

SINGAPORE MEDICAL COUNCIL
INTERIM ORDERS COMMITTEE INQUIRY FOR DR WEE TEONG BOO
HELD ON 11 MAY 2019

Interim Orders Committee:

Dr Leong Choon Kit (Chairman)

A/Prof Sophia Ang

A/Prof Chin Jing Jih

Legal Assessor:

Mr Thio Shen Yi, SC

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Ms Aw Wen Ni

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Counsel for the Respondent:

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Mr Chooi Jing Yen

Mr Johannes Hadi

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DECISION OF THE INTERIM ORDERS COMMITTEE

A. INTRODUCTION

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 be made against Dr Wee Teong Boo ("**Dr Wee**").
2. On 22 April 2017, the IOC issued an interim conditional registration order (the "**Interim Order**") pursuant to section 59B(1)(b) of the MRA, whereby Dr Wee's registration was ordered to be conditional on his compliance with certain conditions and restrictions. The reasons for the Interim Order were set out in the Grounds of Decision dated 9 May 2017.

3. On 29 March 2019, following Dr Wee's conviction by the High Court of the charges brought against him, the Singapore Medical Council ("**SMC**") applied to the IOC to replace the Interim Order with an interim suspension order pursuant to Section 59D(1)(c) read with Section 59C(1)(b) of the MRA (the "**Application**").
4. The hearing for the Application was heard on 11 May 2019. After hearing both the SMC's and Dr Wee's submissions, the IOC ordered for the Interim Order to be replaced with an interim suspension order with immediate effect for the remainder of the validity of the Interim Order, i.e. for the period 11 May 2019 to 21 October 2019 (the "**Interim Suspension Order**").
5. The IOC's detailed grounds for the Interim Suspension Order are set out herein.

B. RELEVANT BACKGROUND FACTS

6. Briefly, Dr Wee is a 68-year old male medical practitioner registered under the MRA. Dr Wee has been practising for more than 40 years. Since 1978, Dr Wee has practised at Wee's Clinic & Surgery at Block 418 Bedok North Avenue 2 #01-79 Singapore 460418 ("**Wee's Clinic**").
7. On 24 February 2017, Dr Wee was charged with two offences under the Penal code (Cap. 244) (collectively, the "**Charges**"). The Charges related to a 23-year old female patient (the "**Patient**"). The Charges against Dr Wee are as follows:
 - a. That Dr Wee, sometime between 11.30pm on 30 December 2015 and 12.30am on 31 December 2015 at Wee's Clinic, committed rape of the Patient by penetrating her vagina with his penis without her consent, in the course of carrying out a medical examination on her, thereby committing an offence under Section 375(1)(a) and punishable under Section 375(2) of the Penal Code (the "**1st Charge**"); and
 - b. That Dr Wee, sometime on 25 November 2015 at Wee's Clinic, used criminal force on the Patient, by stroking her vulva with his hand in the course of carrying out a medical examination on her, thereby intending to outrage her modesty and committing an offence punishable under Section 354(1) of the Penal Code (the "**2nd Charge**").
8. There was widespread and continuous media coverage relating to Dr Wee and the Charges.

The previous IOC hearing and interim conditional registration orders made against Dr Wee

9. At the IOC hearing conducted on 22 April 2017 for the purposes of the inquiry, the IOC had, pursuant to section 59B(1)(b) of the MRA, issued the Interim Order whereby Dr Wee's registration was ordered to be conditional on his compliance with certain conditions and restrictions. The IOC published Grounds of Decision dated 9 May 2017 ("**IOC Decision**"). The IOC Decision expressly set out the Interim Order (at paragraph 36 of the IOC Decision).
10. For convenience, the Interim Order is repeated here:

"The order of the IOC

36. *We order that Dr Wee's registration be conditional on his compliance, during a period of 18 months, with the following conditions and restrictions:*

- (a) *Dr Wee shall not undertake any consultations of female patients without a chaperone present. The chaperone must be a female fully registered medical practitioner in Singapore (the "**Female Chaperone**").*
- (b) *In respect of female patients, Dr Wee shall not conduct any examination of the breast, pelvic, genital or anal areas. Such examinations shall be carried out by the Female Chaperone.*
- (c) *These conditions shall not apply in situations which are life-threatening emergencies.*
- (d) *The Female Chaperone shall maintain a log detailing every case where she is involved as a chaperone, which shall be signed and dated by the Female Chaperone. Such log shall also certify that the consultation and/or any examination performed by Dr Wee was in accordance with professional standards. In the event that Dr Wee does not conduct any consultation and/or any examination in accordance with professional standards, the Female Chaperone is to record such deviation. The log is to be submitted to the SMC every two weeks. Where the log is not submitted in compliance with this order, such incident shall be reported promptly to the SMC.*

(e) This order shall be reviewed by this IOC, or by another IOC appointed in its place, after six (6) months.

(f) Dr Wee shall comply with these conditions and restrictions from 1 May 2017.

(g) This order shall take effect from 22 April 2017.

(h) Parties have liberty to apply.”

11. The IOC took the view that while the Charges were serious, given that Dr Wee had not yet been convicted, something over and above the gravity of the Charges was required for a full suspension of Dr Wee (at paragraph 33 of the IOC Decision).

Extension of the Interim Order by the High Court

12. The Interim Order was to apply for a period of 18 months. As the Interim Order was effective from 22 April 2017 (paragraph (g) of the Interim Order), the Interim Order expired on 21 October 2018.
13. Section 59F(1) of the MRA provides that the SMC may apply to the High Court for an extension of the period for which the Interim Order has effect upon expiry of the Interim Order. Section 59F(1) of the MRA states:

“Application to High Court

59F. – *(1) the Medical Council may apply to the High Court for an extension of the period for which an order made under section 59B(1) or 59D(1)(c) or (d) has effect, and may apply again for further extensions.*

(2) On such an application, the High Court may extend (or further extend) for up to 12 months the period for which the order has effect.

(3) The High Court may, on application by the registered medical practitioner concerned –

(a) in the case of an interim suspension order, revoke the order;

(b) in the case of an interim restriction order, revoke the order or vary any condition or restriction imposed by the order; or

(c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it).”

14. At a hearing before the honourable Justice Valerie Thean on 29 October 2018, the Interim Order was extended by the Honourable Justice Valerie Thean to 21 October 2019 pursuant to Section 59F(2) of the MRA.

Dr Wee's subsequent conviction by a High Court Judge after the IOC Decision dated 9 May 2017

15. Dr Wee claimed trial to the Charges, and the criminal trial was heard by the Honourable Justice Chua Lee Meng ("**Justice Chua**") over three tranches in May 2018, July 2018 and October 2018 over a total of 16 days. This was after the IOC Decision dated 9 May 2017.
16. On 25 February 2019, Justice Chua rendered his decision in respect of the Charges. Justice Chua acquitted Dr Wee on the 1st Charge. However, Justice Chua found that sometime between 11.30pm on 30 December 2015 and 12.30am on 31 December 2015, at his clinic, Dr Wee did sexually penetrate the victim's vagina with his fingers, without the victim's consent. Accordingly, Justice Chua found Dr Wee guilty of a sexual assault offence under Section 376(2)(a) of the Penal Code (the "**1st Convicted Charge**"). Justice Chua also convicted Dr Wee of the 2nd Charge, i.e. the outrage of modesty charge.
17. On 27 February 2019, Justice Chua sentenced Dr Wee to a term of imprisonment of 9 years for the 1st Convicted Charge and a term of imprisonment of 1 year for the 2nd Charge. The sentences were ordered to run consecutively, thereby making Dr Wee's total sentence a 10 years' imprisonment. Dr Wee has filed an appeal against his conviction and sentence. The prosecution has also filed an appeal against the acquittal of the 1st Charge and the sentences ordered against Dr Wee.
18. Dr Wee's conviction and sentence again received widespread and continuous media coverage.

The Application by the SMC

19. Following Dr Wee's conviction, the SMC applied to the IOC to seek a conversion of the Order to an interim suspension order pursuant to Section 59D(1)(c) read with Section 59C(1)(b) of the MRA. The hearing for the Application was heard on 11 May 2019.

C. FRAMEWORK ADOPTED BY THE IOC

20. Section 59(1)(b) of the MRA provides that where an IOC has made an order under section 59B(1), the IOC or another IOC appointed in its place may review the order where “*new evidence relevant to the order has become available after the making of the order*”.
21. Section 59D(1)(c) of the MRA further empowers the IOC to replace an existing interim restriction order with an interim suspension order. Section 59D(1)(c) of the MRA provides:

“Where an interim suspension order or an interim restriction order has been made under this section or under section 59B(1) in relation to any person, the Interim Orders Committee that made the order or another Interim Orders Committee appointed in its place may, either upon its review referred to in section 59C or upon the recommendation of a Complaints Committee, Disciplinary Tribunal or Health Committee –

...

(c) if satisfied that to do so 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, or that the registered medical practitioner has not complied with any requirement imposed as a condition or restriction of his registration in the interim restriction order, replace that order with an interim suspension order having effect for the remainder of the period of the former.”

22. Before the IOC can decide to replace the Interim Order with an interim suspension order, the IOC has to be satisfied that at least one of the following grounds is met, namely, the interim suspension order is:
- (a) Necessary for the protection of members of the public;
 - (b) In the public interest; or
 - (c) In the interests of the registered medical practitioner concerned.
23. These grounds are similar to the grounds set out in section 59B of the MRA, i.e. when the IOC first considers the issue of interim orders.

D. THE PARTIES' ARGUMENTS

The SMC's case

24. The SMC relied on grounds (a), i.e. the interim suspension order is necessary for the protection of members of the public; and (b), i.e. the interim suspension order is in the public interest.

(a) Necessary for the protection of members of the public

25. Counsel for the SMC submitted that in assessing the risk to members of the public if the doctor continues to hold unrestricted registration, the IOC should consider the seriousness of the allegations, the weight of the information, including information about the likelihood of a further incident(s) occurring during the relevant period.
26. Further, the SMC argued that in interpreting the phrase "*necessary for the protection of public*", it is not sufficient for the respondent doctor to argue that the allegations pertain to an isolated incident and that there is no consequent harm to other members of public. In that connection, the SMC relied on the case of *Dr E.Y. v General Medical Council* [2013] EWHC 860 wherein the English High Court held at [43] that:

"[Dr E.Y's Counsel's] argument that it was only a single occasion may be relevant to determining the level of risk, but it certainly does not negate it altogether. ... I find that a risk of significance to female patients must be found to exist, on the basis of the allegations made. Even if the risk of another sexually inappropriate or unprofessional episode occurring were thought to be small, the consequences on the patient in question of it occurring would be grave."

27. The SMC highlighted that the charges which Dr Wee was convicted of are of a grave nature – they relate to sexual misconduct against the patient in the course of his medical practice and it is clear that if such offences are committed again, the consequences would be grave.
28. In that connection, the SMC submitted that the findings of Justice Chua are facts that go "over and above" the gravity of the Charges. The 1st Convicted Charge and the 2nd

Charge relate to events on different dates and suggest a pattern of conduct. The SMC stressed that the 1st Convicted Charge further indicated an escalation in the seriousness of the offences committed, going from molest to digital penetration. From the lengthy trial process, the SMC further submitted that it demonstrated Dr Wee to be someone who would tailor his evidence to achieve his own objectives and further was someone who would not hesitate to put the patient through the agony of cross-examination in recounting the unfortunate events while he was prepared to give false testimony to avoid the consequences of the law. The SMC submitted that the IOC ought to be persuaded by these facts which show that it is necessary for the protection of the members of the public for the IOC to order an interim suspension order.

29. The SMC also raised the fact that the results of a full disciplinary inquiry will depend on the results of the criminal appeal and there will therefore be a time lag before the conclusion of a disciplinary inquiry. The SMC therefore submitted that there is an urgent need in the circumstances to protect members of the public.

(b) Public interest ground

30. In assessing whether the interim suspension order sought is in the “*public interest*”, the SMC submitted that the IOC would have to consider whether public confidence in the medical profession is likely to be seriously damaged if the doctor is not suspended in the interim.
31. The SMC relied on the test for public interest as set out by the English High Court in the case of *NH v General Medical Council* [2016] EWHC 2348 at [12]:

“... would 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?”

32. In that connection, the SMC submitted that Dr Wee was no longer just facing allegations, but his guilt had been established by a court of law after a full trial. The SMC added that Dr Wee’s conviction was widely reported by the media and had generated considerable public attention. The SMC further submitted that it would be patently clear that an average member of the public would be shocked and troubled to learn that a medical practitioner convicted of sexual misconduct in the course of medical practice had continued to practise while on bail awaiting appeal. The SMC therefore stressed that

anything short of an interim suspension order would not reflect the seriousness of the crimes committed by Dr Wee. In fact, the SMC went so far as to submit that even if Dr Wee is ultimately successful in his appeal in quashing both his conviction and sentence, an average member of the public would still consider it proper for an interim suspension order to be made against Dr Wee before the appeal is finally determined. The SMC submitted that an interim suspension order is required to abate the potential public backlash and outcry and to maintain public confidence in the medical profession.

(c) Other requirements

33. The SMC further submitted that in deciding the appropriate action, the IOC must consider the proportionality of their response in dealing with the risk to the public interest (including patient safety and public confidence) and the adverse consequences of any action on the doctor's own interests. In addition, the IOC must also consider the acceptability of its decision on interim action should the doctor later be convicted or acquitted.
34. Notwithstanding, the SMC highlighted that where allegations involve sexual misconduct, there may be significant risk to patient safety and public confidence in the profession if decisions at the interim stage are not seen to reflect the seriousness of the individual case.
35. Crucially, the SMC emphasised that the present case has well proceeded beyond allegations or investigations of sexual misconduct against Dr Wee. The SMC stressed that Dr Wee's guilt in respect of the Charges had been established after a lengthy trial process wherein Dr Wee's defence has been rejected and Dr Wee had been sentenced by the High Court to 10 years' imprisonment. The SMC submitted that Dr Wee's conviction presented the IOC with "something over and above the gravity of the Charges" which would justify a full suspension of Dr Wee's registration in the interim.
36. The SMC added that the widespread media coverage had undoubtedly adversely affected Dr Wee's reputation and ability to earn as a medical practitioner. The SMC submitted that any further damage to Dr Wee's reputation and ability to earn as a medical practitioner would therefore be negligible.
37. In the premises, the SMC submitted that an interim suspension order was proportionate and balances the interests of the doctor and the interests of the public.

Dr Wee's case

38. Counsel for Dr Wee agreed with the SMC in respect of the test which guides the IOC in determining whether to replace the Interim Order with an interim suspension order. However, counsel for Dr Wee submitted that it is unclear why the mere fact of Dr Wee's conviction *per se* would necessitate an interim suspension order to protect members of the public and/or the public interest.
39. Counsel for Dr Wee added that the status quo, i.e. the Interim Order as it stood, was already highly protective of members of the public, and further Dr Wee practised under these restrictions without incident since the imposition of the Interim Order. Counsel for Dr Wee therefore submitted that it was not necessary for the Interim Order to be replaced with an interim suspension order to protect members of the public. The current Interim Order sufficed.
40. Further, counsel for Dr Wee submitted that the High Court's decision to convict Dr Wee on a charge that was allegedly absolutely inconsistent with the complainant's evidence is unusual and of some controversy. The upshot was that Dr Wee may yet be proven innocent, and accordingly given the controversy surrounding the High Court's decision, counsel for Dr Wee submitted that the status quo was sufficient to protect the public interest pending final adjudication by the Court of Appeal.
41. Counsel for Dr Wee also submitted that imposing an interim suspension order would cause irreparable harm to Dr Wee should he eventually be vindicated by the Court of Appeal. This is because Dr Wee is almost 70 years old and has been in practice for more than 40 years. Not only would he lose his sole means of earning a living following an interim suspension order, Dr Wee's old age would make it extremely difficult to restart his practice in the future.
42. Counsel for Dr Wee also stressed that an interim suspension order would also cause irreparable harm to Dr Wee's patients, many of whom are old and said to be reliant on Dr Wee. Dr Wee himself argued that some of his patients may "lose their life" if he were suspended.
43. In the premises, counsel for Dr Wee submitted that it was not necessary to replace the Interim Order with an interim suspension order and that such a decision would be more appropriately made at the conclusion of the appellate proceedings.

E. THE DECISION OF THE IOC

44. We order that Dr Wee's registration be suspended with immediate effect for the remainder of the validity of the Interim Order, i.e. for the period 11 May 2019 to 21 October 2019.
45. We find that it is in the public interest that Dr Wee's registration be suspended following his conviction by the High Court of the Charges brought against him. The present case has gone beyond allegations or investigations and Dr Wee has been found guilty and convicted of serious sexual misconduct in the course and scope of his conduct as a medical practitioner and in his clinic. These are grave offences committed by Dr Wee. The presumption of innocence has been replaced with the reality of guilt.
46. Even though Dr Wee has filed an appeal against his conviction, Dr Wee's appeal against his conviction and sentence is irrelevant. Section 383 of the Criminal Procedure Code (Cap. 68) clearly provides that an appeal shall not operate as a stay of execution and Dr Wee's guilt is not set aside. Dr Wee's conviction has presented the IOC with something over and above the gravity of the Charges which justifies the full suspension of Dr Wee's registration in the interim. Our view, after balancing the interests of Dr Wee and the interests of the public, is that the interim suspension order would reflect the seriousness of the crimes committed by Dr Wee.

F. DISCUSSION

47. There is no Singapore case-law to guide the IOC concerning replacing an interim conditional registration order which the IOC has previously made with an interim suspension order.
48. However, the IOC notes that section 41A(1) of the UK Medical Act 1983, which relates to an inquiry by an IOC, is *in pari materia* with section 59B(1) of the MRA. Further, the amendments to establish the IOC are closely modelled on the legislation and system in the United Kingdom. Accordingly, the IOC finds that UK materials and authorities were relevant to guide the IOC in its decision to replace the Interim Order with the Interim Suspension Order.

49. Counsel for the SMC referred to the IOC to the English High Court decision of *General Medical Council v Mohamed* [2013] EWHC 1249 (Admin), which similarly involved a doctor alleged to have sexually assaulted a cleaner at his place of work. Eventually, the doctor was also convicted of his charges and the English High Court thereafter ordered an extension of the doctor's interim suspension order. In its grounds of decision, the English High Court held that, "*in the light of his conviction, it is simply not to be contemplated that the doctor should be allowed to continue to be free to practise medicine in this country in the period until GMC has concluded its proceedings*". We agree. Indeed, sexual misconduct against a patient strikes against the very core of a doctor-patient relationship. The test for public interest is more than satisfied in that the average member of the public would be shocked and troubled to learn that a medical practitioner convicted of sexual misconduct in the course of medical practice, after an extensive trial, had continued to practise while on bail awaiting appeal. We further agree that even if Dr Wee is ultimately successful in his appeal in quashing both his conviction and sentence, an average member of the public would still consider it proper for an interim suspension order to be made against Dr Wee before the appeal is finally determined given Dr Wee had already been convicted of serious sexual misconduct.
50. The IOC took cognisance of counsel for Dr Wee's submission that the IOC should take notice that Dr Wee's conviction was allegedly questionable and further that Dr Wee may yet be proven innocent. In response to this argument, the IOC's view is that it is not able to make such a determination without some measure of fact-finding. This is probably an issue left for a different forum. In any event, notwithstanding the Interim Order was already protective of members and Dr Wee had practised under the restrictions imposed without incident since the imposition of the Interim Order, our view is that crucially, the presumption of innocence no longer applies following Dr Wee's conviction. Dr Wee's conviction has presented the IOC with something over and above the gravity of the Charges which justifies the full suspension of Dee's registration in the interim after balancing the interests of Dr Wee and the interests of the public.
51. In the light of the above, the IOC grants the Interim Suspension Order with immediate effect for the remainder of the validity of the Interim Order, i.e. from 11 May 2019 to 21 October 2019.

Dated this 28th day of May 2019.