

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

[2023] SGHC 212

Originating Application No 712 of 2023

In the Matter of Section 45(4) and Section 59U of
the Medical Registration Act 1997

Singapore Medical Council

... Applicant

GROUND OF DECISION

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

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Re Singapore Medical Council

[2023] SGHC 212

General Division of the High Court — Originating Application No 712 of 2023

Choo Han Teck J

31 July 2023

4 August 2023

Choo Han Teck J:

1 The process for investigating complaints about medical professionals was changed by Parliament in October 2020 and came into force on 1 July 2022. This updated process and reasons behind the changes are covered in detail in [2023] SGHC 213. The application in HC/OA 712/2023 is by the Singapore Medical Council (“SMC”) under s 45(4) of the Medical Registration Act 1997 (2020 Rev Ed) (“MRA”) for an extension of time for the Complaints Committee to complete its inquiry into whether a complaint about a doctor (“Dr N”) should be referred to the Disciplinary Tribunal for a formal inquiry, or whether other appropriate actions should be taken. It was Parliament’s intention in the amendments to the MRA to create 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*”).

2 This application was brought by the SMC on 18 July 2023, a day before the expiry of the deadline for the Complaints Committee’s inquiry, namely, 19 July 2023. Leaving it to the last day right before the time limit for the inquiry is about to expire is obviously unwise. The applicant cannot assume that it will be granted. There is no automatic grant of an extension of time at this stage. A reasonable time for the Complaints Committee to investigate must be measured against the public interest of an “expeditious resolution of complaints”. If the Complaints Committee delays itself, it must not expect to be given more time without sound and valid reasons that might justify the delay. The onus lies with the applicant to show that it should be granted. Should the applicant be denied an extension of time, the Complaints Committee would be *functus officio* and the complaint cannot continue. Therefore, it will be prudent, in the future, for such applications to be brought earlier (and not on the cusp of the deadline) — once it is clear that the investigation cannot be completed in time.

3 In the present case, the complaint against Dr N was received by SMC on 25 November 2022 and involved various alleged failures by Dr N to properly diagnose, treat and communicate with the complainant (“M”) regarding problems in M’s leg. Dr N treated M from around 3 February 2020 to 15 May 2020 where M’s condition did not improve, and in fact worsened in some ways. M subsequently sought medical help from other doctors. Although M’s condition showed some improvement after being treated by other doctors, the pain and swelling around M’s Achilles tendon has persisted.

4 After receiving the complaint, an Inquiry Committee was appointed to look into the complaint on 13 December 2022 and the Inquiry Committee referred the matter to the Complaints Committee on 10 January 2023, with the Complaints Committee being appointed on 20 January 2023 and commencing its inquiry thereafter. The Complaints Committee reviewed documents obtained

pursuant to the Inquiry Committee's instructions on 20 January 2023, and on 3 February 2023, directed further investigations and asked for various documents from Dr N. After receiving the remaining documents requested by the Inquiry Committee on 6 February 2023, the Complaints Committee reviewed them on 24 February 2023 and decided not to proceed with its directions given on 3 February 2023. Subsequently, the Complaints Committee met for a "detailed" online discussion of the case on 21 March 2023, and on 17 April 2023 directed investigators to seek clarifications from Dr N, and to obtain an expert report from a vascular surgeon of the Academy of Medicine Singapore ('AMS'). The investigators approached the expert nominated by AMS on 18 May 2023, with the expert asking for more time to submit his expert report on 20 June 2023 and 3 July 2023. As of the time of the s 45(4) MRA application (18 July 2023), the Complaints Committee has not received the expert report. In these circumstances, and since the Complaints Committee will require time to review the documents obtained pursuant to the directions given on 17 April 2023, the applicant asks for an extension of time of three months, till 19 October 2023, for the Complaints Committee to complete its inquiry.

5 I am of the view that the circumstances of the present case do not warrant a grant of an extension of time for three months till 19 October 2023. First, there does not appear to be any reasons given for the delays in procuring the expert report. Despite there being two previous extensions of time given to the expert (on 20 June 2023 and 3 July 2023), it is unclear as to when the expert will be submitting his expert report. There is also no explanation as to why such a long time is required for the expert report to be obtained (more than two months have passed). If there are valid reasons for the expert report to be delayed — these reasons need to be disclosed to the court. Otherwise, the Complaints Committee should impress upon its experts that their reports are due. Afterall, Parliament

had modified the processes in dealing with complaints with the aim of achieving a “more expeditious resolution of complaints”, and this applies to all parties involved in the process.

6 Secondly, there were long gaps during the previous six months which are unexplained delays — the time between the Complaints Committee’s meeting and when steps were actually taken. For instance, the Complaints Committee discussed the case on 21 March 2023, but only gave directions to investigators almost a month later on 17 April 2023, and there was a lag of more than a month from 17 April 2023 to 18 May 2023, before the investigators finally followed the directions given and asked the expert nominated by AMS for his report. Of course, directions need time to complete, but the gap between the decision and action taken does not seem reasonable. This is unlike the situation where the expert may need more than a month between receiving instructions and producing the expert report — due to the complexities of the subject matter. The Complaints Committee has to avoid such delays. It must encourage the other parties in the complaints process to work expeditiously. It is Parliament’s intention that the complaints process moves faster than before. The statutory amendments were intended to speed up the resolution of complaints.

7 For the reasons given above, I allow the application for an extension of time, but only be up to 1 September 2023.

- Sgd -
Choo Han Teck
Judge of the High Court

Lim Ngee Tong Samuel and Thng Yu Ting Angelia (Braddell
Brothers LLP) for the applicant.