

**IN THE REPUBLIC OF SINGAPORE**

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL**

**[2019] SMCDT 7**

Between

**Singapore Medical Council**

And

**Dr Chua Shunjie**

*... Respondent*

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**FOUNDATIONS OF DECISION**

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Administrative Law — Disciplinary Tribunals

Medical Profession and Practice — Professional Conduct — Suspension

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## **Singapore Medical Council**

**v**

**Dr Chua Shunjie**

**[2019] SMCDT 7**

Disciplinary Tribunal — DT Inquiry No. 7 of 2019

Prof Lee Eng Hin (Chairman), Prof Ho Khek Yu Lawrence and Mr Soh Boon Leng Kessler (Legal Service Officer)

4 and 28 November 2019

Administrative Law — Disciplinary Tribunals

Medical Profession and Practice — Professional Conduct — Suspension

13 February 2020

### **GROUNDINGS OF DECISION**

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

### **INTRODUCTION**

1. At the material times, Dr Chua Shunjie was a house officer provisionally registered with the Singapore Medical Council (“**SMC**”) under the Medical Registration Act (Cap 174, 2014 Rev Ed) (“**MRA**”). As a registered medical practitioner, he was required to adhere to the 2002 edition of the SMC’s Ethical Code and Ethical Guidelines in force at the material times (“**2002 ECEG**”).
2. In *July 2015*, Dr Chua submitted an application form to the Centralised Institutional Review Board (“**CIRB**”) for approval to conduct a study. In the application form he stated that he was a member of Hospital B Dermatology Department, which was untrue. In *August 2015*, he submitted a research letter to the British Journal of Dermatology. In this paper he gave the impression that he was affiliated with Institution A, which was

untrue. In *October 2015*, he submitted another application form to the CIRB to conduct a study. As with the earlier application in July 2015, he stated that he was a member of Hospital B Dermatology Department, which was untrue. In *April 2016*, when he was in the general surgery team of Hospital C, he issued a letter about a patient's medical condition, diagnosis and treatment to the patient's employer without the patient's consent.

3. His conduct on these occasions were in breach of various guidelines of the 2002 ECEG. They constituted professional misconduct under s 53(1)(d) of the MRA. For these and other incidences of misconduct, the Training and Assessment Standards Committee of the Ministry of Health (“**MOH**”) sent a complaint to the SMC in May 2016. The SMC, having investigated the matter, brought six charges against Dr Chua in February 2019. The present Disciplinary Tribunal (the “**Tribunal**”) was convened to inquire into the matter.
4. After a preliminary objection to the jurisdiction of this Tribunal had been heard and dismissed, and following a plea offer from the SMC, Dr Chua pleaded guilty to four charges on 4 November 2019. These four charges related to the incidents mentioned above at [2]. In addition, Dr Chua also admitted to two other offences and consented to having the offences taken into consideration for the purpose of sentencing.
5. This Tribunal, having considered the facts of the case, the submissions on sentence by the SMC and the mitigation plea on behalf of Dr Chua, decided by a *majority* that he be suspended for a period of 18 months, along with other orders.
6. The grounds of the Tribunal's decision, which set out the decision of the majority (to order a suspension) and the dissenting opinion of the minority (in favour of a striking off), are set out below.

### **PRELIMINARY OBJECTION TO TRIBUNAL'S JURISDICTION DISMISSED**

7. We first deal briefly with a preliminary issue raised by Counsel for Dr Chua.
8. At a Pre-Inquiry Conference on 30 April 2019, Counsel for Dr Chua raised a preliminary objection to the Tribunal's jurisdiction to inquire into the matter. The essence of Counsel's argument was that under s 53(1)-(2) of the MRA, the power of a Disciplinary Tribunal (“**DT**”) to make findings and orders relate only to a person who was a “registered medical practitioner”, and that person had to be a “registered medical practitioner” *at the time of the inquiry* before the DT. If a doctor was no longer a registered medical practitioner by the time a matter against him was placed before a DT, notwithstanding that the doctor was a registered medical practitioner at the time of the alleged offence(s) in question, the DT had no jurisdiction over him. It was submitted that by the time this Tribunal inquired into the matter in 2019, Dr Chua was no longer a registered medical practitioner as the provisional registration granted to him on 1 July

2015 had expired (on 5 December 2016). Therefore, given that Dr Chua was no longer a registered medical practitioner under the MRA, this Tribunal had no jurisdiction over the present charges against Dr Chua.

9. The SMC submitted that the argument of Dr Chua's Counsel was wrong, and that this Tribunal did have jurisdiction to inquire into the matter. The SMC made the following points:
  - (a) Past DTs (including Disciplinary Committees prior to the change in nomenclature in 2010) have dealt with similar situations. No previous Disciplinary Committee or Tribunal had found that it lacked jurisdiction to hear and determine complaints in relation to doctors whose name was no longer on an SMC register at the time of the disciplinary inquiry. These tribunals were cognisant of the fact that the respondent-doctors before them were no longer registered on the SMC's register as at the date of the disciplinary inquiry: see, for example, *In the Matter of Dr Joel Arun Sursas* [2018] SMCDT 8 ("**Dr Joel Arun**") at [54]-[55]. In *Dr Joel Arun*, the DT suspended the doctor for 36 months and fined him \$15,000 even though he was not on any SMC register at the time of his sentencing before the DT.
  - (b) A DT's jurisdiction (authority) to hear an inquiry arises upon a proper referral of a complaint by a Complaints Committee ("CC"), by an order that an inquiry be held by a DT, under s 49(2)(b) of the MRA. There was no allegation in the present case of any failure by the CC to refer the matter to this Tribunal. A DT's jurisdiction is not contingent upon what findings the DT can make under s 53(1), and it has no correlation to what orders it can impose under s 53(2). The DT is given a range of powers under s 53(2). The mere fact that some of the powers given to the DT may not be suitable for a given situation cannot, by that very fact, mean that a properly constituted DT loses its jurisdiction to hear the matter.
  - (c) The provisions of the MRA should be interpreted in a manner that accords with the object of the MRA to protect the health and safety of the public by providing for mechanisms to "uphold standards of practice within the medical profession" and "maintain public confidence in the medical profession": s 2A of the MRA. This involves ensuring that errant doctors (including provisionally or temporarily registered doctors) are disciplined. The interpretation that "registered medical practitioner" be read as referring only to a person whose name is on a register *at the time of the disciplinary inquiry* contradicted the parliamentary intent behind, and the object and purpose of, the MRA. Nothing in s 53 attaches such a temporal limitation. The correct interpretation to be adopted is that a DT has the jurisdiction to hear an inquiry, so long as the doctor's name was on one of the SMC's registers *at the time of the conduct* complained of, even if the doctor was subsequently de-registered. The MRA must not be interpreted in a manner that permits a doctor who is guilty of

professional misconduct to avoid facing the consequences of his or her actions if, as a matter of pure fortuity, he or she is no longer on the SMC's register by the time the relevant investigations are concluded.

10. Having considered the submissions, we accepted the submissions of the SMC that this Tribunal had jurisdiction to conduct the inquiry into Dr Chua's misconduct. The MRA does not expressly provide that a doctor had to be a "registered medical practitioner" at the time of the inquiry by a DT. Adopting a purposive interpretation, a misconduct by a "registered medical practitioner" will be subject to disciplinary proceedings even if the doctor ceases to be registered by the time the matter is brought before a DT. This applies whether the registration was a full registration, conditional registration, temporary registration or provisional registration.<sup>1</sup> We rejected the restrictive interpretation suggested by Counsel for Dr Chua that the doctor had to remain a "registered medical practitioner" at the time of the inquiry. Such a restrictive interpretation would mean that an errant doctor could easily avoid disciplinary action simply by the administrative act of de-registering. Such an interpretation cannot be correct, as it would defeat the statutory objective of the MRA to uphold standards of medical practice and maintain public confidence in the medical profession. Hence, we found Dr Chua's preliminary objection to this Tribunal's jurisdiction to be entirely without merit, and we proceeded with the inquiry accordingly.

## **PROCEEDED CHARGES AND RELEVANT FACTS**

11. Dr Chua did not personally attend at the inquiry before this Tribunal when his plea was taken on 4 November 2019. He gave a statement<sup>2</sup> and conveyed, through his Counsel, his intention to plead guilty. He pleaded guilty to four charges, the salient details and facts of which are set out below. (The sequence of the charges was not in the chronological order as set out at [2], above.)

### ***Charge 1 – Breach of Medical Confidentiality***

12. Charge 1 was that Dr Chua, on or about 27 April 2016, while practising as a house officer in the general surgery team at Hospital C, failed to maintain medical confidentiality in respect of a patient. This was in breach of guideline 4.2.3.1 of the 2002 ECEG, and he was guilty of professional misconduct under s 53(1)(d) of the MRA.
13. The patient was admitted to Hospital C on 23 March 2016 and discharged on 25 March 2016. During the patient's stay at the hospital, Dr Chua was working as a house officer in the general surgery team. Dr Chua was one of the doctors who examined and treated the patient, and who handled the patient's discharge process. Following his discharge, the patient returned to the hospital for physiotherapy sessions on 5 and 25 April 2016.

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<sup>1</sup> Ss 20, 21, 23, 24 of the MRA, respectively.

<sup>2</sup> Exh R1.

14. On or about 27 April 2016, Dr Chua prepared and issued to the patient's employer a letter, on the hospital's letterhead, informing them of the patient's medical condition, diagnosis and treatment, as well as information shared by the patient during his consultations at the hospital (the "**Letter**"). This was done without the patient's prior consent. The contents of the Letter, being information obtained by Dr Chua in confidence in the course of attending to the patient, was not to be disclosed to any third party without the patient's consent. Dr Chua's action in issuing the Letter was in breach of guideline 4.2.3.1 of the 2002 ECEG, which provided:

4.2.3.1 Responsibility to maintain medical confidentiality

A doctor shall respect the principle of medical confidentiality and *not disclose without a patient's consent, information obtained in confidence or in the course of attending to the patient*. However, confidentiality is not absolute. It may be over-ridden by legislation, court orders or when the public interest demands disclosure of such information. [...]

[Emphasis in *italics* added]

**Charge 2 – Misleading Claim of Affiliation with Institution A**

15. Charge 2 was that Dr Chua, on or about 16 August 2015, while being a provisionally registered medical practitioner with the SMC, provided inaccurate or misleading information in professional journals. This was in breach of guideline 4.4.2 read with guideline 4.4.3.1 of the 2002 ECEG, and he was guilty of professional misconduct under s 53(1)(d) of the MRA.
16. On or about 16 August 2015, Dr Chua submitted a research letter to the British Journal of Dermatology with Manuscript ID BJD-2015-1501 titled "*Incidence and risk factors for venous thromboembolism in Steven Johnson Syndrome (SJS) without thromboprophylaxis: A multicenter case control study of 304 patients*". He submitted the document to the editors of the journal for the purpose of having it published in the journal. In the document, he stated in the author biography that he was "Chua Shunjie, BEng, MD, *Institution A, Singapore*". This statement gave the impression that Dr Chua was affiliated with Institution A or that the study described in the document was affiliated with Institution A, which was factually misleading, inaccurate and untrue. At the time the statement was made (as at 16 August 2015 when the research letter was submitted), Dr Chua did not hold any official appointment or role in Institution A, and the contents of the research letter did not involve any patients or doctors in Institution A.
17. Dr Chua knew that the statement was misleading, inaccurate and untrue. He had breached guideline 4.4.2 read with guideline 4.4.3.1 of the 2002 ECEG.

- (a) Guideline 4.4.2 sets out the standards required of information provided by doctors:

4.4.2 Standards required of information

In general, doctors may provide information about their qualifications, areas of practice, practice arrangements and contact details. Such information, where permitted, shall have the following standards:

- a. *Factual*
- b. *Accurate*
- c. Verifiable
- d. No extravagant claims
- e. *Not misleading*
- f. Not sensational
- g. Not persuasive
- h. Not laudatory
- i. Not comparative
- j. Not disparaging

[Emphasis in *italics* added]

- (b) Guideline 4.4.3.1 applies these standards to, among other things, professional journals:

4.4.3.1 Public speaking, broadcasting and writing

All information, whether to fellow doctors or the public must conform to the above standards. This *includes information* given in the context of education for doctors or the public, in talks, broadcasts and seminars organised by professional bodies or healthcare institutions, or *in professional journals*.

[...]

[Emphasis in *italics* added]

***Charges 5, 6 – Misleading Claim of Affiliation with Hospital B Dermatology Department***

18. Charges 5 and 6 were that Dr Chua, on or about 1 July 2015 and on or about 28 October 2015, respectively, while being a provisionally registered medical practitioner with the SMC, provided inaccurate or misleading information as to his qualifications and area of practice. These were in breach of guideline 4.4.2 of the 2002 ECEG, and he was guilty of professional misconduct under s 53(1)(d) of the MRA.
19. On or about 1 July 2015, Dr Chua submitted an application form to the CIRB (CIRB Ref No. 2015/2591) for approval to conduct a study. In the application form he claimed that he was a member of Hospital B Dermatology Department. On or about 28 October 2015, Dr Chua submitted another application form to the CIRB (CIRB Ref No. 2015/2991) for approval to conduct a study. In that application form he likewise claimed that he was a member of Hospital B Dermatology Department. These claims gave the impression to CIRB's members and others reading the application that Dr

Chua was a member of Hospital B's Dermatology Department. The claims were inaccurate, misleading and untrue. At the time of submitting the CIRB applications, Dr Chua did not hold any official appointment or role in Hospital B's Dermatology Department, and the CIRB studies had not involved Hospital B's Dermatology Department in any way. Dr Chua knew that the claims were misleading, inaccurate and untrue when he submitted the CIRB applications. He had thus breached guideline 4.4.2 read with guideline 4.4.3.1 of the 2002 ECEG (reproduced above at [17]).

### ***Conclusion – Professional Misconduct***

20. Dr Chua's actions and conduct constituted an intentional, deliberate departure from the standards observed or approved by members of the profession of good repute and competency. Dr Chua was guilty of professional misconduct pursuant to s 53(1)(d) of the MRA.

### ***Charges Taken Into Consideration***

21. Dr Chua admitted to two other charges and consented to the charges being taken into consideration (“**TIC**”) for the purposes of sentencing. The brief details of the two TIC charges were:
- (a) *Charge 3.* In or around 29 August 2015 to 3 September 2015, he submitted a clinical letter titled “*A fight towards better understanding of acne*” to the Journal der Deutschen Dermatologischen Gesellschaft, which was published in or around March 2016, in which he claimed that his co-authors included one “Mr A”. This authorship claim was inaccurate in that “Mr A” was not one of the co-authors of the clinical letter, and Dr Chua acted in breach of guideline 4.4.2 read with guideline 4.4.3.1 of the 2002 ECEG.
  - (b) *Charge 4.* On or about 10 September 2015, Dr Chua submitted a letter titled “*Association of Fecundity With Changes in Adult Female Weight*” to the Obstetrics & Gynecology Journal, which was published in or around January 2016, in which he claimed that his co-authors were one “Mr A” and one “Mr B”. The authorship claim was inaccurate in that “Mr A” and “Mr B” were not the co-authors of the letter. Dr Chua had thus acted in breach of guideline 4.4.2 read with guideline 4.4.3.1 of the 2002 ECEG.

### **SMC'S SENTENCING SUBMISSIONS**

22. In the SMC's Submissions on Sentencing<sup>3</sup>, the SMC submitted that Dr Chua's name be removed from the appropriate register (a “**striking off order**”); *alternatively*, that Dr Chua be suspended from practice for a period of 36 months.

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<sup>3</sup> Exh SS.

23. The SMC submitted that a clear, deterrent message must be sent that such professional misconduct will be dealt with firmly. Dr Chua's conduct will have a direct and significant impact on the reputation of the medical profession. The sentence imposed must be commensurate with the public interests at stake – the need to uphold the standing of the medical profession and prevent an erosion of public confidence in the trustworthiness of doctors. A striking off order is appropriate in the present case given that Dr Chua had committed serious misconduct involving both a breach of medical confidentiality *and* the presence of his dishonest conduct.
24. The SMC submitted that in light of the factors set out in *Wong Meng Hang v Singapore Medical Council and other matters* [2018] SGHC 253 ("**Wong Meng Hang**"), Dr Chua's misconduct more than satisfied the requirements for a striking off order to be made.
- (a) Dr Chua made *multiple* misleading and untrue statements which were clearly dishonest. In relation to his claims that one "Mr A" and one "Mr B" were his co-authors (which formed the basis of the TIC charges), the Duke-NUS Medical School Honour Code Committee had concluded that "these were fictitious authors [...] put in by Dr Chua to add credence to his submitted materials."<sup>4</sup> The Honour Code Committee also noted that "there appear to have been a progressive tendency [by Dr Chua] to fabricate."<sup>5</sup> Dr Chua's misconduct was not a one-off matter; in fact, there was a pattern to his actions.
- (b) Further, even after investigations into the complaint against him had started, Dr Chua was not upfront with the CC. Dr Chua attempted to convince the CC that "*I had tried my best to contact them*".<sup>6</sup> This statement was misleading because it suggested that "Mr A" and "Mr B" were indeed co-authors but that Dr Chua was merely unable to contact them.
- (c) Dr Chua's making of the misleading and untrue statements was motivated by his own self-interest in obtaining an unfair advantage over his contemporaries. The articles in question for Charges 2, 3 and 4 and the applications to the CIRB for Charges 5 and 6 were all written in or around 2015, when Dr Chua was applying to Institution A's Seamless Dermatology Training Programme.<sup>7</sup> The Programme was highly competitive, and only a maximum of three trainees were accepted each year. An applicant's research experience and scientific publications were part of the programme's selection criteria.

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<sup>4</sup> Agreed Bundle of Documents (ABD), at p 111.

<sup>5</sup> ABD, at p 112.

<sup>6</sup> ABD, at p 245.

<sup>7</sup> ABD, at p 57.

- (d) Dr Chua's misleading and untrue statements have the potential to cause severe harm to the standing of the medical profession and to Singapore's standing as a world-leading biomedical research hub. Dr Chua, being a member of the medical profession, cannot be allowed to commit fraud and dishonesty with impunity. It has been observed that there has been a widespread practice of untrue authorship disclosures,<sup>8</sup> in a bid to facilitate an article's publication and improve the article's visibility and reception. Such practice is also to "project an image of quality [of the article] in the eyes of potential readers".<sup>9</sup> Singapore should not be seen to be a place where practices of inappropriate authorship claims in scientific research are prevalent or deemed acceptable.
- (e) Dr Chua's actions in dishonestly making various misleading and untrue statements shake the public's trust and confidence in doctors, which forms the bedrock of the patient-doctor relationship.
25. The SMC further submitted, in the alternative, that if the Tribunal was not minded to make a striking off order, a period of suspension of 36 months should be imposed, given the multiple instances of dishonesty by Dr Chua.

#### **RESPONDENT'S PLEA IN MITIGATION**

26. Dr Chua's Counsel presented a written Mitigation Plea on his behalf.<sup>10</sup> Counsel urged the Tribunal to impose a term of suspension of no more than 12 months. It was suggested that the minimum term of three-month suspension per charge be imposed, and that the sentences run consecutively, giving an aggregate 12-month suspension.
27. Counsel submitted that for the past three years since the incidents came to light around May 2016, Dr Chua had already been harshly punished by the SMC's refusal to grant him registration to continue practising medicine after his provisional registration ended in December 2016. He consequently lost his job and income, and his marriage broke down after his wife walked out on him. He is now saddled with a colossal amount of liquidated damages from the bond for his medical studies, which he has no financial means to pay. Not being able to face his parents and cope with the mounting pressures, the debts, the embarrassment to himself and his family, Dr Chua was left with no choice but to leave Singapore, even though this meant that he would have to abandon his young son then aged 2 years (now 5 years). He suffers from serious impecuniosity and is in dire financial straits. He has tried to pick up the pieces to provide for his young son by working as a cleaner, dishwasher, and taking up other odd jobs.

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<sup>8</sup> Horacio Rivera, "Fake Peer Review and Inappropriate Authorship Are Real Evils", *J Korean Med Sci.* 2019 Jan 14; 34(2):e6.

<sup>9</sup> Mario Biagioli, "Plagiarizing Names?", *Trends in Chemistry*, April 2019 Vol. 1(1).

<sup>10</sup> Exh **RS**.

28. The offence of breach of medical confidentiality was committed as Dr Chua was placed under immense pressure by the patient's employer, coupled with his lack of experience in dealing with such a situation. He was unfortunately drawn into an employer-employee dispute and relented to the employer's demand for a letter disclosing the patient's medical condition and the circumstances leading to the patient's extended medical leave. Moreover, this occurred during an extremely difficult and stressful time for him. He had marital problems, his mother suffered a stroke and he was managing a massive workload of working over 110-hour work weeks which left him utterly exhausted and not in the right frame of mind to carefully evaluate the situation and make the right decision.
29. As for Charges 2, 5 and 6, Dr Chua wrote the articles (in which he cited misleading affiliations) purely out of interest and passion, and desire to contribute to the medical journals. It was not for any academic or professional requirements or for pecuniary gain. There was no ill-intent. He had misguidedly assumed that he was affiliated to Institution A and Hospital B as he had a stint working with the doctors there. The offences did not reflect dishonest behaviour but one of misguided assumptions. While providing inaccurate or misleading information on one's affiliations may reflect an integrity issue, this was not a case of dishonest behaviour warranting a lengthy suspension or striking off. There was no unjust enrichment or other pecuniary gain that he had stood to benefit (although it was acknowledged that affiliation to notable institutions could be "a boost of credence to his literary works"). No harm or little harm was occasioned by Dr Chua's actions. The misleading affiliations did not result in any serious prejudice or harm to any person or institution.
30. Counsel stated that Dr Chua was in deep remorse over his actions and had taken full responsibility for what he deserves.

## TRIBUNAL'S SENTENCING CONSIDERATIONS

### *Sentencing Guidance in Wong Meng Hang v SMC [2018] SGHC 253*

31. In deciding upon the appropriate sentence, the Tribunal was guided by the decision of the Court of Three Judges in *Wong Meng Hang v Singapore Medical Council and other matters* [2018] SGHC 253 ("**Wong Meng Hang**").
32. In *Wong Meng Hang*, the Court set out the sentencing approach for cases where the conduct of the medical practitioner caused harm to the patient (at [29]-[44]). The Court also considered the circumstances where a striking off order to remove an errant doctor from the register of approved practitioners would be appropriate (at [45]-[67]), and the relevance of an errant doctor's dishonesty to these considerations (at [68]-[74]). A summary of the sentencing principles is set out at [75].

**Majority Decision: Suspension**

33. The majority of the members of this Tribunal (Prof Lee Eng Hin (Chairman) and Prof Ho Khok Yu Lawrence) was of the opinion that Dr Chua's misconduct did not warrant a striking off, and that a period of suspension would suffice.
34. It was noted that the cases where the doctor had been struck off have all been in the extreme spectrum of the culpability and harm matrix, with medical negligence as a predominant factor. Dishonesty has also played a major part in these cases. For the present case, the harm component was minor and certainly no patient had been affected by the actions of Dr Chua. The Court of Three Judges in *Wong Meng Hang* stated at [66]: "In our judgment, when deciding whether or not to strike a doctor off the register of medical practitioners under s 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.*" (Emphasis added) This has to be considered by the Tribunal in coming to its decision. Apart from Charge 1, the breaches in Charges 2 to 6 were in the realm of research integrity and not in medical practice.
35. The other pertinent part of the judgement in *Wong Meng Hang* is at [73], which lists a number of (non-exhaustive) factors to be considered when making the decision whether to strike the doctor off or not:
- (a) the real nature of the wrong and the interest that has been implicated;
  - (b) the extent and nature of the deception;
  - (c) the motivations and reasons behind the dishonesty and whether it indicates a fundamental lack of integrity on the one hand or a case of misjudgment on the other;
  - (d) whether the errant [doctor] benefited from the dishonesty; and
  - (e) whether the dishonesty caused actual harm or had the potential to cause harm that the errant [doctor] ought to have or in fact recognised.
36. In SMC's submission on sentencing, it was accepted that an alternative sentence that could be considered (other than striking off) was suspension for a period of 36 months.
37. The most serious issues with research misconduct are fabrication and falsification of research data and plagiarism. Other forms of research misconduct range from more minor breaches such as authorship disputes to more serious ones such as failure to get ethics approval before commencing research. These are not directly related to the practice of medicine but apply to all researchers.
38. Charge 1: This was a breach of the SMC ethical code on patient confidentiality and issuing of MCs without seeing the patient. But he has seen the patient before, so this

would not be seen as a serious breach. There is no precedent for striking off except in recalcitrant cases.

39. Charges 2 - 6 are research integrity issues and not related directly to medical practice. If the culpability and harm matrix is applied, there was no harm done to patients. Charges 2, 5 and 6 are related to affiliations to institutions, which can be considered as minor breaches. When submitting manuscripts for publication, the journal requires that the author's affiliation be provided. Dr Chua's mitigation plea stated that he had misguidedly assumed that he was affiliated to Institution A and Hospital B as he had a stint working with the doctors there; the offences did not reflect dishonest behaviour but one of misguided assumptions (above, at [29]). The manuscript in Charge 2 was rejected and was not resubmitted, so it is not in the public domain. Similarly, CIRB submissions also require the investigator's affiliation to an institution. In this regard he was listed as a study team member. CIRB submissions are usually made to the institution and would only be seen by the CIRB committee and secretariat, and thus is not in the public domain. Charges 3 and 4 are more serious as they relate to putting in names of co-authors in publications that are not legitimate co-authors. However, the "publications" in Charges 3 and 4 were brief letters to the editor and not full research articles. It is important to note that the respondent was not charged for falsification or fabrication of research data (which would be more serious) and the SMC did not raise this as an issue at the hearing before the Tribunal.
40. Charges 2 to 6 are not in the realm of "professional misconduct" as defined by SMC, e.g. medical negligence. Also, they do not constitute actions that "bring disrepute to the medical profession" as research integrity issues usually bring disrepute to the individual researcher and the collaborators, and to the laboratory or institution where the research was done. If found guilty of research misconduct by the institution, the spectrum of punishment ranges from censure to lack of career advancement (i.e. no promotion), and for the most serious cases the guilty person is asked to leave the institution. The guilty scientist usually can go on with research albeit under supervision for a period of time but they are not prohibited from continuing with their career as a researcher. There are cases of well-known scientists who have committed serious research misconduct who continue to do research in another institution. Striking off the register in this case would be too harsh for these charges as Dr Chua would not be able to practise medicine at all in the future.
41. The Honour Code Committee (HCC) of Duke-NUS Medical School investigated Dr Chua's research work done when he was a student there and also looked at the opinion pieces that he subsequently wrote after he completed medical school. The Dean wrote a covering note to the report by the HCC stating that "the work done by Dr Chua for his research thesis was generally sound and well-supervised by his mentor Dr C including careful evaluation by a collaborating statistician."<sup>11</sup> On the brief letters to the

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<sup>11</sup> ABD, at p 108.

editor in Charges 3 and 4, the Dean wrote that “*There were some concerns about opinion pieces that were written independently by the student at a later date, but this could not be specifically verified and these articles did not include any primary research data. Accordingly the committees concluded that there were not sufficient findings to warrant revoking the medical degree.*”<sup>12</sup> It should also be noted that he had successfully completed his PGY1 training and would be eligible to practise medicine if these charges had not been brought against him.

42. The following mitigating factors were considered. Dr Chua was a young medical graduate who was seeking entrance into residency training in Dermatology and committed these breaches as a result of his over-enthusiasm to gain entry into the very competitive training program. He has lost his wife and child as a result of these charges. He is not gainfully employed. He has obligations to pay MOH back if he does not fulfil his bond to practise after completing his medical school at Duke-NUS. In his letter of explanation to SMC, he apologised for his actions and expressed deep remorse.
43. Taking all the charges together, it would be appropriate to suspend Dr Chua for 36 months, but discounting 18 months for the 3 years that he has already not been able to practise and the stress of being investigated and waiting for the hearing by the DT. Therefore, Dr Chua will be suspended for a period of 18 months.
44. In addition, the following orders will be made:
  - (a) Dr Chua to give a written undertaking to the SMC that he will not engage in the conduct complained of or any similar conduct;
  - (b) Dr Chua to take steps to rectify the errors made, including by writing to the journals concerned to correct the affiliations to institutions, retracting all publications in which there were non-legitimate co-authors; and
  - (c) Dr Chua to pay the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC.

#### ***Minority Dissenting Opinion: Striking Off***

45. One member of the Tribunal (Mr Soh Boon Leng Kessler) took a different view from the majority, and was in favour of a striking off order. The minority view was as follows.
46. While one might feel sorry for Dr Chua for the severe consequences arising from his misconduct (in terms of his career, finances and family), it is important not to lose sight of the need to preserve the reputation of the medical profession, and to prevent an erosion of public confidence in the trustworthiness of doctors. Public interest

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<sup>12</sup> *Ibid.*

considerations are paramount, and “other considerations that might ordinarily be relevant to sentencing, such as the offender’s personal mitigating circumstances and the principle of fairness to the offender, do not carry as much weight” (*Wong Meng Hang*, at [24]).

47. Dr Chua’s misconduct, comprising a breach of medical confidentiality and the publication of false statements on various occasions, were serious breaches of the ethical rules. If they were taken individually as isolated incidents, each incident on its own might not have warranted a striking off. But taken together, the entirety of Dr Chua’s misconduct, particularly the numerous false statements made by him, demonstrated a persistent and troubling lack of integrity. Dr Chua’s false statements concerning his affiliations to Hospital B Dermatology Department and Institution A, and his false claims of “Mr A” and “Mr B” as his co-authors, must be seen for what they are. They were not merely “misguided assumptions” (as the defence put it). Nor do they relate merely to *research* integrity. They demonstrated fundamentally his patent dishonesty and lack of integrity. It was not a one-off act of indiscretion committed in the folly of a moment, but a pattern of dishonesty. As Counsel for SMC pointed out, even after investigations into the complaint against him had commenced, Dr Chua was not honest in his response to the CC. He attempted to convince the CC that he had “tried [his] best” to contact “Mr A” and “Mr B”, which suggested that they were indeed co-authors – which was plainly false and dishonest as the two purported co-authors were fictitious.
48. It is necessary that a strong deterrent message be sent against dishonest conduct. The decision of the Court of Three Judges in *Wong Meng Hang*, which is *binding* on this Tribunal, makes it clear that dishonesty is no less required of doctors as it is of lawyers. “*We think that the broad alignment of positions between the medical and legal professions is appropriate and overdue, given that honesty is just as essential to the discharge of a doctor’s duties as it is for lawyers. This also gives greater effect to the overarching sentencing objectives of general deterrence and the need to safeguard public confidence in the medical profession.*” (*Wong Meng Hang*, at [74])
49. The guidance from *Wong Meng Hang* is that “*Striking off should be considered when the facts of the case disclose an element of dishonesty. [...] Dishonesty on the part of a professional will generally be viewed with severity.*” (at [67e]) The Court added: “[A] *further consideration which might suggest that the punishment of striking off is especially warranted, is where the errant doctor has shown a persistent lack of insight into the seriousness and consequences of his misconduct. [...] In such cases, the lack of insight might suggest an impediment to reform or rehabilitation which warrants the sanction of striking off.*” (at [67f])
50. The Court laid down, at [73], a non-exhaustive list of factors that should be considered in deciding whether striking off is warranted (reproduced above at [35]). Applying the guidance provided, the sort of dishonesty that Dr Chua displayed has the potential to

undermine the sterling reputation of the medical profession as a whole. His deception was not one off, but persistent. At the time when the articles containing the false statements of affiliation were written, he was applying to Institution A's Seamless Dermatology Training Programme. The SMC pointed out that the Programme was highly competitive, and only a maximum of three trainees were accepted each year. An applicant's research experience and scientific publications were part of the programme's selection criteria. Dr Chua's offences, seen in this context, were motivated by personal benefit, to place himself unfairly in an advantageous position compared to other applicants. It was a "fundamental lack of integrity" and not merely a misjudgement. Taking into account these factors, the appropriate sanction, to deter similar misconduct and dishonesty, is a striking off.

51. As the SMC submitted, no mitigating weight should be given to Dr Chua's guilty plea. The evidence against him was simply overwhelming. Further, instead of admitting to his offences at the earliest opportunity, he obfuscated in his response to the CC, and he chose to mount an unmeritorious preliminary objection to the jurisdiction of this Tribunal. Further, he has not corrected the errors of his earlier misconduct. As the SMC pointed out, articles with misleading information have not been retracted and could still be found on the Internet even as at the date on which his plea was taken before this Tribunal on 4 November 2019.<sup>13</sup> In short, his Counsel's claim that Dr Chua was "in deep remorse over his actions" was highly suspect and ought to carry very little weight, because his actions are inconsistent with the behaviour of one who is truly remorseful or contrite.

## ORDERS MADE

52. Under s 50(12) of the MRA, any question arising at a meeting of a DT "shall be determined by a majority of votes". In the present case, therefore, the decision of the majority of this Tribunal (set out at [43]-[44], above) prevailed over the minority, and constitutes the decision of this Tribunal.
53. Accordingly, in exercise its powers under s 53(2) of the MRA, the Tribunal made the following orders:
- (a) Dr Chua be suspended for a period of **18 months**;
  - (b) Dr Chua to give a written undertaking to the SMC that he will not engage in the conduct complained of or any similar conduct;
  - (c) Dr Chua to take steps to rectify the errors made, including by writing to the journals concerned to correct the affiliations to institutions, retracting all publications in which there were non-legitimate co-authors; and

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<sup>13</sup> SMC's Brief Points in Reply (SS2) at para 34.

- (d) Dr Chua to pay the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC.

**PUBLICATION OF DECISION**

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

Prof Lee Eng Hin  
Chairman

Prof Lawrence Ho Khek Yu

Mr Kessler Soh  
Legal Service Officer

Mr Kevin Ho, Ms Roseanne Tan and Mr Lyndon Choo (M/s Braddell Brothers LLP)  
for Singapore Medical Council; and

Mr Julian Tay and Ms Theodora Kee (M/s Lee & Lee)  
for the Respondent.