

**SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL INQUIRY FOR
DR WU TZE-LIANG WOFFLES ON FRIDAY, 21 FEBRUARY 2014 (1PM)**

Disciplinary Tribunal:

Prof Ho Lai Yun (Chairman)
Dr Joseph Sheares
Mr Tan Boon Heng (Legal Service Officer)

Counsel for the SMC:

Ms Chang Man Phing
Ms Wong Shu Yu
(WongPartnership LLP)

Counsel for the Respondents:

Ms Mak Wei Munn
Ms Kang Yanyi
(Allen & Gledhill LLP)

DECISION OF THE DISCIPLINARY TRIBUNAL

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

Introduction

1. Section 53(2) of the Medical Registration Act, Cap 174 ("the Act") gives the Disciplinary Tribunal ("DT") a wide discretion in determining one or more punishments to be imposed against a registered medical practitioner who has been found to be guilty of any charge. The key issue for consideration in this case was whether a suspension under Section 53(2)(b) of the Act for a period of not less than 3 months but not more than 3 years would be necessary and justifiable.

Events leading to the DT inquiry

2. Dr Wu Tze-Liang Woffles ("the Respondent") was charged at the Subordinate Courts of the Republic of Singapore with two counts under Section 81(3) of the Road Traffic Act, Chapter 276, punishable under Section 81(7) of the Road Traffic Act, Chapter 276, read with Section 109 of the Penal Code, Chapter 224, which were offences involving fraud or dishonesty. The salient details of the charges were that the Respondent did abet by instigating one Mr K (male/83 years old) to furnish misleading information to the Traffic Police Department, to wit, by procuring Mr K to falsely inform the Traffic Police Department that the said Mr K was the driver of a motor car bearing registration number SY1323E when the Respondent knew that he was the driver at the material time:

(a) On 11 September 2005 at about 4.03 p.m. whilst the said motor car was travelling along Lornie Road in the direction of Adam Road, Singapore, which he knew to be false and which offence was committed in consequence of his abetment (“First Criminal Charge”); and

(b) On 10 November 2006 at about 9.42 a.m. whilst the said motor car was travelling along Adam Road in the direction of Farrer Road, Singapore, which he knew to be false and which offence was committed in consequence of his abetment (“Second Criminal Charge”).

3. On 12 June 2012, ‘the Respondent pleaded guilty and was convicted of the Second Criminal Charge, with the First Criminal Charge being taken into consideration for sentencing. He was sentenced to the *maximum* fine of \$1,000.00 as prescribed by Section 81(7) of the Road Traffic Act. The Respondent was thereby liable to be punished under Section 53(2) read with Section 53(1)(a) of the Act as his conviction was for an offence involving fraud or dishonesty (“the Charge”).

4. The Respondent was referred to this DT by the Singapore Medical Council (“SMC”) and the Notice of Inquiry (“NOI”) dated 5 September 2013 was duly served on him to attend a Pre-Inquiry Conference on 18 October 2013. The Respondent informed the Tribunal through his Counsel from the outset that he was not contesting the charges in the NOI.

At the DT inquiry

5. At the DT inquiry, the Respondent pleaded guilty to the single Charge as stated in paragraph 3 above. He admitted to the Agreed Statement of Facts submitted by the Counsel for the SMC, Ms Chang Man Phing (‘Ms Chang’).

In Mitigation

6. In mitigation, Counsel for the Respondent, Ms Mak Wei Munn (“Ms Mak”), submitted that the Respondent has been a doctor who has served his profession with distinction and integrity. She added that having regard to the circumstances and the fact that the Subordinate Courts had imposed only a fine, they would submit that a sentence of a censure and a monetary penalty in this Inquiry would be fair and proportionately deterrent instead of a suspension. In addition, Ms Mak also urged the DT to consider the following, among others, that:

- (a) the Respondent has provided invaluable contributions to the society and the medical practice through his research, teaching/advisory positions and active participation in various aspects of the medical profession;
- (b) the Traffic Offence has no impact on the Respondent's medical practice;
- (c) the Traffic Offence was committed out of the Respondent's naiveté and ignorance of the law, and not from any intentional deceit or concealment of facts from the authorities;
- (d) the Traffic Offence was a one-off incident of misjudgment;
- (e) a harsh sentence would be a severe and detrimental blow to the Respondent that is not commensurate with the facts of this case and in light of his record for the past 28 years; and
- (f) the Respondent has already undergone a great deal of stress and anxiety since he was first charged with the Traffic Offence sometime in or around 2011 and has well learnt his lesson.

Our opinion

7. We had carefully considered the mitigation and the weight to accord to each of them in determining the appropriate penalties. We have the following observations:

- (a) We find it completely incredible that the Respondent committed the offence out of naiveté and ignorance of the law, and not from any intentional deceit or concealment of facts from the authorities. We cannot possibly fathom that the Respondent, at the material time, lacked the mental faculties to appreciate that his wrongful action of allowing Mr K to *falsely* inform the Traffic Police Department that Mr K was the driver of the Respondent's vehicle at the material time was designed to allow Mr K to take the rap on his behalf so as "to save his own skin". We are unable to accept the Respondent's repeated assertion that he did not give a second thought to his wrongful act of allowing the said Mr K to provide false information to the Traffic Police. If indeed the Respondent did not give a second thought to that wrongful act, he was plain callous in his conduct at best;
- (b) While the *speeding* offences were clearly traffic related offences only, the offence that the Respondent was convicted for was in substance not merely an offence under the Road Traffic Act. By allowing Mr K to take the rap on

the Respondent's behalf, the Respondent was subverting the course of justice through his act of dishonesty, a conduct that the medical profession will not condone. In this regard, Ms Mak has outlined in Section F of the Mitigation Plea that the Respondent had to face harsh criticism of his actions in the media, both online and in print, with Members of Parliament weighing in too. It is evident that our society would be outraged by acts of dishonesty committed by medical practitioners especially those that are held in high esteem by peers and the public;

(c) The submission that just because the Respondent was sentenced to only a fine of \$1,000 in the Subordinate Courts, it would not be fair and proportionate for the DT to punish the Respondent with a suspension is completely flawed and misconceived. We should highlight at the outset that the Respondent was punished under Section 81(7) of the Road Traffic Act where the maximum fine is \$1,000 or an imprisonment of 6 months. The courts saw it fit in the circumstances not to impose a custodial sentence and imposed a maximum fine instead. However, the mere non-imposition of a custodial term has absolutely no relevance as to whether a suspension under the Act ought to be ordered. A suspension, which is a temporary deprivation of a right to carry out one's trade, has no bearing or connection to an imprisonment term. Put in a different way, while it may not be an appropriate case to impose a custodial term due to its draconian consequences, it may well be entirely justifiable to order a suspension which does not bring about the same sting as imprisonment. We must add that the DT discharges a rather different role from the courts of law. In coming to an appropriate sanction, the DT ought to consider what penalties would be of sufficient general and specific deterrence such that no registered medical practitioner would want to take the risk to commit such an offence that would lower the standing of the medical profession;

(d) We are perturbed by the submission that the offence committed has *no* impact on the Respondent's medical practice. We must stress that it is incorrect for the Respondent to simply make light of an offence under the Road Traffic Act that it has no impact on the Respondent's medical practice. As mentioned above, the Respondent's wrongful act in allowing Mr K to take the rap on his behalf is a transgression involving dishonesty with some degree of premeditation, preparation and calculated to 'save his own skin'. We cannot overemphasise that every medical practitioner is expected to

carry the hallmarks of integrity and honesty whether in his professional or personal capacity. Any act of dishonesty from a medical practitioner tarnishes and brings disrepute to the medical profession as a whole; and

- (e) This is certainly not an exceptional case where the misconduct of a registered medical practitioner that has led to a conviction in a court of law ought not to be faced with a possible suspension before the DT. On the contrary, we are persuaded that this is a fitting case to impose an appropriate suspension to deter like-minded medical practitioners from allowing others to take the rap on their behalf whether in the context of the Road Traffic Act or otherwise. Every medical practitioner must have the moral and professional courage to face and accept the legal consequences of their own actions. The medical profession expects it. As witnessed in this saga, our society expects it too.

Seniority and Standing of the Respondent – an Aggravating Factor

8. We have carefully reviewed the precedents cited by the Counsel for seeking a suspension order ranging from 3 to 6 months. We find them relevant in our deliberation. In addition, we note that given the Respondent's seniority and standing in the medical profession, we are more so persuaded that a suspension is warranted in the circumstances. We found guidance in the case below though the charge was not one on dishonesty but professional misconduct.

9. In *Eu Kong Weng v SMC [2011] SGHC 68*, at the inquiry before the Disciplinary Committee ("DC"), it was observed that the practitioner, as the head of a department, ought to have led the way in setting the standard for his department and the hospital. The DC took a serious view of the professional misconduct and opined that the case warranted a strong signal to be sent to all medical practitioners that their patients' consent must be obtained properly, both in spirit as well as procedurally. The DC ordered a suspension of 3 months. The practitioner appealed to the High Court. The Court of 3 Judges dismissed the appeal and endorsed the suspension as ordered by the DC. We have chosen to refer to this case as Dr Eu Kong Weng was then the head of a department of the hospital and by any standard, a senior and respected medical practitioner.

10. Returning to the facts of the case before us, a suspension order is wholly justifiable given the Respondent's seniority and standing in the medical profession like

in *Eu Kong Weng v SMC [2011] SGHC 68*. Instead of setting a good example for younger practitioners to emulate, the Respondent's dishonesty had tarnished the good name of the profession. In our opinion, the seniority and standing of the Respondent is in fact an aggravating factor for the purposes of sentencing.

Lack of Remorse – another Aggravating Factor

11. Before the DT proceedings concluded, the Respondent had sought permission to personally address the DT. In his speech, we found that the Respondent was not entirely remorseful. He mentioned again that he did not give a second thought when he allowed Mr K to make the false submission to the Traffic Police. He added that he thought it was a common practice to furnish false information to the Traffic Police for such offences and that even some senior medical practitioners were doing so. We were rather alarmed by the Respondent's thought process and in particular his lack of remorse for what he has done.

12. In our opinion, despite his plea of guilt, his apparent lack of remorse is an aggravating factor that we should take into consideration when coming to an appropriate sentence.

Comparative analysis of the cited precedents

13. We had also considered the precedents cited by both counsel in particularly those relied upon by Ms Mak wherein she argued that those cases involved conduct which were relatively more egregious but for which no suspension was imposed. We note that there are facts in those cases which can be distinguished from the case before us:

- (a) *Re Dr H M (2011)*. The Respondent was then practising as a House Officer at the Division of Medicine, Singapore General Hospital. He was rostered to perform night call duty on 11 March 2008. He did not perform the duty and instead arranged for a colleague Dr A to do so. The Respondent later submitted a monetary claim of \$110 for the duty performed by Dr A. After receiving payment, he handed over the full sum to Dr A. While the DC agreed that the Respondent's conduct was improper, the DC observed the following among others:

- (i) The Respondent did not derive any monetary gain from the misconduct;
and
- (ii) There was no harm resulting from the Respondent's conduct.

(b) Re Dr P F (2011). The Respondent pleaded guilty to 10 charges of failing to exercise due care in the management of his patients with the prescription of Subutex. The DC stated that a medical practitioner ought to be aware of and should adhere to good clinical practice on the prescription of medication. In sentencing the Respondent, the DC noted among others that:

- (i) While a few of the incidences of misconduct had taken place after the Ministry of Health Guidelines were introduced, the time period was relatively short at about 6 weeks; and
- (ii) Of the 10 charges, only 4 charges involved 2 particulars of misconduct, and the majority only contained one particular involving the failure to formulate and/or adhere to a management plan.

14. Like Dr H M's case, it was not disputed that Dr P F also did not personally profit from the transgression. In the case of Dr P F, he was a paid employee at the clinic and the offence was not committed out of greed or personal interest but due to poor judgment and/or due diligence. In view of those circumstances, it is wholly understandable as to why a suspension was not ordered. In the case of Dr H M, we should add that the Respondent had not been signed off as a house officer at the time of the inquiry and the training had been held in abeyance. A suspension from practice would not have applied in any event.

15. In contrast, the Respondent before us committed the offence for his personal benefit and selfish interest. His sole motivation was self-preservation at the expense of Mr K. Even if Mr K had offered to take the rap unsolicited, the Respondent ought to have the good sense in rejecting the inappropriate and unlawful offer. Instead of admitting to the fact that he was the driver of his own vehicle at the material time, the Respondent allowed Mr K to take the rap. Even if the Respondent was indignant that he was charged for speeding which he felt that he did not, he should have admitted that he was the driver and then proceed to make his defence known to the Traffic Police. Surely the Respondent would have known that by allowing Mr K to take the rap on his behalf does not change the fact that the speeding charges remain unchanged? Is the Respondent less indignant if it had been Mr K to take the rap? Whether or not Mr

K's help was solicited, the Respondent's conduct was tantamount to subverting the administration of justice. In our view, this is the essence of the present case. It bears repeating that there is a public expectation of every registered medical practitioner to uphold a high standard of integrity given the respect that the medical profession is accorded.

The length of suspension

16. Having carefully considered the nature of the charge, the mitigating and aggravating factors and the relevant precedents, we are of the view that a suspension is warranted in this case especially since it is an offence involving fraud and/or dishonesty. In view of the suspension, we do not think a monetary penalty is necessary since a suspension is already financially punitive. In addition, as the underlying offence committed by the Respondent was not financially motivated, a fine would not be as meaningful in the context of this DT inquiry.

17. In determining the appropriate length of the suspension, we found the precedents cited by Ms Chang helpful. As mentioned, these precedents typically ranged from 3 to 6 months suspension. We do not think that a 3-month suspension is adequate considering that the underlying offence committed by the Respondent is one that hinders the fair administration of justice. In the case of Dr A (2008), she was suspended for 3 months for failing to comply with the Comptroller of Income Tax's demand to furnish audited accounts of a company which she was a director. It is our opinion that the level of culpability of the Respondent before us is more serious than that of Dr A's case. We are also guided by the fact that the suspension should not be as long as 5 months or more considering that in the case of Dr B (2006), he was given a 5-month suspension for offences involving forgery of documents to make a false claim to MINDEF for reimbursement for loss of income for reservist training amounting to close to \$10,000.

The DT's decision

18. In arriving at the appropriate sentence, the Tribunal had regard to all the relevant circumstances of the case. We gave full credit to the Respondent for his co-operation with the authorities and his early plea of guilt. We also considered his many contributions to society and the medical profession. In light of all the circumstances, this Tribunal determines that the Respondent:

- (a) be suspended from practice for a period of 4 months;
- (b) be censured;
- (c) gives a written undertaking to the SMC that he will not engage in the conduct complained of or any similar conduct; and
- (d) pays the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC.

Publication of Decision

19. We order that the Grounds of Decision be published.

20. The hearing is hereby concluded.

Dated this 21st day of February 2014.