

**IN THE REPUBLIC OF SINGAPORE**

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL**

**[2020] SMCDT 6**

Between

**Singapore Medical Council**

And

**Dr Deshan Kumar Rajeswaran**

*... Respondent*

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**FOUNDATIONS OF DECISION**

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Administrative Law – Disciplinary Tribunals

Medical Profession and Practice – Professional Conduct – Conditional Warning in lieu of Prosecution – Suspension – Removal from Part I of the Register – Conditional Registration in Part II of the Register

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**Singapore Medical Council**  
**v**  
**Dr Deshan Kumar Rajeswaran**

**[2020] SMCDT 6**

Disciplinary Tribunal – DT Inquiry No. 6 of 2020  
Prof Sonny Wang (Chairman), Adj A/Prof Ong Chiou Li, Ms Chong Chin Chin (Legal Service Officer)  
11 September 2020 and 28 October 2020

Administrative Law – Disciplinary Tribunals

Medical Profession and Practice – Professional Conduct – Conditional Warning in lieu of Prosecution – Suspension – Removal from Part 1 of the Register – Conditional Registration in Part II of the Register

22 March 2021

**GROUNDS OF DECISION**

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

**Introduction**

1 The Respondent, Dr Deshan Kumar Rajeswaran, is a registered medical practitioner who faces one charge of professional misconduct under section 53(1)(c) of the Medical Registration Act (“MRA”) brought by the Singapore Medical Council (“SMC”). The charge reads:

**“CHARGE**

That you, Dr Deshan Kumar s/o Rajeswaran (Singapore NRIC No. SXXXXXXXX) are charged that you had engaged in improper acts or conduct which bring disrepute to your profession, *to wit*:

**PARTICULARS**

You had, on 18 July 2016 at the NTUC supermarket located at Ang Mo Kio Hub (53 Ang Mo Kio Avenue 3, Singapore 569933) and intending to insult the modesty of two unknown female subjects, did intrude upon their privacy by recording two "upskirt" videos of the said female subjects from under their skirts, for which the Singapore Police Force served a twenty-four month conditional warning on you, and that in relation to the alleged facts you are guilty of improper acts or conduct which, in the opinion of the Disciplinary Tribunal, bring disrepute to your profession under section 53(1)(c) of the Medical Registration Act (Cap. 174)."

The Respondent pleaded guilty to the charge before this Disciplinary Tribunal ("**DT**").

## **Background Facts**

- 2 We now set out the pertinent agreed facts. The Respondent is a consultant rehabilitation physician at the Department of Rehabilitation Medicine at Tan Tock Seng Hospital. On 18 July 2016, the Respondent intruded upon the privacy of two unknown females at a supermarket by recording two "upskirt" videos of them from under their skirts ("**Incident**"). The acts were committed while he was off-duty.
- 3 The Singapore Police Force ("**SPF**") subsequently investigated the Respondent for the Incident. The SPF, in consultation with the Attorney-General's Chambers, issued a 24-months conditional warning to the Respondent on 13 October 2016 in lieu of prosecution for two counts of insulting the modesty of a woman under the then-section 509 of the Penal Code. The condition was for the Respondent to refrain from similar or other criminal conduct in the following 24 months, which he satisfied.
- 4 In an email dated 20 October 2016 from SPF to the SMC, SPF notified the SMC of the Incident and of the Conditional Warning.
- 5 By way of a letter of complaint dated 30 December 2016, the SMC referred the matter to the Chairman of the Complaints Panel pursuant to section 39(1)(a) of the MRA on the ground that the Respondent's conduct might have brought disrepute to the medical profession ("the **Complaint**").
- 6 On 25 April 2017, the Complaints Committee ("**CC**") was convened to conduct preliminary inquiries into the Complaint. The SMC's Investigation Unit ("**IU**")

requested the Respondent to provide a written explanation to address the Complaint. By way of a written explanation dated 30 August 2017 addressed to the IU, the Respondent admitted to the Incident and explained that his actions were done on impulse as a result of a prolonged period of stress and anxiety at work and at home. The Respondent also elaborated on the measures he had taken to prevent any future occurrence of a similar incident, such as seeking psychiatric help, attending psychological therapy sessions, and maintaining good physical, emotional, psychological and social support systems.

- 7 The CC issued its decision on the Complaint (the "**CC's Decision**") on 29 December 2017. The CC issued a letter of advice to the Respondent to continue with his treatment and therapy and to avoid behaviour that would bring disrepute to himself and the medical profession.
- 8 By way of a letter dated 24 January 2018 from the SMC to the Minister for Health (the "**Minister**"), the SMC lodged an appeal with the Minister against the CC's Decision pursuant to section 49(12) of the MRA. The Respondent submitted his response to the SMC's appeal on 21 May 2018, which elaborated on, *inter alia*, the steps taken by the Respondent to comply with the CC's letter of advice.
- 9 In a letter dated 8 May 2019 from the Ministry of Health to the SMC, the Minister directed the SMC to, pursuant to section 49(13)(c)(i) of the MRA, appoint a Disciplinary Tribunal to hear and investigate the Complaint.
- 10 The Notice of Inquiry was served on the Respondent on 9 March 2020. A Pre-Inquiry Conference, which was originally fixed on 17 April 2020, had to be postponed to 12 June 2020 after the circuit breaker measures were announced. At the Pre-Inquiry Conference in June 2020, further directions were taken for the provision of medical reports and written submissions for the purposes of the inquiry held on 11 September 2020. A further hearing took place on 28 October 2020 following submission of further medical evidence at the request of the DT.

### **Medical Condition of the Respondent**

- 11 About two weeks after the Incident, the Respondent consulted Dr DW (“**Dr DW**”) for psychiatric treatment. As stated in Dr DW’s report of 17 July 2020 (“**July 2020 report**”), he assessed that the Respondent’s ability to manage his impulses and urges was compromised at the time of the Incident due to his underlying Persistent Depressive Disorder, which was precipitated and perpetuated by his work and home stress. He continued to be regularly reviewed by Dr DW for a period of over four years from 2016 to 2020.
- 12 Apart from consulting Dr DW, the Respondent also attended an intensive out-patient programme conducted by one Mr DW2 (a psychologist) between 21 September to 30 November 2016 held at Institution A. This group treatment is a programme specifically tailored to assist clients with issues with regard to sexual behavior. After the programme, the Respondent also attended monthly psychotherapy sessions with Mr DW2 from September 2017 to June 2020 (as set out in the progress report from Mr DW2 dated 17 July 2020).
- 13 In Dr DW’s assessment, the Respondent had gained a deep understanding of his triggers, including work and emotional stress, which had led to his previous behavior as a result of long-term regular psychotherapy and clinical treatment ([10] of July 2020 report). Dr DW was of the view that the Persistent Depressive Disorder is in remission. The relapse prevention measures and tools which the Respondent had acquired since 2016 have proven themselves to be effective in combating stress in a thorough and effective manner. Therefore, the probability of repeating the behaviour relating to the Incident, which was an impulsive behavioural response to stress, is extremely low to minimal ([14] of July 2020 report).
- 14 At the DT’s request, Dr DW gave a further report on 9 October 2020 together with Ms DW3, a senior forensic psychologist, to provide their views on further queries raised by the DT (“**October 2020 report**”). In particular, the DT queried whether the Respondent has been cured of his Persistent Depressive Disorder. The DT also sought a further opinion on whether the Respondent requires treatment to remain at minimal risk of repeating the acts complained and if so, the recommended period for which he should continue to receive treatment as well as the frequency of such treatment.

15 The parties did not dispute the medical evidence tendered before the DT.

### **Submissions on Sentencing**

16 The Respondent had admitted to the Charge that he is guilty of improper act or conduct which, in the opinion of the DT, brings disrepute to his profession. The DT is satisfied, having reviewed the facts upon which the plea of guilt was taken, that the improper act had indeed brought disrepute to the medical profession.

17 Both parties relied on the Sentencing Guidelines for Singapore Medical Disciplinary Tribunals published on 15 July 2020 (“**Sentencing Guidelines**”), in particular the sentencing framework laid out in *Wong Meng Hang v Singapore Medical Council* [2018] 3 SLR 526 (“**Wong Meng Hang**”), in making their respective submissions on the appropriate sentence.

### ***Prosecution’s Submissions on Sentence***

18 Counsel for the SMC submitted that, under the sentencing matrix laid down in *Wong Meng Hang*, the Respondent’s conduct had caused moderate harm to the victims and public confidence in the medical profession and the Respondent had low culpability. The acts were an intrusion upon the victims’ privacy by capturing the private/intimate regions of the victims’ bodies on video without their consent. Further, the misconduct is a serious offence which undermines the public’s trust and confidence in the medical profession. Therefore, the starting point under the sentencing matrix would be a suspension of up to one year.

19 The following cases were submitted as precedents for consideration:

- (a) *Disciplinary Inquiry for Dr C* (dated 22 July 1998) – The doctor was convicted of an offence under section 509 of the Penal Code for intending to insult the modesty of a female victim by shining a torchlight into a vehicle when the female victim was in a state of undress. The doctor pleaded guilty before the Disciplinary Committee. The Disciplinary Committee struck the doctor off the register after taking into account the fact that his conduct would be the whole

medical profession to ridicule and diminish the standing of its members in the eyes of the community. The Disciplinary Committee observed that he had his voyeuristic tendencies in the past which had put him in trouble with the law although he was not formally charged. The Disciplinary Committee further found that he was not fit to practise as a doctor.

- (b) *Disciplinary Inquiry for Dr B* (dated 10 May 2007) – The doctor was convicted of two offences under section 509 of the Penal Code for intending to outrage the modesty of two female victims and did so by intruding upon their privacy by using his handphone to record a video of their underwear and buttocks without their knowledge. He pleaded guilty in court and was sentenced to one month imprisonment for each of the two charges. The sentences were ordered to run consecutively. He also pleaded guilty before the Disciplinary Committee which ordered that he be suspended from practice for 24 months. On the expiry of the suspension period, he was required to (i) produce the reports of two consultant psychiatrists certifying that he was fit for practice and (ii) practice only in a supervisory framework for a period of 1 year.
  
- (c) *Singapore Medical Council v Dr Lum Yang Wei* [2020] SMCDT 4 (“**Lum Yang Wei**”) – The doctor used his handphone to record a video of a female nurse while she was easing herself in the toilet. The incident took place at his place of work. He pleaded guilty before the disciplinary tribunal and he was ordered to serve a suspension of four months.

20 It was submitted that the first two cases can be distinguished on the facts and the case of *Lum Yang Wei* would be the most relevant precedent for the purposes of this case. The Respondent’s case can be distinguished from the case involving Dr C in that there was no premeditation on the part of the Respondent, and that the Respondent had no antecedent misconduct. Further, there is no evidence that the Respondent was not fit to practice. As for the case involving Dr B, unlike the Respondent, Dr B was not found to have suffered any psychiatric disorder. The case of *Lum Yang Wei* was instructive because it is the most recent precedent and Dr Lum as well as the Respondent took extensive rehabilitative steps after their commission of their respective offences, which evidences their remorsefulness and repentance.

- 21 Counsel for the SMC contended that conditional registration and supervision orders were necessary in this case to achieve the sentencing objectives of deterrence and of upholding the reputation of and confidence in the medical profession. It was submitted that there was a need to ensure that there would be sufficient oversight and accountability which would help restore or uphold the public's trust and confidence in the medical profession. Not only would the imposition of conditional registration be consistent with the medical reports, it would also be in line with the precedents involving Dr B as well as the case of *Singapore Dental Council v Dr Hoo Swee Tiang* (judgment dated 3 October 2018) ("*Hoo Swee Tiang*"). In the case of *Hoo Swee Tiang*, the respondent dentist was suspended for six months for his conviction of the offence of outrage of modesty where he had touched the victim's inner thigh. The Disciplinary Committee had ordered Dr Hoo's registration to be restricted for a period of two years under supervision after the expiry of the suspension. Counsel also pointed out that the Disciplinary Tribunal in the case of *Lum Yang Wei* considered the suitability of imposing conditional registration and decided that it was not necessary because Dr Lum would already be subject to the supervisory framework if he accepted SMC's offer for C-Reg.
- 22 Counsel for the SMC accepted that the Respondent had various mitigating factors in his favour, but the key aggravating factor is the Respondent's seniority at the time of the Incident.
- 23 In summary, Counsel for the SMC submitted that the following sentence should be imposed:
- (a) A suspension for a period of four (4) months.
  - (b) A censure.
  - (c) An order that the Respondent gives a written undertaking to SMC that he will not engage in the conduct complained of or any similar conduct in the future.

- (d) An order that upon the expiry of his four-month suspension, the Respondent be removed from Part I of the Register of Medical Practitioners (“**the Register**”) and be registered instead as a medical practitioner with conditional registration in Part II of the Register (*i.e.* the Conditional Registration), and that the Conditional Registration be subject to the following conditions:
- (i) Condition 1 – The Respondent shall engage in clinical practice only under the equivalent of Level 3 supervision of a supervising medical practitioner in accordance with the prevailing Supervisory Framework for Conditionally / Temporarily Registered Doctors for Patients' Safety (the "**Supervisory Framework**"), for a period of 12 months.
  - (ii) Condition 2 – Before the commencement of medical practice as a medical practitioner registered under Part II of the Register, the Respondent shall provide the SMC with a Letter of Undertaking in accordance with the Supervisory Framework, signed by the supervising medical practitioner who agrees to supervise his medical practice.
  - (iii) Condition 3 – With effect from the date of commencement of the Conditional Registration, the Respondent shall, for a period of 12 months, attend consultation sessions with his attending psychiatrist and psychologist at least once every three months. At six-monthly intervals (*i.e.* in the sixth month and the twelfth month from the date of commencement of the Conditional Registration), the Respondent shall submit to the SMC a progress report from his attending psychiatrist and / or psychologist certifying that his Persistent Depressive Disorder (Dysthymia; DSM-5; 300.4) is in remission and that the probability of him repeating the conduct giving rise to the present disciplinary proceedings or other similar conduct is low, with each progress report to be dated no earlier than two weeks from the date of submission to the SMC.
  - (iv) Condition 4 – Save in emergency or life-threatening situations, the Respondent shall not undertake any private consultations, including any

physical examination carried out in a private setting (e.g. in single room wards, in clinic consultation rooms, or when examining patients behind a screen in an open ward) with female patients without a chaperone present. the Respondent shall maintain a personal log detailing every case where a chaperone is involved (*i.e.* the Log), which shall be signed and dated by the Respondent. The Respondent shall submit the Log to the SMC upon the request of the SMC.

- (e) An order that the Respondent may apply to the SMC for re-registration in Part I of the Register, subject to him satisfying Conditions 1, 2, 3 and 4 above and any other relevant requirement for full registration under Part I of the Register.
- (f) An order that the Respondent pays the costs of these proceedings, including the costs of the solicitors to SMC.

The above conditions had been refined at the hearing on 28 October 2020 following certain objections raised by the Counsel for the Respondent in terms of the scope of some of the conditions.

### ***Respondent's Submissions on Sentence***

24 Applying the *Wong Meng Hang* sentencing matrix, Counsel for the Respondent also submitted that the appropriate starting point would be up to one-year suspension. However, his assessment of the level of harm and culpability differed from that of the SMC and it was submitted that the Respondent's case should be characterised as slight harm and medium culpability. The harm was slight as there was no evidence as to any actual harm (psychological or otherwise) suffered by the victims as a result of the Respondent's actions. The fact that the Attorney-General chose not to prefer any charges against the Respondent but decided to administer a conditional warning instead reflected that the harm caused was slight. It was accepted that the Respondent's conduct, being in the nature of a sexual misconduct would tend to be more serious than "low" culpability. However, the conduct should not be regarded as "high" in culpability because there was no physical contact; it was a single incident; and the Respondent acted out of impulse due to the Persistent Depressive Disorder.

- 25 Counsel for the Respondent contended that the DT should refer to the case of *Lum Yang Wei* for an appropriate starting point for the sentence, in particular, the DT was referred to [25] of the decision which sets out a summary of observations regarding suitable sentences for sexual misconduct after having reviewed the relevant precedents. In summary, a period of suspension would be considered for criminal conviction of insulting the modesty of a victim where there is no physical contact (as is the case here). The duration of the suspension would reflect the seriousness of the misconduct. On the other hand, striking off the Register would be considered for egregious cases of sexual misconduct. Based on the cases surveyed, fines are generally not imposed.
- 26 It was submitted that a short period of suspension not exceeding four months would be suitable. Even though it was a mitigating factor that Dr Lum was relatively junior at the material time (having just completed his housemanship), there were other factors in that case which would constitute aggravating factors which are not present in our case. It was contended that the taking of videos in the toilet was more egregious than taking of upskirt videos. There was also a greater degree of premeditation. Dr Lum was convicted of a criminal offence while the Respondent was not charged in court. The offending conduct took place while Dr Lum was on duty at the hospital.
- 27 Counsel for the Respondent further highlighted to the DT that the period of suspension should be lesser than six months in the light of the decision in the case of *Hoo Swee Tiang* after taking into account various aggravating factors in the latter case. Unlike Dr Hoo who claimed trial against the criminal charge and the charge in the disciplinary proceedings, the Respondent had fully admitted to his actions from the start and had cooperated with the police investigations. Dr Hoo had also outraged the modesty of the victim by touching the rear inner part of the thighs with his hand.
- 28 The following mitigating factors were relied on by the Respondent:
- (a) Early plea of guilt – The Respondent had cooperated with the SPF, the SMC and Ministry of Health at every stage of the investigations and proceedings. He did not offer any excuses for his shortcomings and had informed the DT of his intention to plead guilty to the charge at the earliest opportunity.

- (b) Unblemished record – The Respondent had an unblemished record with no history of complaints made to the SMC. He was also well-regarded by his peers.
- (c) Rehabilitative and reformatory treatment – The Respondent had put in extensive and continuous efforts into rehabilitative and reformatory treatment for over four years. In particular, the Respondent had sought psychiatric help within two weeks after the Incident. Counsel for the Respondent urged the DT to give weight to the fact that the Respondent sought treatment prior to the Complaint having been brought to his attention as this demonstrated a genuine desire to rehabilitate himself. The rehabilitative efforts had paid off as the risk of the Respondent repeating the same conduct was assessed to be low to minimal.

29 It was submitted that the sentence to be imposed on the Respondent should be discounted because of inordinate delay in the prosecution. The key points raised were:

- (a) The Respondent was issued a 24-month conditional warning by the SPF on 13 October 2016. Even though the complaint was referred to SMC on 20 October 2016, the Notice of Complaint was only issued on 20 July 2017 (about nine months after the conditional warning was issued).
- (b) Following SMC's appeal to the Minister for Health in January 2018, the Respondent had provided his response on 21 May 2018. On 8 May 2019 (almost one year after the response), the Respondent was informed that the matter would be referred to a formal inquiry by a Disciplinary Tribunal.
- (c) After the Minister's direction to SMC to appoint a Disciplinary Tribunal, it was not until about 10 months later that the Respondent was served with the Notice of Inquiry on 9 March 2020.
- (d) The Respondent did not contribute to any of the delay and had only sought three-week extension of time to obtain relevant medical reports before responding to the CC.

- 30 On the issue of conditional registration, Counsel for the Respondent contended that it was not necessary to impose any conditions. The objective of supervision under the Supervisory Framework is to ascertain the readiness of a doctor to work independently on a sustained basis. Such supervision is geared towards ensuring and/or maintaining a certain standard of clinical competence. It was submitted that conditional registration would not be necessary since there is no suggestion that the Respondent is lacking in medical knowledge or clinical competence. Further, there was no basis to be concerned about any risk that the Respondent will repeat any form of misconduct towards patients.
- 31 If the DT is minded to impose conditional registration, the Respondent had no objections to Conditions 1 and 2 sought by the SMC. As for Conditions 3 and 4 (as originally crafted by SMC), Counsel for the Respondent raised objections to the frequency of the consultation sessions, submission of progress reports and log. At the hearing before the DT, parties conferred and resubmitted a revised list of conditions and these conditions are set out in [23] above.

### **DT's Decision**

- 32 It is not in dispute between the parties that the *Wong Meng Hang* sentencing framework would be applicable to non-clinical care offences and this is also in accordance with [44] of the Sentencing Guidelines. Applying the sentencing framework, we find that:
- (a) The harm caused is moderate. The act of taking upskirt photographs of the victims is highly intrusive in nature especially with the use of a recording device which would allow for repeated viewings. While the harm to the victims would be considered “slight” or close to “moderate”, the sexual misconduct of the Respondent would in our view undermine the reputation of and the public’s trust and confidence in the medical profession and as such, the harm in this regard would be considered as “moderate” (see [52] of the Sentencing Guidelines).
  - (b) In terms of the culpability, we find that that the culpability is low in this case because there was no pre-meditation on the part of the Respondent and the acts were committed in the spur of the moment. Further, we note that the Respondent

was suffering from Persistent Depressive Disorder which was precipitated and perpetuated by his work and home stress at the material time and this had compromised his ability to manage his impulses and urges.

Based on the above harm and culpability assessment, the indicative sentencing range would be for a suspension period up to one year.

33 During the oral submissions on the appropriate duration of the suspension, both parties relied heavily on the decision in *Lum Yang Wei*. Counsel for the Respondent submitted that the circumstances surrounding the commission of the offence were more egregious in Dr Lum's case compared to the present case for the reasons set out in [26]. Our attention was drawn to the fact that the Respondent was not charged for any criminal offence. In our view, whether a person ends up being charged in the criminal court is a matter for the Public Prosecutor to decide and it is an exercise of prosecutorial discretion. Even though the Public Prosecutor decided not to press criminal charges, it does not necessarily follow that the misconduct is not serious. The DT would have to independently consider and evaluate the nature of the misconduct in question to determine the appropriate sanction that would properly reflect the sentencing objectives of deterrence (both general or specific), retribution and rehabilitation.

34 We agree with the parties that the case of *Lum Yang Wei* is the most relevant precedent and we are of the view that the misconduct in Dr Lum is more egregious because the victim was a co-worker and the video was taken at the victim's place of work. There was also clear evidence of distress caused to the victim (see [35] of *Lum Yang Wei*). Dr Lum also had antecedent misconduct of a similar nature as he admitted that he had started taking such videos when he was working in another hospital. Here, the acts were committed without premeditation and there was no previous similar misconduct. However, we need to give due weight to the aggravating factor in this case, which is that the Respondent is a senior medical profession and he is required to conduct himself in a manner that is befitting of that higher standing. As explained in [69(b)] of the Sentencing Guidelines, the "seniority and/or eminence of a doctor attracts a heightened sense of trust and confidence in the practitioner and the profession, and the negative impact on public confidence in the integrity of the medical profession is amplified when

such an offender is convicted of professional misconduct”. We respectfully agree with these observations.

35 We note that in both Dr Lum’s case and the present case, the respondents had undergone voluntary rehabilitation and treatment to address the root causes which gave rise to the misconduct in question. This is one of the more significant mitigating factor which showed that the Respondent was truly remorseful for what he had done as he had taken immediate remedial action and continued to do so for an extended period of almost four years since the Incident.

36 It was observed in [25(b)] of *Lum Yang Wei* that generally, a lower level of culpability and seriousness of the misconduct would attract a short to medium term of suspension. Whereas the more serious type of misconduct, such as having a sexual relationship with a patient, would garner a longer-term suspension. As in the case of *Lum Yang Wei*, a short term of suspension would be appropriate for this case in view of the circumstances surrounding the misconduct as well as the mitigating factors in the Respondent’s favour. Under section 53(2)(b) of the Medical Registration Act, the minimum suspension period would be three months. We share the same concerns raised in [49] of *Lum Yang Wei* that a minimum suspension of three months would be insufficient to reflect the severity of the misconduct. Therefore, having considered all the circumstances, it would be appropriate to impose a four-month suspension period.

37 We now turn to the issue of whether it would be appropriate to require the Respondent to go through a period of conditional registration under Part II of the Register following the four-month suspension period. The DT asked parties to tender further medical evidence that would be relevant for the DT to evaluate the appropriateness of the conditions sought by SMC. The following are the pertinent observations made in the October 2020 report:

- (a) The Persistent Depressive Disorder is no longer active and affecting the various aspects of the Respondent’s social, occupational and emotional functioning. The disorder should not be construed as being “ever-present” because it is amenable to treatment ([11] of October 2020 report).

- (b) The Respondent had acquired the necessary skills to manage identified risk factors of mood disturbances, maladaptive coping, and work stress, his risk estimate will remain low, regardless of whether he continues to attend treatment ([7] of October 2020 report).
- (c) While he is no longer in the active phase of treatment, it would be beneficial for him to continue with the maintenance phase of treatment in which he continues with his treatment at least once every two to three months. This would enable his treatment providers to monitor any acute changes in his life circumstances or risk factors that may indicate a need for more intensive work to be done. One example of this might be when the DT's Grounds of Decision are made public, which is likely to trigger additional stress around the ensuing media publicity and stigmatisation, and which might in turn destabilise some of the therapeutic progress made ([8] of October 2020 report).
- (d) It was recommended that a risk assessment be performed at regular intervals of six to nine months to track fluctuations in his mood and coping, coupled with enhanced therapeutic support and preparation for any anticipated stressors ([9] of October 2020 report).
- (e) In conclusion, it was recommended that the Respondent be seen for maintenance sessions by his psychiatrist and psychotherapist at least once every three months, with the exception of the period leading up to as well as following the publication of the DT's findings, where the Respondent should be seen as frequently as needed. He can continue to be reviewed regularly for a duration of two years before being formally discharged from therapy ([14] of October 2020 report). It was also recommended that the Respondent could continue to be chaperoned when seeing female patients alone as a matter of assurance over patient safety even though there are no clinical indicators of need for him to be supervised for such interactions ([15] of October 2020 report).

38 The DT invited clarification from the parties on the appropriate duration of conditional registration in view of the observations set out in sub-paragraph (e) above. Both Counsel for the SMC and the Respondent agreed that the sub-paragraph should not be

read in isolation and should be interpreted in the context of the entire report. The common position taken before the DT was that the risk of the Respondent repeating the acts complained of would be low even without further treatment. Therefore, the reference at the end of the report to the Respondent *can* continue to be reviewed for a period of two years before being formally discharged from therapy should not be interpreted as a recommendation that the Respondent *must* go through another two years of therapy.

- 39 Having considered the medical evidence, the DT takes the view that it would be appropriate to require the Respondent to undergo conditional registration for a duration of 12 months following the four-month suspension. While we accept that the risk of recidivism is low and that most of the stressors which gave rise to the acts complained of have been addressed through active treatments over the last four years, we note that it was nevertheless recommended by Dr DW that the Respondent continues to undergo risk assessments at regular intervals to ensure that he is coping well. We are particularly mindful of the risk of additional stressors arising from the publication of the grounds of decision as highlighted in the supplemental medical report. In our opinion, it would be appropriate to continue to monitor the Respondent's condition for a period of 12 months during the conditional registration to ensure that he does not pose a risk to his patients.
- 40 We will therefore order that, for the duration of the conditional registration, the Respondent is to attend consultation sessions with his attending psychiatrist and psychotherapist at least once every three months. Further, the Respondent must submit two progress reports from his attending psychiatrist every six months to state whether he is in remission and the risk of repeating similar conduct continues to be low. The Respondent's private consultations with any female patients should be accompanied by a chaperone and a personal log should be maintained. This would be consistent with the assessment made by Dr DW in the October 2020 report. The details of the orders relating to conditional registration are set out below in [43].
- 41 On the issue of inordinate delay, Counsel for the Respondent sought a discount for the sentence and referred the DT to the following precedents:

- (a) *Ang Peng Tiam v Singapore Medical Council* [2017] 5 SLR 356 where there was a delay of 4.5 years between SMC's receipt of the complaint and the issuance of the notice of inquiry.
- (b) *Jen Shek Wei v Singapore Medical Council* [2018] 3 SLR 943 where there was delay of nearly 3 years after Dr Jen submitted his explanation before issuing the notice of inquiry.
- (c) *Yip Man Hing Kevin v Singapore Medical Council* [2019] 5 SLR 320 where there was delay of over 3.5 years between Dr Yip furnishing his explanation and the SMC issuing the notice of inquiry.

42 The DT is of the view that there was no inordinate delay in the prosecution of this matter. While one may contend that SMC could have proceeded more expeditiously and reduce the time taken in certain steps in the disciplinary process, the DT does not find that the delay is of such magnitude as to warrant discounting the eventual sentence. The overall time taken to bring this matter to the DT was also longer in this case because of the further appeal that was made to the Ministry of Health and that is part and parcel of the disciplinary process.

## **Conclusion**

43 Accordingly, the DT orders that the following sentence be imposed on the Respondent:

- (a) A suspension for a period of **four (4) months**.
- (b) A censure.
- (c) An order that the Respondent gives a written undertaking to SMC that he will not engage in the conduct complained of or any similar conduct in the future.
- (d) An order that upon the expiry of his four-month suspension, the Respondent be removed from Part I of the Register and be registered instead as a medical practitioner with conditional registration in Part II of the Register (the

“**Conditional Registration**”), and that the Conditional Registration be subject to the following conditions:

- (i) Condition 1 – The Respondent shall engage in clinical practice only under the equivalent of Level 3 supervision of a supervising medical practitioner in accordance with the prevailing Supervisory Framework for Conditionally / Temporarily Registered Doctors for Patients' Safety (the "**Supervisory Framework**"), for a **period of 12 months**
  
- (ii) Condition 2 – Before the commencement of medical practice as a medical practitioner registered under Part II of the Register, the Respondent shall provide the SMC with a Letter of Undertaking in accordance with the Supervisory Framework, signed by the supervising medical practitioner who agrees to supervise the Respondent’s medical practice.
  
- (iii) Condition 3 – With effect from the date of commencement of the Conditional Registration, the Respondent shall, for a **period of 12 months**, attend consultation sessions with his attending psychiatrist and psychotherapist at least once every three months. At six-monthly intervals (*i.e.* in the sixth month and the twelfth month from the date of commencement of the Conditional Registration), the Respondent shall submit to the SMC a progress report from his attending psychiatrist certifying that his Persistent Depressive Disorder (Dysthymia; DSM-5; 300.4) is in remission and that the probability of him repeating the conduct giving rise to the present disciplinary proceedings or other similar conduct continues to be low.
  
- (iv) Condition 4 – Save in emergency or life-threatening situations, the Respondent shall not undertake any private consultations without a chaperone present when attending to female patients alone. The Respondent shall maintain a personal log detailing every case where a chaperone is involved (the “**Log**”), which shall be signed and dated by

the Respondent and the chaperone. The Respondent shall submit the Log to the SMC monthly.

- (e) An order that the Respondent may apply to the SMC for re-registration in Part I of the Register, subject to him satisfying Conditions 1, 2, 3 and 4 above and any other relevant requirement for full registration under Part I of the Register.
- (f) An order that the Respondent pays the costs of these proceedings, including the costs of the solicitors to SMC.

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

45 The hearing is hereby concluded.

Prof Sonny Wang  
Chairman

Adj A/Prof Ong Chiou Li

Ms Chong Chin Chin  
Legal Service Officer

Mr Nathan Shashi and Mr Thaddues Oh (M/s Withers KhattarWong LLP)  
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