

**IN THE REPUBLIC OF SINGAPORE**

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL**

**[2019] SMCDT 2**

Between

**Singapore Medical Council**

And

**Dr Tan Gek Young**

*... Respondent*

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**FOUNDATIONS OF DECISION**

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Administrative Law — Disciplinary Tribunals

Medical Profession and Practice — Professional Conduct — Removal from Register

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## **Singapore Medical Council**

**v**

**Dr Tan Gek Young**

**[2019] SMCDT 2**

Disciplinary Tribunal — DT Inquiry No. 2 of 2019

A/Prof Chin Jing Jih (Chairman), Dr Goh Soo Chye Paul and Mr Muhammad Hidhir Bin Abdul Majid (Legal Service Officer)

28 March 2019

Administrative Law — Disciplinary Tribunals

Medical Profession and Practice — Professional Conduct — Removal from Register

23 May 2019

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

## **GROUNDS OF DECISION**

### **INTRODUCTION**

1. The respondent, Dr Tan Gek Young (“**Respondent**”), was charged with 15 charges under the Medical Registration Act which alleged that while he was a registered medical practitioner, he was convicted in the State Courts of the Republic of Singapore of 15 offences under either the Poisons Act (Cap 234) or the Medicines Act (Cap 176), which each of the respective offences implying a defect in character which made him unfit for the medical profession and thereby liable to be punished under section 53(2) read with Section 53(1)(b) of the Medical Registration Act (Cap. 174). He was

unrepresented at the Disciplinary Tribunal (“DT”) hearing and had pleaded guilty before the DT. The 15 charges were set out as follow:

**“1<sup>ST</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

**PARTICULARS**

- (a) In DSC-900022-2016, you were charged that “*you, sometime in April/May 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr A, 1 x 3.8litre canister of cough syrup, which contains **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) (“PA”), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*”.
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (c) On 17 January 2017, you were sentenced to 4 months’ imprisonment and a fine of \$10,000, in default 1 month’s imprisonment, for the aforesaid charge.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your sentence was upheld.

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<sup>ND</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 24 read with Section 35(1) of the Medicines Act (Cap. 176), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

**PARTICULARS**

- (a) In DSC-900024-2016, you were charged that “*you, on the 1<sup>st</sup> occasion between February to April 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did supply in circumstances corresponding to retail sale 1 x 3.8litre canister of Dhasedyl Syrup, a medicinal product not listed on a general sale list, to one Mr B, and you have thereby contravened section 24 of the Medicines Act (Cap 176), and thereby committed an offence under section 35(1), and punishable under section 35(3) of the Medicines Act*”.
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.

- (c) On 17 January 2017, you were sentenced to 4 months' imprisonment for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your sentence was upheld.

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).

### **3<sup>RD</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

### **PARTICULARS**

- (a) In DSC-900027-2016, you were charged that "*you, in April 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr C, 1 x 3.8litre canister of cough syrup, which contains **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) ("PA"), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*".
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 4 months' imprisonment and a fine of \$10,000, in default 1 month's imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your sentence was upheld.

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).

### **4<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

### **PARTICULARS**

- (a) In DSC-900029-2016, you were charged that "*you, in May 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr C, 1 x 3.8litre canister of cough syrup, which contains **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) ("PA"), when you were not licensed under the PA to sell poisons, and you have*

*thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA”.*

- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 4 months’ imprisonment and a fine of \$10,000, in default 1 month’s imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your sentence was upheld.

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).

#### **5<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) (“PA”), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

#### **PARTICULARS**

- (a) In DSC-900031-2016, you were charged that *“you, in June 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr C, 1 x 3.8litre canister of cough syrup, which contains **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) (“PA”), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA”.*
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 4 months’ imprisonment and a fine of \$10,000, in default 1 month’s imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your sentence was upheld.

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).

#### **6<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) (“PA”), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

### **PARTICULARS**

- (a) In DSC-900033-2016, you were charged that “*you, on the 1<sup>st</sup> occasion in January 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr D, 6 x 3.8litre canister of cough syrup, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) (“PA”), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*”.
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 7 months’ imprisonment and a fine of \$10,000, in default 1 month’s imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your imprisonment term of 7 months was reduced to 5 months, with the fine of \$10,000 to stand.

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).

### **7<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) (“PA”), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

### **PARTICULARS**

- (a) In DSC-900035-2016, you were charged that “*you, on the 1<sup>st</sup> occasion in February 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr D, 6 x 3.8litre canister of cough syrup, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) (“PA”), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*”.
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 7 months’ imprisonment and a fine of \$10,000, in default 1 month’s imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your imprisonment term of 7 months was reduced to 5 months, with the fine of \$10,000 to stand.

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).

### **8<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) ("PA"), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

### **PARTICULARS**

- (a) In DSC-900043-2016, you were charged that "*you, on the 1<sup>st</sup> occasion in March 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr D, 6 x 3.8litre canister of cough syrup, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) ("PA"), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*".
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 7 months' imprisonment and a fine of \$10,000, in default 1 month's imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your imprisonment term of 7 months was reduced to 5 months, with the fine of \$10,000 to stand.

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).

### **9<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) ("PA"), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

### **PARTICULARS**

- (a) In DSC-900051-2016, you were charged that "*you, on the 1<sup>st</sup> occasion in April 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr D, 6 x 3.8litre canister of cough syrup, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) ("PA"), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*".
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 7 months' imprisonment and a fine of \$10,000, in default 1 month's imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.

- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your imprisonment term of 7 months was reduced to 5 months, with the fine of \$10,000 to stand.

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).

#### **10<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) ("PA"), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

#### **PARTICULARS**

- (a) In DSC-900059-2016, you were charged that "*you, on the 1<sup>st</sup> occasion in May 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr D, 6 x 3.8litre canister of cough syrup, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) ("PA"), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*".
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 7 months' imprisonment and a fine of \$10,000, in default 1 month's imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your imprisonment term of 7 months was reduced to 5 months, with the fine of \$10,000 to stand.

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).

#### **11<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) ("PA"), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

#### **PARTICULARS**

- (a) In DSC-900067-2016, you were charged that "*you, on the 1<sup>st</sup> occasion in June 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr D, 6 x 3.8litre canister of cough syrup, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) ("PA"), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*".

- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 7 months' imprisonment and a fine of \$10,000, in default 1 month's imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your imprisonment term of 7 months was reduced to 5 months, with the fine of \$10,000 to stand.

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).

### **12<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(3)(b) of the Poisons Act (Cap. 234) ("PA"), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

### **PARTICULARS**

- (a) In DSC-900069-2016, you were charged that "*you, on from 1 October 2014 to 1 July 2015, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell and deliver a total of 1,143,060ml of Cophadyl-E Cough Linctus, Dhasedyl Syrup, Procodin Syrup, Promedyl-B Linctus, SP-Cosedyl Syrup and S W Sunsedyl Forte Linctus, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) ("PA"), without entering the particulars of the sales in a book to be kept and used for that purpose, and you have thereby contravened Section 6(3)(b) of the PA and committed an offence punishable under Section 16(1) of the PA*".
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 10 months' imprisonment and a fine of \$10,000, in default 1 month's imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your sentence was upheld.

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).

### **13<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) ("PA"), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

### **PARTICULARS**

- (a) In DSC-900443-2014, you were charged that “*you, on 15 July 2014, at about 2:00 pm, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr E, 10 unlabelled 90ml bottles of cough syrup, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) (“PA”), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*”.
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 2 months’ imprisonment and a fine of \$5,000, in default 2 weeks’ imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your imprisonment term of 2 months was reduced to 1 month, with the fine of \$5,000 to stand.

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).

#### **14<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234) (“PA”), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

#### **PARTICULARS**

- (a) In DSC-900445-2014, you were charged that “*you, on 15 July 2014, at about 2:35 pm, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell to one Mr F, 3 unlabelled 90ml bottles of cough syrup, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) (“PA”), when you were not licensed under the PA to sell poisons, and you have thereby contravened Section 6(1)(a)(i) of the PA and committed an offence punishable under Section 16(1) of the PA*”.
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 2 months’ imprisonment and a fine of \$5,000, in default 2 weeks’ imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your imprisonment term of 2 months was reduced to 1 month, with the fine of \$5,000 to stand.

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).

### **15<sup>TH</sup> CHARGE**

That you, Dr Tan Gek Young, on 15 November 2016, while you were a registered medical practitioner, you were convicted of an offence under Section 6(3)(b) of the Poisons Act (Cap. 234) ("PA"), in the State Courts of the Republic of Singapore, which is an offence implying a defect in character which makes you unfit for the medical profession.

### **PARTICULARS**

- (a) In DSC-900447-2014, you were charged that "*you, on from 1 January 2014 to 15 July 2014, at Meridian Polyclinic and Surgery, located at Block 136 Bedok North Avenue 3, #01-162, Singapore, did sell and deliver a total of 1,175,825ml of Cophadyl-E Cough Linctus, Dhasedyl Syrup, Procodin Syrup, Promedyl-B Linctus, SP-Cosedyl Syrup and S W Sunsedyl Forte Linctus, which contain **Codeine**, a poison listed in the Schedule to the Poisons Act (Cap 234) ("PA"), without entering the particulars of the sales in a book to be kept and used for that purpose, and you have thereby contravened Section 6(3)(b) of the PA and committed an offence punishable under Section 16(1) of the PA*".
- (b) On 15 November 2016, you pleaded guilty to and were convicted on the aforesaid charge.
- (c) On 17 January 2017, you were sentenced to 7 months' imprisonment and a fine of \$10,000, in default 1 month's imprisonment, for the aforesaid charge, with 40 other charges taken into consideration for sentencing.
- (d) On 17 August 2017, on appeal to the High Court of the Republic of Singapore, your imprisonment term of 7 months was increased to 9 months, with the fine of \$10,000 to stand.

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)."

### **AGREED STATEMENT OF FACTS**

2. The essential parts of the agreed statement of facts were as follow:

2.1 The Respondent was, at the material time, a registered medical practitioner under the Medical Registration Act (Cap.174) ("**MRA**") practising at Meridian Polyclinic and Surgery located at Block 136 Bedok North Avenue 3, #01-162, Singapore 460136.

2.2 On 15 November 2016, in the State Courts of the Republic of Singapore ("**State Courts**"), the Respondent pleaded guilty to and was convicted on 15 criminal charges relating to his sales of cough syrup containing codeine, namely:

- (a) Twelve charges for an offence under Section 6(1)(a)(i) of the Poisons Act (Cap. 234), i.e. selling poisons without a license, in DSC-900022-2016, DSC-900027-2016, DSC-900029-2016, DSC-900031-2016, DSC-900033-2016, DSC-900035-2016, DSC-900043-2016, DSC-900051-2016, DSC-900059-2016, DSC-900067-2016, DSC-900443-2014 and DSC-900445-2014;
- (b) Two charges for an offence under Section 6(3)(b) of the Poisons Act, i.e. selling poisons without entering the particulars of the sales into a book to be kept for that purpose, in DSC-900069-2016 and DSC-900447-2014; and
- (c) One charge for an offence under Section 24 read with Section 35(1) of the Medicines Act (Cap. 176), i.e. retail sale of a medicinal product that is not on a general sale list, in DSC-900024-2016.

(Collectively, referred to as “**the 15 Convicted Charges**”.)

2.4 In respect of the 15 Convicted Charges, the Respondent was sentenced to:

- (a) DSC-900022-2016: 4 months’ imprisonment and fine of \$10,000, in default 1 month’s imprisonment.
- (b) DSC-900027-2016: 4 months’ imprisonment and fine of \$10,000, in default 1 month’s imprisonment.
- (c) DSC-900029-2016: 4 months’ imprisonment and fine of \$10,000, in default 1 month’s imprisonment.
- (d) DSC-900031-2016: 4 months’ imprisonment and fine of \$10,000, in default 1 month’s imprisonment.
- (e) DSC-900033-2016: 7 months’ imprisonment and fine of \$10,000, in default 1 month’s imprisonment.
- (f) DSC-900035-2016: 7 months’ imprisonment and fine of \$10,000, in default 1 month’s imprisonment.
- (g) DSC-900043-2016: 7 months’ imprisonment and fine of \$10,000, in default 1 month’s imprisonment.
- (h) DSC-900051-2016: 7 months’ imprisonment and fine of \$10,000, in default 1 month’s imprisonment.

- (i) DSC-900059-2016: 7 months' imprisonment and fine of \$10,000, in default 1 month's imprisonment.
- (j) DSC-900067-2016: 7 months' imprisonment and fine of \$10,000, in default 1 month's imprisonment.
- (k) DSC-900443-2014: 2 months' imprisonment and fine of \$5,000, in default 2 weeks' imprisonment.
- (l) DSC-900445-2014: 2 months' imprisonment and fine of \$5,000, in default 2 weeks' imprisonment.
- (m) DSC-900069-2016: 10 months' imprisonment and fine of \$10,000, in default 1 month's imprisonment.
- (n) DSC-900447-2014: 7 months' imprisonment and fine of \$10,000, in default 1 month's imprisonment.
- (o) DSC-900024-2016: 4 months' imprisonment.

2.5 Another 40 criminal charges against the Respondent relating to his sale of cough syrup containing codeine and/or promethazine were taken into consideration for sentencing.

2.6 The State Courts ordered that the sentences for DSC-900033-2016, DSC-900069-2016 and DSC-900447-2014 were to run consecutively, whilst the other sentences were to run concurrently. Hence, the Respondent was sentenced to an aggregate of 24 months' imprisonment and a fine of \$130,000, in default 12 months' and four weeks' imprisonment.

2.7 The background and facts relating to the 15 Convicted Charges are set out in the Statement of Facts (Amended) dated 15 November 2016 tendered to the State Courts at the time of hearing.

3. In summary, the Statement of Facts stated that:-

- (a) The 15 Convicted Charges were in respect of two sets of investigations conducted by the Health Sciences Authority (“HSA”) against the Respondent.

- (b) The first set of investigations were conducted on 15 July 2014 by the HSA and uncovered the Respondent's sale of cough syrup containing codeine for the period 1 January 2014 to 15 July 2014 ("**the First Period**").
- (c) The Respondent was known amongst drug abusers as a doctor who would supply cough syrup containing codeine to them to support their addiction.
- (d) On 15 July 2014, the Respondent was uncooperative and gave false evidence in his statement to the HSA. The Respondent only admitted to his wrongdoings in his further statements to the HSA.
- (e) The Respondent's *modus operandi* were as follow:
  - (i) The Respondent would keep unlabelled 90ml bottles of cough syrup containing codeine in his consultation room.
  - (ii) When a drug abuser indicated that he wished to purchase cough syrup containing codeine, the Respondent would pass the drug abuser the requested bottles of cough syrup and collect cash directly from the drug abuser in his consultation room.
  - (iii) The Respondent sold each unlabelled 90ml bottle of cough syrup containing codeine for \$25 to \$30, whereas the clinic would usually sell each 90ml bottle of cough syrup containing codeine to genuine patients for about \$15.
  - (iv) These sales of cough syrup containing codeine to drug abusers were not recorded in the clinic's dispensing registers.
- (f) In the First Period, the Respondent sold about 1,175,825ml (or 1,175.825 litres) of cough syrup containing codeine to drug abusers, making a profit of between \$314,550 and \$379,873.
- (g) Despite being fully aware that he was under investigation for the illegal sale of cough syrup containing codeine, after the first set of investigations, the Respondent continued selling and supplying such cough syrup to drug abusers without maintaining proper records of such sales as required by law.

- (h) This resulted in the second set of investigations, which covered the Respondent's sale of cough syrup containing codeine for the period October 2014 to June 2015 ("**the Second Period**").
  - (i) From December 2014, the Respondent started selling 3.8 litre canisters of cough syrup containing codeine to known drug abusers (in addition to using the same *modus operandi* as in the First Period). The Respondent sold about 200 of such 3.8 litre canisters for \$1,000 to \$1,100 each.
  - (j) The Respondent was aware that some of the drug abusers who bought the canisters of cough syrup containing codeine were re-selling the cough syrup to others when he carried out the sale of these canisters.
  - (k) In the Second Period, the Respondent sold about 1,143,060ml (or 1,143.060 litres) of cough syrup containing codeine to drug abusers, making a profit of between \$289,974 and \$369,289.
4. Codeine is a narcotic drug derived from opium, which has a potential to be abused. Prolonged use of codeine can lead to dependence. Common adverse effects to such use of codeine include nausea, vomiting, constipation, confusion, hallucinations, and decreased heart rate, as well as difficulty in urination. If codeine is taken in excess, it could cause respiratory depression and death.
  5. Both the Prosecution and the Respondent appealed against the sentences imposed in the State Courts.
  6. On appeal, the High Court dismissed both the Prosecution's and Respondent's appeals and upheld the aggregate sentence of 24 months' imprisonment and a fine of \$130,000, in default 12 months' and 4 weeks' imprisonment.
  7. In the circumstances, by virtue of the Respondent's conviction on the 15 Convicted Charges, the Respondent is guilty of all the 15 Charges in the Notice of Inquiry dated 24 October 2018 as he had been convicted of offences implying a defect in character

under section 53(1)(b) of the MRA. The Respondent is thereby liable to be punished under section 53(2) of the MRA.

### **SUBMISSION ON SENTENCE BY THE SINGAPORE MEDICAL COUNCIL (“SMC”)**

8. Counsel for the SMC highlighted the key facts surrounding the criminal convictions set out in the Agreed Statement of Facts. Taking the circumstances surrounding the 15 convictions as a whole, the Respondent had sold a massive total of 2,318,885 ml or 2,318.885 litres of cough mixture containing the poison Codeine, when he was not licensed to do so. The financial gain from these acts was between \$604,524 and \$749,162.
9. Counsel also submitted that the Respondent’s convictions evinced a severe defect in character, namely in his total disregard of the laws and regulations pertaining to the supply of codeine and a flagrant breach of his professional duties in his selfish unbridled greed and that it was plain and obvious that he was not only unfit to be a member of the profession but also posed a danger to the public if he was to be allowed to remain as a member of the profession.
10. The Counsel for the SMC drew the DT’s attention to previous precedents where respondent practitioners had been involved in offences relating to the sale of the poison for which disciplinary actions were taken against them. These were:
  - (a) Dr Liew Kert Chian who was convicted for a criminal offence of failing to enter the necessary particulars of the supply of cough syrup containing the poison codeine and sentenced to a fine of \$4,500 in default 18 days’ imprisonment with a second charge of failing to keep a proper register in relation to another poison taken into consideration for purposes of sentencing. The infringement was committed within a span of nine months involving 277.4 litres of cough syrup and profit made of approximately \$67,800. On 4 Feb 2016, the DT imposed a 12 months’ suspension, a fine of \$5,000, censure, written undertaking and costs on the respondent;

- (b) Dr Cheng Shao Lin Benny was convicted on five criminal charges of selling poisons and sentenced to a fine of \$35,000 in default five weeks' imprisonment with 37 similar charges taken into consideration. The volume of cough syrup was 60 litres committed over 8 days but would be 504 litres in total and over a duration of 3 and a half months if the quantum and time-span for the commission of all the offences were taken into account. He profited a total sum of \$33,600, with \$4,000 attributed to the five charges proceeded with. On 5 January 2016, he was sentence by the DT to 12 months' suspension, fined \$10,000, censured, directed to give a written undertaking and ordered to pay costs and expenses of the disciplinary proceedings;
- (c) Dr Khoo Buk Kwong was convicted on six criminal charges for selling poisons involving 1,786 litres of cough syrup, committed over a period of one week. He was sentenced to a fine of \$60,000 in default 60 weeks' imprisonment. He had yet to receive payment for the sale. One charge was preferred against him for which the DT sentenced him to nine months' suspension, censured, directed to give an undertaking and ordered to pay costs and expenses of the disciplinary proceedings.
11. The fourth case referred to was the most egregious of the four which involved Dr Ho Thong Chew ("**Dr Ho**") who faced 12 disciplinary charges related to 12 criminal convictions for unlicensed sale of cough syrup containing codeine for which he was sentenced to six months and six weeks' imprisonment and a fine of \$60,000 by the criminal court. Dr Ho was dealing with approximately 1,907 litres of cough syrup and made a profit of \$266,824.76 over a period of 5 months. On 18 December 2014, the DT ordered that his name be removed from the register and for him to pay costs and expenses of the proceedings, including of the solicitors to the SMC. The Counsel for the SMC pointed out that the facts of the present case against the Respondent were far serious that those in Dr Ho's case as the Respondent faced 15 disciplinary charges involving 15 criminal convictions for which he was sentenced to longer term of imprisonment of 24 months and a heavier fine of \$130,000 for dealing with higher quantity of cough syrup of approximately 2,319 litres and for which he profited a more hefty profit of between \$604,524 and \$749,162 over a span of about 15.5 months.

12. It was also pointed out by Counsel for the SMC that whilst Dr Ho appeared to have reduced his sale of cough syrup containing codeine after HSA's investigations, the Respondent stepped up his illegal sale after HSA's investigations on 15 July 2014 by supplying the drug abusers with 3.8 litre canisters of cough syrup from December 2014.
13. Counsel also informed that the Respondent had a previous set of antecedents. On 19 January 2010, the Respondent was found guilty by a Disciplinary Committee on 22 charges of professional misconduct for failing to exercise due care in the management of his patients by inappropriately prescribing medication to his patients. Five of the 22 charges related to the prescription of cough mixtures containing codeine together with benzodiazepines. He was suspended for a period of 6 months, fined \$5,000, censured, ordered to give an undertaking that he would not engage in the conduct complained of or any similar conduct and ordered to pay costs and expenses of and incidental to the proceedings, including the costs of the respective solicitors of the SMC and the Legal Assessors.
14. Counsel for the SMC relied on *PP v NF* [2006] 4 SLR (R) 849 at [69], a High Court decision, to emphasise the point that weight should be given to an offender's antecedent and that "*a longer sentence is justified on the principle that specific deterrence is necessary to curb his criminal activity... even though the antecedents of an offender may be technically and/or literally dissimilar, this has not deterred the courts from according them weight on the basis that, viewed cumulatively, they either share a common denominator with the present conviction .. or demonstrated a progressive proclivity towards increasingly serious criminal activity.*" Thus due weight should be given to the antecedent as the Respondent had demonstrated "progress" from the inappropriate prescribing to his own patients to the outright illegal sale and in large quantities to volumes to people who were known to be drug abusers. A removal of his name from the register would also be justified on the principal of specific deterrence.

### ***Aggravating factors***

15. In summary, Counsel for the SMC submitted that the aggravating factors in this case were that the Respondent had similar antecedents and had devised a modus operandi wherein he conducted his illegal activities in a manner which would leave little

documentary trail as he sold directly to his patients and made no record of such sales. He sold to persons known to him to be drug abusers or persons who were re-selling them to others with the intention of making profits from the sales and that he did make huge profits out of his illegal activities. When his misdeeds were first uncovered, he was uncooperative and even gave false evidence in his statement to HSA. Despite being detected on 15 July 2014, he continued to commit the offences at a larger scale when he started to supply the drug abusers with 3.8 litre canisters of the cough syrup containing codeine.

16. Counsel urged the DT to exercise its powers under section 53(2) of the Act to order that the Respondent's name be removed from the Register of Medical Practitioners and that he pays the costs and expenses of the proceedings including the legal costs incurred by the SMC.
17. As regards the Respondent's bankruptcy status, relying on past precedents in the case of Dr Khoo Buk Kwong and *SMC v Kwan Kah Yee* [2015] 5 SLR 201, Counsel submitted that the undischarged bankrupt status did not preclude the DT's making of costs orders and costs orders were made previously regardless of their undischarged status in bankruptcy.

### ***Mitigation***

18. The Respondent submitted a bundle of documents which included documents which he referred to as "Testimonials" written in the form of letters by different persons as follows:
  - (a) Ms A who claimed that the Respondent was his second brother in a family of six;
  - (b) Ms B, the Respondent's ex-spouse;
  - (c) Ms C, Cindy, his younger sister;
  - (d) Ms D, his former part-time clinic assistant;
  - (e) Ms E, his older sister;
  - (f) Mr G, who described himself as a "drinking and eating buddy" of more than two years;

- (g) Mr H, a volunteer prison counsellor of the Respondent while he was incarcerated;
  - (h) Mr I, a former class-mate of the Respondent; and
  - (i) Mr J, who offered him a job as a senior wellness consultant under the Prison Home Detention Scheme.
19. In their respective letters, each of the writers vouched for the Respondent's good nature or good character. For example, Ms A related how dutiful Respondent was, being the person who would drive to Johore Bahru every weekend to visit their mother and how the family felt when he was imprisoned. His sister sought for Respondent to be given a second chance, stated how good a father he was and that he fell into debt and resorted to selling cough mixture. From the contents of these letters, it was clear that the intention of each of the writers was to gain some sympathy for the Respondent and that the DT be lenient on the sentence to be meted out.
20. In his written mitigation dated 26 December 2018, he, inter alia, apologised to the SMC for the inconvenience caused as well as for any embarrassment he had caused to the medical profession. His imprisonment had been a severe punishment and he would accept any punishment with humility and grace. His poor financial knowledge and management had led him to commit the acts and his bankruptcy for which he had been punished financially, socially and professionally. He sought the DT and SMC's compassion and to consider suspending him for a period rather than the imposition of a more serious punishment. In his oral mitigation, he remained apologetic, was willing to take full responsibility for his actions which was due to his sheer ignorance and stupidity. As he was still a bankrupt, he was concerned about the cost orders for the proceedings.

### **SENTENCE IMPOSED**

21. In *Wong Meng Hang v SMC* [2018] SGHC 253 the Court of Three Judges at [23] set out the main objectives of sentencing. The Court stated that in disciplinary proceedings, broader public interest considerations are paramount and will commonly be at the forefront when determining the appropriate sentence that should be imposed in each case. Such interest includes the need to uphold the standing and reputation of the

profession. The primacy of public interest considerations means that other considerations that might ordinarily be relevant to sentencing, such as the offender's personal mitigating circumstances and the principles of fairness to the offender, do not carry as much weight as they typically would in criminal cases and these might even have to give way entirely if this is necessary in order to ensure that public interests are sufficiently met.

22. As regards the key sentencing principles of general application such as the interest of general and specific deterrence, the Court stated at [25] that general deterrence is a matter of considerable importance because it is intended to create awareness in the public and more particularly among potential offenders that punishment will be certain and unrelenting for certain offences and offenders and this is central and operative sentencing objective in most, if not all disciplinary cases.
23. The Court of Three Judges, further explained that specific deterrence, on the other hand, is directed at discouraging the particular offender from committing future offences, and the weight to be accorded to this sentencing objective may be greater in case involving recalcitrant offenders as opposed to those with long, unblemished track records that are suggestive of a lack of propensity to re-offend. Another relevant sentencing objective is the need to punish the professional who has been guilty of misconduct. Lastly, considerations of fairness to the offender may, in appropriate cases, warrant the imposition of a lighter sentence, for example, inordinate delay in prosecuting the case.
24. In their judgment in Wong's case, at [66], when deciding whether or not to strike a doctor off the register of medical practitioners under section 53(2)(a), the ultimate question is whether the misconduct was so serious that it renders the doctor unfit to remain as a member of the medical profession. Thus, if a doctor's conduct is so fundamentally at odds with the values of the medical profession, then the only logical consequence that follows is that he must be struck off. The Court then went on to set out a number of factors that may be relevant and stated that striking off should be considered when the misconduct in question involves a flagrant abuse of the privileges accompanying registration as a medical practitioner and that this was certainly the case in relation to Dr Ho Thong Chew's case cited by the Prosecution. In that case, the Court of Three Judges at [49] noted that the DT had further took into account as an

aggravating factor the fact that Dr Ho had continued to blatantly disregard the law by persisting in dealing with the cough syrup even after his clinic had been raided by the HSA.

25. Whilst the Respondent had pleaded guilty and expressed his remorse, the DT cannot ignore the damning facts of the case which included the following:
- (a) the offences were not his first brush with the law but his second set of convictions as on 19 January 2010, a Disciplinary Committee found him guilty on 22 charges of professional misconduct;
  - (b) the criminal offences which he has infringed were serious, for which deterrent sentences were imposed by the criminal courts and he was sentenced to serve a total of 24 months' imprisonment and fined \$130,000;
  - (c) as a physician, the Respondent was bound to practice his profession with conscience and dignity but instead, had abuse his position and placed his own pecuniary interest before the safety and health of his patients and others by doing what he did;
  - (d) the manner the offences were committed through the same *modus operandi* over a lengthy period of time spanning 15.5 months;
  - (e) the quantity of the poison involved in the transactions involving Codeine was in the region of 2319 litres and was thus huge;
  - (f) the illegal profits made were huge, between \$604,524 and \$749,162;
  - (g) he was not deterred by the first enforcement action taken and boldly continued to commit the offence whilst the first series of offences were being investigated; and
  - (h) in blatant disregard, he even progressed to supplying larger quantities of the cough syrup in 3.8 canisters after the first enforcement action.

26. The DT considered the mitigation put forth by the Respondent as well as the testimonials written on his behalf but could not place much weight on them due to the aggravating nature of the case against him and the public interest to be protected in this case.
27. The DT was without doubt that this case is far worse than Dr Ho's case cited by the Prosecution and which sentence that he be struck off the register was endorsed by the Court of Three Judges. Instead of properly dispensing the medicinal products to his patients in the proper manner and in the right quantity after due consultation, the Respondent had blatantly and with a well thought of modus operandi, supplied drug abusers with volumes of cough syrup under cover of his medical practice, thus making hundreds of thousands of dollars of profit in the process. The aggravating factors present in this case, as put forth by the Prosecution, was deplorably shocking. There was no doubt in our minds that his convictions for the offences as set out in the 15 charges against him, to which he had also agreed to in the agreed facts, implied a defect in character which made him unfit for the medical profession.
28. We were of the view and in line with the sentencing principles, that the circumstances called for both a general and specific deterrence and that the appropriate punishment under section 52 (2) read with section 53(1)(b) of the Medical Registration Act Cap 174 was to order that the **Respondent's name be removed from the Register of Medical Practitioners.**
29. We did not think that there was any impediment to us ordering that the costs of the proceedings be borne by him. In the premises, we also ordered him to pay the costs and expenses of the inquiry including the legal costs incurred by SMC.

## **PUBLICATION OF DECISION**

30. We order that the Grounds of Decision be published with the necessary redaction of identities and personal particulars of persons involved.
31. The hearing is hereby concluded.

A/Prof Chin Jing Jih (Chairman)

Dr Goh Soo Chye Paul

Mr Muhammad Hidhir Bin Abdul Majid (Legal Service Officer)

Mr Burton Chen and Mr Junie Loh (Tan Rajah & Cheah)  
for Singapore Medical Council;  
Dr Tan Gek Young  
Appeared-in-Person