

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2023] SGHC 213

Originating Application No 731 of 2023

In the Matter of Section 45 and 59U of the Medical Registration Act

And

In the Matter of an inquiry against Dr L

Singapore Medical Council

... Applicant

FOUNDATIONS OF DECISION

[Civil Procedure – Extension of time – s 45(4) Medical Registration Act]

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Re Singapore Medical Council

[2023] SGHC 213

General Division of the High Court — Originating Application No 731 of 2023

Choo Han Teck J

31 July 2023

4 August 2023

Choo Han Teck J:

1 This application in HC/OA 731/2023 is by the Singapore Medical Council (“SMC”) under the new s 45(4) Medical Registration Act 1997 (2020 Rev Ed) (“New MRA”) for an extension of time for the Complaints Committee to complete its inquiry into a complaint against Dr L.

2 The process for investigating complaints against medical professionals under the New MRA was a result of amendments made by the Medical Registration (Amendment) Act 2020 (No.34 of 2020) (“MRA Amendments”). The amended process of investigation comprises the following stages:

(1) after a complaint is received, an Inquiry Committee is appointed to determine whether the complaint is “vexatious, misconceived or lacking in substance”, if so, the complaint will be dismissed; otherwise,

(2) it may be referred to the Complaints Committee for further inquiry, and the Complaints Committee will decide if a formal inquiry needs to be conducted by a Disciplinary Tribunal, or recommend other actions instead; and

(3), if a Disciplinary Tribunal is appointed, the medical professional concerned will face a formal enquiry before the Disciplinary Tribunal.

3 Prior to the MRA Amendments, the Complaints Committee had to complete its inquiry no later than three months after the receipt of a complaint. Applications for extensions of time for the Complaints Committee to complete its inquiry were made to the chairman of the Complaints Panel (the chairman appoints the Complaints Committee). The chairman could grant extensions at his discretion: see s 42(2) MRA that was in force before the MRA Amendments came into force (“Old MRA”).

4 Parliament passed the MRA Amendments, among other objectives, to “facilitate a more expeditious resolution of complaints” (*Singapore Parliamentary Debates, Official Report* (6 October 2020), vol. 95, Mr Edwin Tong Chun Fai, Second Minister for Law) (“*Hansard*”). Now, under s 45 of the New MRA, the Complaints Committee has to complete its inquiry no later than three months after the date of the complaint being referred to it. If more time is required, the Complaints Committee can apply in writing to the chairman of the Complaints Panel for an extension provided that the extension does not exceed six months from the date the complaint was referred to the Complaints Committee.

5 If the Complaints Committee requires more than six months to complete its inquiry, it must now request the SMC to apply to the General Division of the High Court for a further extension of time. HC/OA 731/2023 is such an application.

6 The new section (s 45) and amended procedure regarding the schedule for dealing with complaints were introduced because Parliament wanted to “facilitate a more expeditious resolution of complaints”. Minister Tong explained that “one of the chief complaints about the system” is that it “has taken too long” between “the time a complaint is lodged until it is resolved”. This process can take up to “five, six, seven years in some cases” and was a “real strain” and a “real stress” on the doctor in cases where the doctor is found not liable. Conversely, if the doctor is ultimately found to be liable for professional misconduct, the long duration of the process leads to the question of the doctor practising during that “last six, seven years”, and little would have been done to “protect the patient’s interest” during that time.

7 It is clear from Minister Tong’s explanation that the MRA Amendments were meant to tighten the process for the benefit of doctors, patients, and complainants. In this connection, it is important for the court, when considering whether to grant further extensions of time to the Complaints Committee, to keep in mind the spirit of the amended procedure — achieving a “more expeditious resolution of complaints”. This means that the burden falls on the applicant to show adequate reasons for a further extension to be granted. The application to the court is not a mere formality. If there is an unreasonable delay in the inquiry process, or if insufficient reasons are given for an extension of time, the court may refuse to grant the extension, bearing in mind that there

would already have been an extension of time of three months given by the chairman of the Complaints Panel, before an application comes to the court.

8 In the present case, the SMC (the applicant) applied for an extension of time on 24 July 2023 requesting for an extension of three months to be given to the Complaints Committee, up to 24 October 2023, to complete its inquiry against Dr L, against whom, a complaint was made on 23 November 2022. Dr L had attended to a patient (“H”) who received injuries to his back in an accident. Dr L gave him a medical certificate (“MC”) covering two days. H also complained that during his various follow-up appointments with Dr L, Dr L told him that he cannot be given any MC directly because he (“H”) was not the one paying for the services. On 7 December 2022, the Inquiry Committee was appointed to look into the complaint and referred the complaint to the Complaints Committee on 12 January 2023. The Complaints Committee was appointed on 25 January 2023 and commenced its inquiry by seeking Dr L’s clarification on the complaint. On 1 February 2023, the Complaints Committee directed investigators to obtain an expert report from an Orthopaedic Spine Surgeon and to pose follow-up questions to Dr L. On 6 April 2023, the Complaints Committee reviewed the documents obtained by the investigations and sought further clarifications from H’s employer. On 17 July 2023, the Complaints Committee directed further investigations to obtain a written explanation from Dr L as to why the MCs were not issued to the patient H himself, and asked to whom the MCs were issued. Counsel for the applicant says that these further clarifications were sought from Dr L as a new issue that was previously overlooked. Dr L responded on 18 July 2023 and requested for a three to four weeks extension of time to submit his written explanation. In the

interests of fairness, the Complaints Committee agreed to a three-week extension of time (till 10 August 2023) for Dr L.

9 Counsel for the applicant further says that after receiving Dr L’s written explanation, the Complaints Committee would require time to “deliberate on the matter and consider whether further investigation might be required”. Under these circumstances the Complaints Committee seeks an extension of time of three months from this court. I am of the view that another three months is not justifiable for what else remains to be done. First, the Complaints Committee appears to have been satisfied preliminarily that the two days MC issued by Dr L was not inappropriate, and that the main issues left were whether the MCs should have been issued directly to H personally, and whether it was inappropriately issued to some other person(s). If so, that may be a breach of the ethical rules of the SMC. With respect, the remaining issues are not complex and do not require another three months. No expert medical evidence from specialists is needed (in contrast to the first issue that the Complaints Committee has already been satisfied with). Secondly, the applicant has not given adequate reasons why three months is needed for the Complaints Committee to consider Dr L’s explanation on 10 August 2023. In my view, a further three weeks should suffice for the Complaints Committee to discuss and decide if Dr L had acted wrongly (in breach of ethical guidelines) after hearing back from him on 10 August 2023. Bearing in mind that Parliament had intended for the complaints process to be expedited and shortened — and given that this is already the second request for an extension of time (the first being a request to the chairman of the Complaints Panel), there must be a greater sense of urgency in resolving this complaint. As such, I allow the application for an extension of

time, but the extension is to only be up to 31 August 2023 (three weeks from 10 August 2023).

- Sgd -
Choo Han Teck
Judge of the High Court

Sui Yi Siong (Harry Elias Partnership LLP) for the applicant.
