SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL INQUIRY FOR DR WONG MEI LING GLADYS HELD ON 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 Sanjiv Rajan
Mr Ashish Kamani
(M/s Allen & Gledhill)

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 Wong Mei Ling Gladys 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 her to attend a Pre-Inquiry Conference ("PIC") on 26 June 2015. The Respondent informed the Tribunal through her Counsel that she was not contesting the charge in the NOI and a date was duly fixed for the hearing. The charge against the Respondent reads as follows:

*"**CHARGE***

That you, Dr Wong Mei Ling Gladys (NRIC No. SXXXXXXXX), a medical practitioner practising at Healthpoint Family Clinic & Surgery Pte Ltd located at Block 48 Tanglin Halt, #01-377, Singapore 142048, were on 7 March 2013, vide MOH-000017-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 26 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."

Agreed Statement of Facts

2 At the hearing on 1 September 2015, the Respondent admitted to the charge without qualification. Counsel for SMC and the Respondent agreed to the statement of facts marked PBN and the Annexes A & 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 "Healthpoint Family Clinic & Surgery Pte Ltd".

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, one charge (MOH-000017-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 Medical Registration Act (Cap. 174) ("MRA") ("the Criminal Charge").

3. In respect of the Criminal Charge, the Respondent was sentenced to a fine of $4,000, in default of payment thereof 2 weeks' imprisonment.

Annexed hereto and marked "A" are copies of the Criminal Charge and the Certificate under Section 45A of the Evidence Act (Cap. 97) in respect of the Respondent's conviction and sentencing dated 22 April 2013.

4. The background and facts relating to the Criminal Charge 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) To obtain the renewal of her practising certificate from the SMC, the respondent submitted a Letter of Undertaking to SMC dated 26 January 2012 declaring that: "I have not been in active clinical practise as from 1st Jan 2012 and I am awaiting a favourable reply to my application for a new practising certificate"; and

(b) The Respondent knew that her declaration in the Letter of Undertaking was false in that she was practising medicine from 3 January 2012 to 31 January 2012 on Tuesdays, Thursdays and Saturdays, before her renewed practising certificate was issued for the period from 17 February 2012 to 31 December 2013.

6. Annexed hereto and marked "B" are copies of the Statement of Facts dated 6 March 2013 in respect of the Criminal Charge and the Respondent's Letter of Undertaking dated 26 January 2012.

7. *In the circumstances, the Respondent is guilty of having been convicted of an offence involving fraud or dishonesty within the meaning of Section 53(1)(a) of the MRA as set out in the Notice of Inquiry dated 13 May 2015."*

Mitigation

3 In the written and oral mitigation, Counsel for the Respondent highlighted that the Respondent and her husband were parents to 7 children aged 11 to 23. The written plea in mitigation marked RMP was not disputed by Counsel for SMC. Testimonials from various individuals attesting to the Respondent's outstanding character and selfless contribution to the community including involvement with her husband in a non-profit organisation under the auspices of their church whose primary mission was to share its skill and resources with needy and poor children overseas were excerpted and exhibited in RMP.

4 Between 31 March 2009 and 31 December 2010, the Respondent had completed various CME activities. These included a pharmaceutical conference in Shanghai that she thought was worth 12 CME points. She therefore mistakenly believed she had accumulated 60 points and was only informed that she had a shortfall of 2 points around September 2011. She made up this shortfall on 7 January 2012 and proceeded to give the undertaking that formed the subject matter of the criminal charge on 26 January 2012. This was during the hectic Chinese New Year period when she was involved in numerous household commitments and administrative tasks including a fund raising initiative for the less fortunate in Cambodia.

5 Distinguishing the various sentencing precedents at [28] to [48] of RMP, Counsel for the Respondent cited various decisions on deterrent sentences including *Yang Suan Piau v Public Prosecutor [2012] SGHC 224*; *Public Prosecutor v Law Aik Meng* [2007] *2 SLR(R) 814* and *Public Prosecutor v Cheong Hock Lai and other appeals [2004] 3 SLR(R) 203*. Broadly equating the sentence of suspension with a custodial sentence, Counsel for the Respondent urged the DT at [55] not to impose a suspension as a deterrent, but to instead consider "*A substantial fine (bearing in mind the Tribunal can impose a fine of up to $100, 000.00), coupled with a censure, an undertaking and an order for payment of costs, can send the very same message; and at the same time, achieve the purpose of ensuring a holistic approach to sentencing, with a focus in (sic) the specific facts of each case, is not compromised*." In oral argument, Counsel for the Respondent stressed that he was full in agreement with Counsel for SMC on the need to safeguard the public interest and there was a need to look at the factual tapestry to determine if general deterrence called for a suspension or other alternatives.

Submissions on Sentencing

6 In their oral and written submissions, Counsel for SMC made reference to various sentencing precedents at Annex A of their written submissions marked PS. At [8] 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 [13] 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 conviction for a fraudulent declaration was a serious offence involving fraud or dishonesty. Based on the sentencing precedents highlighted, Counsel for SMC urged the DT to suspend the Respondent's registration for 4 months, in addition to the other orders such as a censure, undertaking and the payment of costs.

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. 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. We also 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 Woffles Wu. We were mindful of the observations of Chan Sek Keong CJ in *Wuu David v PP [2008] 4 SLR 83* 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*.

12 As for the most direct precedent involving a fraudulent declaration in the case of Dr Ong Theng Kiat found at serial number 1 of Annex A to PS, this was 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.

13 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 she was a first offender with no criminal and SMC antecedents. We considered the factual tapestry that led to the commission of the offences including the reason and quantum for the CME point shortfall and the relatively short period of time that the Respondent practised without a PC.

14 We further considered the outstanding testimonials submitted on her behalf and the case authorities on sentencing cited by both Counsel. In essence, the principles of sentencing were not in dispute. What was in dispute was essentially the application of these principles to the case at hand.

15 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."*

16 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 $10,000 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, in the course of hearing two other related cases involving different doctors, 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 $10,000 was sufficient to protect public confidence in the Medical Profession.

17 In the course of the hearing, the DT sought submissions from both Counsel on the possibility of ordering the Respondent to attain more than the minimum CME points

requirement. Counsel for the Respondent was open to this possibility as an additional sentencing option, although it should not be in addition to suspension. Counsel for the 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 charge was 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.

18 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 of 2 CME points at the material time. As 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 10% of the CME points requirement for the renewal of her 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 **$10,000**;
b) fulfil no less than an additional 10% of the CME points requirement for the period 1 January 2016 to 31 December 2017 for the renewal of her PC on 1 January 2018;
c) be censured;
d) give a written undertaking to the SMC that she 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.