

IN THE REPUBLIC OF SINGAPORE

SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL

[2024] SMCDT 6

Between

Singapore Medical Council

And

Dr Ooi Teik Huat

... Respondent

GROUNDS OF DECISION

Administrative Law – Disciplinary Tribunals

Medical Profession and Practice – Professional Conduct – Suspension from Register of
Medical Practitioners

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Singapore Medical Council

v

Dr Ooi Teik Huat

[2024] SMCDT 6

Disciplinary Tribunal – DT Inquiry No. 6 of 2024

Adj A/Prof Fung Shuen Sheng Daniel (Chairman), Dr Kwan Yew Seng, Ms Wong Peck
(Judicial Service Officer)

5 November 2024

Administrative Law – Disciplinary Tribunals

Medical Profession and Practice – Professional Conduct – Suspension from Register of
Medical Practitioners

29 November 2024

GROUNDINGS OF DECISION

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

Introduction

1. The Respondent, Dr Ooi Teik Huat, is a medical practitioner registered with the Singapore Medical Council (“SMC”), under the Medical Registration Act 1997 (“MRA”). It is undisputed that he has been a registered medical practitioner since 31 July 1979.
2. At all material times, the Respondent practices at The Civic Clinic which is located at 537 Bedok North Street 3, #03-515, Singapore 460537 (“the Clinic”). The Complainant is a long-time patient of the Respondent.

3. We outlined a brief summary of the background, and the relevant timelines as follows:

S/N	Date	Event
1	19 August 2020	Date of Complaint
2	8 October 2020	Service of Notice of Complaint on the Respondent
3	10 November 2020	The Respondent's letter of explanation in response to Notice of Complaint
4	23 September 2021	Complaints Committee's notification to the Respondent on referral to Disciplinary Tribunal ("DT")
5	24 July 2023	Notice of Inquiry served on the Respondent
6	25 August 2023	Letter from the Respondent's solicitors to SMC's solicitors asking for missing Schedules 1 and 2 referred to in first and second charges and documents referred to in SMC expert's report (" Missing Documents ")
7	30 August 2023	The Missing Documents furnished as per the request.
8	8 September 2023	First Pre-Inquiry Conference (" PIC ") where timelines given for DT Inquiry via Zoom hearing
9	23 April 2024	Second PIC where timelines given for DT Inquiry via correspondence
10	21 May 2024	Amended Notice of Inquiry filed after considering the Respondent's written representations.
11	18 June 2024	The Respondent's solicitors indicated in writing that the Respondent would be taking a certain course of action on the charges set out in the amended Notice of Inquiry

4. The Respondent pleaded guilty to three charges which are set out as follows:

- (a) **First Charge** - Inappropriately prescribing two benzodiazepines concurrently on each of the 15 occasions over an approximate period of 14 years to the patient

from 1 August 2004 to 1 February 2018 and these were Lexotan, Valium, Ativan, Nordaz, Xanax and Librax (“**Inappropriate Prescription Charge**”);

- (b) **Second Charge** - Repeated prescription of benzodiazepines and/or other hypnotics in the absence of clinical basis to do so and on occasions through the proxy of clinic assistant or nurse without a formal consultation and/or clinic assessment on at least 107 occasions to the patient over an approximate period of 17 years and 3 months from 5 September 2002 to 27 November 2019 (“**Inadequate Assessment Charge**”); and
- (c) **Fourth Charge** - Failing to refer the patient in a timely manner to an appropriate specialist for further management over an approximate period of 17 years and 3 months from 5 September 2002 to 27 November 2019 (“**No-Referral Charge**”).

5. The Respondent admitted to the Agreed Statement of Facts without qualification. The DT found the Respondent guilty of professional misconduct and convicted him of all three charges. The third charge was withdrawn. The Respondent was not traced for any antecedents.

6. The DT made the following orders:

- (a) the Respondent be suspended for eight (8) months (with the period of suspension to commence 40 days after the date of the DT’s decision);
- (b) the Respondent be censured;
- (c) the Respondent to submit a written undertaking to the SMC that he would not engage in the conduct complained of or any similar conduct in the future;
- (d) the Respondent to submit a written undertaking to complete further education and/or training in the management of persons with anxiety, depression and insomnia whenever the education/training sessions are available for the next 2 years, save where the Respondent may not be able to attend such education/training sessions due to reasons beyond his control; and

- (e) the Respondent to pay the costs and expenses of and incidental to these proceedings, including the costs of the SMC's solicitors, save for the costs of the supplementary expert report by the SMC's expert.

Submissions on sentencing

SMC's Submissions on Sentence

First Charge

7. For the first charge, the SMC submitted that the appropriate sentence was a suspension of 9 months.¹ This was because the level of harm should be categorized at higher end of slight. In brief, the basis for this submission was that the Respondent made concurrent prescriptions of two benzodiazepines on many occasions (15 occasions) over a long period of approximately 14 years. This represented a significant departure from the applicable guidelines and severely undermined the public confidence in the medical profession.
8. According to the SMC's expert, PE, the Respondent ought to have stopped treatment at an early stage, not beyond a two to four weeks period from the first prescription². By repeatedly making concurrent prescriptions of benzodiazepines, the Respondent had exposed the Complainant to a substantial serious harm. The PE had opined that there was a real risk of the Complainant developing dependency on the medications especially given the prolonged period of time.³ Similar observations were made in by the DT in *SMC v Dr Maninder Singh*⁴ ("**Maninder Singh**") and in *SMC v Dr Chew Yew Meng Victor*⁵ ("**Chew Yew Meng Victor**").
9. The SMC submitted that the duration of the offence had a bearing on the level of harm. This meant that the longer the duration of the offending, the higher the level of harm.

¹ SMC's submissions on sentencing at [32] to [39]

² PE's report at [28]

³ PE's report at [28]

⁴ [2023] SMCDT 6 at [33]

⁵ [2017] SMCDT 3 at [38]

Similarly, the higher the number of patients and number of occasions would result in higher level of harm.

10. The Complainant was a vulnerable patient in that he was elderly. He was 55 years old in 2004 during the first instance of concurrent prescription and 69 years old in 2018 during the last instance of concurrent prescription.
11. Although the period of offending was long and the patient was a vulnerable patient, the present case also involved one patient and the number of breaches was 15 occasions as compared to other similar cases which involved more patients and higher number of occasions of breaches. Therefore, it was submitted that the harm should be categorized as higher end of slight.
12. As for the culpability, the Respondent's culpability should be categorized at the higher end of medium to high. The Respondent in the present case offended for a far longer period than the Respondents in *SMC v Dr Tan Joong Piang*⁶ ("**Tan Joong Piang**") and *SMC v Dr Chia Kiat Swan*⁷ ("**Chia Kiat Swan**"). However, the present case involved one patient and fewer inappropriate prescriptions.
13. Therefore, with the level of harm being higher end of slight and the Respondent's culpability at higher end of medium to high, the applicable sentencing range was a suspension of 3 months to 2 years. Taking into account the above factors, the appropriate starting sentence for the first charge ought to be a suspension of 9 months.

Second Charge

14. For the second charge, the SMC submitted a suspension of 9 months. The Respondent repeatedly departed from the prescribed standards for at least 107 occasions over a long period of 17 years and 3 months. The medications involved in the offending conduct included seven (7) types of benzodiazepines. Therefore, the harm and culpability should be categorized as higher end of slight and higher end of medium to high respectively.

⁶ [2019] SMCDT 9

⁷ [2019] SMCDT 1

In *Tan Joong Piang*, the period of offending was 10 to 14 years and the DT found that the culpability to be high.

15. The higher the number of pills inappropriately prescribed would mean higher harm and culpability. The number of pills inappropriately prescribed in the present case was 4,975 over 107 visits. However, only one patient was involved here.
16. According to the PE, as the documentation for most of the consultations was scarce, the Respondent could not be said to have performed an adequate clinical evaluation of the Complainant prior to prescription of medication. In fact, the Complainant repeatedly obtained medication without need to see the Respondent. This meant that there was a blatant breach of the fundamental duty of a medical practitioner to assess a patient's medical condition before issuing a prescription. Here, the Complainant was assessed at intervals ranging from months to more than a year at times.
17. As the level of harm was at the higher end of slight and the culpability was at the higher end of medium to high, the applicable sentencing range would be suspension between 3 months up to 2 years. Taking the above factors into account, the appropriate sentence would be suspension of 9 months.

Fourth Charge

18. It was inappropriate for the Respondent to have been prescribed benzodiazepines and various types of benzodiazepines for a period of 17 years as this well exceeded the prescribed guidelines of a cumulative period of 8 weeks. If the Complainant was non-compliant with the advice to stop or reduce the intake of benzodiazepines, the Respondent ought to stop the medication and referred the Complainant to a psychiatrist which he failed to do so.
19. According to the Respondent, the Complainant had informed him that he could not function without Lexotan, the Respondent knew that the Complainant had some level of dependence on Lexotan. Yet, the Respondent still failed to make any referral. Further, the Complainant was a vulnerable patient as he was elderly.

20. The duration of offending period would have a bearing on the harm and culpability. In *Maninder Singh*, where the Respondent committed similar offences for a period of 7 years and 8 months to 13 years and 8 months, the DT assessed the harm and culpability to be Moderate and High respectively. However, *Maninder Singh* involved six patients of which three were elderly patients.
21. In *SMC v Dr Ling Chia Tien*⁸ (“*Ling Chia Tien*”), the DT opined that the applicable suspension period for a charge for failure to refer should be lower than the suspension period for improper prescription. So, in terms of period of suspension for failure to refer, the DT in *Ling Chia Tien* imposed a suspension period of 4 months and in *SMC v Tan Kok Jin*⁹ (“*Tan Kok Jin*”) the DT imposed a suspension of 3 months.
22. The SMC submitted that the harm and culpability in the present case should be categorized as slight and medium respectively. This would mean the applicable sentencing range would be suspension of 3 months to 1 year. This would be consistent with the sentences imposed in *Ling Chia Tien* and *Tan Kok Jin*.
23. For the final step, the SMC submitted that no weight should be placed on the Respondent’s plea of guilt as the evidence against the Respondent was overwhelming. This was because the offences were apparent from the medical records and it was impossible for the Respondent to dispute liability for the charges. In *SMC v Kwan Kah Yee*¹⁰ (“*Kwan Kah Yee*”), the Court of Three Judges at [68] opined that where the evidence against the Respondent was overwhelming, the DT should accord minimal weight to the Respondent’s plea of guilt.
24. According to the SMC, the Respondent’s seniority was an aggravating factor. This was the observation made by the DTs in both *SMC v Ang Peng Tiam*¹¹ (“*Ang Peng Tiam*”) and *Maninder Singh*.

⁸ [2023] SMC DT 7

⁹ [2019] SMC DT 3

¹⁰ [2015] SGHC 227

¹¹ [2017] SGHC 143

25. The SMC submitted that there was no inordinate delay in the prosecution of the matter. A discount in sentence for any delay in prosecution is not automatic or routine. All circumstances have to be scrutinized to determine if application of a discount is appropriate. This was opined by the Court of Three Judges in *SMC v Wee Teong Boo*¹² (“*Wee Teong Boo*”).
26. There was no delay as the present case involved a long period of over 17 years and many occasions as the Complainant attended at the Clinic at least 155 occasions. This was far longer than the previous cases of similar nature. So, more time was needed to investigate into each of the occasions. The Respondent also asked for a long adjournment on two occasions on broader similar grounds that is in their letters of 7 September 2023 (for 8 weeks) and 6 October 2023 (for 3 and a half months).
27. In the alternative, should the DT find that there is a delay in prosecution, at the highest, only a maximum one-third sentencing discount should be applied. In *SMC v Dr Chia Kiat Swan*¹³ (“*Chia Kiat Swan*”) where there was a delay period of 2 years and 9 months from time of issue of Notice of Complaint to service of Notice of Inquiry, the DT ruled that this amounted to an inordinate delay and a discounting sentence of one-third discount was accorded.
28. In the present case, the SMC sent the Notice of Complaint was on 8 October 2020. The Notice of Inquiry was served on the Respondent on 24 July 2023. This was a period of approximately of 2 years and 9 months. Therefore, only one third discount should be accorded.
29. In terms of the aggregate sentence, the SMC submitted that the second charge should run consecutively with the fourth charge. This was the approach taken in *Ling Chia Tien*. Finally, taking a last look, the aggregate sentence of 12 months was not crushing as it was not above the normal sentence imposed for similar cases of *Tan Kok Jin* and *SMC v Eugene Ung*¹⁴ (“*Eugene Ung*”). In *Tan Kok Jin*, a suspension of 12 months was imposed and in *Eugene Ung*, a suspension period of 10 months was imposed.

¹² [2023] SGHC 180

¹³ [2019] SMCDT 1

¹⁴ [2021] SMCDT 4

30. In summary¹⁵, the SMC submitted that the following sentences should be imposed:

Charge	Period of suspension	Status
First charge	9 months	Concurrent
Second charge	9 months	Consecutive
Fourth charge	3 months	Consecutive
Aggregate sentence: 12 months' suspension		

Respondent's Submissions on Sentence

Summary

31. In the written plea of mitigation, the Respondent submitted that the mitigation factors were as follows:

- (a) The Respondent had been prejudiced by an inordinate delay in the prosecution of the proceedings;
- (b) The Respondent acted in what he sincerely believed to be in the Complainant's best interests;
- (c) The Respondent had shown remorse and was unlikely to reoffend in the future;
- (d) The Respondent had made contribution in that he had mentored students; and
- (e) The Respondent suffered from ill health.

32. In *Ang Peng Tiam*, the Court of Three Judges recognized that the sentencing court/tribunal could exercise its discretion to discount the sentence provided that there is significant delay in prosecution, the delay has not been contributed in any way by the offender and the delay has resulted in real injustice or prejudice to the offender. According to the Respondent, there had been inordinate delay in the prosecution

¹⁵ SMC's sentencing submissions at [92]

because the three charges had been hanging over his head for over 4 years as the complaint was first served on him on 8 October 2020 and the Notice of Inquiry was served on him on 24 July 2023 but Schedules 1 and 2 referred to in first and second charges as well as documents referred to in the SMC's expert report were also not provided. On 30 August 2023, the missing documents were then provided pursuant to the Respondent's request of 25 August 2023. At the second PIC held on 23 April 2024, the DT laid down the timelines to move the DT Inquiry forward. Finally, the Amended Notice of Inquiry with the amended first, second and fourth charges were served on the Respondent pursuant to representations made by him.

33. Due to this delay, the Respondent submitted that a 50% reduction in sentence would be appropriate.
34. The Respondent claimed that he had acted in the Complainant's best interests. The Respondent's view was that low-dose benzodiazepine maintenance was an appropriate management option as the Complainant belonged to a group of patients who could benefit from the long-term maintenance therapy. This was the Respondent's view based on his interpretation of the guidelines. Other than serving the community, the Respondent had made sincere efforts to help the Complainant to continue with his life. For over 30 years, the Respondent had acted out of genuine care and concern for the Complainant.
35. The Respondent gave the assurance that he would not re-offend and would be vigilant in managing patients with anxiety, depression and sleeping disorders. He would also comply with prevailing guidelines.
36. In order to help young people achieve their potential, the Respondent had been mentoring young medical students. Some had even become specialists. He had also sponsored a young patient for his medical studies in Australia.
37. The Respondent was in ill health in that he was diagnosed with cancer in 2021. The current proceedings had added greatly to his stress and anxiety.

38. In light of these mitigating factors, the Respondent submitted that the appropriate sentence should be¹⁶:
- (a) A fine of up to \$100,000;
 - (b) The Respondent to undertake and complete further education and/or training in the management of persons with anxiety, depression and insomnia whenever the education/training sessions are available for the next 2 years save where the Respondent may not be able to attend such education/training sessions due to reasons beyond his control;
 - (c) A censure; and
 - (d) Provision of a written undertaking to abstain in future from the conduct complained of.
39. The applicable sentencing framework was the 4-step framework laid down in *Wong Meng Hang v SMC* [2019] 3 SLR 526. The Respondent emphasized that the present case only entailed one patient as compared to the precedent cases cited which related to multiple patients.
40. A summary of the interaction between the Respondent and the Complainant was provided¹⁷. The Respondent tried to taper the Complainant off benzodiazepines after 2 months. For the next 2 months, the Respondent totally stopped the prescription of Lexotan. On the third month, the Complainant saw the Respondent and informed the latter that he could not function without it and refused a referral to a psychiatrist. The Respondent was under the impression that the patient did not really fulfill the conditions necessary for the referral.

¹⁶ Respondent's sentencing submissions at [4]

¹⁷ Respondent's sentencing submissions at [18]

First Charge

41. The Respondent submitted that the harm caused was in the slight range as it involved only one patient and the treatment allowed the Complainant to function in his life. The gravamen of this charge pertained to the concurrent prescription of two benzodiazepines and not general non-compliance with the various aspects of the 2016 SMC's Ethical Code and Ethical Guidelines and/or the applicable Benzodiazepine Guidelines. The offence related to the very specific offence of concurrent prescription of two benzodiazepines on 15 occasions over a period of 14 years. There was also no evidence of actual harm caused to the Complainant although the Complainant claimed that he became addicted to Lexotan.
42. The Respondent also acknowledged that the prescription was not continuous over 14 years as it was for 15 occasions so it was for short-term use necessary for the Complainant to function better. The doses prescribed were low and the Complainant was advised to take the medication when necessary.
43. Hence, the level of harm was lower in the present case as compared with the cases of *Maninder Singh* (involving seven patients), *Tan Joong Piang* (involving six patients) and *Chia Kiat Swan* (involving four patients) where the respective DTs had classified that level of harm as moderate. Here, it should be slight harm.
44. As for culpability¹⁸, it should be low as there was only one patient involved in the present case. The Complainant was not the easiest patient to manage as he was impatient, short-tempered and strong-minded. The prescriptions were made without improper financial gain. The Respondent initially waived his consultation fees as the Complainant was a cousin of the Respondent's former nurse and began charging the Complainant a consultation fee of \$10 after more than 30 years. The consultation fee was \$20 only when the Complainant had other complaints. According to the Respondent, there was therefore no motive to obtain improper financial gain. In 2020, the Respondent had increased the price of Lexotan to dissuade the Complainant from taking the medication as the Respondent knew that the Complainant was price

¹⁸ Respondent's sentencing submissions at [43] to [52]

conscious. The Respondent's intent was to genuinely attempt to help the Complainant to function in his life.

45. The present case should be distinguished from the cases of *Ling Chia Tien* and *Tan Kok Jin* as both medical practitioners inappropriately prescribed medication for 11 patients whereas the Respondent did so only for one patient. So in *Ling Chia Tien* and *Tan Kok Jin*, the respective DTs determined the culpability to be medium. Similarly for *Eugene Ung*, the DT determined the culpability to be medium as 13 patients were inappropriately prescribed medication.
46. As the harm was slight and the culpability was low, the appropriate starting point was a fine. Therefore, the Respondent submitted that a fine of up to \$80,000 as well as an order or restriction be imposed on his practice in that the Respondent was to attend further education as outlined above.
47. When applying Step 4 of the framework, since there was inordinate delay as outlined above, a 50% reduction in sentence was to be applied. Here, the issuance of Notice of Complaint and the Notice of Inquiry was 3 years and 7 months and the Respondent had the matter hanging over his head for over 4 years. The discounts were applied in the following cases:
 - (a) *Eugene Ung* - 50% reduction in sentence was applied as there was a delay of 3 years and 2 months from the Notice of Complaint to service of Notice of Inquiry.
 - (b) *Jen Shek Wei v SMC*¹⁹ - 50% reduction was given as there was a delay of nearly 3 years from issuance of Notice of Complaint to issuance of Notice of Inquiry.
 - (c) *Tan Kok Jin* - 50% reduction in sentence as there was a delay of 3 years and 10 months from service of the Notice of Complaint to Notice of Inquiry.

¹⁹ [2018] 3 SLR 943

(d) *Ling Chia Tien* - One-third reduction as the Notice of Inquiry was issued 3 years and 1 month from date of the first Notice of Complaint and 1 year and 4 months from the date of service of the second Notice of Complaint.

48. Applying a 50% reduction in sentence, the Respondent submitted that a fine up to \$40,000 as well as order or restriction for further education be imposed for the first charge.

Second Charge

49. For the second charge, the Respondent also submitted that the harm was slight and the culpability was low for same reasons as stated earlier. Although the Respondent acknowledged that he did not conduct a clinical review before further prescribing the Complainant with benzodiazepines, it was because the Complainant was a difficult patient and would often be resistant to seeing the Respondent when the former had no complaints to report.

50. The Respondent claimed that he would observe the Complainant across the counter in the one-way mirror and listen in on the Complainant's discussions with the clinic assistants. The clinic assistants would still consult the Respondent for his approval when it would appear that the Complainant had not consulted the Respondent. According to the Respondent, this was a form of monitoring.

51. Therefore, the appropriate sentence should be a fine. The appropriate starting point was a fine of up to \$80,000. Similarly, as with the first charge, a 50% reduction should be applied, resulting in a fine of up to \$40,000.

Fourth Charge

52. The Respondent submitted that the harm was slight and his culpability low for this charge. He claimed that he tried to refer the Complainant to a psychiatrist but the Complainant would turn down the referral and often told the Respondent that he would consider next time. The Respondent accepted that such instances of attempted referral were not documented. The doses prescribed were of low dosage.

53. Given that the harm was slight and the culpability was low, the appropriate starting point was a fine not amounting to suspension. It was submitted that it should be a fine up to \$40,000. In *Tan Kok Jin*, the DT observed that a prescription charge was “more aggravated” than a referral charge and decision was to impose a shorter suspension period of 3 months for the referral charge²⁰.
54. Similarly with the other two charges, a 50% reduction should be applied so a fine of up to \$20,000 should be imposed.
55. In summary, the following sentences were submitted for consideration:

Charge	Starting point	Sentence after discount
First charge	Fine up to \$80,000	Fine up to \$40,000
Second charge	Fine up to \$80,000	Fine up to \$40,000
Fourth charge	Fine up to \$40,000	Fine up to \$20,000
Total fine		\$100,000

56. In addition, the Respondent was to be subjected to an undertaking to complete further education and/or training in the management of persons with anxiety, depression and insomnia whenever the education/training sessions were available for the next 2 years, save where the Respondent might not be able to attend due to reasons beyond his control. Also, the Respondent be censured and the Respondent was to provide an written undertaking to abstain in future from the conduct complained of.
57. Rehabilitation would be achieved by placing the order on the Respondent’s further education. He was remorseful and unlikely to re-offend which militated against a deterrent or retributive sentence.

DT’s Decision on the Appropriate Sentence

General sentencing approach

²⁰ Respondent’s sentencing submissions at [83]

58. The prescribed punishment under section 53(2) and (5) of the MRA for the charges includes:
- (a) removal of the name of the registered medical practitioner from the appropriate register.
 - (b) order of suspension from practice for a period of not less than 3 months and not more than 3 years.
 - (c) order of penalty not exceeding \$100,000.
 - (d) written censure of the registered medical practitioner.
 - (e) order of undertaking given by the registered medical practitioner to abstain in future from the conduct complained of.
 - (f) order the registered medical practitioner to pay the Medical Council such sums as the DT thinks fit in respect of costs and expenses of and incidental to any proceedings before the DT.
59. In considering the appropriate sentence to be meted out in the present case, we were guided by the established precedents as well as the Sentencing Guidelines for Singapore Medical Disciplinary Tribunals published on 15 July 2020 (“**the Sentencing Guidelines**”). We adopted the two-step sentencing approach; namely, to determine the appropriate individual sentence for each charge and thereafter, calibrate the overall sentence to ensure proportionality.
60. As the Respondent pleaded guilty to three charges, we applied the 4-step sentencing framework in *Wong Meng Hang* to decide the individual sentences for each charge. We held the view that deterrence was the main sentencing principle in this case.
61. The appropriate sentencing framework is set out in the Court of Three Judges decision of *Wong Meng Hang*. In Step 1, the DT determines the level of harm caused to the

Complainant and the level of culpability of the Respondent in order to evaluate the seriousness of the offences.

62. For “harm”, it refers to the type and gravity of the harm or injury caused to the patient and to society by the commission of the offence²¹. Harm can take various forms and regard may also be had to the potential harm that could have resulted from dangerous acts of misconduct, even if it did not actually materialize on the given facts. When assessing potential harm, both (i) the seriousness of the harm risked; and (ii) the likelihood of the harm arising should be considered. Potential harm should be taken into account only if there was a sufficient likelihood of the harm arising²².
63. As for “culpability”, this refers to the degree of blameworthiness disclosed by the misconduct of the Respondent.²³ This may be assessed by reference to the extent and manner of the offender’s involvement in causing the harm, the extent to which the offender had departed from standards reasonably expected of the medical practitioner, the offender’s state of mind when committing the offences and the circumstances surrounding the commission of the offences.
64. The non-exhaustive factors when assessing the level of culpability are²⁴:
 - (a) The doctor’s mind.
 - (b) The extent of premeditation and planning involved, including the lengths to which the doctor went to cover up his or her misconduct.
 - (c) Whether the doctor was motivated by financial gain, and the extent of profits gained by that doctor from his or her breach.
 - (d) The extent of departure from the standard of care or conduct reasonably expected of a medical practitioner.

²¹ *Wong Meng Hang* at [30]

²² Sentencing Guidelines at [50]

²³ *Wong Meng Hang* at [30]

²⁴ Sentencing Guidelines at [53]-[54]

- (e) The extent and manner of the doctor’s involvement in causing the harm.
- (f) Whether the treatment was an appropriate management option, and within the doctor’s area of competence.
- (g) The extent to which the doctor failed to take prompt action when patient’s safety or dignity was compromised.
- (h) The urgency of the situation.
- (i) The duration of the offending behaviour, having regard to the circumstances underlying the continuance of the offending conduct.
- (j) The extent to which the doctor abused his or her position of trust and confidence.

65 For Step 2, the DT identifies the applicable indicative sentencing range based on the level of harm and culpability in Step 1. In *Wong Meng Hang*, the following sentencing matrix was endorsed:

Harm Culpability	Slight	Moderate	Severe
Low	Fine or other punishment not amounting to suspension	Suspension of up to 1 year	Suspension of 1 to 2 years
Medium	Suspension of 3 months to 1 year	Suspension of 1 to 2 years	Suspension of 2 to 3 years
High	Suspension of 1 to 2 years	Suspension of 2 to 3 years	Suspension of 3 years or striking off

66. In Step 3, the DT identifies the appropriate starting point within the indicative sentencing range. To do so, the DT should take into account the level of harm caused by the misconduct and the level of culpability of the Respondent. Previous similar cases should also be considered by the DT.
67. For the final step which is Step 4, the DT will adjust the starting point to take into account offender-specific factors such as those factors that may be aggravating or mitigating in order to derive at an appropriate sentence.
68. In cases where an order of suspension is warranted, this will commonly be paired by other punishments or fine including a fine, censure or the requirement of an undertaking to be furnished²⁵.

First charge

69. After considering the submissions made by parties, we were of the view that the level of harm was higher end of slight. Although there was only one patient involved in the charge and there was no evidence of actual harm caused, the SMC's expert, the PE, opined that by prescribing the medication over a long period of approximately 17 years, the Respondent had exposed the Complainant to significant substantial harm. This was because such a long period would mean that there was a real risk of the Complainant developing dependency on the medications. We found such an opinion to be valid as the Complainant had informed the Respondent that he required the medication to get on with life. The Respondent had also stated that he continued prescribing Lexotan because the Complainant needed it to get on with life.
70. The Respondent claimed that although the offending conduct was for 17 years, it was only for 15 occasions and the dosages were low. We found that the entire duration of 17 years mattered as it meant that the risk of developing a dependency became more likely as opined by the PE.

²⁵ *Wong Meng Hang* at [34]

71. As rightly pointed out by the SMC, the patient was 55 years old when he was given the first prescription of benzodiazepines and was 69 years old when he was given the last prescription. Hence, the Complainant was a vulnerable patient. In *Tan Joong Piang*²⁶, a patient of 57 years was considered to be a vulnerable patient. It is recognized that the elderly are a particularly vulnerable group of patients. This is reflected in the Guidelines for Prescribing Benzodiazepines issued by the Ministry of Health (“MOH”) on 17 August 2002 at paragraph 6(2)(c) (“**2002 GPB**”) which is reproduced below:

“(c) Central Nervous System (CNS) symptoms in the elderly

The elderly are especially vulnerable to the adverse effects of hypnotic drugs and are more susceptible to CNS depression, confusion and ataxia, leading to falls and fractures. They are also sensitive to respiratory depression and prone to sleep apnoea and other sleep disorders.”

72. In *Chia Kiat Swan*, the offending behaviour related to four patients and were for time periods of 7 years and 2 months to 11 years and 8 months. In *Tan Joong Piang*, the offending behavior related to six patients and were for time periods ranging from 10 years and 1 month to 14 years and 2 months. In those cases, the number of patients involved was more than one patient. The DTs in *Chia Kiat Swan* and *Tan Joong Piang* classified the harm as moderate.
73. In the present case, the offending conduct was also very long for a period of 14 years but the offending conduct involved one patient. With this in mind, we assessed the harm as higher end of slight.
74. As for culpability, we assessed the culpability as medium. In the present case, the period of wrongdoing on the part of the Respondent was clearly very long and for 15 occasions. This showed that the Respondent had a flagrant disregard of the applicable guidelines. We agreed with the SMC that the Respondent’s seniority in that he has been a registered medical practitioner since 31 July 1979, was an aggravating factor. A similar observation was made in *Ang Peng Tiam*, *Maninder Singh* and *Wee Teong Boo*. The Respondent claimed that the Complainant was a difficult patient. But the Respondent also acknowledged that he could have done more to manage the Complainant’s difficult behavior by being firmer with the Complainant. Instead, the

²⁶ *Tan Joong Piang* at [38]

Respondent appeared to choose to merely avoid confrontation with the Complainant by acceding to the latter's requests for more benzodiazepines for many years, well beyond the recommended period.

75. There was no evidence that the Respondent had a clear treatment plan for the Complainant that was in compliance with the prevailing guidelines. The Respondent had acknowledged that his management was not in compliance with a number of applicable guidelines²⁷. These were the 2002 GPB, 2008 Clinical Practice Guidelines on Prescribing of Benzodiazepines by MOH (“**2008 CPG**”) and 2008 Administrative Guidelines on the Prescribing of benzodiazepines and other Hypnotics issued by the Director of Medical Services, Prof K Satku on 14 October 2008. Instead, the Respondent sought to explain that he was confused about the guidelines. If the Respondent had been confused, he could have sought clarification with the MOH on the guidelines but he did not do so.
76. We noted that in *Eugene Ung* and *Tan Kok Jin*, the level of culpability was classified as medium. In *Eugene Ung*, the inappropriate prescriptions involved 13 patients with the offending period ranging from 1 year and 7 months to 3 years and 2 months. In *Tan Kok Jin*, the Respondent was charged with inappropriate prescriptions involving 11 patients. The period of offending ranged from 1 year and 4 months to 2 years and 9 months. The periods of offending in those two cases were shorter than the duration in the present case. The present case involved only one patient but the period of offending was far longer for a period of 14 years.
77. As we had found that the level of harm was higher end of slight and the culpability was medium, the applicable sentencing range was a suspension of 3 months to 1 year. As we had assessed the harm and culpability of the level of slight and medium respectively, the appropriate starting point was 9 months. We noted that in *Ling Chia Tien* where the Respondent pleaded guilty to five charges including those for inappropriate prescription of benzodiazepines, the Respondent was given a sentence of 11 months where he prescribed low doses of benzodiazepines for periods ranging from 2 months to 1 year and 9 months.

²⁷ Respondent's sentencing submissions at [24]

78. We did not find the points raised in the Respondent’s mitigation plea and in his personal mitigation²⁸ to be particularly mitigating except for the point relating to delay in prosecution. We were of the view that a discount should be given for the delay in prosecution. In *Ang Peng Tiam*, it was recognized that the court or tribunal could exercise its discretion to discount the sentence if the following conditions were met:
- (a) There has been a significant delay in prosecution;
 - (b) The delay has not been contributed in any way by the offender; and
 - (c) The delay has resulted in real injustice or prejudice to the offender.
79. In the present case, we found that there was significant delay in the prosecution. Although the Notice of Complaint was served on 8 October 2020 and the Respondent had provided his explanation in November 2020, the Notice of Inquiry was only served on the Respondent on 24 July 2023. This was a delay of 2 years and 9 months. The Respondent indicated on 18 June 2024 that he was intending to plead guilty to three charges. The Respondent did not contribute to the delay in the prosecution of the matter. From 30 August 2023 to 23 April 2024, the Respondent was considering the charges against him which he was entitled to do so.
80. Although the Respondent could still carry on with his medical practice, we accepted the Respondent’s submissions that he suffered considerable stress and anxiety from having the matter outstanding.
81. As for the amount of discount accorded in other cases, we outlined several of them below which showed that a discount of one third or half was given:
- (a) *Chia Kiat Swan* - a delay of 2 years and 8 months from issuance of Notice of Complaint to the service of the Notice of Inquiry resulted in one-third discount.

²⁸ Respondent’s personal mitigation marked and admitted as “R1”.

- (b) *Tan Joong Piang* - a delay of 2 and half years resulted in one-third discount.
- (c) *Ling Chia Tien* - a delay of 1 year and 4 months from date of service of second Notice of Complaint to service of Notice of Inquiry resulted in one-third discount.
- (d) *Eugene Ung* - a delay of 3 years and 2 months resulted in 50% discount.
- (e) *Tan Kok Jin* - a delay of 3 years and 10 months resulted in 50% reduction.

82. On balance, we took into account the various aggravating and mitigating factors, we did not think it was necessary to make further adjustments to the starting point of 9 months apart from the one-third discount for the delay in prosecution. This resulted in the imposition of 6 months' suspension for the first charge.

Second Charge

83. For this charge, we assessed the harm to be higher end of slight and the culpability to be medium. There was no clear clinical basis for the prescriptions as the Respondent ought to have known after such a prolonged period of prescription, there should be a proper assessment conducted as to the need for such medication given that there was a real risk of dependency being developed. This was a grave departure from the standards of practice expected from a medical practitioner.

84. The Respondent acknowledged that there were occasions where he did not conduct a clinical review before further prescribing the Complainant with benzodiazepines.²⁹ The Respondent claimed at times, he would observe the Complainant through a one-way mirror and his nurses would seek his approval if the Complainant had not seen the Respondent for consultation. We found such explanations to be unacceptable in that the fact remained that there was no proper assessment conducted by the Respondent prior to further prescriptions being made.

²⁹ Respondent's sentencing submissions at [69]

85. Further, the number of occasions when the breach occurred was 107 occasions which we considered to be a high number although it pertained to one patient. The period when visits were made by the Complainant spanned 17 years from 2002 to 2019. In *Tan Joong Piang*, the culpability was found to be high by the DT when it involved six patients, and the offending period was for 10 to 14 years.
86. Applying the sentencing range as stated in *Wong Meng Hang*, the appropriate starting point was 3 months to 1 year of suspension. Taking the above factors into consideration as well as the precedent case outlined above, the appropriate starting point was 9 months' suspension. Similarly, a one third discount for the delay in prosecution should be accorded to this sentence so the sentence for this charge was 6 months' suspension.

Fourth Charge

87. For the fourth charge, we assessed the harm to be slight and the culpability to be medium. The Respondent claimed that the Complainant was resistant to a referral to a psychiatrist. However, as acknowledged by the Respondent, there was no documentation of such referrals except for 18 October 2011 which the Respondent claimed was done.³⁰
88. We found that the Respondent should have taken a firm approach to dealing with the Complainant as regards the referral as the former knew the risks of long-term consumption of benzodiazepines. There was a clear departure from the standards stated in the guidelines which was not to prescribe benzodiazepines for more than a cumulative 8 weeks and the Complainant was not compliant with the Respondent's advice or warning to reduce intake of benzodiazepines. As the Complainant had already reported to him of his reliance on benzodiazepines, the Respondent ought to know that the Complainant was likely to be dependent on benzodiazepines.
89. What was aggravating was that the Respondent far exceeded the period of 8 weeks. For Lexotan prescribed by the Respondent, referral ought to have been made in 2008.

³⁰ Respondent's sentencing submissions at [78]

Instead, the situation continued till the Complainant's last visit on 27 November 2019³¹. We noted that the SMC's expert, PE had made the observation that it was inappropriate for the Respondent to prescribe benzodiazepines for a period of 17 years in total. As stated earlier, the Complainant was an elderly patient.

90. In *Tan Kok Jin*, the DT imposed a suspension of 3 months for the Respondent's failure to refer his patient when required to do so. In *Ling Chia Tien*, the DT imposed a suspension period of 4 months for a similar offence. In both cases, the harm and culpability were categorized as slight and medium respectively.
91. Applying the *Wong Meng Hang* sentencing framework, the appropriate starting range was suspension of 3 months to 1 year. We agreed with the SMC's submissions that the appropriate sentence was 3 months' suspension for this charge.
92. Similarly, a one third discount for the delay in prosecution should be accorded to this sentence so the sentence for this charge was 2 months' suspension.

Aggregate sentence

93. We agreed with the SMC that it would be reasonable to have the second charge to run consecutive with the fourth charge. This would result in a suspension of 8 months for the Respondent. Our view was that such an aggregate sentence would be proportionate with the overall culpability of the Respondent.
94. This sentence would be comparable with the sentences meted out in precedent cases. In *Eugene Ung* and *Tan Kok Jin* where harm was classified as slight and culpability as medium, the sentences were 10 months' suspension and 12 months' suspension. This was because they faced a greater number of charges involving more patients.
95. We considered that it was appropriate to accompany the above sentence with the usual order of censure and undertaking. In view of the Respondent's willingness to undergo rehabilitation, we felt that adding this component into the undertaking allows that while

³¹ SMC's sentencing submissions at [51 b] to [51c]

deterrence remains the primary consideration in sentencing to uphold professional standards and protect public trust, the principle of rehabilitation allows for the respondent to address and improve professional conduct to prevent future breaches. As for costs, we also regarded it appropriate to order costs and expenses of and incidental to these proceedings including the costs of the SMC's solicitors to be paid by the Respondent, save for the costs of the supplementary expert report by the SMC's expert.

Conclusion

96. Accordingly, this Tribunal orders that:
- (a) The Respondent be suspended from practice for a period of **eight (8) months**;
 - (b) The Respondent be censured;
 - (c) The Respondent submits a written undertaking to the SMC that he will not engage in the conduct complained of or any similar conduct in the future;
 - (d) The Respondent submits a written undertaking to complete further education and/or training in the management of persons with anxiety, depression and insomnia whenever the education/training sessions are available for the next 2 years, save where the Respondent may not be able to attend such education/training sessions due to reasons beyond his control; and
 - (e) The Respondent pays the costs and expenses of and incidental to these proceedings, including the costs of the solicitors to the SMC, save for the costs of the supplementary expert report by the SMC's expert.
97. It is further ordered that the period of suspension is to commence 40 days after the date of the order herein as this would have taken into account the time frame for parties to appeal and for the Respondent to settle any outstanding matters before commencing his suspension.

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

Adj A/Prof Fung Shuen Sheng Daniel
Chairman

Dr Kwan Yew Seng

Ms Wong Peck
Judicial Service Officer

Mr Edwin Chia
(M/s CNPLaw LLP)
for Singapore Medical Council; and

Ms Vanessa Lim and Ms Joie Tan
(M/s Dentons Rodyk & Davidson LLP)
for Dr Ooi Teik Huat