IN THE REPUBLIC OF SINGAPORE

SINGAPORE MEDICAL COUNCIL DISCIPLINARY TRIBUNAL

[2024] SMCDT 4

Between

Singapore Medical Council

And

Dr Wong Yoke Meng

... Respondent

GROUNDS OF DECISION

Administrative Law – Disciplinary Tribunals

Medical Profession and Practice – Professional Conduct – Professional misconduct under section 53(1)(*c*) Medical Registration Act (Cap. 174, 2014 Rev Ed)

Medical Profession and Practice – Professional Conduct – Suspension and Fine

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Singapore Medical Council
v
Dr Wong Yoke Meng

[2024] SMCDT 4

Disciplinary Tribunal – DT Inquiry No. 4 of 2024
Dr Tham Tat Yean (Chairman), Dr Kwan Yew Seng, Ms Thian Yee Sze (Judicial Service Officer)
8 December 2021, 7 February 2023, 16 June 2023, 21 August 2023 and 26 February 2024

Administrative Law – Disciplinary Tribunals

Medical Profession and Practice – Professional Conduct – Professional misconduct under section 53(1)(*c*) Medical Registration Act (Cap. 174, 2014 Rev Ed)

Medical Profession and Practice – Professional Conduct – Suspension and Fine

14 August 2024

GROUNDS OF DECISION

1 The Respondent, Dr Wong Yoke Meng, ("**Dr Wong**"), claimed trial before the Disciplinary Tribunal ("**the DT**") to two charges under section 53(1)(*c*) of the Medical Registration Act (Cap 174, 2014 Rev Ed) ("**the Act**") for improper acts or conduct which brought disrepute to the medical profession.

2 After considering all the facts and evidence tendered, as well as the respective submissions of the parties, the DT found Dr Wong guilty of both charges, and suspended him for a period of six months in respect of one charge ("**the 1st Charge**"), and imposed a penalty of $36,000 in respect of the other charge ("**the 2nd Charge**"). We now set out the full grounds of our decision.

The charges

3 Dr Wong has been registered as a medical practitioner with the Singapore Medical Council ("**SMC**") since 28 April 1973. He was also a registered medical practitioner on the General Register of the Medical Council of Hong Kong ("**MCHK**") during the relevant period between 2015 and 2020[1].

4 By way of the Notice of Inquiry By Disciplinary Tribunal (Amendment No. 2) dated 14 March 2022 ("**Notice of Inquiry**"), two charges were preferred against Dr Wong[2]. The 1st Charge related to the false declarations which were allegedly knowingly made by Dr Wong in his applications to renew his Practising Certificate ("**PC**") in 2015 and 2017. The 2nd Charge arose from the finding of guilt by the Inquiry Panel of the MCHK against Dr Wong for professional misconduct, which in turn formed the basis of the charge before this DT for an improper act or conduct under section 53(1)(*c*).

1st Charge

5 According to the particulars of the 1st Charge read with Annex A to the Notice of Inquiry, pharmacists from the Department of Health of the Hong Kong Special Administrative Region ("**HKSAR**") visited Dr Wong's clinic in HKSAR on 22 May 2014 for a dangerous drug inspection. Investigations revealed that the dangerous drug registers which he kept were non-compliant with the statutory requirements under the Dangerous Drugs Regulations of the Dangerous Drugs Ordinance ("**DDR**"). The non-compliance was in relation to five types of dangerous drugs (Rivotril tablets, Rivotril drops, Xanax tablets, Diazemuls injections and Silence tablets) and involved, *inter alia*, missing information of the identity and other personal particulars of the patients, missing entries for the drugs obtained from suppliers and incorrect quantities of the drugs being recorded. Dr Wong was charged and convicted on his plea of guilt at the HKSAR Eastern Magistrates' Courts on 17 November 2014 of five counts of the offence of failing to keep a Register of Dangerous Drugs in the specified form, an offence under Regulations

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1 See the Agreed Statement of Facts (ASOF-1 – 14) at [1].

2 See the Agreed Bundle of Documents (ABOD-1 – 178) at ABOD-2 – 21.

5(1)(a) and 5(7) of the DDR, and fined a sum of HKD10,000 ("**the Hong Kong convictions**").

6 Against this backdrop, Dr Wong was charged for failing to declare the Hong Kong convictions on two occasions:

(a) 6 October 2015 – when renewing his PC, he knowingly made a false declaration that he had not been convicted or been the subject of an inquiry or of an investigation by any professional body, licensing, health authority or the police in Singapore or elsewhere, the subject matter of which may form the basis of professional misconduct or amount to improper conduct which may bring disrepute to the medical profession; and

(b) 7 September 2017 – when renewing his PC, he knowingly made a false declaration that he had not been convicted by any professional body, tribunal or court of law, whether in Singapore or elsewhere, of any offences.

7 The particulars of the 1st Charge further provided that Dr Wong knowingly failed to declare the following despite him knowing at the time of the declarations that he had already been convicted and sentenced in respect of the Hong Kong convictions:

(a) That Dr Wong did not provide details of the Hong Kong convictions to the SMC in his 2015 PC renewal application on 6 October 2015; and

(b) That Dr Wong answered "No" in response to the question on whether he had been convicted by any professional body, tribunal or court of law, whether in Singapore or elsewhere, of any offences which he had not disclosed to the SMC in his 2017 PC renewal application on 7 September 2017.

2nd Charge

8 Dr Wong was charged for such improper acts or conduct which brought disrepute to the medical profession within the meaning of section 53(1)(*c*) arising out of the following facts as particularised in the Notice of Inquiry:

(a) Dr Wong faced one charge under section 21(1)(b) of the Medical Registration Ordinance ("**MRO**") relating to his failure to report to the MCHK that he had been convicted by the Subordinate Courts of Singapore of offences punishable with imprisonment, and that he had been the subject of adverse findings in disciplinary proceedings by other professional regulatory bodies, within 28 days from the convictions and the adverse disciplinary findings, contrary to section 29.1 of the MCHK Code of Professional Conduct published in January 2009.

(b) The Inquiry Panel of the MCHK found him guilty of professional misconduct as per the said charge on 21 January 2020 and ordered that a warning letter be issued to Dr Wong.

9 We noted that while the grounds of decision of the Inquiry Panel of the MCHK in Annex B to the Notice of Inquiry covered two other disciplinary charges, for which a global order that Dr Wong's name be removed from the General Register for a period of 12 months was imposed, with the said removal order suspended for a period of 36 months, the relevant disciplinary charge brought by the MCHK for our purposes was only that set out in [0] above.

The facts

Circumstances leading up to the 1st Charge

10 In his PC renewal application which he submitted on 14 October 2019[3], Dr Wong declared "Yes" to the following question:

> Have you been convicted by any professional body, tribunal or court of law, whether in Singapore or elsewhere, of any offences (excluding convictions under the Medical Registration Act of Singapore which SMC is already aware of) which you have not disclosed to SMC?

11 He also provided the following information in response to that question:

> Medical Council of Hong Kong. Failing to keep a Register of Dangerous Drugs in the specified form. Disciplinary Inquiry of hearing on 30th July 2019 in conclusion to permitted practice as of now because his removal order is

[3] At ABOD-62.

> suspended. However, if he found to have breached any of the above condition, the removal order will no longer be suspended and his name will be removed from the General Register for 2 months.

12 The disciplinary inquiry hearing on 30 July 2019 stated by Dr Wong in his declaration referred to that conducted by the Inquiry Panel of the MCHK as a result of the Hong Kong convictions, pursuant to which his name was ordered to be removed from the General Register for 2 months, the operation of which was suspended for 12 months on the condition that he completed a satisfactory peer audit[4]. The details of the disciplinary hearing (at Annex A to the Notice of Inquiry) were provided by Dr Wong later via email upon the request of the SMC.

13 Following further email exchanges between Dr Wong and the Accreditation Division of the SMC, the latter emailed Dr Wong on 26 December 2019 to inform him that his PC renewal application was held in abeyance until further information of the Hong Kong convictions were obtained and that the SMC would "inform (him) of the outcome after we have reviewed your application with the information from the courts/medical authority in Hong Kong"[5]. After another series of email exchanges, the Accreditation & CPE Division of the SMC informed Dr Wong on 18 February 2020 of the SMC's decision to issue him with a PC for 12 months[6]:

> 1. We refer to your application dated 14 Oct 2019 for the renewal of your Practising Certificate ("PC") and further supporting documents i.e. the Eastern Magistrates Court's charge case submitted on 9 Jan 2020. The Singapore Medical Council ("SMC") has carefully considered and decided to issue you with a PC for 12 months.
>
> 2. As you have submitted a renewal application for a 2-year PC (application no. SMC-20191004-0160-PCR), we will withdraw this application. Please login to SMC website to apply for 1-year full fee PC. Thereafter, we will proceed to refund the 2-year PC fee.

14 Following from the above declaration made in his PC renewal application on 14 October 2019, the SMC noted that Dr Wong had failed to declare the Hong Kong convictions in his 2015 and 2017 PC renewal applications[7]. Dr Wong did not deny this[8].

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4 See Annex A to the Notice of Inquiry at ABOD-8 – 13.
5 At ABOD-99.
6 At ABOD-96.
7 See the letter from the SMC to the Chairman of the Complaints Panel dated 16 June 2020 at [1] at ABOD-23.
8 At [5] of ASOF.

15 In his 2015 PC renewal application which he submitted on 6 October 2015[9], Dr Wong declared "Yes. MOH – Ref: 50: 10/12-410 SMC – Ref: 40.7/2015-105" to the following question:

> Since your last declaration, have you been convicted or been the subject of an inquiry or of an investigation by any professional body, licensing, health authority or the police in Singapore or elsewhere, the subject matter of which may form the basis of professional misconduct or amount to improper conduct which may bring disrepute to the medical profession?

16 The reference numbers stated in the declaration pertained to separate ongoing investigations conducted by the Ministry of Health ("**MOH**") and the SMC at the time. The letter from MOH requesting an explanation in MOH Ref: 50: 10/12-410 was dated on or around 3 March 2015, while the Notice of Complaint from the SMC in SMC Ref: 40.7/2015-105 was dated on or around 12 Aug 2015[10].

17 In his 2017 PC renewal application which he submitted on 7 September 2017[11], Dr Wong declared "No" to the following question:

> Have you been convicted by any professional body, tribunal or court of law, whether in Singapore or elsewhere of any offences (excluding convictions under the Medical Registration Act of Singapore which SMC is already aware of) which you have not disclosed to SMC?

Circumstances leading up to the 2nd Charge

18 According to the SMC's letter to the Chairman of the Complaints Panel dated 16 June 20203[12], on 4 May 2020, Dr Wong provided details of another disciplinary matter before the MCHK when the SMC sought clarification on his PC renewal application. This involved an ongoing proceeding with the MCHK for failing to report to the MCHK of his various SMC disciplinary proceedings and criminal conviction in Singapore between 2010 and 2015. This led to the disciplinary inquiry before the Inquiry Panel of the MCHK on 21 January 2020 mentioned in [0] and [9] above. We have detailed below the pertinent facts for this set of MCHK disciplinary proceedings which were relevant to the proceedings before us.

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9 At ABOD-56.
10 See the Statement of Dr Wong Yoke Meng (DW1-1 – 15) at [12]).
11 At ABOD-59.
12 At [3] of ABOD-23.

19 On or around 25 January 2016, the MCHK received a complaint letter issued in the name of one "Action Group for Ethical Practice" pertaining to adverse findings made against Dr Wong in SMC disciplinary proceedings, as well his criminal conviction in Singapore.

20 He was subsequently charged and found guilty on 21 January 2020 by the Inquiry Panel of the MCHK of misconduct in a professional respect for one offence under section 21(1)(b) of the MRO for his failure to report the adverse findings in the SMC disciplinary proceedings and the criminal conviction as per [8(a) and 8(b)] above. The gist of the findings in the two sets of proceedings was as follows:

(a) The SMC Disciplinary Committee found Dr Wong guilty of several charges, including (i) making laudatory and/or misleading statements in an advertisement in 2007, in breach of SMC's ethical code and guidelines, (ii) offering stem cell for skin therapy and/or facial and body rejuvenation by way on an advertisement, a treatment which was not medically proven, (iii) offering procedures such as "Detox Medicine" and face treatment using oxygen which were not medically proven as treatments, and (iv) 13 charges of professional misconduct in respect of his treatment of four patients which involved the carrying out of treatments such as stem cell injections, colonic irrigation and coffee enema which were not medically proven as a form of treatment for any medical condition, and without obtaining the respective patients' consent.

(b) Dr Wong was convicted on 7 May 2010 of three charges under section 5(1) of the Private Hospitals and Medical Clinics Act for operating a medical clinic in breach of a condition of the licence issued by the Ministry of Health. This pertained to his actions of collecting specimens and/or samples from patients at the clinic and sending them to foreign clinical laboratories that had not been accredited for various tests and/or examinations.

21 The SMC disciplinary proceedings and the criminal conviction detailed above took place between 2010 and 2015.

The parties' cases

22 The underlying facts and circumstances which formed the basis of the two charges were largely not in dispute. Dr Wong did not deny that he failed to declare the Hong Kong convictions in the two PC renewal applications[13]. The crux of dispute in respect of the 1st Charge was as to Dr Wong's state of mind when he made the declarations in 2015 and 2017, *viz* whether he knowingly or inadvertently made the false declarations. The bone of contention with regard to the 2nd Charge was whether section 53(1)(*c*) of the Act had extra-territorial effect, *viz* whether it covered overseas acts and conduct. Parties were also in disagreement over whether the acts and conduct under the 1st and 2nd Charges brought disrepute to the medical profession.

The SMC's case

23 In respect of the 1st Charge, the SMC's case was that it had proved beyond a reasonable doubt that Dr Wong had knowingly made the false declarations in his PC renewal applications in 2015 and 2017 having regard to the objective evidence and Dr Wong's concessions during cross-examination, including the following:

(a) Dr Wong had full knowledge of his Hong Kong convictions at the relevant time when he submitted the applications;

(b) The relevant questions in the applications were clear and unambiguous;

(c) Dr Wong agreed that he had read the relevant questions carefully in the 2015 PC renewal application for him to know that he was required to disclose the pending investigations conducted by MOH and the SMC. It must have thus occurred to him that it was incumbent upon him to declare his overseas convictions in his answers to the questions.

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[13] See DW1 at [9] – [18], Notes of Evidence ("NE"), 7 February 2023, 53/7-11 and 53/15-18.

(d) Dr Wong confirmed under cross-examination that he had read the questions and declarations in the 2017 PC renewal application carefully, and re-read the questions and answers and considered what needed to be declared;

(e) Both applications were completed under Dr Wong's instructions who was aware of the importance and implications attached to the accuracy of the declarations, and had every opportunity to declare his Hong Kong convictions;

(f) It was not plausible for Dr Wong to overlook the Hong Kong convictions in the 2015 PC renewal application given that he had gone through many processes and steps leading up to the convictions;

(g) The applications were not complex or difficult to complete; and

(h) There was no medical or expert evidence as to Dr Wong's forgetfulness to substantiate his repeated claims that the Hong Kong convictions were not on his mind at the material time.

24 The SMC further submitted that it was important for doctors to make timeous and honest declarations of both local and overseas convictions so that the SMC could conduct prompt investigations and determine if disciplinary action should be taken against the errant doctor. Honesty and integrity were fundamental to the profession. The false declarations made impinged upon public confidence in the medical profession as the public would expect that the regulatory body of medical professionals would be in possession of all the relevant facts to make the necessary determination as to whether the medical professional should be given full freedom to practise and to take the necessary measures to protect patients and the profession from potential harm. Dr Wong's improper acts and conduct were such that they brought disrepute to the profession.

25 In respect of the 2nd Charge, the SMC submitted that section 53(1)(*c*) should be interpreted to cover improper acts and conduct carried out in a foreign jurisdiction as it furthered the legislative purpose of the Act. It was also submitted that the common law principle of *autrefois convict* did not apply as Dr Wong's conviction and sanction

imposed by the Inquiry Panel of the MCHK was for his professional misconduct in Hong Kong, while the 2nd Charge related to his improper conduct which was consequent on those disciplinary findings by the MCHK. The SMC contended that Dr Wong's failure to comply with the disclosure obligations in Hong Kong by failing to report to the MCHK his Singapore criminal conviction and the SMC disciplinary sanctions was a type of dishonest conduct which brought disrepute to the medical profession.

Dr Wong's case

26 In respect of the 1st Charge, it was submitted that Dr Wong was careless and held an honest belief in the truth of his declarations. There was a reasonable doubt that he knowingly made the false declarations in his applications for the following reasons:

(a) Dr Wong's consistent evidence was that he had inadvertently omitted to declare the Hong Kong convictions;

(b) Dr Wong overlooked the requirement for him to disclose his convictions "elsewhere" in the relevant question in the 2015 PC renewal application;

(c) At the time the 2015 PC renewal application was submitted, the Hong Kong convictions had been overshadowed by the more recent MOH and the SMC investigations which were still pending;

(d) By the time Dr Wong submitted the 2017 PC renewal application, three years had passed since the Hong Kong convictions;

(e) There was no benefit to Dr Wong not to declare the Hong Kong conviction. In fact, he had more reason to provide correct information in his applications as he was aware that the SMC could refuse to grant him a new PC or to revoke his PC if he provided incorrect information. He would also be liable to prosecution;

(f) Dr Wong had made other adverse declarations, including disclosing the MOH and the SMC investigations in his 2015 PC renewal application and disciplinary

proceedings of the Inquiry Panel of the MCHK in his 2019 PC renewal application. He had also later disclosed the other case pending before the MCHK which later culminated in the disciplinary inquiry on 21 January 2020 (see [20] above). All these disclosure made it clear that overlooking the need to declare the Hong Kong convictions in his applications was inadvertent and not a convenient excuse. In fact, the disclosures which Dr Wong had made on the other occasions demonstrated his track record of reporting cases to the relevant authority regardless of the consequences; and

(g) The evidence showed that Dr Wong's failure to disclose the Hong Kong convictions was inadvertent in nature and he was simply careless.

27 It was further submitted that Dr Wong's belated disclosure of the Hong Kong convictions was not damaging to the reputation of the medical profession as it was an honest mistake, and having regard to his forthrightness in this context and the relatively minor consequences arising out of the non-disclosure.

28 In respect of the 2nd Charge, Dr Wong's position was that while he acknowledged that he was mistaken in failing to report the disciplinary and criminal proceedings in Singapore to the MCHK, section 53(1)(*c*) should be interpreted to apply only to conduct outside Singapore which was undertaken in the capacity as an SMC-registered medical practitioner. In this case, his failure to report the Singapore proceedings occurred solely in his capacity as an MCHK-registered medical practitioner.

29 It was also submitted that the 2nd Charge, pursuant to which Dr Wong was charged for having been convicted by the MCHK in 2020 for not reporting the Singapore proceedings to the MCHK, constituted an abuse of process because "(i)n their overzealousness in pursuing disciplinary proceedings against Dr Wong, the SMC has overlooked that this is a formality resting entirely on the same complaints and issues that arose in the Singapore Proceedings. He has already received due punishment for the Singapore Proceedings, including by the SMC"[14]. In addition, even if section 53(1)(*c*) had extra-territorial effect in relation to all forms of acts and misconduct and the 2nd Charge was not an abuse of

[14] See the Respondent's Closing Submissions at [127].

process, Dr Wong's conviction before the MCHK did not bring disrepute to the medical profession given the nature of the MCHK disciplinary offence under consideration, which did not involve any element of dishonesty.

Burden of proof

30 The two charges against Dr Wong were brought under section 53(1)(*c*) of the Act, which reads:

> 53.—(1) Where a registered medical practitioner is found by a Disciplinary Tribunal —
>
> …
>
> (c) to have been guilty of such improper act or conduct which, in the opinion of the Disciplinary Tribunal, brings disrepute to his profession;
>
> …
>
> the Disciplinary Tribunal may exercise one or more of the powers referred to in subsection (2).

31 Section 53(2)(*a*) – (*h*) of the Act lists the following types of penalties which the DT can impose upon a finding by the DT that a registered medical practitioner has been guilty of such improper act or conduct which brings disrepute to his profession under section 53(1)(*c*):

(a) by order remove the name of the registered medical practitioner from the appropriate register;

(b) by order suspend the registration of the registered medical practitioner in the appropriate register for a period of not less than 3 months and not more than 3 years;

(c) where the registered medical practitioner is a fully registered medical practitioner in Part I of the Register of Medical Practitioners, by order remove his name from Part I of that Register and register him instead as a medical practitioner with conditional registration in Part II of that Register, and section 21(4) and (6) to (9) shall apply accordingly;

(d) where the registered medical practitioner is registered in any register other than Part I of the Register of Medical Practitioners, by order impose appropriate conditions or restrictions on his registration;

(e) by order impose on the registered medical practitioner a penalty not exceeding $100,000;

(f) by writing censure the registered medical practitioner;

(g) by order require the registered medical practitioner to give such undertaking as the Disciplinary Tribunal thinks fit to abstain in future from the conduct complained of; or

(h) make such other order as the Disciplinary Tribunal thinks fit, including any order that a Complaints Committee may make under section 49(1).

32 It is trite law that the legal burden is on the SMC to prove the charges against Dr Wong beyond a reasonable doubt: *Lam Kwok Tai Leslie v Singapore Medical Council* [2017] SGHC 260 at [34]. In assessing whether the SMC had discharged this burden, this DT had to consider the totality of the evidence that was adduced before us, and it is to the consideration of the evidence which we turn.

Issues to be determined

33 In determining if the 1st and 2nd Charges were made out, we considered the following issues:

(a) In respect of the 1st Charge:

(i) Whether Dr Wong knowingly made false declarations in his PC renewal applications in 2015 and 2017; and

(ii) Whether the false declarations amounted to such an improper act or conduct under section 53(1)(*c*) of the Act which brought disrepute to the medical profession.

(b) In respect of the 2nd Charge:

(i) Whether section 53(1)(*c*) applied to acts and conduct committed overseas, i.e. whether it had extraterritorial effect;

(ii) Whether the issue of *autrefois convict* arose; and

(iii) Whether Dr Wong's conviction by the Inquiry Committee of the MCHK in 2020 brought disrepute to the medical profession within the meaning of section 53(1)(*c*).

34 We dealt with the issues in turn.

In respect of the 1st Charge

Whether Dr Wong knowingly made false declarations in his PC renewal applications in 2015 and 2017

Defining the mens rea element of "knowingly"

35 Both parties agreed that the principles set out in *Law Society of Singapore v Udeh Kumar s/o Sethuraju & anor matter* [2017] 4 SLR 1369 ("***Udeh Kumar***") defining and determining if the requisite *mens rea* of "knowingly" was made out applied in the present context[15].

36 In *Udeh Kumar,* the Respondent was convicted of three sets of disciplinary charges and struck off the rolls of advocates and solicitors. The second set of charges related to the

[15] See the SMC's Closing Submissions at [21] – [22], the Respondent's Closing Submissions at [45] and the Respondent's Reply Submissions at [18].

making of three false and inaccurate statements by the Respondent to the court in respect of ongoing proceedings, thereby deceiving or misleading the court in breach of Rule 56 of the Legal Profession (Professional Conduct) Rules (Cap 161, R 1, 2010 Rev Ed) ("**PCR**"). Rule 56 of the PCR provided as follows:

> **Not to mislead or deceive Court**
>
> **56.** An advocate and solicitor shall not *knowingly* deceive or mislead the Court, any other advocate and solicitor, witness, Court officer, or other person or body involved in or associated with Court proceedings.
>
> [emphasis added]

37 The Court of Three Judges held that the *mens rea* element of "knowingly" which was required to establish a breach of Rule 56 of the PCR was not restricted only to subjective dishonesty, as was sought to be argued by the Respondent, but included recklessness as to the truth or falsehood of a statement. Consequently, "even making a statement recklessly (not caring whether it was true or false) would be subjectively dishonest". Sundaresh Menon CJ explained the court's reasoning as to why the mental state of recklessness fell within the *mens rea* requirement for Rule 56 at [34] – [36] of the judgment:

> 34 One of the key issues raised at the hearing before the Tribunal was the *mens rea* required to establish a breach of Rule 56 of the PCR. At [68] of its decision in *Udeh Kumar (C3J/OS 5/2016)*, the Tribunal adopted the test laid down in *Derry v Peek* (1889) 14 App Cas 337 ("*Derry v Peek*"), a seminal English case concerning an action in deceit based on a fraudulent misrepresentation. Lord Herschell (at 374) held that fraud is proved when it is shown that a false representation has been made (a) knowingly; (b) without belief in its truth; or (c) recklessly, without caring whether it is true or false. In his written submissions for the present proceedings, the Respondent argued that the *mens rea* required for a breach of Rule 56 of the PCR was subjective dishonesty; specifically, he contended on that basis that recklessness to the truth or falsehood of a statement (limb (c) of *Derry v Peek*) was insufficient.
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> 35 We disagreed with the Respondent. Instead, we concurred with the Tribunal in applying the test in *Derry v Peek* and including recklessness as one of the mental states on the basis of which a breach of Rule 56 of the PCR could be established. Indeed, this has been the approach of our own courts; thus, when commenting on the duty of an advocate and solicitor not to mislead the court in *Bachoo Mohan Singh v Public Prosecutor and another matter* [2010] 4 SLR 137 ("*Bachoo Mohan Singh*"), V K Rajah JA said (at [114]) that an advocate or solicitor must "neither deceive nor knowingly or *recklessly* mislead the court" [emphasis added].
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> 36 We also consider this to be correct as a matter of principle because the focus of the test in *Derry v Peek* is on the *absence of an honest belief* in the truth of what is being stated. Consequently, even making a statement recklessly (not caring whether it was true or false) would be subjectively dishonest: see *Public Prosecutor v Wang Ziyi Able* [2008] 2 SLR(R) 61 ("*Wang*

> *Ziyi Able*") at [77] and [82]. The position is otherwise only where the relevant state of mind is not recklessness but only carelessness in making a statement, which though false, was *honestly believed to be true*: *Derry v Peek* at 361, cited in *Wang Ziyi Able* at [80]. That was not the case before us.

Proving the mens rea element of "knowingly"

38 In determining one's subjective state of mind, which in our case was that of "knowingly", it is important to remember that there is a distinction between the specific mental element required by the law for an offence to be made out and the way in which the relevant mental element may be proved: *Muhammad Khalis bin Ramlee v PP* [2018] 5 SLR 449 at [42]. It was submitted in [43] of the Respondent's Closing Submissions that:

> It would not suffice for the SMC to show that the relevant declarations were false, and that the declarations were made intentionally. The SMC must also prove that Dr Wong *did not subjectively and honestly believe* the truth of the declarations. To put it the other way, the SMC must *prove* Dr Wong was not *merely careless* in making in making the declarations at the time.
>
> [emphasis added]

39 In respect of Dr Wong's submissions, we should first point out that while mere carelessness is insufficient a basis to show knowledge, recklessness as to the truth or falsity of a statement would suffice. Second, while the *mens rea* element of "knowingly" speaks to a person's subjective state of mind, the caselaw makes clear that the mode of proving that subjective state of mind allows inferences to be drawn based on objective conduct and evidence, contrary to what Dr Wong's submitted above. We elaborate.

40 In upholding the accused's conviction of voluntarily causing grievous hurt under section 325 of the Penal Code (Cap 224, 2008 Rev Ed), which required a mental element of intention or knowledge by the accused that his actions were likely to cause some form of grievous hurt, Sundaresh Menon CJ explained how one's subjective state of mind could be proved:

> 42 … The law may require that the accused possess certain subjective states of mind for the purposes of an offence, but *that does not mean that the accused's intention and knowledge cannot be judged and inferred from his objective conduct and all the surrounding circumstances*. *Barring a personal admission by the accused, this will often be the only way to ascertain his state of mind.* As the Court of Appeal held in Tan Joo Cheng v Public Prosecutor [1992] 1 SLR(R) 219 at [12], intention (and to my mind, knowledge

> as well) is "pre-eminently a matter for inference". The same point was made by V K Rajah JA in Lee Chez Kee at [254]:
>
> Very often, it will not be the case that the accused states that he had a particular state of knowledge. The existence of a state of knowledge is therefore to be carefully inferred from the surrounding evidence. This is not to say that the courts should "objectivise" subjective knowledge with what they think the accused ought to have known; what this simply requires is for a careful evaluation of the evidence to disclose what the accused actually knew but had not stated explicitly. Indeed, this is the entire nature of circumstantial evidence.
>
> …
>
> 44 It is thus open to, and often useful for, the court to *undertake the inquiry into the accused's actual knowledge by a consideration of the objective circumstances and with reference to what a reasonable person in the position of the accused would have known*. As explained in *Masoud Rahimi bin Mehrzad v Public Prosecutor and another appeal* [2017] 1 SLR 257, in relation to the accused's knowledge of the nature of the drug under the Misuse of Drugs Act (Cap 185, 2008 Rev Ed), the reasonable person's perspective is "one of the evidential tools for the court to assess the accused's subjective state of mind" (at [59]). I consider that the same principles apply in the context of s 322. *Practically speaking, therefore, if it is shown that a reasonable person in the accused's position, having regard to all the facts and circumstances before him, would have known that grievous hurt was likely to result from his acts, then in order for the accused to deny actual knowledge, he would have to prove or explain how and why he did not in fact have such knowledge as the reasonable person would have had.*
>
> [emphasis added]

41 In essence, knowledge can generally only be inferred from the conduct or behaviour of persons. 'Knowingly' in this context encompasses more than subjective dishonesty, and covers an absence of an honest belief and includes the reckless making of a statement: *Udeh Kumar*. Recklessness essentially involves not caring whether the statement was true or false.

42 To inquire into Dr Wong's state of mind to determine if he knowingly made false declarations in the PC renewal applications, the DT could infer it from his objective conduct and all the surrounding circumstances, with reference to what a reasonable person in Dr Wong's position would have known.

Whether the mens rea element of knowledge was made out

43 As mentioned earlier, the focus of the arguments before the DT was on Dr Wong's knowledge at the time when the declarations were made. Bearing in mind the above

guiding principles, we went on to evaluate the evidence to determine if Dr Wong knowingly made the false declarations in his PC renewal applications in 2015 and 2017.

44 We agreed with the SMC's submissions that from the objective evidence, conduct and circumstances, and with reference to what a reasonable person in Dr Wong's position would have known, the clear inference was that Dr Wong knowingly made false declarations in his PC renewal applications in 2015 and 2017.

45 We elaborate on the bases of our inference, which, taken together, made it clear beyond a reasonable doubt that Dr Wong knowingly made the false declarations.

46 First, Dr Wong was fully aware of his Hong Kong convictions when he submitted his PC renewal applications in 2015, and admitted as such during cross-examination:

> Q: Now, do you agree that at the time you submitted this PC application on 6h October 2015, you knew that you were already convicted by the Hong Kong Eastern Magistrates Court of this offence?
>
> A: I think there is no question of my conviction at all yes. Definitely I knew about the conviction in 2014. Yah.
>
> Q: And at the time of making this application, you would have known it.
>
> A: *At the time of making the application in 2015, I would have known it, yes*. But it didn't pop up in my mind when I was filling the form.
>
> [Notes of Evidence ("NE"), 7 February 2023, 64/20 – 65/5]
>
> [emphasis added]

47 Second, given that the court process leading up to the Hong Kong convictions on 17 November 2014 was an involved one, the fact of his convictions would and should, in our view, still have been fresh and vivid in Dr Wong's mind when he completed and made the relevant declarations in his 2015 PC renewal application about 11 months later on 6 October 2015. At the hearing, Dr Wong agreed with the suggestion of the Counsel for the SMC that attending court for his plea of guilty hearing on that occasion was not a pleasant experience. He testified that for the purposes of that criminal proceeding, he engaged lawyers and gave them instructions on his course of action and mitigation plea. The whole process from the time the pharmacists from the Department of Health of the HKSAR visited his clinic in May 2014 to the time he was convicted in Hong Kong in November 2014 spanned a few months. In our view, a reasonable person in Dr Wong's

position would not have forgotten a significant occasion involving a criminal conviction before a court of law, and would not have overlooked declaring it in the PC renewal application either in 2015 or three years after the conviction in 2017. We hence did not accept Dr Wong's contention that when the 2015 PC renewal application was submitted, the Hong Kong convictions were not foremost on his mind as they had been overshadowed by the pending MOH and SMC investigations which were more recent. In light of the gravity of a criminal conviction, we also did not accept that he had forgotten about it by the time of the submission of the 2017 PC renewal application three years later. At best, Dr Wong made the declarations recklessly, and did not care whether the declarations he made were true or false.

48 Third, Dr Wong agreed that the relevant questions in the both the PC renewal applications in 2015 and 2017 were clear and unambiguous, and that he had no difficulty understanding the questions posed in the applications. This was clear from his answers at the hearing:

> Q. 2015 application. Question 1:
>
> "Since your last declaration, have you been convicted or been the subject of an inquiry or investigation by any professional body, licensing health authority or police in Singapore or elsewhere, the subject matter of which may form the basis of professional conduct or amount to improper conduct which may bring disrepute to the medical profession."
>
> Dr Wong, what do you understand by the phrase "in Singapore or elsewhere" in declaration 1?
>
> A. I think I understand that yes, of course, *in Singapore or elsewhere means anywhere, yes*.
>
> Q. *So you agree that it is clear and unambiguous, not ambiguous in any way?*
>
> A. Reading from here, *it's not ambiguous in any way*.
>
> Q. And do you agree that the question 1 is essentially asking whether you have been convicted or have been the subject of any inquiry or investigation in Singapore or in any other country as well?
>
> A. This is what the question is. As I have said, it just didn't come to my mind. *It's not that I don't understand the question now. …*
>
> [Notes of Evidence ("NE"), 7 February 2023, 68/10 – 69/7]
>
> [emphasis added]

> Q. (In relation to the 2017 PC renewal application) Do you agree, Dr Wong, that *the question in declaration number 2 is clear and unambiguous*?
>
> A. *Yes, yes. I do.*

Q. And that it is essentially asking whether you have convicted or have been the subject of any inquiry or investigation in Singapore *or in any other country*.

A. *Yes*.

[Notes of Evidence ("NE"), 7 February 2023, 73/13-19]

[emphasis added]

49 In addition to the clear and unambiguous nature of the questions in respect of which the declarations were made, we agreed with the SMC's submission that the PC renewal application forms were relatively straightforward and not difficult to complete. The 2015 application form was only one and a half pages long with three clearly worded and unconvoluted questions[16]. The 2017 application form was two pages long with four questions which were similarly straightforward[17]. A reasonable medical professional in Dr Wong's position would have had no difficulty comprehending and filling the applications accurately and completely. In the circumstances, the inference to be drawn would be that Dr Wong would have known that he needed to declare the Hong Kong convictions in both applications. We hence rejected Dr Wong's argument that he had overlooked the requirement for him to disclose his convictions "elsewhere" in the relevant question in the 2015 PC renewal application in light of the clear evidence that the wording of the relevant questions was unambiguous and that the application was easy to fill, as well as the fact that Dr Wong had read the questions. It was to this aspect of the evidence which we next turned.

50 Fourth, Dr Wong accepted that he had read the relevant question in the 2015 PC renewal application sufficiently to know that he was required to disclose the ongoing MOH and SMC investigations – see the NE, 7 February 2023, 70/12 – 18. In our view, it could be inferred that it must have occurred to him that that it was incumbent upon him to declare his Hong Kong convictions at the same time, bearing in mind the fact that he was convicted before the Hong Kong court of criminal offences nary a year ago and that it was clear to him that convictions both in Singapore and "elsewhere" had to be declared. A reasonable practitioner in his position would have done so. We did not accept his explanation that he had merely overlooked the requirement for him to disclose his convictions "elsewhere" in the 2015 application in these circumstances. Dr Wong also

16 At ABOD-56 – 57.
17 At ABOD-59 – 60.

confirmed that he had read the relevant question in the 2017 PC renewal application, although we noted that in response to the Counsel for the SMC's question as to whether he read it carefully, he did not answer it directly but replied that he read it[18]. Be that as it may, the fact that Dr Wong read the question, coupled with his acknowledgment that it was clear, unambiguous and not difficult to understand, led us to the same conclusion that the inference was that he knew that the Hong Kong convictions were to be declared in the 2017 PC renewal application, or at the very least made the declaration recklessly. In addition, Dr Wong acknowledged that both the 2015 and 2017 PC renewal applications were completed by his personal assistant under his instructions and that he had read the penultimate statement in both applications that "all the above information is true and correct" before declaring so in the affirmative[19]. He also accepted that he had addressed his mind to whether he had answered all the questions properly and had re-read the questions and answers in the 2015 application[20]. In this regard, we agreed with the submissions of the SMC that in view of the declarations as to the truth and correctness of the information provided in the PC renewal applications, a reasonable person in Dr Wong's shoes would have verified the answers to the previous questions carefully and considered if there was any other information that was required to be declared: see the Prosecution's Closing Submissions at [57].

51 Both parties also referred to Dr Wong's declaration in his 2019 PC renewal application about the MCHK disciplinary proceeding on 30 July 2019 which arose out of his Hong Kong convictions. The SMC submitted that the fact that the 2019 declaration again omitted mention of the underlying Hong Kong convictions showed that he wanted to conceal it to avoid adverse consequences and sanctions before the SMC, and that his reticence in providing full information about the convictions despite repeated required requests by the SMC confirmed this. On the other hand, Dr Wong submitted that the declarations in his 2019 application, together with the disclosures he had made on other occasions, e.g. about the MOH and the SMC investigations in his 2015 application and another pending MCHK case which led to the disciplinary inquiry on 21 January 2020, demonstrated his track record of reporting cases to the relevant authority regardless of the consequences, and in turn proved that his omission to declare the Hong Kong

18 Notes of Evidence ("NE"), 7 February 2023, 74/11-15.
19 Notes of Evidence ("NE"), 7 February 2023, 61/10 – 20; 74/23 – 75/19.
20 Notes of Evidence ("NE"), 7 February 2023, 76/13-22.

convictions in the 2015 and 2017 applications was inadvertent. In our view, the reliance on the declaration in the 2019 application by both parties to show Dr Wong's state of mind in 2015 and 2017 was not warranted. First, the reason why Dr Wong omitted to declare the underlying Hong Kong convictions while he declared the MCHK proceedings on 30 July 2019 in his 2019 PC renewal application was not relevant to demonstrating his state of mind a few years earlier in 2015 and 2017. In any event, by declaring the 2019 MCHK proceedings, the Hong Kong convictions in 2014 which formed the basis of the disciplinary proceedings could be easily discovered and revealed, and did not go to show that he continued to knowingly hide that fact or was reckless in this regard. Second, it would be overstating the case that by virtue of his declaration of the MOH and SMC proceedings in 2015, as well as the MCHK proceeding in January 2020, it showed a pattern or track record as to Dr Wong's forthrightness in this respect regardless of the consequences. Any suggestion to this end also had to weighed against the rest of the objective evidence set out above.

52 For completeness, we also did not find the SMC's argument that there was no medical or expert evidence as to Dr Wong's forgetfulness to substantiate his repeated claims that the Hong Kong convictions were not on his mind at the material time to be relevant. As was stated in the Respondent's Reply Submissions, it was not Dr Wong's case that he had a medical condition resulting in general memory issues or forgetfulness. Neither was he relying on forgetfulness "as some kind of carte blanche to avoid disclosure of relevant cases": at [57] - [58] of the Respondent's Reply Submissions.

53 In the final analysis, while Dr Wong repeatedly and consistently testified at the hearing that he had overlooked the need to declare the Hong Kong convictions as it simply did not cross his mind to do so, and that there was no benefit to him to withhold the Hong Kong convictions, his assertions had to be contrasted with the objective evidence and the inferences drawn from the objective evidence which we detailed above, and which unequivocally pointed to the conclusion that he knowingly made the false declarations. The evidence contradicted Dr Wong's contention that his failure to disclose the Hong Kong convictions was inadvertent in nature and a result of his carelessness.

54 To summarise, the bases of inference included the fact that Dr Wong was aware of his convictions in Hong Kong, that he was actively involved and participated in the Hong Kong criminal process, and that he had read the questions in the applications. The relevant questions were clear in what needed to be stated, and could only be interpreted as including the Hong Kong convictions. The only reasonable inference was that Dr Wong must have been aware of the requirement to state or declare the Hong Kong convictions, and chose not to declare it or recklessly failed to do so. There was no evidence before this DT to rebut these inferences. There could be no reasonable inference that Dr Wong had an honest belief that such a declaration need not be made.

Whether the false declarations amounted to such an improper act or conduct under section 53(1)(c) of the Act which brought disrepute to the medical profession

55 Having established that Dr Wong had knowingly failed to declare the Hong Kong convictions in both his 2015 and 2017 PC renewal applications, we turned to consider if the false declarations amounted to such improper acts or conduct which brought disrepute to the medical profession within the ambit of section 53(1)(*c*) of the Act.

56 In *Ong Kian Peng Julian v Singapore Medical Council and other matters* [SGHC] 302 ("***Julian Ong***"), in dismissing the appellant's appeal against his conviction after trial for one charge under s 53(1)(*c*), the Court of Three Judges recapitulated the principles laid down in previous cases when determining if the improper act or conduct in question brought disrepute to the medical profession at [24] – 25]:

> 24 In *Pang Ah San v Singapore Medical Council* [2021] 5 SLR 681 ("Pang Ah San"), we held at [42] that "any conduct, whether by actions or words, which would bring disrepute to the profession would come within the ambit of the provision." We agree with the DT that it was not necessary for an act or conduct of a medical practitioner to be in breach of a guideline in the ECEG in order for that medical practitioner to be found guilty under s 53(1)(c) of the MRA. This is consistent with the fact that the ECEG itself states that it is not meant to be exhaustive, and as stated within the foreword to the ECEG "medical practitioners should endeavour to keep to the basic principles of the 2016 ECEG and extend their application to areas that may not be specifically addressed."
>
> 25 As we have said in *Low Chai Ling v Singapore Medical Council* [2013] 1 SLR 83 at [72] (cited in *Pang Ah San* at [43]), in order to determine what amounts to such misconduct, *the court should make an objective inquiry into whether public confidence in the profession would be damaged by the revelation of their conduct, and what such conduct would signify to the public at large about*

> *doctors. This is an inquiry that is to be undertaken from the perspective of a reasonable layperson and no special deference is given to what other members of the profession might think about the conduct. This is so because the concern is with the standing of the profession in the estimation of others. Practically, such an inquiry would be aided by asking whether the reasonable person, on hearing about what the professional concerned had done, would have said without hesitation that he should not have done it.*
>
> [emphasis added]

57 As the Court opined in *Low Chai Ling v Singapore Medical Council* [2013] 1 SLR 83 ("***Low Chai Ling***") at [72], "… the primary concern underlying the disreputable conduct offence is the protection of the medical profession's integrity and good name. Would public confidence in the medical profession be damaged by the offending conduct? What message would such conduct send to the public at large about doctors?".

58 In past disciplinary cases involving doctors making false declarations, the DT emphasised that honesty and integrity were hallmarks of the medical profession. In *Singapore Medical Council v Chio Han Sin Roy* [2015] SMCDT 5, which involved a doctor who was convicted for knowingly making a fraudulent declaration to the SMC to procure a PC, thereby breaching section 53(1)(*a*) read with section 53(2) of the Act, the DT stressed at [10] that "(i)ntegrity and honesty are non-negotiable hallmarks of medical practitioners and any acts of dishonesty would tarnish and bring disrepute to the Medical Profession as a whole".

59 In *Singapore Medical Council v Lee Siew Boon Winston* [2018] SMCDT 4, which similarly involved a doctor who was convicted for knowingly making a fraudulent declaration to the SMC to procure a PC by stating that since his last declaration, he had not been subject of an inquiry or an investigation by the police in Singapore, thereby breaching section 53(1)(*a*) of the Act, the DT affirmed the importance of honesty and integrity to the medical profession. The DT was of the view that, as it was for the legal profession, any form of dishonesty, even dishonesty of a "technical" nature, was to be treated severely (at [82]).

60 In determining if Dr Wong's false declarations which he had made knowingly amounted to such improper acts or conduct which brought disrepute to the medical profession, the question was whether public confidence in the medical profession would be damaged by

his conduct. We approached this inquiry from the perspective of considering whether a reasonable person, on hearing about what Dr Wong had done, would have said without hesitation that he should not have done it.

61 In our view, Dr Wong's failure to declare his Hong Kong convictions on two occasions in 2015 and 2017 brought disrepute to the medical profession in the circumstances. Candour and disclosure are an essential part of professional conduct especially in relation to the renewal of practicing certificates and the continued provision of medical services to the public. Here, despite knowing that he was convicted for criminal offences in Hong Kong, he chose not to disclose the same or at the very least made the declarations recklessly, and did not care whether the declarations he made were true or false. Dr Wong's acts in making false declarations not just once but twice in the context of seeking a renewal of his PC clearly represented a breach of the values of honesty and integrity expected of every medical practitioner.

62 That honesty and integrity are part of the ethical bedrock for the medical profession are reinforced in the SMC's Ethical Code and Ethical Guidelines (2016 Edition) ("**ECEG**")[21] and its accompanying guide, the SMC's Handbook on Medical Ethics (2016 Edition) ("the Handbook")[22]. Although technically speaking, the applicable version of the ECEG for the purposes of the 2015 PC renewal application should be the 2002 edition and not the 2016 edition since the relevant declarations in the 2015 application were made prior to the issuance of the 2016 edition of the ECEG, we noted that Dr Wong did not raise an objection to the SMC's reference to the 2016 edition of the ECEG in its submissions. In any event, we were of the view that the principles and guidelines in the 2016 edition of the ECEG and the accompanying Handbook reflected incontrovertible and time-honoured values of honesty and integrity. Section F1 of the ECEG provides that it is an aspect of probity as a doctor that he must be open and honest about previous criminal convictions or disciplinary actions taken against him, or when he is part of inquiries. This means that he must be honest and inform the SMC and any organisation that he works for if he has been found guilty by a tribunal or court anywhere in the world in relation to professional or criminal issues.

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21 See the Prosecution's Bundle of Authorities at Tab 5.

22 See the Prosecution's Bundle of Authorities at Tab 11.

63 Section F of the Handbook, which expounds on the role of "Probity", starts off by stating that "the community needs to have trust in the integrity of the medical profession". It then points out two areas in which a medical professional's good standing is important, one of which is disclosure of personal information and cooperation in inquiries. The meaning of probity is then elaborated on in this regard:

> *Probity means being honest and trustworthy and acting with integrity in your conduct to justify the public's trust in you and in the profession as a whole*. You are obliged not to conduct yourself in a way that brings disrepute to the medical profession. *You need to inform, without delay, the SMC and any organisation for which you work, if anywhere in the world:*
>
> *(a) You have been found guilty of a criminal offence* (this excludes offences that have been settled by the payment of composition fines in lieu of prosecution, such as traffic offences).
>
> (b) Another professional body has made a finding against you in disciplinary proceedings or proceedings regarding your fitness to practise.
>
> (c) You have been suspended from practice or have had conditions or restrictions imposed on your practice by any medical registration authority.
>
> (d) You have resigned or been dismissed from employment or practice for disciplinary, ethical, professional or competence issues.
>
> [emphasis added]

64 It goes on to explain why it is necessary to disclose the above if a penalty has been paid or a sentence served as follows:

> Someone so convicted could be said to have paid their dues to society and should be allowed to move on without discrimination. *However, not to make such disclosures would adversely affect the autonomy of authorities under whom you work* or the autonomy of your employers. *They would want to know the facts and circumstances so as to determine whether you ought to be given full freedom to practise or they should take whatever measures deemed necessary to protect patients or the profession from potential harm. While in many cases there may be no further problems, to assume so without the chance to give due consideration is not to act in the public and patients' best interests.*
>
> [emphasis added]

65 It was also clear from the ECEG and the Handbook that the need to inform the SMC of Dr Wong's Hong Kong convictions without delay was a key aspect of being honest and trustworthy. Dr Wong sought to convince the DT that the consequences of his belated disclosure of the Hong Kong convictions in the 2019 PC renewal application exercise were minor as the SMC had not put forward any evidence to suggest that the omission to disclose the convictions in 2015 and 2017 made any material difference or led to any

adverse consequences for the SMC in its role as the regulatory or disciplinary body. We did not accept this argument. First, the fact that that the declaration of the Hong Kong convictions was ultimately made did not reduce the severity of the transgression of a false declaration which was made knowingly. Second, and as explained in Section F1 of the Handbook, a timely disclosure of the Hong Kong convictions was critical as the SMC "would want to know the facts and circumstances so as to determine whether (Dr Wong) ought to be given full freedom to practise or they should take whatever measures deemed necessary to protect patients or the profession from potential harm. While in many cases there may be no further problems, to assume so without the chance to give due consideration is not to act in the public and patients' best interests".

66 For completeness, although it did not affect our determination as to whether the 1st Charge was made out, we should state that we neither agreed with nor found relevant the SMC's contention that fraud, dishonesty or moral turpitude were not necessary elements for improper conduct to be made out under section 53(1)(*c*). This was because regardless of whether fraud, dishonesty or other forms of *mens rea* were required to be proved in other cases or in other circumstances, in the case before us, the charge framed against Dr Wong was that he had *knowingly* made the false declarations (emphasis added), which meant that the *mens rea* element of knowledge had to be proved beyond a reasonable a doubt. This we had already found that the SMC had proved.

67 In the circumstances, we found that the SMC had proved beyond a reasonable doubt that Dr Wong was guilty of such improper acts or conduct which brought disrepute to the medical profession within the meaning of section 53(1)(*c*) of the Act. Accordingly, we convicted Dr Wong of the 1st Charge.

In respect of the 2nd Charge

Whether section 53(1)(c) applied to acts and conduct committed overseas, i.e. whether it had extraterritorial effect

68 Dr Wong did not deny the facts particularised in the Notice of Inquiry in relation to the 2nd Charge at [0] above, which were drawn from the grounds of decision of the Inquiry

Panel of the MCHK at Annex B to the Notice of Inquiry. He also confirmed that he pleaded guilty to the amended charges before the Inquiry Panel and did not dispute the factual particulars of the charges against him (see Annex B to the Notice of Inquiry)[23]. The main bone of contention between parties was as to whether Dr Wong's professional misconduct in Hong Kong fell within the ambit of section 53(1)(*c*). This turned on the interpretation of that provision.

69 In *Attorney-General v Ting Choon Meng and another appeal* [2017] 1 SLR 373 at [59], the Court of Appeal laid down the three steps when undertaking the process of purposive statutory interpretation, which was affirmed in later decisions of the Court of Appeal in *Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 at [37] and *Public Prosecutor v Lam Leng Hung and others* [2018] 1 SLR 659 at [67].

70 The three-step process in statutory interpretation has been cited and applied by the courts in numerous cases. It was explained by Audrey Lim J in *Chua Qwong Meng v SBS Transit Ltd* [2022] SGHC 208 at [15] and [16] as follows:

> 15 Section 9A(1) of the Interpretation Act 1965 (2020 Rev Ed) ("IA") provides that in interpreting a provision of a written law, an interpretation that promotes the purpose or object underlying the written law is to be preferred. In *Attorney-General v Ting Choon Meng and another appeal* [2017] 1 SLR 373 ("*Ting Choon Meng*"), the Court of Appeal (at [59]) explained that the court should begin by ascertaining the possible interpretations of the text, having regard to the provision in question and the context of the text within the written law as a whole. The court should then determine the legislative purpose of the provision in question and of the part of the statute in which it is situated. Finally, the court compares the possible interpretations of the text against the purposes of the statute and adopts the interpretation which promotes these purposes (see also *Tan Seng Kee v Attorney-General and other appeals* [2022] SGCA 16 ("*Tan Seng Kee*") at [171]). There are three main textual sources from which the court can derive the purpose of a legislative provision – the long title of a statute, the words of that provision and other legislative provisions within the statute (*Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 ("*Tan Cheng Bock*") at [44]).
>
> 16 In interpreting a provision of a written law, the court may have regard to extraneous material to: (a) confirm the ordinary meaning deduced from the text of the provision and context of the written law; (b) ascertain the meaning of the provision when it is ambiguous or obscure; or (c) ascertain its meaning where the ordinary meaning is absurd or unreasonable (ss 9A(2) and 9A(3) of the IA). That said, in seeking to draw out the legislative purpose behind a provision, primacy should be accorded to its text and statutory context over any extraneous material. The law enacted by Parliament is the text which Parliament has chosen to give effect to its purposes and objects (*Tan Cheng Bock* at [43]). The court should also be mindful of the possibility that the specific provision being interpreted may have been enacted by reason of some

[23] Notes of Evidence ("NE"), 7 February 2023, 61/10 – 20; 100/17 – 101/12.

> specific mischief or object that may be distinct from, but not inconsistent with, the general legislative purpose underlying the written law as a whole and separately consider this distinct purpose in appropriate cases (*Ting Choon Meng* at [59] and [61]).

71 Turning to the second charge, applying the principles of statutory interpretation above, the DT was of the view that section 53(1)(*c*) of the Act covers a medical professional's improper acts or conduct occurring abroad, whether in his capacity as an SMC-registered practitioner or otherwise. We elaborate on our reasoning below.

72 We began by ascertaining the possible interpretations of the words "improper act or conduct" in section 53(1)(*c*), having regard to section 53 itself and the context of the legislative text within the Act as a whole.

73 Within the context of the section and the Act, we agreed with Dr Wong that there were three possible interpretations of the words "improper act or conduct" in section 53(1)(*c*). The first possible interpretation was that the words only referred to such acts or conduct in Singapore. The second possible interpretation was that section 53(1)(*c*) only had limited extraterritorial effect in that the words covered improper acts or conduct in Singapore or elsewhere only when the medical practitioner conducted himself as an SMC-registered practitioner. The third interpretation was that put forth by the SMC, which was that the words covered improper acts or conduct in Singapore or elsewhere, whether in his capacity as an SMC-registered practitioner or otherwise.

74 When the purpose of the provision and the Act was considered, it was apparent that the third interpretation should be preferred interpretation over the first two.

75 The SMC was established by virtue of Part 2 of the Act primarily to administer the Act, which would include ensuring that the objects of the Act set out in section 2A are met:

> **Object of Act**
>
> **2A.** The object of this Act is to protect the health and safety of the public by providing for mechanisms to —
> (a) ensure that registered medical practitioners are competent and fit to practise medicine;
> (b) uphold standards of practice within the medical profession; and
> (c) *maintain public confidence in the medical profession.*

[emphasis added]

76 The specific functions of the SMC are enumerated in section 5(*a*) – (*g*) of the Act. One of its functions is "to determine and regulate the conduct and ethics of registered medical practitioners": section 5(*f*). Section 53 is sited in Division 5 of Part 7 of the Act which sets out the disciplinary framework and the process for the conduct of disciplinary proceedings under the auspices of the SMC. Section 39(1)(*a*) states that any complaint touching on the conduct of a registered medical practitioner in his professional capacity or on his improper act or conduct which brings disrepute to his profession shall be made or referred to the SMC. The formal inquiry before the DT pursuant to Division 5 of Part 7 is a key component of the process of regulating the conduct and ethics of a medical practitioner within the remit of the SMC. It was thus apparent that the SMC's role under the Act would necessarily need to have regard to the object of the Act, which includes providing for mechanisms to maintain public confidence in the medical profession.

77 Professional conduct may take place in many jurisdictions, especially with the ease of travel and greater use of remote consultation and medical examination. Taking too narrow a reading of section 53(1)(*c*) within the context of the Act, bearing in mind the object of protecting the health and safety of the public through maintaining public confidence in the profession, would hamper the scrutiny and governance of medical professionals. The concept of disreputable conduct relating to the profession is also not amenable to being limited at the border of a country: misconduct in one jurisdiction will often affect the reputation of any other jurisdiction that the medical practitioner works in, hence impacting public confidence in the profession. As a matter of fact, the reputational risk to the Singapore medical profession arising out of misconduct abroad, even in relation to conduct which is within the purview of the overseas jurisdiction, was highlighted in the Explanatory Notes to the ECEG[24]:

> SMC-registered doctors but practising overseas
>
> 17. The 2016 ECEG is intended first and foremost to guide SMC-registered doctors practising in Singapore. However, as cross-border medicine becomes more prevalent certain aspects, such as telemedicine conducted in Singapore for overseas patients, may become subject to the 2016 ECEG, in addition to the laws and rules that apply in the overseas jurisdiction.

[24] See the Prosecution's Bundle of Authorities at Tab 16.

> 18. It is sometimes asked why misconduct overseas should attract SMC's attention at all since the events did not occur in Singapore. *Indeed, it is the responsibility of the overseas jurisdiction to deal with doctors who breach the local rules.*
>
> 19. *However, doctors who are registered with SMC carry the reputation of Singapore doctors. Should their behaviour overseas bring the reputation of Singapore doctors into disrepute, and SMC receives complaints or information about the doctors' conduct while overseas, SMC could also take disciplinary actions against the doctors.*
>
> [emphasis added]

78 It was submitted at [70] of the Respondent's Reply Submissions that "the (Explanatory Notes) constantly specifies that the ECEG is intended to guide "SMC-registered doctors" only … which suggests that the purpose of the ECEG (which in turn guides the purpose of s53(1)(*c*) of the MRA) was only to govern those conducting themselves as a SMC-registered doctor when practising overseas". With respect, this reading of the above passage in the Explanatory Notes was unduly narrow and did not take into consideration the context in which it was written. Paragraph 18 of the extract above made it clear that the misconduct overseas it was concerned with was not only in respect of conduct overseas which took place *qua* SMC-registered doctor but also such conduct which breached "the local rules" of the overseas jurisdiction and over which that jurisdiction had responsibility. To put it in another way, it was concerned with improper acts and conduct which occurred overseas regardless of the capacity in which the said act or conduct was committed.

79 That the SMC was concerned with the professional conduct of an SMC-registered doctor overseas was reinforced in the Handbook to the ECEG[25]:

> **(d) Globalised medicine**
>
> Finally, in a globalised world, you may travel widely, whether to participate in lectures, seminars and conferences, or to market or advertise your services to overseas medical institutions or patients. Some of you may travel to render medical services to overseas patients for fees or on a humanitarian basis. *Regardless of the purpose of your engagement, you have to uphold the reputation of Singapore registered doctors and abide by the laws and regulations of the country you are in.* For example, foreign regulations may require you to be registered or licensed to practise in the country. *Besides the ECEG, you have to abide by the local professional code of conduct, ethical guidelines and/or its equivalent. You may be subject to disciplinary action in Singapore based*

[25] See the Prosecution's Bundle of Authorities at Tab 11, page 321.

on complaints or information received from foreign countries or regulatory bodies of unprofessional or unethical conduct while you are abroad.

[emphasis added]

80 The legislative purpose of the Act as expressed in section 2A, that is, to protect the health and safety of the public, would be defeated if public confidence in the medical profession is not maintained. The SMC's ability to determine and regulate the conduct and ethics of registered medical practitioners would be materially hampered if limited to acts or conduct in Singapore given the realities of medical practice in this day and age, and given the porosity of geographical borders where one's reputation is concerned. As explained in the Handbook[26], "(a)s a Singapore-registered doctor, you bear the reputation of, and your behaviour overseas reflects on, the entire community of SMC-registered doctors". Professional misconduct whether committed in or outside Singapore can have a negative bearing on public confidence in the profession, as well as reflect on the suitability of a doctor to remain on the SMC register.

81 It was argued before us that the absence of the words "in Singapore or elsewhere" in section 53(1)(*c*) in contrast to sections 53(1)(*a*) and (*b*) pointed to the first possible interpretation, i.e., that it only covered acts or conduct in Singapore. While there may be some ambiguity as to the interpretation to be accorded section 53(1)(*c*) if section 53(1) were to be read on its own, that ambiguity faded away when the relevant words and provision were read having regard to the context of the Act as a whole and the legislative purpose of section 53 which we had already explained.

82 Dr Wong also argued that there is a presumption that Parliament does not design its statutes to operate beyond the territorial limits, given the concern with "international comity and the courtesy and respect shown by states to each other by not interfering with the sovereignty of another state over matters occurring within their jurisdiction"[27]. The interpretation which the DT gave to the ambit of section 53(1)(*c*) did not trigger concerns over international comity or sovereignty as any findings and sanctions imposed by the DT within the disciplinary framework of the Act only affected a doctor's status as a

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26 See the Prosecution's Bundle of Authorities at Tab 11, page 446.

27 See the Respondent's Closing Submissions at [113].

registered medical practitioner in Singapore and not anywhere else where the doctor concerned may be practising as the jurisdiction and powers of the DT only extended to his status as a registered medical practitioner in Singapore under the Act. Our interpretation of section 53(1)(*c*) did not result in any overreach which interfered with the regulation of SMC-registered medical practitioners by the relevant overseas regulatory bodies.

83 Following the foregoing analysis, we came to conclusion that the correct interpretation of section 53(1)(*c*) was that the "improper act or conduct" in question included that which was committed overseas by a medical practitioner, such as that which formed the basis of the 2nd Charge. This interpretation was consistent with and promoted the legislative purpose of the Act, which, at its core, seeks to ensure that there is proper regulation and governance of the medical profession in order to maintain public confidence in the medical profession and in turn, to protect the health and safety of the public. A narrower interpretation of the provision as put forth by Dr Wong would not promote or cohere with the stated legislative objectives for the reasons we stated at [80].

Whether the issue of autrefois convict arose

84 This issue could be dealt with swiftly. Dr Wong contended that the 2nd Charge constituted an abuse of process as by prosecting him for having been convicted in the MCHK for not reporting the disciplinary and criminal proceedings in Singapore to the MHCK, the SMC had overlooked the fact that he had already received his due punishment arising out of these Singapore proceedings, including before the SMC itself. The 2nd Charge was in effect "one more set of proceedings brought by the SMC in connection with convictions in prior SMC disciplinary proceedings": at [128] of the Respondent's Closing Submissions. To our mind, this concern was misplaced and premised on a misunderstanding of the gravamen of the 2nd Charge. No issue of *autrefois convict* arose here: the subject matter of the 2nd Charge was not for another conviction on the same basis as that in the MCHK proceedings or the earlier proceedings in Singapore upon which the MCHK disciplinary proceedings arose, but on the *impact* in Singapore of the Hong Kong conviction by the Inquiry Panel of the MCHK, which was a separate matter altogether.

85 In addition, the charge before the MCHK was not for the same underlying criminal and disciplinary transgressions in the earlier Singapore proceedings but for the failure to report in good time to the MCHK about the criminal conviction and adverse findings by the disciplinary body of the SMC in those earlier Singapore proceedings. Dr Wong's submission that there was a risk of a never-ending cycle of prosecutions against him arising out of the same subject matter[28] was also misplaced for the same reason – the subject matter of the 2nd Charge was distinct from that in the earlier sets of proceedings in Singapore and Hong Kong.

Whether Dr Wong's conviction by the Inquiry Committee of the MCHK in 2020 brought disrepute to the medical profession within the meaning of section 53(1)(c)

86 We had earlier set out the principles for determining if the improper act or conduct in question brought disrepute to medical profession under section 53(1)(*c*) of the Act in [0] – [0] above.

87 The question before us in respect of the 2nd Charge was whether the conviction before the Inquiry Panel of the MCHK on 21 January 2020 for the failure to report to the MCHK within 28 days from date of the criminal conviction in the Singapore Subordinate Courts and the adverse findings in the SMC disciplinary proceedings amounted to such improper act or conduct which brought disrepute to the profession.

88 Having inquired into what such conduct would signify to the public at large about doctors, and whether public confidence in the profession would be damaged by the revelation of Dr Wong's conviction for the non-disclosures, we had no doubt that it did. It was clear from the grounds of decision of the MCHK Inquiry Panel that it regarded the failure to report to the MCHK in a timely manner as a serious failing on Dr Wong's part as a registered medical practitioner in Hong Kong:

> **Findings of the Inquiry Panel**
>
> …

[28] See the Respondent's Closing Submissions at [120].

> 18 There is no dispute that the Defendant failed to report to the Medical Council either that he had been the subject of adverse findings in the said disciplinary proceedings before the SMC or his criminal conviction within 28 days, contrary to section 29.1 of the Code of Professional Conduct (the "Code") published in January 2009. *Failure to report within the specified time by itself is a ground for disciplinary action.*
>
> 19 *Given the nature and gravity* of adverse findings made by the SMC in the said disciplinary proceedings and his criminal conviction in Singapore, we find it *inexcusable* for him not to report them to the Medical Council within the prescribed time limit. *In our view, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong*. We therefore also find the Defendant guilty of professional misconduct as per amended charge (c).
>
> [emphasis added]

89 In our view, the gravity of Dr Wong's professional misconduct in Hong Kong had a negative bearing on public confidence in the medical profession in Singapore. A reasonable layperson, on hearing about Dr Wong's "inexcusable" failure to report the criminal conviction and adverse findings made by the SMC which was regarded by the Hong Kong regulatory body as conduct which had "fallen below the standards expected of registered medical practitioners in Hong Kong" would have said without hesitation that he should not have done it. To reiterate, candour and disclosure are an essential part of proper professional conduct, and contravention of disclosure requirements would add even more disrepute.

90 Parties were in disagreement over whether Dr Wong's non-disclosure of the criminal conviction and disciplinary findings in Singapore to the MCHK was dishonest or inadvertent. Dr Wong's state of mind at the relevant time was, to us, not material given the findings of the Inquiry Panel at [0] above, which held that his misconduct was of such gravity that it fell below the standards expected of a medical practitioner.

91 We should also point out that although it was stated in the Respondent's Closing Submissions at [41] that "the SMC has confirmed their case for both Charges is that Dr Wong had allegedly been dishonest" and that "the SMC has also confirmed that for both Charges, their case is that Dr Wong had acted "knowingly" or "consciously", Counsel for the SMC clarified during the hearing when this point was raised that while the SMC's case was that Dr Wong had "knowingly made" the declarations as far as the 1st Charge was concerned, which imputed dishonesty, "… the 2nd Charge does not specifically say or refer to dishonesty. We have not framed it on the basis of dishonesty" (see NE, 7

February 2023, 121/17 – 21; 122/1 – 7). We also noted that the 2nd Charge, as framed, did not include the element of dishonesty or knowledge. It was hence not necessary for the SMC to prove dishonesty or knowledge for the 2nd Charge to be made out.

92 In the circumstances, we found that the SMC had proved the 2nd Charge beyond a reasonable doubt, and convicted him charge accordingly.

Our decision on sentence

Parties' submissions on sentence

93 Parties disagreed on the sentencing framework to be applied in the case before us. The SMC submitted that the approach and matrix in *Wong Meng Hang v Singapore Medical Council and other matters* [2018] 3 SLR 526 ("*Wong Meng Hang*"), which was a case under section 53(1)(d) of the Act, was applicable in section 53(1)(c) cases, as per *Julian Ong*, where the Court applied it in relation to disciplinary offences in a non-clinical context. Dr Wong, on the other hand, contended that the sentencing framework in *Wong Meng Hang* applied in the non-clinical context only where the doctor's conduct amounted to or was comparable to professional misconduct, as in *Julian Ong*, but which was not the case before us, having regard to the lack of harm caused since public interest was not seriously impacted and Dr Wong's low level of culpability as his "lapses were a result of carelessness, rather than indifference to his professional obligations"[29].

94 Applying the *Wong Meng Hang* framework, the SMC sought a suspension of 24 months for the 1st Charge and a suspension of six months for the 2nd Charge, with both sentences running consecutively. In respect of the 1st Charge, the SMC submitted that the harm caused was moderate as the SMC would not have been able to discover Dr Wong's Hong Kong convictions easily, that the false declarations meant that the SMC was not made aware of the Hong Kong convictions in a timely manner, preventing it from determining if any disciplinary action should have been taken at the point of declaration, and that Dr Wong's actions in knowingly making false declarations in the PC renewal applications were a clear breach of the honesty and integrity expected of medical practitioners. The

[29] See page 15 of the Respondent's Sentencing Submissions at section (3).

SMC submitted that Dr Wong's culpability was at the "higher end of "medium""[30] given that the false declarations were made knowingly and he had recklessly failed to declare the convictions. As for the 2nd Charge, the SMC submitted that by acting poorly in a foreign jurisdiction, Dr Wong had brought disrepute to the profession, and that moderate harm was caused. However, his culpability was considered low as unlike for the 1st Charge where positive declarations were made, the 2nd Charge related to a failure to report his transgressions in Singapore to the MCHK.

95 Dr Wong submitted that in light of the slight harm caused and the low culpability involved, as well as his candour in responding to the SMCs queries throughout the investigation process, an appropriate sentence for each of the charges would be a fine, regardless of whether the DT applied the *Wong Meng Hang* framework or otherwise. Dr Wong put forth a total fine of $70,000 for both charges.

The applicable sentencing framework

Whether the Wong Meng Hang sentencing framework applied in this case

96 Both the SMC and Dr Wong agreed that the sentencing framework and matrix in *Wong Meng Hang* could in principle be applicable in cases involving misconduct in the non-clinical context such as the present case[31]. However, Dr Wong submitted that the facts of the case before us were such that the approach in *Wong Meng Hang* should not be applied as the SMC had failed to show that Dr Wong's conduct was, or was at least comparable to, professional misconduct.

97 We agreed with the SMC's submission that the applicable sentencing approach in this case was the framework laid down in *Wong Meng Hang* for professional misconduct under s 53(1)(*d*), and which was extended by the Court of Three Judges in *Julian Ong* to section 53(1)(*c*) cases involving misconduct which brings disrepute to the medical profession. The Court in *Julian Ong* recognised the logic of the Sentencing Guidelines

30 At [52] of the Prosecution's Sentencing Submissions.

31 At [41] of the Prosecution's Sentencing Submissions and [6] – [7] of the Respondent's Reply Sentencing Submissions.

Committee appointed by the SMC in recommending the extension of the *Wong Meng Hang* framework to other forms of misconduct through the *Sentencing Guidelines for Singapore Medical Disciplinary Tribunals* dated 15 July 2020 to guide the DT in sentencing, which included misconduct under section 53(1)(*c*) which the medical practitioners in *Julian Ong* faced: at [61] – [62] of the judgment. That said, the Court emphasised the importance of bearing in mind the nuances of each case. As highlighted in the later decision of *Ho Tze Woon v Singapore Medical Council* [2023] SGHC 254 ("*Ho Tze Woon*"), the application of the *Wong Meng Hang* framework to such cases in the non-clinical context is always subject to the need to be mindful that the type of offence amounts to, or at least is comparable to, professional misconduct.

98 It would be apposite to set out the detailed reasoning of the Court in *Ho Tze Woon* in this regard as the Court explained why and how the *Wong Meng Hang* approach evolved to apply beyond clinical cases of professional misconduct under section 53(1)(d) of the Act. It also informed our assessment as to the applicability of the *Wong Meng Hang* framework, as modified in *Julian Ong*, to our case:

> 61 In *Ong Kian Peng Julian v Singapore Medical Council and other matters* [2023] 3 SLR 1756 ("*Julian Ong*"), this court dealt with two practitioners who were charged with offences under s 53(1)(*c*) of the MRA. The parties in that case did not dispute that the *Wong Meng Hang* framework applied to sentencing even though the offences did not involve the doctors' deficiencies in clinical care causing harm to their patients (at [60]). *There, we recognised the logic of the suggestion in the Sentencing Guidelines that the Wong Meng Hang framework could be extended to other forms of wrongdoing, but emphasised the importance of bearing in mind the nuances of each case* (at [62]). We then applied the *Wong Meng Hang* framework to determine the appropriate sentence for the medical practitioners.
>
> 62 To summarise, the *Wong Meng Hang* framework was first formulated to apply to clinical cases of professional misconduct under s 53(1)(*d*) of the MRA. It has since, in *Julian Ong*, been extended to apply to non-clinical cases where the doctor is "guilty of such improper act or conduct which, in the opinion of the Disciplinary Tribunal, brings disrepute to his profession" under s 53(1)(*c*) of the MRA. While the *Sentencing Guidelines* contain a suggestion that the *Wong Meng Hang* framework *can* apply to all the limbs under s 53(1) of the MRA, this court has not yet considered this suggestion in depth. There is also no case thus far in which this court has applied the *Wong Meng Hang* framework to a s 53(1)(*e*) offence.
>
> …
>
> 69 When we made the decision in *Julian Ong* to extend the *Wong Meng Hang* framework to a case under s 53(1)(*c*), we did not hold that the framework was to apply as a default to all cases under s 53(1)(*c*). *In fact, we stressed the importance of bearing in mind the nuances of each case (Julian Ong at [62]). Our decision to apply the framework in that case must be seen in light of the nature of the conduct involved.* In this regard, we found that one of the medical

> practitioners had demonstrated a "callous and an intentional departure from the conduct reasonably expected" of him as a medical practitioner (*Julian Ong* at [71]).
>
> 70 Once again, we recognise the logic of the recommendation in the *Sentencing Guidelines* that the *Wong Meng Hang* framework can apply to all other limbs under s 53(1). The *Wong Meng Hang* framework can provide a useful analytical guide in sentencing for many cases across all limbs of s 53(1). However, there will be certain cases under s 53(1) where the *Wong Meng Hang* framework is not applicable. The *Wong Meng Hang* framework was developed to deal with instances of professional misconduct. Professional misconduct is a serious charge, and it carries a much higher threshold than, for example, failing to provide professional services of the quality reasonably expected. It is not appropriate to apply the *Wong Meng Hang* framework to cases where there is no proof of misconduct, bearing in mind the contours of "misconduct" as set out in *Low Cze Hong. Before the Wong Meng Hang framework is applied to any case under s 53(1), care must be taken to analyse the facts and determine if the medical practitioner's conduct is, or is at least comparable to, professional misconduct.*
>
> [emphasis added]

99 In *Low Cze Hong v Singapore Medical Council* [2008] 3 SLR(R) 612 ("*Low Cze Hong*") at [37], the Court of Three Judges noted that professional misconduct could be made out in at least two situations:

(a) first, where there was an intentional, deliberate departure from standards observed or approved by members of the profession of good repute and competency; and

(b) second, where there had been such serious negligence that it objectively portrayed an abuse of the privileges which accompanied registration as a medical practitioner.

100 Having assessed the factual matrix in the present case, we were satisfied that Dr Wong's acts for which he was convicted of the 1st and 2nd Charges amounted to such improper conduct which was at least comparable to professional misconduct as enunciated in *Low Cze Hong*, and which met the threshold laid down in *Julian Ong* and *Ho Tze Woon*. In convicting Dr Wong on the 1st Charge, we had found that Dr Wong chose not to disclose the Hong Kong convictions or at the very least made the false declarations recklessly not once but twice, and did not care if the declarations were the truth or otherwise. This was made more egregious by the fact that the false declarations were made in the context of seeking his PC renewals, which represented repeated breaches of the values of honesty and integrity every medical practitioner was expected to uphold. We had also found in respect of the 2nd Charge that public confidence in the medical profession in Singapore

would be damaged by the revelation of Dr Wong's conviction before the professional inquiry panel in Hong Kong for the non-disclosures to the MCHK of the criminal conviction and adverse findings in medical disciplinary proceedings in Singapore. Dr Wong's acts concerned lack of integrity and candour about his past actions, as well as behaviour negatively impacting the regulation or discipline of medical professionals in Singapore. The disrepute which Dr Wong brought to the Singapore medical profession by virtue of his improper acts and conduct went to the heart of what was expected of every doctor in terms of the standards of behaviour and conduct.

The sentencing principles and matrix under the Wong Meng Hang framework

101 Having decided that it was appropriate to use the Wong Meng Hang framework in this case, we went on to determine the sentence to be imposed. In *Julian Ong*, the Court set out the four steps under the modified *Wong Meng Hang* framework at [63]:

(a) Step 1: The first step is to evaluate the seriousness of the offence with reference to harm and the culpability of the doctor. In this regard, harm encompasses bodily harm, emotional and psychological harm, economic harm, harm to society including harm to public confidence in the medical profession, as well as potential harm that could have resulted but did not materialise.

(b) Step 2: Identify the applicable indicative sentencing range using the following sentencing matrix:

Harm / Culpability	Slight	Moderate	Severe
Low	Fine or other punishment not amounting to suspension	Suspension of 3 months 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

(c) Step 3: Identify the appropriate starting point within the indicative sentencing range.

(d) Step 4: Adjust the starting point by taking into account offender-specific aggravating and mitigating factors.

102 In arriving at the appropriate sentence in disciplinary proceedings before the DT, the overarching objectives of sentencing were underlined in *Wong Meng Hang* in [23] – [26], bearing in mind the four-step framework:

> 23 We begin with the main objectives of sentencing in this context. Disciplinary proceedings enable the profession to enforce its standards and to underscore to its members the values and ethos which undergird its work. In such proceedings, *broader public interest considerations are paramount and will commonly be at the forefront when determining the appropriate sentence that should be imposed in each case. Vital public interest considerations include the need to uphold the standing and reputation of the profession, as well as to prevent an erosion of public confidence in the trustworthiness* and competence *of its members*. This is undoubtedly true for medical practitioners, in whom the public and, in particular, patients repose utmost trust and reliance in matters relating to personal health, including matters of life and death. As we observed in *Low Cze Hong* at [88], the hallowed status of the medical profession is "founded upon a bedrock of unequivocal trust and a presumption of unremitting professional competence", and failures by practitioners in the discharge of their duties must be visited with sanctions of appropriate gravity.
>
> 24 *The primacy of these public interest considerations in the sentencing inquiry in disciplinary cases means that other considerations that might ordinarily be relevant to sentencing, such as the offender's personal mitigating circumstances and the principle of fairness to the offender, do not carry as much weight as they typically would in criminal cases*; and, as we later explain, these considerations might even have to give way entirely if this is necessary in order to ensure that the interests of the public are sufficiently met: *Ang Peng Tiam v Singapore Medical Council and another matter* [2017] 5 SLR 356 ("***Ang Peng Tiam***") at [118].
>
> 25 Second, the courts will also have regard to key sentencing principles of general application, such as the interests of general and specific deterrence. As we explained in *Singapore Medical Council v Kwan Kah Yee* [2015] 5 SLR 201 ("***Kwan Kah Yee***") at [55]–[57], citing *Tan Kay Beng v Public Prosecutor* [2006] 4 SLR(R) 10 at [31], general deterrence, in particular, is a matter of considerable importance because it is "intended to create awareness in the public and more particularly among potential offenders that punishment will be certain and unrelenting for certain offences and offenders". This is a central and operative sentencing objective in most, if not all disciplinary cases. *Specific deterrence, on the other hand, is directed at discouraging the particular offender from committing future offences, and the weight to be accorded to this sentencing objective may be greater in cases involving recalcitrant offenders* (see *Kwan Kah Yee* at [57]) as opposed to those

> with long, unblemished track records that are suggestive of a lack of propensity to reoffend: see *Ang Peng Tiam* at [105]–[107]. *Yet another relevant sentencing objective is the need to punish the professional who has been guilty of misconduct.*
>
> 26 Finally, considerations of fairness to the offender may, in appropriate cases, warrant the imposition of a lighter sentence. In cases such as *Ang Peng Tiam* where there had been inordinate delay in the SMC's prosecution of the disciplinary proceedings, we applied a sentencing discount in recognition of the prejudice that had been unfairly suffered by the offending doctor in the form of the mental anguish and anxiety that was caused by the pendency of the charge over a prolonged period of time. At the same time, we have previously emphasised that such considerations of fairness may be outweighed or even rendered substantially irrelevant by countervailing concerns in the public interest, especially in cases where the offence in question is particularly heinous: *Ang Peng Tiam* at [118]. Therefore, where important public interest considerations demand the imposition of a heavier penalty, the existence of prejudicial delay in the proceedings may have no mitigating effect at all in the sentencing of the offender.
>
> [emphasis added]

103 We bore in mind the sentencing objectives and applied the four-step sentencing approach in determining the appropriate sentence to be meted out in respect of the 1st and 2nd Charges.

Sentence for the 1st Charge

104 Turning to the 1st Charge, we were satisfied that the harm caused was slight. While the lack of disclosure would have had an effect on the public trust and confidence in the integrity of medical professionals, the magnitude of the effect was less because the Hong Kong convictions involved were not such serious offences that attracted a very heavy punishment: a fine of HKD10,000 was imposed in all. Any effect on public confidence would not be so substantial to bring it to a moderate level of harm. As for Dr Wong's culpability, given that he had failed to make the declaration not once but twice, his culpability could be described as being in the medium range. He really should have known better and disclosed the Hong Kong convictions but was reckless about the accuracy of the declarations, not caring whether they were true or false. The starting point would be a suspension of three months. We noted that section 53(2)(*b*) of the Act provides that the DT may order a suspension for a period of not less than 3 months and not more than 3 years.

105 Turning to the offender-specific factors, Dr Wong had six antecedents involving improper conduct which brought disrepute to the profession and professional misconduct, stretching from 2001 to 2015; for these he was given various fines, censure and had given different forms of undertaking, as well as a suspension of 12 months in respect of conduct relating to the use of unproven medical treatment using stem cells in *In the Matter of Dr Wong Yoke Meng* [2011] SMCDC 22. The effect of these antecedents was material. At the same time, the present case was not such a case to call for a suspension above the 12 months imposed previously.

106 Taking into account all these factors, we concluded that it would be sufficient to impose a suspension for a period of six months.

Sentence for the 2nd Charge

107 As for the 2nd Charge, again, while there would be an impact on public trust and confidence, the harm caused was not so substantial that it could be described as moderate. The culpability was not as high as in the 1st Charge as it was a failure to report, rather than a false positive declaration. The starting point should be a substantial fine of at least $24,000, which was the fine imposed for the most recent antecedent in 2015 for a section 53(1)(*c*) contravention.

108 The aggravating features noted above in relation to the various antecedents would not be such as to bring this case to the level of suspension but would, in our view, result in an increase in the quantum of the fine. All in all, a fine of $36,000, which represented a 50% uplift over the last fine, would be sufficient to the mind of the DT.

Conclusion

109 In the circumstances, pursuant to the DT's powers under section 53(2) of the Act, the following orders were imposed on Dr Wong:

(a) That the registration of Dr Wong be **suspended** for a period of **six (6) months** in respect of the **1st Charge**.

(b) That a **penalty of $36,000** be imposed in respect of the **2nd Charge**.

(c) That Dr Wong be censured.

(d) That Dr Wong provides a written undertaking to the Singapore Medical Council that he will not engage in the conduct complained of and any similar conduct in future.

(e) That Dr Wong pays the costs and expenses of and incidental to these proceedings, including the costs of the solicitors for the Singapore Medical Council.

110 The period of suspension is to commence 30 days after the release of these Grounds of Decision.

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

112 The hearing is hereby concluded.

Dated this 14th day of August 2024.

Dr Tham Tat Yean Chairman	Dr Kwan Yew Seng Member	Ms Thian Yee Sze Judicial Service Officer

Mr Nandakumar Renganathan and Ms Ashley Phua
(M/s RHTLaw Asia LLP)
for Singapore Medical Council; and

Mr Christopher Chong and Ms Zoe Pittas
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For Dr Wong Yoke Meng