

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL INQUIRY FOR
DR NG HOR LIANG ON 28 AUGUST AND 1 SEPTEMBER 2015**

Disciplinary Tribunal:

Dr Wong Sin Yew (Chairman)
Prof Sonny Wang Yee Tang
Mr James Leong (Legal Service Officer)

Counsel for SMC:

Mr Burton Chen
Mr Tham Chang Xian
(M/s Tan Rajah & Cheah)

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.)

Introduction

1 These proceedings emanate from the conviction of the Respondent, Dr Ng Hor Liang on 7 March 2013 before the Subordinate Courts (as it then was). Consequent to this, the Respondent was referred to this Disciplinary Tribunal (“DT”) by the Singapore Medical Council (“SMC”) and the Notice of Inquiry (“NOI”) dated 13 May 2015 was duly served on him to attend a Pre-Inquiry Conference (“PIC”) on 26 June 2015. At the PIC, Counsel for the Respondent informed that he would be making representations but would not be contesting the charges in any event. The charges against the Respondent read as follows:

“CHARGES

1. *That you, Dr Ng Hor Liang (NRIC No. SXXXXXXXX), a medical practitioner practising at Bukit Batok West Clinic located at Block 323 Bukit Batok Street 33 #01-106, Singapore 650323, were, on 7 March 2013, vide MOH-000014-DSC-2012, at the Subordinate Courts of the Republic of Singapore (as it then was), convicted of an offence under Section 62(a) of the Medical Registration Act (Cap 174) (“the Act”), to wit, by procuring a practising certificate from the Singapore Medical Council (the “SMC”) by knowingly making a fraudulent declaration in writing to the SMC on 18 January 2012 that you were not involved in any active clinical practice since 1 January 2012, a declaration which you knew to be false, and you are thereby liable to be punished under Section 53(2) read with Section 53(1)(a) of the Act.*
2. *That you, Dr Ng Hor Liang (NRIC No. SXXXXXXXX), a medical practitioner practising at Bukit Batok West Clinic located at Block 323 Bukit Batok Street 33 #01-106, Singapore 650323, were, on 7 March 2013, vide MOH-*

000013-DSC-2012, at the Subordinate Courts of Singapore (as it then was), convicted of an offence under Section 13 of the Act, to wit, by practising medicine as an unauthorised person by diagnosing and treating patients from 1 January 2012 to 10 February 2012 (both dates inclusive) when you did not possess a valid practising certificate under the Act at the material time and you are thereby liable to be punished under Section 53(2) read with Section 53(1)(b) of the Act.”

Agreed Statement of Facts

- 2 At the hearing on 28 August 2015, the Respondent admitted to the charges without qualification. Counsel for SMC and the Respondent agreed to the statement of facts marked PBN and the Annexes A and B thereto. The Agreed Statement of Facts read as follows:

“AGREED STATEMENT OF FACTS

1. *The Respondent (NRIC No. SXXXXXXXX) is a registered medical practitioner who, at all material times, was practising at a clinic known as “Bukit Batok West Clinic”.*
2. *On 7 March 2013 at the Subordinate Courts (as it then was), of the Republic of Singapore (“Subordinate Courts”), the Respondent pleaded guilty to, and was convicted of the two charges set out as follows:-*
 - (a) *One charge (MOH-000013-DSC-2012) of practising as a medical practitioner without possessing a valid practising certificate from 1 January 2012 to 10 February 2012, which is an offence under Section 13 of the Medical Registration Act (Cap 174) (“MRA”) (“the First Conviction”); and*
 - (b) *One charge (MOH-000014-DSC-2012) of procuring a practising certificate from the Singapore Medical Council (“SMC”) by knowingly making a fraudulent declaration in writing, which is an offence under Section 62(a) of the MRA (“the second conviction”) (collectively, “the criminal charges”).*
3. *In respect of the First Conviction, the Respondent was sentenced to a fine of \$8,000, in default of payment thereof 4 weeks’ imprisonment. In respect of the Second Conviction, the Respondent was sentenced to a fine of \$4,000, in default of payment therefore 2 weeks’ imprisonment.*

Annexed hereto and marked “A” are copies of the Criminal Charges and the Certificate under Section 45A of the Evidence Act (Cap 97) in respect of the Respondent’s convictions and sentencing dated 22 April 2013.

4. *The background and facts relating to the Criminal Charges are set out in the Statement of Facts dated 6 March 2013 tendered to the Subordinate Courts at the time of the hearing.*
5. *In summary:*

- (a) *The Respondent practised medicine by diagnosing and treating patients at Bukit Batok West Clinic without possessing a valid practising certificate from 1 January 2012 to 10 February 2012;*
- (b) *To obtain the renewal of his practising certificate from SMC, the Respondent submitted a Letter of Undertaking dated 18 January 2012 to the SMC declaring that: "I had NOT been in active clinical practice since the date of expiry of my practising certificate, on 31 Dec 2011 till today"; and*
- (c) *The declaration in the Letter of Undertaking was untruthful in that the Respondent was practising medicine from 1 January 2012 to 10 February 2012 before his renewed practising certificate was issued for the period from 21 February 2012 to 31 December 2012.*

Annexed hereto and marked "B" are copies of the Statement of Facts dated 6 March 2013 in respect of the Criminal Charges and the Letter of Undertaking that was submitted to SMC on 18 January 2012.

- 6. *In the circumstances, the Respondent is guilty of having been convicted of an offence implying a defect in character which makes him unfit for his profession within the meaning of Section 53(1)(b) of the MRA in respect of the First Conviction, and having been convicted of an offence involving fraud or dishonestly within the meaning of Section 53(1)(a) of the MRA in respect of the Second Conviction, as set out in the Notice of Inquiry dated 13 May 2015."*

Mitigation

- 3 In his written and oral mitigation, Counsel for the Respondent highlighted the Respondent's personal circumstances, describing him at [11] of the written mitigation as a "*.. middle aged, mid-career, sole breadwinner, father of three young & school going daughters with an aged mother and sickly parents-in-law*", whose mother-in-law has unfortunately since passed away last year. The written plea in mitigation marked RMP was not disputed by Counsel for SMC.
- 4 In brief, the Respondent applied to renew his Practising Certificate ("PC") on 9 November 2011 hoping to rely on 81 core Continuing Medical Education ("CME") points for 2011 and was informed by SMC on 16 November 2011 that he could not do so and there was a shortfall of 30 CME points. He made up the shortfall on 1 January 2012 and was only able to contact SMC on 4 January 2012 due to the public holiday period. On 17 January 2012, SMC contacted him to inform that he could submit an application for renewal of the PC at which point he tendered the letter of undertaking that formed the subject matter of the first charge. One of the reasons he continued to see patients during the period that formed the subject matter of the second charge was his impression that his PC will be backdated to the date of the application. The other reason was his concern for the welfare of his chronic patients and he assured the SMC that monetary reasons were never a factor.

- 5 Characterising Dr Ng’s offences as technical breaches of the rules for the renewal of a PC unlike cases where was dishonest declaration of income to evade tax or making false submissions for reimbursements of income from the government for personal gain, it was argued that a censure was appropriate. It was suggested that given the heavy \$12,000 fine already imposed by the Courts for this momentary lapse and full remorse, the DT should consider the very different circumstances of the case and impose a censure or light fine.

Submissions on Sentencing

- 6 In their oral and written submissions marked PS, Counsel for SMC made reference to various sentencing precedents, both local and international as well as from beyond the medical profession at Annex A of their written submissions marked PS. At [24] and [25] of PS, reference was made to the guideline judgment of the Court of Three Judges in *Singapore Medical Council v Kwan Kah Yee [2015] SGC3J 1 (Kwan Kah Yee)* where the Court observed at [51] that “*the concept of public interest which guides sentencing in medical misconduct extends further than just the danger which the doctor may pose to his patients*” and at [56] that where a doctor’s action “... *led to the erosion of public trust in the medical profession*”, the concept of general deterrence was applicable as a sentencing principle.
- 7 Reference was also made at [27] of PS to the observations of the DT in the Inquiry for Dr Woffles Wu (2014) that:

“We cannot overemphasise that every medical practitioner is expected to carry the hallmarks of integrity and honesty whether in his professional or personal capacity. Any act of dishonesty from a medical practitioner tarnishes and brings disrepute to the medical profession as a whole.”

- 8 In essence, Counsel for SMC submitted that the first conviction for a fraudulent declaration was a serious offence involving fraud or dishonesty. The second conviction of practising without a valid PC was an equally grave matter. Accordingly, Counsel for SMC urged the DT to suspend the Respondent’s registration for 8 months i.e. 4 months per charge to run consecutively.

Analysis

- 9 In arriving at our decision, we were guided by the observations of the Court of Three Judges in *Kwan Kah Yee* cited by Counsel for SMC at [6] above. Each case would, of course, have to be determined on its own facts and circumstances. In this regard, as noted by the Court of Three Judges in *Kwan Kah Yee* at [52], public interest considerations weighed heavily in favour of imposing a stern sentence on the facts as the issuance of a false death certificate was a very grave breach of a doctor’s ethical and professional duties with far reaching actual and potential consequences. The Court of Three Judges, citing the considerations of general and specific deterrence elaborated

upon by V K Rajah J (as he then was) in *Tan Kay Beng v Public Prosecutor [2006] 4 SLR (R) 10*, further found that both general and specific deterrence was appropriate on the facts of that case.

- 10 We also agreed with the observations of the DT in the Inquiry for Dr Woffles Wu at [7] above. Integrity and honesty are non-negotiable hallmarks of medical practitioners and any acts of dishonesty would tarnish and bring disrepute to the Medical Profession as a whole.
- 11 In this regard, we agreed in-principle with Counsel for SMC that a fraudulent declaration was indeed a serious matter and practising without a valid PC was an equally grave matter. We did not agree at all with Counsel for the Respondent's characterisation of the offences as technical breaches of the rules for the renewal of a PC. In any event, it is axiomatic that ignorance of the law is never an excuse to breach the law.
- 12 In argument, Counsel for the Respondent highlighted that had the Respondent informed SMC that he was practising medicine prior to the issuance of the PC, he would most likely only have been given a stern warning. We would observe that firstly, this point was not substantiated by any credible evidence. Secondly, even if it was true, the undeniable fact remained that the Respondent did not take this route to come clean and instead proceeded to make a false declaration that formed the subject matter of the charge and another false declaration that was taken into consideration by the Subordinate Courts.
- 13 At the same time, we noted the distinction drawn by Counsel for the Respondent compared to the other decided cases as to the lack of direct monetary benefit as compared to the more serious cases that involved tax evasion or illicit gain. In this regard, we accepted that the facts in the Inquiry for Dr Woffles Wu that involved an element of perversion of the course of justice were far more serious as compared to the instant case. There was also a distinct lack of remorse on the part of Dr Wu. We were further mindful of the observations of Chan Sek Keong CJ in *Wuu David v PP [2008] 4 SLR 83* highlighted by Counsel for the Respondent that for "one-off" offenders, prosecution for the offences committed was in itself some form of deterrence in most cases as highlighted at [38] of *Public Prosecutor v Kulandaivelu Padmanaban [2010] SGDC 407*.
- 14 As for the most direct precedent involving a fraudulent declaration in the case of Dr Ong Theng Kiat stated at [10] of PS, this was unfortunately of not much assistance to the DT since the two other charges that Dr Ong Theng Kiat had been convicted of were for far more serious offences involving consensual sex with a minor for which he was ordered to be struck off the Register. The nature of the false declaration when Dr Ong Theng Kiat was under criminal investigation was also far graver. Insofar as the precedents from the Legal Profession were concerned, they were also much more serious on the facts as submitted by Counsel for the Respondent.

15. In arriving at the appropriate sentence, we gave full regard to the Respondent's early plea of guilt both before the Subordinate Courts and the DT, which we felt was a very strong sign of remorse. We noted that he was a first offender with no criminal and SMC antecedents as well as the factual matrix that led to the commission of the offences in question. We also considered the testimonials submitted attesting to his qualities as a good doctor.
16. Considering the dearth of direct sentencing precedents in situations such as this, the DT was guided by the approach adopted in the Legal Profession as set out by the Court of Three Judges in the *Law Society of Singapore v Kurubalan s/o Manickam Rengaraju* [2013] 4 SLR 91 at [36] as follows:

"36 We begin with the general sentencing principles set out in Law Society of Singapore v Ong Lilian [2005] SGHC 187at [9]:

This court had in numerous cases declared that the disciplinary powers under s 83 of the LPA serve three distinct objects ... The first is to punish the errant solicitor for his misconduct. The second is to deter other like-minded solicitors from similar defaults in the future. The third is to protect public confidence in the administration of justice."

17. Having regard to all the circumstances of the case and considering the submissions and precedents cited, we were of the view that a significant fine of \$20,000 rather than a suspension was called for. In our view, this would serve as adequate specific and general deterrence against any future transgressions by the Respondent and other members of the Medical Profession. Moreover, we understand that the procedure for the application for PCs has since been refined, minimising the risk of similar offending. In the DT's view, the five figure quantum of \$20,000 for the two charges was sufficient to protect public confidence in the Medical Profession.
18. In the course of the hearing of this case and two other related cases involving different doctors, the DT sought submissions from both Counsel on the possibility of ordering the Respondent to attain more than the minimum CME points requirement. While Counsel for the Respondent was open to this possibility as an additional sentencing option, Counsel for SMC took the view that while such an order was administratively and legally permissible, it was not appropriate in the circumstances of the case since the essence of the offences were dishonesty rather than any lack of medical skill or training. To this end, Counsel for SMC reiterated their position that a sentence of suspension was needed as a deterrent.
19. In our view, a deterrent sentence did not necessarily mean or invariably require a sentence of suspension and the stiff fine, coupled with the other orders that we made would achieve the ends of justice. Each case must be considered on the facts and circumstances. In the instant case, the Respondent had a shortfall 30 CME points which constituted more than 50% of the requirement at the material time. Noting that the root cause of the failure to qualify for the issuance of the PC was the insufficiency of CME points, the DT felt that a more direct and

effective way to reiterate the importance of CME and deter reoffending is to impose a requirement for the Respondent to fulfil no less than an additional 50% of the CME points requirement for the renewal of his PC at the next renewal cycle. In our view, such an order which is permissible under Section 53(1)(h) read with Section 49(1)(d) of the Medical Registration Act (Cap 174) was fitting and proper in the circumstances of the case.

19. All things considered, we were of the view that the orders below would send a strong and clear signal that PC renewal matters must be taken seriously and that false declarations and dishonesty of any kind is never condoned.

Orders by this Disciplinary Tribunal

20 Accordingly, the DT determines that the Respondent:-

- a) pay a penalty of **\$20,000**;
- b) fulfil no less than an additional 50% of the CME points requirement for the period 1 January 2016 to 31 December 2017 for the renewal of his PC on 1 January 2018;
- c) be censured;
- d) give a written undertaking to the SMC that he will not engage in the conduct complained of and any similar conduct; and
- e) pay the cost 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 this 1st day of September 2015.