

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL INQUIRY FOR
DR KHOO BUK KWONG ON THURSDAY, 12 JUNE 2014**

Disciplinary Tribunal:

Prof Ho Lai Yun – Chairman
Dr Vaswani Chelaram Moti Hassaram
Ms Jocelyn Ong – Legal Service Officer

Counsel for SMC:

Mr Philip Fong
Mr Lionel Chan
(M/s Harry Elias Partnership LLP)

The Respondent

Dr Khoo Buk Kwong, acting in person

GROUND OF DECISION OF THE DISCIPLINARY COMMITTEE

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

Introduction

1. These proceedings arose from the convictions of the Respondent, Dr Khoo Buk Kwong in March 2011 in the Subordinate Courts of 6 charges of selling poisons listed in the Schedule to the Poisons Act (Cap. 234), without a licence, which offences are punishable under section 16(1) of the Poisons Act read with Section 34 of the Penal Code (Cap. 224). The Respondent was sentenced to a total fine of \$60,000 (in default 60 weeks' imprisonment) and was subsequently referred to this Disciplinary Tribunal (DT) by the Singapore Medical Council (SMC). One charge was preferred against the Respondent as set out in the Notice of Inquiry (NOI) dated 17 September 2013. The substance of the charge is that the criminal convictions of selling poisons listed in the Schedule to the Poisons Act (Cap. 234) without a licence imply a defect of character which makes him unfit for the medical profession.
2. At the Pre-Inquiry Conference on 23 October 2013, the Respondent indicated his intention to take a certain course of action and requested that the DT Inquiry be held in June 2014. The DT acceded to his request.

3. Details of the 6 charges to which the Respondent had pleaded guilty and was convicted are set out below:

HSA 778/08	Dr Khoo was charged that on 15 January 2008 in Singapore, together with W (NRIC No. SXXXXXXXX), in furtherance of the common intention, did, without a licence from a licensing officer, sell Codeine, a poison listed in the Schedule to the Poisons Act, in contravention of Section 5 of the Poisons Act, Cap. 234 and have thereby committed an offence punishable under Section 16(1) of the Poisons Act, Cap. 234 read with Section 34 of the Penal Code, Cap.224.
HSA 779/08	Dr Khoo was charged that on 15 January 2008 in Singapore, together with W (NRIC No. SXXXXXXXX), in furtherance of the common intention, did, without a licence from a licensing officer, sell Promethazine, a poison listed in the Schedule to the Poisons Act, in contravention of Section 5 of the Poisons Act, Cap. 234 and have thereby committed an offence punishable under Section 16(1) of the Poisons Act, Cap. 234 read with Section 34 of the Penal Code, Cap.224.
HSA 780/08	Dr Khoo was charged that on 18 January 2008 in Singapore, together with W (NRIC No. SXXXXXXXX), in furtherance of the common intention, did, without a licence from a licensing officer, sell Codeine, a poison listed in the Schedule to the Poisons Act, in contravention of Section 5 of the Poisons Act, Cap. 234 and have thereby committed an offence punishable under Section 16(1) of the Poisons Act, Cap. 234 read with Section 34 of the Penal Code, Cap.224.
HSA 781/08	Dr Khoo was charged that on 18 January 2008 in Singapore, together with W (NRIC No. SXXXXXXXX), in furtherance of the common intention, did, without a licence from a licensing officer, sell Promethazine, a poison listed in the Schedule to the Poisons Act, in contravention of Section 5 of the Poisons Act, Cap. 234 and have thereby committed an offence punishable under Section 16(1) of the Poisons Act, Cap. 234 read with Section 34 of the Penal Code, Cap.224.
HSA 782/08	Dr Khoo was charged that on 23 January 2008 in Singapore, together with W (NRIC No. SXXXXXXXX), in furtherance of the common intention, did, without a licence from a licensing officer, sell Codeine, a poison listed in the Schedule to the Poisons Act, in contravention of Section 5 of the Poisons Act, Cap. 234 and have thereby committed an offence punishable under Section 16(1) of the Poisons Act, Cap. 234 read with Section 34 of the Penal Code, Cap.224.
HSA 783/08	Dr Khoo was charged that on 23 January 2008 in Singapore, together with W (NRIC No. SXXXXXXXX), in furtherance of the common intention, did, without a licence from a licensing officer, sell Promethazine, a poison listed in the Schedule to the Poisons Act, in contravention of Section 5 of the Poisons Act,

	Cap. 234 and have thereby committed an offence punishable under Section 16(1) of the Poisons Act, Cap. 234 read with Section 34 of the Penal Code, Cap.224.
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4. At the DT inquiry, the Respondent pleaded guilty to the preferred charge in the NOI and also agreed to the Agreed Statement of Facts tendered at the inquiry.

Mitigation

5. The Respondent had earlier submitted his mitigation plea in what he termed a “Letter of Appeal” dated 19 May 2014 (“D1”). He stated that he had wrongly assumed that the relevant documentation would have been sought before the company (M/s Evercare Medical Marketing) was set up and since the company was already set up, that the company would have all the relevant documentation and necessary licence. He was just an employee of the Company. If he known it was illegal he would not have gotten involved. Nor would he have “settled” for remuneration of just \$50 per carton. In any case, he was never paid the remuneration promised to him.
6. He had assisted the authorities to try to stop the shipment once he knew it was illegal but things happened too fast and the medicines were already ready to be shipped. He has been co-operative and compliant with the investigation.
7. The Respondent pleaded for leniency for his lapse of judgment. He has already been fined \$60,000 for the convictions. His marriage broke down in late 2009 and he is faced with financial demands of having to look after his family (3 boys, the youngest of whom is autistic, and his ex-wife), his 2 siblings and his elderly mother who is bedridden from a stroke. He was made a bankrupt in 2010 and has to service his debt through the Official Assignee.

Submissions on Sentencing

8. Counsel for the SMC tendered two sets of sentencing precedents. The first set of precedents in “P1” was for offences related to the Poisons Act. However, the cases in P1 were all cases where the Respondents pleaded guilty at the Inquiry and did not involve criminal convictions. Also, these cases were rather dated (1998 to 2000).
9. The 2nd set of precedents in “P2” related to cases where there were criminal convictions. However, these precedents were also not on point as they concerned

convictions for shoplifting (the DT in that case had stated that their decision should not be cited a precedent), tax evasion, hit-and-run offences and drug possession.

10. There were therefore no precedents directly on point. Counsel for SMC submitted that the present case is quite different from the precedents in P1 because it involves a conviction in the Criminal Courts and the Respondent was guilty of 6 charges, although the SMC had preferred a single charge against him. Further, the amount of the poisons sold was quite substantial – two hundred (200) 3.8 litre canisters of ‘SP-Cosedyl’ (a cough mixture), 250 3.6 litre canisters of ‘Cophadyl – E” cough mixture and two hundred (200) 3.8 litre canisters of Sunsedyl cough mixture. The manner in which the business was set up in collaboration with 2 other persons showed this was a scheme to conduct the business and was another aggravating factor. Counsel submitted that a period of suspension would be appropriate.

Analysis

11. The Tribunal considered all the circumstances of the case. We are aware that there are no precedents for similar offences. We considered the offence to be a serious one, given the substantial amount of cough mixture sold and the potential for harm, and believe that the offence warrants a suspension of 12 months.
12. We note the Respondent has already been fined a total of \$60,000 for the offence and he is also a bankrupt. Under these circumstances, a penalty of a fine would not be appropriate.
13. We next considered the Respondent’s mitigation. We note from the Agreed Statement of Facts that the Respondent and the accomplice had decided to set up a partnership business to carry out the sale of the cough mixture. It was when the Respondent’s application to register the partnership with the Accounting and Corporate Regulatory Authority (ACRA) was rejected that a third party was brought in for the registration of the partnership (M/s Evercare Medical Marketing). Hence, we did not accept that he was “just an employee” and unaware that what he was doing was illegal. However, we have taken into account his family circumstances as set out in paragraph 7 above and determined that a period of 9 months suspension would be appropriate.

Orders by this Disciplinary Tribunal

14. Having regard to all the circumstances of the case, the Disciplinary Tribunal hereby orders that the Respondent:

- a) be suspended for a period of **9 months**. This sentence is to run consecutively from, and not concurrently with, any other suspension orders against him;
- b) be censured;
- c) gives a written undertaking to the SMC that he will abstain in future from the conduct complained of and any similar conduct; and
- d) pay the cost and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC.

Publication of Decision

15. We also order that the Grounds of Decision be published.

16. The hearing is hereby concluded.

Dated this 12th day of June 2014.