, a psychiatrist. While this may have been the case prior to mid-2009, the Respondent's version of facts contained in his exculpatory statement and his submissions in mitigation stated that by mid-2009, he was sufficiently concerned about the Patient's dependence on Benzodiazepines to the extent that he consulted a psychiatrist, Dr Y, who recommended that she be referred to a specialist. Dr Y's suggestion was not followed up by the Respondent, who instead prescribed more Benzodiazepines to the Patient thereafter. From mid-2009, we see no basis for the Respondent's continual prescriptions of Benzodiazepines to the Patient.

(e) Further, in February 2010, the IMH contacted the Respondent in respect of his prescription of Benzodiazepines to the Patient. Even after the IMH had contacted the Respondent, he continued to provide two prescriptions of Benzodiazepines to the Patient in March 2010. The DC is of the view that by that time, alarm bells should have rung in the Respondent's mind of the serious situation involving the Patient's addiction to Benzodiazepines.

(f) It was only after an incident on 7 April 2010 (when the Respondent met the complainant during his delivery of Benzodiazepines to the Patient), that the Respondent consulted Dr Y again about an appointment with him. However, the Patient did not turn up for the appointment.

(g) The DC finds the Respondent's repeated prescriptions of Benzodiazepines to the Patient to be irresponsible when in his exculpatory statement, he had stated that the Patient's parents were seeking to regulate her reliance on Benzodiazepines and to structure a routine for her at home. Instead of seeking to work with the Patient's parents, the Respondent effectively undermined such efforts by his prescriptions of Benzodiazepines to the Patient and by providing alternative accommodation away from home.

(h) The Respondent also made the point in his mitigation that he did not consider how much Benzodiazepines the Patient actually obtained, regardless of his prescriptions. The DC does not accept that this is a viable proposition, as the gist of the misconduct is the cavalier attitude adopted by the Respondent in his repeated prescriptions to the Patient.

9. It is a basic tenet of the ethical code that a physician is expected "to be an advocate for patients' care and wellbeing and endeavour to ensure that patients suffer no harm". This duty had been breached by the Respondent through his actions and we are of the view that such actions amounted to serious professional misconduct that warrants a period of suspension.

10. However, the Respondent's actions are not devoid of mitigating factors. Having perused his submissions on mitigation and heard his counsel's address, the DC is convinced that at the material time, the Respondent had acted out of a genuine desire to help the Patient, although he was misguided and inappropriate in his efforts. We are also convinced that unlike many of the precedents involving prescriptions of Benzodiazepines, the Respondent at no time intended to profit from his actions. In the words of one of his character referees, the Respondent's

actions arose from “an error of judgment committed with the intention to alleviate patient discomfort”.

11. Finally, counsel for the Respondent had submitted that the present inquiry only involved the Patient and not a multitude of patients. While this is a relevant factor in sentencing, the fact that a single patient had been harmed is sufficient basis for this Committee to take a serious view of the Respondent’s actions. Furthermore, the dosages and quantities prescribed by the Respondent are exceedingly high and were completely unjustifiable by any clinical indication.

12. For the above reasons, the DC is of the view that the appropriate sentence in respect of the First Charge is a period of suspension of 3 months of the Respondent’s registration as a medical practitioner. The DC has taken into consideration the point made in mitigation of the financial hardship that the Respondent and his family will undergo if a period of suspension is imposed. In this regard, the DC will not impose any fine on the Respondent.

Decision on the Second Charge

13. In respect of the Second Charge, the main gravamen of this charge is the inappropriateness of the Respondent’s conduct with the Patient, as borne out by the acts undertaken by him as set out in the particulars to the charge.

14. While the Respondent claimed to have developed an “avuncular social relationship” with the Patient that resulted in his actions, the DC is of the view that when the Respondent started prescribing Benzodiazepines to the Patient after treating her as her gynaecologist, he continued a doctor-patient relationship with her, contrary to his assertion that he was merely

helping her as a friend. It is also noteworthy that the Respondent had elected to plead guilty to the second charge which stated that at the material time, the Patient was a patient under his care.

15. It is clear to the DC that on the facts, the Respondent had overstepped the boundaries that ought to have been observed by any physician towards a patient. There is no doubt in our minds that the Respondent had allowed this relationship to cloud his judgment which led to his subsequent actions. The Respondent ought to have acted with more circumspection but failed to do so.

16. The DC wants to emphasise that while there is nothing wrong in offering assistance to a patient, a physician must at all times observe the boundaries of a doctor-patient relationship. The Ethical Code stipulates that a physician must maintain a professional relationship with patients.

17. In the present case, the DC is of the view that the Respondent was unfortunately entrapped in a situation where he wanted to help the Patient, but did not exercise his clinical judgment to help her by referring her to a specialist. This was the case from mid 2009 onwards (at least a period of 10 months) even though such a course of action was contemplated by him.

18. In respect of both charges, the DC had borne in mind the following mitigating factors:

    (a) At all times, the Respondent genuinely wanted to help the Patient.

    (b) There is no evidence of any intention by the Respondent to derive any benefit from his actions.

(c) The Respondent had a good unblemished record of nearly 30 years, and had cooperated with the SMC and had elected to plead guilty, saving the time and expense for a fully inquiry.

(d) There are many glowing testimonials from patients as well as medical colleagues. These testimonials attested to the Respondent's character as a helpful and compassionate physician, which is a factor that this Committee cannot disregard.

19. In respect of the Second Charge, the DC is of the view that the appropriate punishment is the imposition of a censure against the Respondent. While such a punishment may on its face appear to be lenient, we want to emphasise that it is appropriate given the punishment of a period of suspension for the First Charge. Further, unlike the circumstances and facts underlining the precedents presented by the SMC, there is no evidence of any sexual relationship between the Respondent and the Patient in the present case, nor was there any evidence that the Respondent had attempted to take advantage of the Patient at all material times. The DC would add that if there was any sexual relationship or attempt to take advantage of the Patient, the DC would have no hesitation to remove the Respondent from the Register of Medical Practitioners or to impose a long period of suspension.

<u>Conclusion</u>

20. In summary, in respect of both charges, the totality of the punishment is:

(a) that the Respondent's registration as a medical practitioner shall be suspended for a period of **3 months**;

(b) the Respondent shall be censured;

(c) the Respondent shall provide a written undertaking to the SMC that he will not engage in the conduct complained of, or any similar conduct; and

(d) the Respondent shall pay the costs and expenses of and incidental to these proceedings, including the costs of the counsel to the SMC and the Legal Assessor.

21. The DC also orders that the grounds and outcome of this inquiry be published.

22. The hearing is hereby concluded.

Dated this 2nd day of February 2012.