

IN THE REPUBLIC OF SINGAPORE
SINGAPORE MEDICAL COUNCIL INTERIM ORDERS COMMITTEE

Between
Singapore Medical Council

And
Dr Ler Teck Siang

... Respondent

Interim Orders Committee:

A/Prof Alan Ng (Chairman)
A/Prof Agnes Ng
Dr Subramaniam Suraj Kumar
Ms Engelin Teh SC (Legal Assessor)

Counsel for the SMC:

Mr Chia Voon Jiet
Mr Sim Bing Wen
Ms Grace Lim Rui Si
(M/s Drew & Napier LLC)

Respondent:

Dr Ler Teck Siang (In-Person)

DECISION OF THE INTERIM ORDERS COMMITTEE

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

Purpose of the Inquiry

1. This Interim Orders Committee (“**IOC**”) was appointed under section 59A of the Medical Registration Act (Cap. 174) (“**MRA**”) to inquire into and determine whether an interim order under section 59B(1) of the MRA should be made against Dr Ler Teck Siang (“**Dr Ler**”).

The Medical Practitioner in question

2. Dr Ler is a 37-year old male medical practitioner registered under the MRA.

3. At the following material times, Dr Ler took on various jobs; more specifically, he was:-
 - 3.1. A locum doctor at My Family Clinic in or around March 2008;
 - 3.2. A locum doctor at Twin City Medical Centre in or around November 2013; and
 - 3.3. The Head of the Ministry of Health's ("**MOH**") National Public Health Unit from or around February 2012 to January 2014.

Charges and relevant facts giving rise to the Inquiry

4. Dr Ler is currently involved in a total of eight criminal proceedings, summarised as follows (collectively, the "**Charges**"):-
 - 4.1. Four charges in relation to offences committed by Dr Ler under the Penal Code (Cap 224 1985 Rev Ed) (the "**Penal Code Charges**"), namely:-
 - 4.1.1. That Dr Ler, on or about 13 March 2008, abetted one Mikhy K Farrera-Brochez ("**Brochez**") by intentionally aiding him to deceive the Ministry of Manpower ("**MOM**") by providing his (Dr Ler's) blood sample on which a HIV blood test was conducted instead of Brochez's blood. By such deception, Dr Ler aided Brochez to fraudulently induce MOM to deliver an employment pass to Brochez, thereby committing an offence under section 420 read with section 109 of the Penal Code (Cap 224 1985 Rev Ed).
 - 4.1.2. That Dr Ler, on or about 22 November 2013, abetted Brochez by intentionally aiding him to deceive MOM by providing his (Dr Ler's) blood sample on which a HIV blood test was conducted instead of Brochez's blood. By such deception, Dr Ler aided Brochez to fraudulently induce MOM to consent to Brochez retaining a Personalised Employment Pass which had been issued to him, thereby committing an offence under section 417 read with section 109 of the Penal Code (Cap 224 1985 Rev Ed).
 - 4.1.3. That Dr Ler, on or about 10 December 2013, gave false information to an investigator from the Ministry of Health with the intention of causing the said investigator to cease investigation into offences that were committed in relation

to the said HIV blood test, thereby committing an offence under section 182 of the Penal Code (Cap 224 1985 Rev Ed).

4.1.4. That Dr Ler, on or about 23 January 2014, gave false information to an investigation officer from the Singapore Police Force with the intention of causing the said investigation officer to cease investigation into offences that were committed in relation to the said HIV blood test, thereby committing an offence under section 182 of the Penal Code (Cap 224 1985 Rev Ed).

4.2. One charge in relation to an offence committed by Dr Ler under section 5(1)(e) read with section 5(1)(iv) of the Official Secrets Act (Cap 213, 2012 Rev Ed) for his failure to take reasonable care of information, being the names of individuals who had been tested HIV-positive in Singapore prior to February 2012, which was made accessible to Dr Ler in his capacity as the then Head of the National Public Health Unit in MOH by failing to retain possession of a thumbdrive on which he had saved the said information (the “**OSA Charge**”).

4.3. Three charges in relation to offences committed by Dr Ler under the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (the “**Drug Charges**”), namely:-

4.3.1. That Dr Ler, on or about 2 February 2018, failed, without reasonable excuse, to provide a specimen of his urine within such time as required by a Narcotics Officer of Central Narcotics Bureau for a urine test to be conducted, thereby committing an offence under section 31(2) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed), punishable under section 33(1) of the same Act.

4.3.2. That Dr Ler, on or about 26 February 2018, trafficked in a Class A controlled drug listed in the First Schedule to the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) by administering methamphetamine to one F without authorisation under the said Act or the Regulations made thereunder, thereby committing an offence under section 5(1)(a) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed), punishable under section 33(1) of the same Act.

4.3.3. That Dr Ler, on or about 2 March 2018, had in his possession utensils intended for the consumption of a Class A controlled drug listed in the First Schedule to the Misuse of Drugs Act (Cap 185, 2008 Rev Ed), being one syringe, two straws and one empty blue bottle, without authorisation under the said Act or the Regulations made thereunder, thereby committing an offence under section 9 of

the Misuse of Drugs Act (Cap 185, 2008 Rev Ed), punishable under section 33(1) of the same Act.

5. The current status of each of the aforesaid criminal proceedings are as follows:-
 - 5.1. Penal Code Charges: On 17 September 2018, Dr Ler was convicted in the State Courts of all four Penal Code Charges. He was sentenced on 27 September 2018 to a global sentence of 24 months' imprisonment. Dr Ler has appealed against his conviction and sentence for the Penal Code Charges and such appeal is scheduled to be heard by the High Court in March 2019. Pending the hearing of such appeal, the sentence of imprisonment has been stayed and Dr Ler is on bail.
 - 5.2. OSA Charge: Dr Ler was charged with the OSA Charge on 24 June 2016. The OSA Charge is presently pending further action by the Attorney-General's Chambers.
 - 5.3. Drug Charges: On 3 March 2018 and 27 September 2018, Dr Ler was charged in the State Courts for the Drug Charges. The trial of the Drug Charges is scheduled to be heard in the State Courts from 29 May 2019.
6. The various charges against Dr Ler have been covered extensively by the media and have become a matter of significant national concern in recent months. In response, MOH has made efforts to address the public on the issue by way of *inter alia*:-
 - 6.1. MOH's press release on 28 January 2019 regarding the Penal Code Charges and the OSA Charge; and
 - 6.2. A statement delivered by the Minister for Health, Mr Gan Kim Yong, to Parliament on 12 February 2019 in which he touched on all of Dr Ler's pending charges.
7. A Notice of Inquiry dated 14 February 2019 relating to this IOC inquiry was issued to Dr Ler on 18 February 2019.
8. On 6 March 2019, Counsel for the SMC tendered to the IOC the Prosecution's Submissions ("**SMC's Written Submissions**") and Bundle of Authorities. A copy each of SMC's Written Submissions and Bundle of Authorities were also provided to Dr Ler.

9. On 7 March 2019, prior to the commencement of the hearing before the IOC, Dr Ler tendered to the IOC and Counsel for the SMC the Respondent's Replies to Prosecutions Submissions ("**Dr Ler's Written Submissions**").

Framework adopted by the IOC

10. Section 59B(1) of the MRA states as follows:

"**59B** – (1) Where, upon due inquiry into any complaint or information referred to it, an Interim Orders Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the registered medical practitioner concerned, that his registration be suspended or be made subject to conditions or restrictions, the Interim Orders Committee may make an order –

- (a) that his registration in the appropriate register be suspended for such period not exceeding 18 months as may be specified in the order (referred to in this Part as an interim suspension order); or
(b) that his registration be conditional on his compliance, during such period not exceeding 18 months as may be specified in the order, with such conditions or restrictions so specified as the Interim Orders Committee thinks fit to impose (referred to in this Part as an interim restriction order)."

11. From the aforesaid provision, it follows that the IOC can only arrive at a determination to suspend Dr Ler's registration or to subject Dr Ler's registration to conditions, where it is satisfied that it is:

11.1. Necessary for the protection of the members of public; or

11.2. Otherwise in the public interest; or

11.3. In the interests of Dr Ler.

12. As set out in the *Decision of the Interim Orders Committee for Dr Wee Teong Boo* (22 April 2017) ("**Wee Teong Boo**"), the following principles are relevant to the IOC's determination of the appropriate interim order to be made¹:

12.1. The IOC's task is not a fact-finding one, nor is it the IOC's remit to make any judgment on the merit of the criminal charges (at [32]);

¹ [16] of the SMC's Written Submissions

- 12.2. The IOC must assess the risk of harm to members of the public, as well as what is in the public interest and what is in the medical practitioner's interests (at [33]);
- 12.3. In assessing risk of harm to the public, the IOC will take into consideration the severity of the allegations made against the medical practitioner and the nature of harm to the public (if true). The IOC will also consider whether the charges arise from an isolated incident, and whether the doctor has remained free from complaints prior to and after the charge. The IOC will also give due weight to considerations of proportionality (at [39]); and
- 12.4. With regard to the public interest and the maintenance of public confidence in the medical profession in Singapore, the applicable test is as stated in the UK case of *NH v General Medical Counsel* [2016] EWHC 2348 (Admin) (at [12]): “[W]ould an average member of the public be shocked or troubled to learn, if there is a conviction in this case, that the doctor had continued to practice whilst on bail awaiting trial?” (at [43]).

The SMC's case

13. In this case, the SMC sought an interim order from the IOC for Dr Ler's registration to be suspended for a period of nine months (the “**Interim Suspension Order**”).
14. In support of the making of an Interim Suspension Order against Dr Ler, the SMC made the following arguments in the SMC's Written Submissions:-
 - 14.1. There is a clear risk of public confidence in the medical profession being undermined if Dr Ler is allowed to continue practising pending the results of the trial on the OSA Charge and the Drug Charges, and the appeal on the Penal Code Charges.
 - 14.1.1. In relation to the Penal Code Charges (and conviction at first instance), the SMC argued that offences involving dishonesty by medical practitioners are viewed extremely seriously and would warrant an order for striking off being made. Given that the alleged dishonest conduct by Dr Ler has a direct bearing on Dr Ler's clinical practice, allowing Dr Ler to continue medical practice in the interim would lead to a risk that public confidence in the medical profession would be undermined.²

² [20]-[25] of the SMC's Written Submissions

- 14.1.2. In relation to the OSA Charge, the SMC submitted that Dr Ler's alleged mishandling of the medical information has caused widespread public disquiet and has already undermined public confidence in the medical profession.³
- 14.2. It is in the public interest that Dr Ler not be allowed to practise pending the outcome of the trial on the OSA Charge and the Drug Charges, and the appeal on the Penal Code Charges.⁴
- 14.3. The OSA Charge and the Drug Charges render an Interim Suspension Order necessary for the protection of members of the public.
- 14.3.1. In relation to the OSA Charge, the SMC argued that there is a risk of Dr Ler mishandling confidential information if he is allowed to continue practising, particularly as he does not have a fixed place of practice and may not be subject to strict supervision by senior medical practitioners, or internal checks and balances.⁵
- 14.3.2. In relation to the Drug Charges, the SMC submitted that, first, there is a risk of Dr Ler administering controlled drugs to patients in a clinical setting if he is allowed to continue medical practice. Secondly, there is a risk of Dr Ler using drug-related paraphernalia and/or unsterilised medical equipment for his professional clinical work. Thirdly, there is a possibility that Dr Ler himself is a person who consumes controlled drugs. The consumption of such drugs would impair his medical judgment and/or general ability to competently perform his duties as a medical practitioner.⁶
- 14.4. The duration of nine months for an Interim Suspension Order would be a proportionate response to the Charges brought against Dr Ler, as such duration would allow sufficient time for the completion of Dr Ler's appeal on the Penal Code Charges, and possibly for the disposal of the OSA Charge and the Drug Charges. In any event, the IOC (or another IOC appointed in its place) is required to review any order made after six months, and can take into account any further developments in the criminal proceedings on the various Charges at such point in time.⁷

³ [30] of the SMC's Written Submissions

⁴ [17] of the SMC's Written Submissions

⁵ [29] of the SMC's Written Submissions

⁶ [33]-[36] of the SMC's Written Submissions

⁷ [18] of the SMC's Written Submissions

15. In the alternative, the SMC submitted that the IOC should make Dr Ler's registration as a medical practitioner conditional on his compliance, during a period of 18 months, with a certain set of conditions or restrictions as proposed at [38] of the SMC's Written Submissions.
16. In the course of the hearing before the IOC on 7 March 2019, Counsel for the SMC further submitted that:-
 - 16.1. It is "*in the public interest*" (being one of the three limbs set out in section 59B(1) of the MRA) for public confidence in the medical profession to be maintained. Therefore, if it is accepted that there is a risk that allowing Dr Ler to remain on the register would undermine public confidence in the medical profession, the making of an Interim Suspension Order against Dr Ler would be warranted.
 - 16.2. Unlike the case of *Wee Teong Boo*, the imposition of an Interim Suspension Order on Dr Ler would not cause him significant hardship as Dr Ler's Written Submissions state that whether an Interim Suspension Order is made against him would not be of any material difference to him in the foreseeable future.

Dr Ler's case

17. Dr Ler denied all eight Charges made against him and, on the basis of such denial, took the position that no interim order against him was necessary.
18. By his Written Submissions, Dr Ler made the following submissions:-
 - 18.1. Dr Ler stated his disagreement with the SMC's position that it would be in the public interest that he should not be allowed to practise pending the outcome of his trial and appeal.⁸
 - 18.2. Dr Ler disagreed with the SMC's position that the OSA Charge and the Drug Charges make an interim order of suspension necessary for the protection of members of the public.⁹
 - 18.3. However, Dr Ler acknowledged that notwithstanding his protestations of innocence, the nature of the Charges brought against him meant that "*an average member of the public would not be able to accept that Dr Ler had been allowed to continue his practice while*

⁸ [26] of the Dr Ler's Written Submissions

⁹ [26] of the Dr Ler's Written Submissions

on bail awaiting trial”¹⁰. On this basis, Dr Ler agreed with the SMC that there would be a clear risk of public confidence being undermined if he is allowed to continue practising while awaiting the results of his trial and appeal.

18.4. Accordingly, any interim order made against Dr Ler would be for the sole purpose of maintaining public confidence in the medical profession, and not for public interest or for the protection of members of the public.¹¹

18.5. Dr Ler indicated that he had no input or preference between the two alternative interim orders sought by the SMC. Dr Ler further stated that *“For all intents and purposes, whether it be a suspension or a conditional registration, or for that matter, even whether there is to be an interim order or not, is not of any material difference to him, at least not in the foreseeable future.”*¹²

19. In the course of the hearing before the IOC on 7 March 2019:-

19.1. Following the submission by Counsel for the SMC that the purpose of maintaining public confidence in the medical profession would be tantamount to protecting the public interest, Dr Ler clarified that (in Dr Ler’s Written Submissions) he had objected to the making of an Interim Suspension Order against him on the ground that it would be in the public interest because it appeared to him from SMC’s Written Submissions that the issue of public interest had been conflated with the issue of the protection of the members of the public.

19.2. However, with the benefit of hearing the submissions made by Counsel for the SMC and upon looking at section 59B of the MRA, Dr Ler stated that he was agreeable to have an Interim Suspension Order made against him in the public interest. Dr Ler stated as follows¹³:

“But looking at the appropriate legal provision now, in the public interest could also be interpreted to what I had alluded to, as in that it would be in the interests of maintaining public confidence in the medical profession. So in that sense, I would be agreeable to have the suspension put in place in the interests of maintaining public interests.”

¹⁰ [25] of the Dr Ler’s Written Submissions

¹¹ [26] of the Dr Ler’s Written Submissions

¹² [27] of the Dr Ler’s Written Submissions

¹³ Transcript of hearing before the IOC on 7 March 2019, p6, lines 2-9

19.3. Following the submissions made by Counsel for the SMC as to the reasons for the duration of nine months sought in respect of the Interim Suspension Order, the Chairman for the IOC asked Dr Ler if he had any comments he wished to make in relation to the SMC's position. Dr Ler replied that he had nothing to add.

19.4. The Chairman for the IOC then enquired whether Dr Ler was still practising medicine. Dr Ler confirmed that he was not, primarily because he did not have a valid practising certificate.

Decision of the IOC

20. Having fully considered all the facts and circumstances, and the respective submissions of the parties, we agree with both the SMC and Dr Ler that there would be a clear risk of public confidence in the medical profession being undermined if Dr Ler is permitted to retain his registration and continue medical practice.

21. We are also of the view that an Interim Suspension Order of nine months would be appropriate given that Dr Ler is not currently practising medicine, and in view of the likely time period that it would take for the appeal on the Penal Code Charges and the trial of the OSA Charge and the Drug Charges to be completed.

The Order of the IOC

22. We order that that Dr Ler's registration be suspended for a period of **nine months with immediate effect**.

Publication of Decision

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

Dated this 7th day of March 2019.