

**SINGAPORE MEDICAL COUNCIL
DISCIPLINARY COMMITTEE INQUIRY FOR
DR TEOH KHENG HOE GERRARD HELD ON 2 AUGUST 2012**

Disciplinary Committee:

A/Prof Benjamin Ong - Chairman
Prof Lee Eng Hin
A/Prof Kuperan Ponnudurai
Mr Kwan Yew Huat - Lay Person

Legal Assessor:

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

Counsel for the SMC:

Ms Melanie Ho
Ms Chang Man Phing
Ms Yong Shu Hsien
Mr Alvis Liu
(M/s WongPartnership LLP)

Counsel for the Respondent:

Mr Edwin Tong
Ms Mak Wei Munn
Ms Jacqueline Chua
(M/s Allen & Gledhill LLP)

DECISION OF THE DISCIPLINARY COMMITTEE

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

1. The Respondent, Dr Teoh Kheng Hoe Gerrard, is a Hematologist at the Clinic for Blood Disorders and Research, Gleneagles Hospital.
2. These proceedings arose out of a complaint dated 13 August 2009 by the Complainant to the Singapore Medical Council made in respect of the Respondent's treatment of the Patient who was diagnosed with advanced diffuse large B-cell lymphoma.
3. Following the said complaint, the SMC communicated with the Respondent, who then provided an exculpatory statement dated 20 January 2010 to the Complaints Committee. The complaint was then

referred by the Complaints Committee to this Committee for a formal inquiry.

4. The Respondent faces 2 charges at the inquiry. These are:

“First Charge:

1. That you DR TEOH KHENG HOE GERRARD are charged that during the period in or around 7 March 2009 to early July 2009, you recommended and administered to your patient ("the Patient"), Rituximab, Velcade, Dexamethasone, Thalidomide, Zometa therapy ("the VELCADE-based Targeted Therapy") as a first-line treatment to treat advanced diffuse large B-cell lymphoma ("the Patient's Medical Condition"), when you knew or ought to have known that it was not a generally accepted method of treatment by the medical profession.

Particulars

- i. On or about 7 March 2009, the Patient consulted you for the first time for treatment of the Patient's Medical Condition ("the Consultation").
- ii. At the Consultation, you recommended the VELCADE-based Targeted Therapy to treat the Patient's Medical Condition.
- iii. The VELCADE-based Targeted Therapy commenced on 16 March 2009 and took place over 6 cycles.

- iv. The VELCADE-based Targeted Therapy was not generally accepted by the medical profession as a form of treatment for the Patient's Medical Condition.

- v. The acceptable standard of care for the Patient's Medical Condition is systemic chemotherapy with Rituximab, Cyclophosphamide, Doxorubicin, Vincristine and Prednisolone ("R-CHOP").

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 Ed.).

Second Charge

- 2. That you DR TEOH KHENG HOE GERRARD are charged that during the period in or around 7 March 2009 to early July 2009, you recommended and administered to your patient ("the Patient"), Rituximab, Velcade, Dexamethasone, Thalidomide, Zometa therapy ("the VELCADE-based Targeted Therapy") as a first-line treatment to treat advanced diffuse large B-cell lymphoma ("the Patient's Medical Condition"), when you knew or ought to have known that it was not the appropriate treatment.

Particulars

- i. On or about 7 March 2009, the Patient consulted you for the first time for treatment of the Patient's Medical Condition ("the Consultation").

- ii. At the Consultation, you recommended the VELCADE-based Targeted Therapy to treat the Patient's Medical Condition as a first-line treatment.

- iii. There is no scientific basis and/or medical literature supporting the use of VELCADE-based Targeted Therapy as a first-line treatment and/or that it was appropriate in the management of the Patient's Medical Condition.

- iv. The appropriate treatment for the Patient's Medical Condition is systemic chemotherapy with Rituximab, Cyclophosphamide, Doxorubicin, Vincristine and Prednisolone ("R-CHOP).

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 Ed.).

- 5. The Respondent pleaded guilty to both charges and admitted to the facts set out in the Agreed Statement of Facts. This Committee then called for him to present his mitigation which was presented by him as well as counsel on his behalf.

- 6. Briefly, counsel for the Respondent had in mitigation submitted various factors which were comprehensively set out in a written plea of mitigation. We will elaborate on the relevant mitigation factors below.

- 7. 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 following factors:

- (1) That the treatment administered by the Respondent was inappropriate and not generally accepted;
 - (2) there was no approval for a clinical trial;
 - (3) the treatment had compromised the Patient's health by delaying the appropriate treatment;
 - (4) the Respondent had exploited the vulnerability of the Patient and his family, and had abused their trust; and
 - (5) there is an absence of genuine remorse and the Respondent was dishonest.
8. Counsel for the SMC also take the position that the plea of guilt was made late in the day and is not of any value in the present case. A sentence of 18 months' suspension was urged to be imposed for this case.

Our decision on the appropriate sentences

9. We had considered all the points raised in the plea in mitigation by both counsel, including the above, and we arrived at the following conclusions:
- (a) It is incumbent on all medical practitioners to be appraised of current medical standards and the appropriate treatment methods, in the interests of their patients. The Committee considers that the Respondent had acted in disregard of his professional duties since he had carried out inappropriate treatment which is not scientifically supported. That is unprofessional.

- (b) Further, the Respondent's conduct runs afoul of paragraph 4.1.4 of the SMC's Ethical Guidelines which states:

"4.1.4 Untested practices and clinical trials

A doctor shall treat patients according to generally accepted methods and use only licensed drugs for appropriate indications. A doctor shall not offer to patients, management plans or remedies that are not generally accepted by the profession, except in the context of a formal and approved clinical trial.

A doctor who participates in clinical research must put the care and safety of patients first. If a doctor wishes to enter a patient into a clinical trial, he must ensure that the trial is approved by an ethics committee and conforms to the Good Clinical Practice Guidelines. In addition, informed consent must be obtained from the patient.

It is not acceptable to experiment or authorise experiments or research which are not part of a formal clinical trial and which are not primarily part of treatment or in the best interest of the patient, or which could cause undue suffering or threat to the life of a patient."

- (c) We are of the view that a breach of the Ethical Guidelines involving inappropriate treatment will attract substantial punishment involving a period of suspension for the medical practitioner concerned. We are aware that the severity of the punishment must also be

proportionate to the seriousness of the misconduct and the consequences of the misconduct.

10. In the present case, we find the following matters to be relevant and are of grave concern:
 - (a) The Respondent had, in his explanatory statement to the Complaints Committee admitted that he had informed the Patient's parents that the treatment is conducted in a "trial of sorts". That reinforces the point that the Respondent had provided a picture that the treatment was provided in a trial setting when it was not.
 - (b) During the course of mitigation, we learnt of the Respondent's association with the pharmaceutical company that manufactures Velcade. We are concerned that given this close association, the Respondent was not well-placed to advise the patient on his options, and the Respondent's perceptions could have clouded his judgment. In any case, even if it was his honest belief, it is clear that the Respondent's recommendation was misplaced since R-CHOP is the accepted first-line treatment.
 - (c) It is disturbing that the Respondent had recommended the Velcade-based Targeted Therapy when he knew that R-CHOP is the accepted first-line treatment. In our view, there is a significant public interest element here in that at that time, the patient and his family were vulnerable in the face of the life-threatening illness and had greatly relied on the Respondent's advice which should have been objective. In this sense, we accept the SMC's contention that the patient's and his family's trust had been abused.

- (d) We are unable to agree with the Respondent's statement that he felt compassion for the patient. While he maintained that in mitigation, we note that the cost of the Velcade-based treatment was substantial and exceeded the cost of the accepted treatment. In fact, substantial sums had been incurred by the family for the treatment of the patient using the method advocated by the Respondent, and also to address the complications arising from it. By the Respondent's own reckoning, the treatment would have cost \$200,000 and by the version offered in the complaint, the cost was \$330,000. This is a relevant factor for our consideration since it is a consequence of the misconduct.

- (e) It is a basic tenet of the ethical code that a physician is expected to ensure that patients suffer no harm. However, the patient in this case after undergoing the Velcade-based Targeted Therapy had deteriorated and suffered complications. The appropriate treatment was also delayed as a result of the Respondent's recommended treatment of the patient. In this regard, the duty not to harm the patient had been breached by the Respondent through his actions and we are of the view that such actions amounted to serious professional misconduct that warrant a period of suspension. In our view, a punishment involving suspension is also consistent with the precedent involving Dr Wong Yoke Meng where a suspension of 12 months was imposed where a patient was harmed.

- (f) Finally, we have our doubts whether the Respondent is genuinely contrite and remorseful for his actions. Without even relying on the SMC's case that he had shown no remorse by the contents of his written explanation, when the Respondent addressed us in mitigation, he appeared in fact to justify the appropriateness of the treatment advocated by him.

11. However, the Respondent's actions are not entirely devoid of mitigating factors. Having perused his submissions on mitigation and heard his counsel's address, we are of the view that the following are relevant mitigating factors:
 - (a) Prior to these proceedings, the Respondent has an unblemished record of 26 years' practice. We also note that there are numerous testimonials and evidence of contributions to the medical community.
 - (b) The Respondent had pleaded guilty to the charges and had therefore avoided a protracted inquiry. However, we do bear in mind that the Respondent did not plead guilty as soon as the Notice of Inquiry was served, and that there were significant periods of delay in the scheduling of the inquiry which is attributable to the Respondent.
12. We would add that but for the above mitigating factors, we would have imposed a heavier sentence for each of the charges.
13. For the above reasons, we are of the view that on the totality of the facts before us, the appropriate sentence in respect of each of the charges is **6 months suspension for each charge and the maximum fine of \$10,000 (for both charges)** under the applicable Medical Registration Act. We would have imposed a higher fine if we were empowered to do so, given amongst other considerations, the substantial amount incurred by the family for the inappropriate treatment.
14. As all of the charges arose from the treatment of the patient and not from separate matters on different occasions, we are of the view that it is

appropriate that the sentences of suspension are to be served concurrently by the Respondent.

Conclusion

15. 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 the periods as set out above i.e. 6 months since both periods of suspension are to commence concurrently;
 - (b) the Respondent be fined the sum of \$10,000;
 - (c) the Respondent shall be censured;
 - (d) the Respondent shall provide a written undertaking to the SMC that he will not engage in the conduct complained of, or any similar conduct; unless he had obtained the requisite approval for such a clinical trial; and
 - (e) 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.
16. We also order that the grounds and outcome of this inquiry be published.
17. The hearing is hereby concluded.

Dated this 2nd day of August 2012.