

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL INQUIRY FOR
DR HO THONG CHEW ON 18 DECEMBER 2014**

Disciplinary Tribunal:

Prof Walter Tan – Chairman
A/Prof Rathi Mahendran
Mr Ng Peng Hong – Legal Service Officer

Counsel for the SMC:

Mr Burton Chen
Mr Tham Chang Xian
Mr Alex Sim
(M/s Tan Rajah and Cheah LLC)

Counsel for the Respondent:

Mr Johnathan Tan
Mr Colin Phan
(M/s L F Violet Netto)

GROUNDINGS OF DECISION OF THE DISCIPLINARY TRIBUNAL

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

1. The Respondent is a registered medical practitioner. He has pleaded guilty before this Tribunal to all the 12 charges preferred against him under Section 53(1)(b) and punishable under Section 53(2) of the Medical Registration Act (Cap. 174). As all the 12 charges are similar in nature, it will suffice for purposes of this proceeding to set out one of the charges which is as follows:

*That you, **Dr Ho Thong Chew (NRIC No. SXXXXXXX)**, were, on 20 July 2012, vide HSA 000442-DSC-2012, at the Subordinate Courts of the Republic of Singapore, convicted of selling a medicinal product by way of wholesale dealing without a wholesale dealer's licence from a licensing office, to one Y, sometime during the first week of January 2011 at about 9.30pm, at the vicinity of Blk 226C Ang Mo Kio 1, Singapore, to wit, Dhasedyl Syrup (bearing batch No: 008084), which contains Codeine, a medicinal product not on the General Sales List, in contravention of Section 6(3) of the Medicines Act (Cap. 176), and an offence under Section 20(1) of the said Act, and you are thereby liable to be punished*

under section 53(2) read with section 53(1)(b) of the Medical Registration Act (Cap. 174).

2. On 20 July 2012, at the Subordinate Courts (as it then was) of the Republic of Singapore, the Respondent pleaded guilty to and was convicted of 12 charges of selling Dhasedyl Syrup which contained Codeine, being a medicinal product not on the General Sales List under the Medicines Act (Cap. 176) ("**Medicines Act**"), by way of wholesale dealing without a wholesale dealer's licence (collectively referred to as "the 12 HSA Charges"). The details of the charges and the Statement of Facts were set out in the annexures to the Statement of Facts tendered by the Prosecution.
3. For each of the 12 HSA Charges, the Respondent was convicted of an offence under Section 20(1) of the Medicines Act. He was sentenced to 6 months and 6 weeks imprisonment and fined \$60,000.

Our Findings

4. As the Respondent has admitted to the Statement of Facts and pleaded guilty to the 12 charges preferred against him under Section 53(1) (b) and punishable under Section 53(2) of the Medical Registration Act (Cap. 174), we accordingly, find the Respondent of having been convicted in Singapore of offences implying a defect in character which makes him unfit for his profession.

Mitigation

5. In mitigation, Counsel for the Respondent tendered a written mitigation dated 18 December 2014 which has been duly considered by the Tribunal. In short, Counsel submitted that the appropriate sentence should be a censure or a short suspension.
6. We noted that as a result of the criminal conviction, the Respondent paid a heavy fine, served a jail term and was not able to earn any income for more than 2 years. The Respondent was released from prison on 17 December 2012.

7. As a result of the criminal case, Counsel submitted that the Respondent suffered a substantial loss of income because of the adverse publicity and disruption. With due respect, we fail to see how this can be a weighty mitigating factor.
8. The Respondent gave 2 reasons for the commission of the criminal offences, namely, to earn more money for the clinic and to support his children's medical care and future. We cannot agree that these can constitute as a mitigating factor. Needing money cannot be an excuse for the criminal acts.
9. The Respondent also explained that he was harassed by cough mixture addicts and how he came to deal with Y and N. There was no reason given by the Respondent as to why he did not report the matter to the Police rather than enlisting the help of Y and N. We therefore do not give much weight to this factor.

Submissions on Sentencing by Prosecution

10. Prosecution submitted a set of sentencing precedents for the Tribunal's consideration. Mr. Chen on behalf of the Prosecution urged the Tribunal to order the removal of the Respondent's name from the appropriate register and the Respondent to bear the costs and expenses of the proceedings before the Tribunal.
11. The Prosecution also highlighted the following aggravating factors:-
 - a. The Respondent sold large quantities of Dhasedyl Syrup (in total approximately 1907 litres) over a period of 5 months in 2011 to 3 persons.
 - b. The Respondent did so in the full knowledge that all of the Dhasedyl Syrup was being resold in Geylang by the 3 buyers to members of the public. The Respondent was in fact complicit in the scheme and shared in the profits of sale made to the public. In total, the Respondent reaped a net profit of \$266,824.76.
 - c. The Respondent was fully aware that the Dhasedyl Syrup was sold to members of the public and there was no control over the ultimate recipients of the Dhasedyl Syrup and the potential harm that could be caused to the public through its sale.

- d. On 31 May 2011, the Respondent sold 7.6 litres of Dhasedyl Syrup even after HSA had conducted a 'raid' on his clinic, having been informed of his illegal activities.

Reasons for the Sentence

12. In determining the appropriate sentence, the Tribunal has regard to all the circumstances of the case set out in the Agreed Statement of Facts and the mitigation plea. Among other factors, we consider and give full credit to the Respondent for his early plea of guilt and his full cooperation rendered during investigation.
13. We also take into account the commendations from his patients.
14. In considering the sentence, we are mindful of the medical conditions of the Respondents' 2 children. In particular we note that the ailments suffered by his daughter will result in lifelong disability and dependence. We also note that the Respondent is suffering from mental torture and depression. However, we are of the view that the overriding interests in this case must be the protection of the public interests and to uphold the integrity of the medical profession. Accordingly, we are of the view that the main sentencing consideration must be one of deterrence.
15. We agree with the Prosecution that one of the aggravating factors was that the Respondent knew that the Dhasedyl Syrup was to be sold to the public with no control over the ultimate recipients of the Dhasedyl Syrup and the potential harm that could be caused.
16. We are also concerned that despite having been informed of the illegal activities the Respondent continued to sell 7.6 litres of Dhasedyl Syrup.
17. It is without doubt that the charges which the Respondent pleaded guilty to are very serious. We are of the view that by selling a large quantity of Dhasedyl Syrup containing Codeine, being a medicinal product not on the General Sales List under the

Medicines Act (Cap. 176) without a proper licence for a period of 5 months to 3 persons with full knowledge that they were meant for resale for a substantial profit clearly renders the Respondent unfit for his profession.

Sentencing Precedents

18. We note the various precedents cited by the parties. We find that none of these precedents involved the selling of Dhasedyl Syrup containing codeine by way of wholesale dealing without the appropriate licence. In our view, the case which was instructive was the case of Dr G, which we will comment on below. In any event, the punishment to be meted out in each case must be decided in accordance to the circumstances and facts of the case.

19. We note that in the case of Dr G, he was found guilty of professional misconduct for 15 charges of inappropriate prescription of Dhasedyl and Sunsedyl. Among other things, he was suspended for 15 months and fined \$10,000.00. In the present case, the circumstances are more serious in that it involved the wholesale of Dhasedyl in large quantity. The Respondent was also in blatant disregard of the law by selling it after his clinic had been “raided” by the authority. He had also made a huge profit amounting to \$266,824.76. He was also “complicit in the scheme” and had full knowledge that it was sold to the unknown public. There was also the potential harm that could be caused to the public. Therefore, we do not think a suspension is appropriate given the aggravating factors in this case.

Orders by this Disciplinary Tribunal

20. In the circumstances, having regard to all the circumstances of the case and considering the submissions and precedents cited, we determine that the Respondent’s name be **removed** from the Register of Medical Practitioners and to pay the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC.

Publication of Decision

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

22. The hearing is hereby concluded.

Dated the 18th day of December 2014