

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL INQUIRY FOR  
DR BOON SENG POH ON 26 MARCH 2014**

**Disciplinary Tribunal:**

Prof Ho Lai Yun – Chairman  
Dr Cheek Cheng Soon Christopher  
Mr Ng Peng Hong – Legal Service Officer

**Counsel for the SMC:**

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

**Counsel for the Respondent:**

Mr Charles Lin  
(M/s MyintSoe & Selvaraj)

**DECISION OF THE DISCIPLINARY TRIBUNAL**

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

**Background**

1. The Respondent admitted and pleaded guilty to 15 out of 18 charges of failing to provide appropriate care, management and treatment to his patients. These charges are specifically set out in the Notice of Inquiry dated 25 October 2013 as amended by the parties on 26 March 2014. The particulars for the breach of the appropriate care, management and treatment were, for having inappropriately prescribed Hypnotics in breach of Guideline 4.1.3 of the Singapore Medical Council's Ethical Code and Ethical Guidelines, and for failing to treat the patient in consultation with a medical specialist or failing to refer the patient to a medical specialist and/or psychiatrist for further and/or joint management in breach of Guidelines 4.1.1.5, 4.1.1.6 and/or 4.1.3 of the Singapore Medical Council's Ethical Code and Ethical Guidelines or failing to maintain sufficient details in the patient's Medical Records as to the need for concurrent prescriptions of Hypnotics and the manner the patient was supposed to consume the two different Hypnotics in breach of Guidelines 4.1.2 and 4.1.3 of the Singapore Medical Council's Ethical Code and Ethical Guidelines.

2. The Respondent also agreed to 3 charges, namely, Charges No. 7, 12 and 17 to be taken into consideration for the purposes of sentencing.
3. To avoid duplicity and for completeness, we will reproduce one of the 18 charges, namely, the 3<sup>rd</sup> charge, to which the Respondent has pleaded guilty.
4. The 3<sup>rd</sup> Charge reads as follows:

*“That you, Dr Boon Seng Poh, are charged that you, between 4 November 2008 and 11 May 2011, whilst practising as a medical practitioner at BSP Clinic, Singapore, failed to provide appropriate care, management and treatment to your patient, namely one Patient A (“the Patient”), to wit :-*

*PARTICULARS*

*a. In breach of Guideline 4.1.3 of the Singapore Medical Council’s Ethical Code and Ethical Guidelines, you inappropriately prescribed Hypnotics, namely Erimin 5 and Lexotan, to the Patient on 23 occasions, particulars of which are set out in Schedule 3 annexed hereto, in that :-*

- (i) you gave multiple prescriptions of Hypnotics (of up to 30 tablets per consultation) beyond the recommended 2 to 4 weeks;*
- (ii) you initiated or re-initiated the Patient with Erimin 5 even though Erimin 5 is not recommended for routine outpatient prescription;  
and*
- (iii) you inappropriately co-administered 2 different Hypnotics (i.e. Erimin 5 and Lexotan) on multiple occasions, and/or*

*b. In breach of Guidelines 4.1.2, and 4.1.3 of the Singapore Medical Council’s Ethical Code and Ethical Guidelines, you failed to maintain sufficient details in the Patient’s Medical Records as to the need for concurrent*

*prescriptions of Hypnotics and the manner the Patient was supposed to consume the two different Hypnotics; and*

*c. In breach of Guidelines 4.1.1.5, 4.1.1.6 and/or 4.1.3 of the Singapore Medical Council's Ethical Code and Ethical Guidelines, you failed to treat the Patient in consultation with a medical specialist, by continuing your prescription of Hypnotics to the said Patient after his refusal to see a medical specialist and/or psychiatrist,*

*and you are thereby guilty of professional misconduct under Section 53(1)(d) of the Medical Registration Act (Cap. 174)."*

5. The Statement of Facts marked as P1 was agreed and admitted by the Respondent. Accordingly, we find the Respondent guilty of professional misconduct under Section 53(1)(d) of the Medical Registration Act (Cap. 174).

### **Mitigation**

6. In mitigation, Counsel for the Respondent tendered a written mitigation dated 25 March 2014 which we duly considered. Counsel confirmed that the mitigation does not in any manner qualify the Respondent's admission and plea of guilt of professional misconduct as per the charges proffered against him.
7. In the mitigation plea, Counsel has provided this Tribunal with the background facts of the Respondent and the nature of his medical practice.
8. We noted the Respondent's contributions to National Service, the various organisations and to the medical profession by writing articles advocating patient's safety.
9. Counsel highlighted that the particulars of the charges are not in relation to the failure to provide a management plan for the patients. He submitted that there was a management plan for the patients in the present case.

10. We note that the Respondents did take steps to wean his patients off the hypnotics.
11. Counsel also took pain to show that in 12 out of the 18 patients mentioned in the charges, attempts were made to refer them to specialists. However, the gravamen of the relevant charges against the Respondent is for the failure to treat the patients in consultation with a medical specialist after the patients' refusal to see a medical specialist or psychiatrist. It is not for failure to refer them to specialists.
12. The Respondent has intended to plead guilty from the beginning after he received the charges. His remorse was immediate and sincere.
13. Testimonials were also tendered by his patients to show that he was a caring doctor.
14. With respect, we do not understand the submission by the Respondent that "*For many working class people with sleeping and stress problems there is little point in saying they must stop taking sleeping pills, as they will go around to other clinics and obtain them. Additionally, as the clinic cards show, many patients will refuse going to a Mental Clinic or see a psychiatrist... The Respondent says that you do also get attached to patients who come from time to time and the doctors come to understand their various problems in chatting with them, and sympathise with their need for sleeping pills.*" In our view, all medical practitioners must abide by Singapore Medical Council's Ethical Code and Ethical Guidelines.
15. We note that the Respondent has expressed his profound regrets and apologises to the Ministry of Health and the Medical Council for any trouble he has caused them.

### **Submission on Sentence by Counsel for the Respondent**

16. Counsel for the Respondent submitted this is not a case deserving a maximum sentence in the form of being struck off, or awarding three year's suspension or any suspension. It is submitted for a small fine with a censure and an undertaking and order for costs. Briefly these are his grounds.
17. The particulars of professional misconduct in the charges do not connote the same degree of seriousness such as negligently, recklessly or intentionally prescribing.
18. The Respondent is dedicated to the medical profession and his patients. When he received the request for his explanation from the Complaints Committee that eventually led to this present Inquiry, the Respondent immediately took additional steps to escalate the taper of the patients off instead of abandoning the patients or leaving them in a lurch.
19. There is no allegation that these misdemeanours had resulted in any serious damage or injury to the patients concerned.
20. Counsel for the Respondent referred to the verdict in Dr Tang Yen Ho Andrew's ("Dr Tang") case. There were 17 charges for failing to exercise due care in the management of his patients with no obvious plan and a lack of referrals and a further 17 charges for the same 17 patients for failure to properly document in the case notes. Dr Tang contested all 34 charges.
21. The SMC also found that there was a deliberate departure from standards by Dr Tang.
22. In comparison to Dr Tang's case, Counsel submitted that there were clear management plans to taper down or to substitute the taking of hypnotics. That the Respondent arguably exercised much more care and was more caring. Additionally, the Respondent had decided to plead guilty from the beginning to

show his regrets and to save time and inconvenience to all concerned. These are strong mitigating factors which reflect remorse and contrition.

23. The punishment of 6 months suspension (plus \$10,000 fine) for Dr Tang was based on the SMC's view that Dr Tang's prescription practice and patient management indicated a pattern of intentional departure from standards. The Respondent's management of his patients were quite the contrary.
24. Counsel therefore respectfully submitted the punishment for the Respondent should be less than in Dr Tang's case.
25. We were also referred to the case of Dr Wong Cheok Way ("Dr Wong"). There were 8 charges of inappropriate prescriptions, failure to formulate plans for the patients with no reduction or tapering off and failure to properly document sufficient details. Further, Dr Wong did not plead guilty at the first instance. Dr Wong was sentenced to inter alia 3 months' suspension and a fine of \$3,000 with the usual consequential orders.
26. The Respondent had also sold off his practice on 23 December 2013 and stopped practice since 22 March 2014. It was submitted that a short suspension would not be appropriate as he has in fact already started to suspend himself since 22 March 2014.

**Submission on Sentence by Counsel for SMC**

27. Counsel for SMC has very kindly provided the Tribunal with a table of sentencing precedents. In particular, Counsel has highlighted the case of Dr Tan Yang Khai (See exhibit P4). We agree with Counsel for SMC that the cases cited in serial number 5 and 17 are clearly distinguishable from the present case.

### **Reasons for the Sentence**

28. In determining the appropriate sentence, the Tribunal has regard to all the circumstances of the case set out in the Agreed Statement of Facts, Agreed Bundle, the sentencing precedents and the mitigation plea. Among other factors, we consider and give full credit to the Respondent for his early plea of guilt, his efforts to taper his patients off the hypnotics, his contributions to the society, the medical profession, his remorsefulness and the good testimonials by his patients.

### **Orders by this Disciplinary Tribunal**

29. Having regarded all the circumstances of the case and considering the submissions and precedents cited, we determine and order that the Respondent:-

- a) be suspended from medical practice for a period of **three (3) months**;
- b) pays a penalty of **S\$5,000.00**;
- c) be censured;
- d) gives a written undertaking to the SMC that he will not engage in the conduct complained of and any similar conduct; and
- e) pays the cost and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC.

### **Publication of Decision**

30. We order that the Grounds of Decision be published.

31. The hearing is hereby concluded.

Dated this 26<sup>th</sup> day of March 2014.