

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL INQUIRY FOR
DR WONG YOKE MENG ON TUESDAY, 5 MAY 2015**

Disciplinary Tribunal:

Associate Professor Anette Jacobsen - Chairman
Dr Joseph Sheares
Mr Tan Boon Heng - Legal Service Officer

Counsel for the SMC:

Ms Josephine Choo
Ms Emily Su
(M/s WongPartnership LLP)

The Respondent:

Dr Wong Yoke Meng, Acting In-Person

DECISION OF THE DISCIPLINARY TRIBUNAL

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

A. INTRODUCTION

1. This inquiry examined the appropriate sanction(s) against a medical practitioner who was charged for bringing disrepute to the medical profession under section 53(1)(c) of the Medical Registration Act (Cap. 174) (2004 Rev Ed) by virtue of his convictions for acting in breach of regulation 44 of the Private Hospitals and Medical Clinics Regulations and had thereby committed an offence under section 5(1) and punishable under section 5(2) of the Private Hospitals and Medical Clinics Act (Cap 248) ("PHMCA").

2. At the heart of the inquiry was whether it was just and fair that the medical practitioner who had been sentenced by a court of law and has duly paid the penalties ought to be liable for *further* penalties under the Medical Registration Act (Cap. 174) ("MRA"). Looking at the scheme of the Act, this Disciplinary Tribunal ("DT") was of the view that there was neither any injustice nor unfairness to impose a further penalty in appropriate instances as the proceedings in the court of law and this DT were completely separate and distinct proceedings.

B. THE UNDISPUTED FACTS LEADING TO THE INQUIRY

3. The Respondent is Dr Wong Yoke Meng ("Dr Wong"). He was an obstetrician and gynaecologist practising at Clinique Suisse ("the Clinic") at the material time from January 2007 to November 2009.

4. Dr Wong was the licensee having management and control of the Clinic at the material time. As the licensee of the Clinic, Dr Wong was expected to comply fully with the relevant requirements of the PHMCA and the regulations made thereunder.

5. By a Certificate of Conviction issued by the Deputy Registrar of the Subordinate Courts dated 16 August 2010 ("**the Certificate of Conviction**"), it came to the Singapore Medical Council's knowledge that on 7 May 2010, Dr Wong pleaded guilty in the Subordinate Courts and was convicted of the following charges, with a fourth similar charge (Charge No. MOH 1/2010) taken into consideration for the purpose of sentencing.

(a) Charge No. MOH 2/2010

"You,

WONG YOKE MENG
[Information redacted]

*are charged that you, being the licensee having management and control of one Clinique Suisse at 290 Orchard Road #08-01/02 Paragon, Singapore 238859, a medical clinic, had between **24th January 2007 to 19 November 2009** failed to comply with regulation 44 of the Private Hospitals and Medical Clinics Regulations to ensure that the samples of matter derived from the human body, to wit hair samples/urine specimen collected from patients at Clinique Suisse for test or examination abroad for the purpose of providing information for the diagnosis, prevention or treatment of any disease or for the assessment of the health of any person, was tested and examined at a foreign clinical laboratory which has been accredited by an accreditation body approved by the Director under the Private Hospitals and Medical Clinics Act (Chapter 248), to wit, the samples were tested at **Trace Element Inc, USA**, a foreign clinical laboratory that has not been accredited by an accreditation body approved by Director of Medical Services and you have thus operated a medical clinic in breach of a condition of the licence with effect from 26 April 2008 issued by the Ministry of Health, to wit, to comply fully with the relevant requirements of the Private Hospitals and Medical Clinics Act and the Regulations made thereunder, and you have thereby committed an offence under section 5(1) of the Private Hospitals and Medical Clinics Act (Cap 248) and punishable under section 5(2) of the same Act."*

(b) Charge No. MOH 3/2010

"You,

WONG YOKE MENG
[Information redacted]

*are charged that you, being the licensee having management and control of one Clinique Suisse at 290 Orchard Road #08-01/02 Paragon, Singapore 238859, a medical clinic, had between **15th January 2007 to 27th May 2009**, failed to comply with regulation 44 of the Private Hospitals and Medical Clinics Regulations to ensure that the samples of matter derived from the human body, to wit serum measuring IgE and IgG levels collected from patients at Clinique Suisse for test or examination abroad for the purpose of*

*providing information for the diagnosis, prevention or treatment of any disease or for the assessment of the health of any person, was tested and examined at a foreign clinical laboratory which has been accredited by an accreditation body approved by the Director under the Private Hospitals and Medical Clinics Act (Chapter 248), to wit, the samples were tested at **US Biotek Laboratories, USA**, a foreign clinical laboratory that has not been accredited by an accreditation body approved by Director of Medical Services under the Private Hospitals and Medical Clinics Act (Cap 248) and you have thus operated a medical clinic in breach of a condition of the licence with effect from 26 April 2008 issued by the Ministry of Health, to wit, to comply fully with the relevant requirements of the Private Hospitals and Medical Clinics Act and the Regulations made thereunder, and you have thereby committed an offence under section 5(1) of the Private Hospitals and Medical Clinics Act (Cap 248) and punishable under section 5(2) of the same Act."*

(c) Charge No. MOH 4/2010

"You,

WONG YOKE MENG
[Information redacted]

*are charged that you, being the licensee having management and control of one Clinique Suisse at 290 Orchard Road #08-01/02 Paragon, Singapore 238859, a medical clinic, had on or about **15th August 2008, 30th October 2008 and 23rd January 2009**, failed to comply with regulation 44 of the Private Hospitals and Medical Clinics Regulations to ensure that the samples of matter derived from the human body, to wit serum collected from patients at Clinique Suisse for test or examination abroad for the purpose of providing information for the diagnosis, prevention or treatment of any disease or for the assessment of the health of any person, was tested and examined at a foreign clinical laboratory which has been accredited by an accreditation body approved by the Director under the Private Hospitals and Medical Clinics Act (Chapter 248), to wit, the samples were tested at **Biophysical Corporation, USA**, a foreign clinical laboratory that has not been accredited by an accreditation body approved by Director of Medical Services and you have thus operated a medical clinic in breach of a condition of the licence with effect from 26 April 2008 issued by the Ministry of Health, to wit, to comply fully with the relevant requirements of the Private Hospitals and Medical Clinics Act and the Regulations made thereunder, and you have thereby committed an offence under section 5(1) of the Private Hospital and Medical Clinics Act (Cap 248) and punishable under section 5(2) of the same Act."*

6. Based on the above charges, from January 2007 to November 2009, Dr Wong had collected the following specimens and/or samples from patients at the Clinic and sent them to the following foreign clinical laboratories for various tests and/or examinations:

S/No.	Dates	Specimens / Samples Collected	Tests / Examinations Conducted
1.	24 Jan 2007 to 19 Nov 2009	Hair samples / urine specimen	Heavy Metal Analysis by Trace Element Inc, USA
2.	15 Jan 2007 to 27 May 2009	Serum measuring IgE and IgG levels	Food Allergy Testing by US Biotek Laboratories
3.	15 Aug 2008, 30 Oct 2008 and 23 Jan 2009	Serum	Biophysical250 and panel of biochemical blood tests by Biophysical Corporation, USA

7. According to the Certificate of Conviction, Dr Wong pleaded guilty and was sentenced to a fine of \$8,000 (or 4 weeks' imprisonment in default of payment) for each charge. In respect of the 3 charges, the total sentence imposed on Dr Wong was a fine of \$24,000 (or 12 weeks' imprisonment in default of payment). The said Certificate of Conviction, issued pursuant to section 45A of the Evidence Act (Cap. 97), was proof that Dr Wong had committed an offence under section 5(1) of the PHMCA for using the Clinic otherwise than in accordance with the terms and conditions of its licence.

8. Dr Wong's actions, in failing to ensure that the foreign clinical laboratories to which he sent samples of matter derived from the human body, had been accredited by an accreditation body approved by the Director of Medical Services under the PHMCA, reflected a disregard for the health and safety of his patients.

9. As Dr Wong was found guilty and convicted by a court of law for his actions on 7 May 2010 and sentenced to a fine of a fine of \$8000 or in default, 4 weeks' imprisonment on each of the 3 charges, Dr Wong is thereby liable to be punished under section 53(2) read with section 53(1)(c) of the MRA.

C. AT THE DISCIPLINARY TRIBUNAL (DT) INQUIRY

10. At the DT inquiry, Dr Wong elected to plead guilty to all 3 charges.

11. Dr Wong admitted to the Agreed Statement of Facts submitted by the Counsel for the SMC, Ms Josephine Choo ("Ms Choo"). Accordingly, the DT found Dr Wong guilty of each of the 3 charges and convicted him on all 3 charges.

D. SMC'S SUBMISSION ON SENTENCE

12. To assist the DT, Ms Choo tendered the following sentencing precedents:

- (a) in the case of Dr T (2014), the respondent doctor faced 1 charge of engaging in improper act or conduct which brought disrepute to the medical profession, when he associated himself with the promotion of a non-medical product distributed under a non-medical company, in breach of Article 4.5.1.2 of the SMC's Ethical Code and Ethical Guidelines ("ECEG"). The respondent doctor pleaded guilty and was convicted on the charge. He was fined \$5,000;
- (b) in the case of Dr W (2001), he faced 1 charge of engaging in improper act or conduct which brought disrepute to the medical profession, when he was convicted in court for an offence under PHMCA for allowing his clinic to be used for cosmetic skin treatment and programmes in breach of the conditions of the licence prescribed by the Ministry of Health. Dr W pleaded guilty and was convicted on the charge. He was fined \$8,000; and
- (c) in the case of Dr H (2011), the respondent doctor was only censured for facing two charges under section 53(1)(c) of the MRA for engaging in improper act or conduct which brought disrepute to the medical profession, when he made claims for monetary compensation on the grounds of having completed night calls on two occasions despite not having actually performed such night call duties. However, in the case of Dr H, the respondent doctor's conduct did not involve issues of patient safety.

13. Ms Choo submitted that Dr Wong's actions, in failing to ensure that the foreign clinical laboratories to which he sent samples of matter derived from the human body had been accredited by an accreditation body approved by the Director of Medical Services under the PHMCA, ***reflected a disregard for the health and safety of his patients***. In light of the sentencing precedents highlighted above and the antecedents of Dr Wong, Ms Choo was of the view that a fine of \$10,000 for each charge (or a total fine of \$30,000) would be appropriate.

E. IN MITIGATION

14. In mitigation, Dr Wong urged this DT to consider the following factors:
- (a) he pleaded that he was unaware that he was violating the law when he sent the samples to the said clinical laboratories for testing;
 - (b) he had already ceased the sending of samples to the abovementioned clinical laboratories since 2010;
 - (c) he had committed the acts with good intention, i.e. the tests administered by these clinical laboratories aided his patients and contributed to an understanding of their health and well-being;
 - (d) his violations of the law have not resulted in anyone suffering any harm;
 - (e) the samples were taken and sent for testing with the full knowledge and consent of his patients who were aware of the purpose of the tests and that some of the tests would be carried out at laboratories outside Singapore;
 - (f) there was no evidence or suggestion that the results of the tests were wrong or that the results led to wrong treatment being provided;

- (g) the abovementioned clinical laboratories are duly accredited in their own countries. They are bona fide laboratories. Though these laboratories are not accredited by the Director of Medical Services in Singapore, they are duly accredited in their own country and not “fly-by-night” laboratories. In addition, according to Dr Wong, all the laboratories in question have international clients;
- (h) that he is a well-respected medical practitioner and had enclosed testimonials from his colleagues. He has also received numerous compliments and commendations from patients who have undergone and/or are still undergoing treatment from him;
- (i) he has since taken precautions by consulting the SMC’s ECEG at the material time; and
- (j) Dr Wong said that he has rendered his full co-operation and assistance to the Ministry of Health’s representatives during their investigations.

F. THE DT’S OPINION

15. The DT has carefully considered the nature and circumstances of the charges. In determining the appropriate penalties, we wish to make following observations.

Whether a suspension is appropriate

16. In determining whether a suspension was appropriate, it was necessary to consider whether Dr Wong is truly a repeat offender for this set of three charges. While Dr Wong is theoretically a *repeat* offender under section 53(1)(c) of the MRA (i.e. improper conduct which brought disrepute to his profession) having been once penalised \$8,000 in 2001, we should hasten to add that the underlying offences for the charge in 2001 and the present are starkly different.

17. In 2001, he was penalised for allowing his clinic to be used for cosmetic skin treatment and programmes in breach of the conditions of the licence prescribed by the Ministry of Health. In the present case, the offences relate to the sending of samples of matter derived from the human body to laboratories not accredited by an accreditation body approved by the Director of Medical Services under the PHMCA. In the DT’s opinion, while Dr Wong has antecedents (as counsel of the SMC correctly put it), he was strictly speaking not a repeat offender under section 53(1)(c) of the MRA. Given this observation, a suspension would not be appropriate on the facts. For such offences, as seen from the precedents, the sentence is typically a fine of \$5,000 to \$8,000 per charge.

Whether a mere censure is sufficient

18. Dr Wong submitted that he should only be censured without having to pay further financial penalties for this disciplinary inquiry (since he had already paid fines totaling \$24,000 in the State Courts). In the DT’s view, it would not be appropriate to consider a mere censure since Dr Wong has antecedents. Having violated the regulations before, Dr

Wong ***ought to have exercised greater caution*** whenever he thought of doing something out of the ordinary, for instance taking the trouble to send human tissue samples to laboratories outside of Singapore for testing instead of doing so with the locally accredited laboratories.

19. Given the above considerations, a mere censure would not accord sufficient gravity to the fact that Dr Wong has past antecedents. The case of Dr H (2011) was not relevant to the present case since Dr H's conduct did not involve issues of patient safety. We should add that it was plain fortuitous that no one suffered any physical and/or medical harm in view of Dr Wong's transgressions. If there were, it would have been aggravating. Considering Dr Wong's antecedents and that the present breaches could have put his patients at risk, a mere censure is not appropriate. The DT would now proceed to examine the amount of fine to be imposed.

The amount of the fine to be imposed

20. Counsel for the SMC argued that Dr Wong's conduct reflected a disregard for the health and safety of his patients. She therefore submitted that in light of the sentencing precedents highlighted, a fine of \$10,000 for each charge (i.e. a total fine of \$30,000) would be appropriate. This was considering that Dr Wong was penalised with a \$8,000 fine in 2001 for the offence under section 53(1)(c) of the MRA.

21. We have observed that the 3 charges are similar offences, i.e. samples of human tissue sent to 3 different unaccredited laboratories outside Singapore over a period of about 2 years. In coming to an appropriate fine, the DT prefers to view the penalty imposed as a global fine for the offences committed as a whole by Dr Wong rather than on a per charge basis. The DT was mindful that the total fine imposed must not only be sufficiently deterrent considering his antecedents, it should also be proportionate in all the circumstances.

G. THE DT'S DECISION

22. In arriving at the appropriate sentence, the DT has considered ***all*** the relevant circumstances of the case, including the nature of the offence, the Respondent's early plea of guilt and the mitigation tendered.

23. Bearing in mind the above, this Tribunal determines that the Respondent is to:

- (a) pay a penalty in the total sum of **\$24,000.00**;
- (b) be censured;
- (c) to give a written undertaking to the SMC that he will not engage in the conduct complained of or any similar conduct; and
- (d) to pay the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC.

H. PUBLICATION OF DECISION

24. We order that the Grounds of Decision be published with the necessary redaction of identities and personal particulars of persons involved.

25. The hearing is hereby concluded.

Dated this 5th day of May 2015.