

PUBLIC RECORD**Date:** 14/03/2025**Doctor:** Dr George ZENG**GMC reference number:** 7604707**Primary medical qualification:** MB BS 2018 Imperial College London**Type of case** **Outcome on impairment**

Review - Conviction Impaired

Summary of outcome

Suspension, 12 months

Review hearing directed

Tribunal:

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|------------------------------|----------------------------------|
| Legally Qualified Chair: | Mrs Tehniat Watson |
| Registrant Tribunal Members: | Dr Nigel Langford, Dr Jill Belch |
| Tribunal Clerk: | Mrs Jennifer Coakley |

Attendance and Representation:

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|--------------------------|--------------------------|
| Doctor: | Present, represented |
| Doctor's Representative: | Mr Lee Gledhill, Counsel |
| GMC Representative: | Mr Salek Ahmed, Counsel |

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Impairment - 14/03/2025

1. At this review hearing the Tribunal has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Zeng's fitness to practise is impaired by reason of a conviction or caution for a criminal offence.

Background

2. Dr Zeng qualified as a doctor in 2018 at Imperial College London and prior to the events which are the subject of the hearing he was practising as a Radiology ST2 Trainee within Health Education England North East.

3. The facts found proved at Dr Zeng's hearing which took place in February 2024 relate to a conviction received at Newcastle Magistrates' Court on 17 May 2023. Dr Zeng was convicted of voyeurism – recording a private act, contrary to Section 67(3) and 67(5) of the Sexual Offences Act 2003. On 17 May 2023, Dr Zeng was sentenced to a community order and ordered to participate in an accredited Horizon programme for 24 days, comply with instructions of a responsible officer to attend a rehabilitation activity up to a maximum of 30 days, pay a fine in the sum of £500.00 and register with the police in accordance with the Sexual Offences Act 2003 for five years.

4. The conviction related to an incident which occurred on 6 November 2021. Dr Zeng had invited friends/colleagues to his house and had installed a covert camera in a toilet so as to obtain footage of people using the facilities. A female visitor had noticed the camera and, along with her friends, confronted Dr Zeng about it. They seized the memory card from the camera, which showed footage obtained whilst they had been using the toilet during the visit. The matter was reported to the police and Dr Zeng was arrested by Northumbria Police on 10 November 2021. He was taken into custody where he provided a 'no comment' interview. His electronic devices were seized, and he was released pending further investigation later that day with no bail or conditions.

5. Dr Zeng referred himself to the GMC on 12 November 2021. He pleaded guilty at the first court hearing on 17 May 2023 in the Newcastle Magistrates' Court.

6. The 2024 Tribunal found that the gravity of Dr Zeng's offence, notwithstanding that it was remediable, and he had made progress towards showing remediation, necessitated a

finding of impairment in the public interest in order to maintain public confidence in the profession and to promote and maintain proper professional standards and conduct.

7. The 2024 Tribunal determined to suspend Dr Zeng's registration for a period of 12 months. It considered that his actions were a serious departure from the principles set out in GMP and the professional standards that members of the profession must uphold. It considered that members of the public would be appalled by the knowledge that a medical practitioner had committed such an offence. Although the 2024 Tribunal accepted that this was a serious offence and a serious breach of trust, it concluded that the offence itself was not fundamentally incompatible with continued registration. It took into account the mitigating factors including that the offence related to one incident, that Dr Zeng had taken swift action to start to remediate and that he had no history of other proceedings against him. The 2024 Tribunal was of the view that the actions could be remedied and that Dr Zeng, with time, may be able to develop further insight, gain additional and continued support into the circumstances leading up to his criminal conviction and take steps to fully remediate his conduct. The 2024 Tribunal determined that a period of suspension would properly mark the seriousness with which it viewed Dr Zeng's conduct and the fact that he is registered on the sex offenders' register for a period of five years until May 2028. The 2024 Tribunal determined that a period of suspension for 12 months would be appropriate and proportionate given the seriousness of the conviction and the need to maintain public confidence and uphold proper professional standards of behaviour.

8. The 2024 Tribunal determined to direct a review of Dr Zeng's case. It indicated that a reviewing Tribunal may be assisted by the following:

- Formal assessment of Dr Zeng's risk to patients, colleagues and the public as a result of his voyeurism and continued registration on the Sex offenders' Register;
- Dr Zeng's insight into the impact of his actions on the public interest and public confidence in the medical profession by further reflection following the Tribunal's findings;
- Evidence from Dr Zeng that he has maintained his medical knowledge and skills during the period of suspension;
- Information of any strategies that Dr Zeng may be able to use to prevent the offence, or similar offence, from reoccurring;
- Updated testimonials.

9. This is the first review of Dr Zeng's case.

The Evidence

10. The Tribunal has taken into account all the evidence received, both oral and documentary.

11. Dr Zeng gave oral evidence at the hearing. He provided details of what he has done since the offence, including completion of a Masters of Science in Health Data Science. He worked as a XXX and, since August 2024, has been working as an XXX. Dr Zeng explained the steps he has taken to remediate and develop insight, such as XXX, engaging with probation services and taking part in the Horizon Programme. He provided details in relation to his understanding of the impact his offending had on his victims. He stated that, given the steps he has taken, he assesses his risk of reoffending as negligible. He indicated that, should he be allowed to resume practice, he does not intend to return immediately to a career in medicine. However, he would like to keep his options open and may consider employment within the fields of radiology, biochemistry or public health in the future.

12. The Tribunal had regard to the documentary evidence provided on Dr Zeng's behalf. This included:

- Dr Zeng's Curriculum Vitae;
- XXX;
- Letter from HM Prison & Probation Service, dated 13 June 2024;
- Letter from Dr Zeng's employer, XXX, dated 16 June 2024;
- XXX;
- CPD Certificate – Professional Boundaries in Health & Social Care, dated 14 December 2024;
- Written submissions of Dr Zeng, dated 16 December 2024;
- Letter from Probation Service regarding the Horizon Programme, dated 5 March 2025;
- Letters from XXX, dated 24 February 2025.
- Email confirming booking onto a Clinical Skills SuppoRTT Course in September 2025.

Submissions

13. On behalf of the GMC, Mr Salek Ahmed, Counsel, submitted that Dr Zeng's fitness to practise remains impaired by reason of conviction. He submitted that no formal assessment of risk has been provided, as suggested by the previous Tribunal. He submitted that this would have greatly assisted in today's reviewing process, and without a formal risk

assessment the risk posed by Dr Zeng remains worryingly unclear. He submitted that public interest and the safety and wellbeing of the public must take priority above all else.

14. Mr Ahmed submitted that the facts of the conviction are unnerving; the offence involved multiple victims and a significant breach of trust and privacy. The conviction is also of a sexual nature which increases its seriousness.

15. Mr Ahmed submitted that the purpose of fitness to practise proceedings is not to punish a practitioner for past misdoings, but to protect the public against acts and omissions of those who are not fit to practise. Mr Ahmed submitted that public protection is key in this case and warrants careful scrutiny of Dr Zeng's level of insight, remediation and risk.

16. Mr Ahmed submitted that such a serious offence seriously undermines public trust in the profession and brings the profession into disrepute. He submitted that public confidence in the profession would also be undermined if a finding of impairment were not made.

17. Mr Ahmed stated that Dr Zeng admitted in evidence that his assessment of risk being negligible is based on his own self-assessment. Mr Ahmed submitted that self-assessment is not enough upon which this Tribunal can base any determination of risk. He submitted that impairment is necessary in respect of each limb of the overarching objective.

18. On behalf of Dr Zeng, Mr Lee Gledhill, Counsel, submitted that Dr Zeng accepts that his fitness to practise is currently impaired. He acknowledged the overarching objective and accepted that the Tribunal may be satisfied that some or all criteria are satisfied.

19. Mr Gledhill submitted that Dr Zeng has been on a journey since his offending. He has identified a new career path and may never return to medicine. He submitted that Dr Zeng should be commended for that. Mr Gledhill submitted that, through Dr Zeng's current role, there is an element of updating in relation to his medical knowledge.

20. In terms of risk assessment, Mr Gledhill submitted that it is hoped that the Horizon Programme and/or probation may be able to provide a formal risk assessment in the future, but Dr Zeng is not currently in a financial position to be able to obtain a XXX report privately. Mr Gledhill submitted that, once someone has offended, they never go below a low level of risk. Dr Zeng believes he is in a consolidation period and that his risk of reoffending is negligible.

21. Mr Gledhill submitted that it is clear that Dr Zeng is very unhappy with his past conduct and he gets the harm that has been caused. He is very alert to the fact that he is not an individual who would want to cause harm. He had personal difficulties in the past that were unrecognised at the time. Through public confrontation and humiliation he has been forced to focus in a very detailed way on who he is as an individual. Mr Gledhill submitted that there is significant evidence of developed insight.

22. Mr Gledhill confirmed that, if he returned to medicine, Dr Zeng would start in a non patient contact environment. He would be willing to adhere to whatever requirements are made of him to build up confidence to be able to return to clinical practice.

The Relevant Legal Principles

23. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

24. This Tribunal must determine whether Dr Zeng's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

25. The Tribunal had regard to the determinations of the 2024 Tribunal. It noted the findings of that Tribunal that Dr Zeng had breached paragraphs of GMP and that he had been convicted of a serious criminal offence. It noted that the seriousness of the conviction was marked by the sentence given to Dr Zeng, which included being placed on the Sex Offenders' Register for a period of five years. The 2024 Tribunal concluded that Dr Zeng's fitness to practise was impaired by reason of his conviction.

26. This Tribunal was mindful that there is a persuasive burden upon the doctor at a review hearing to demonstrate that their fitness to practise is no longer impaired. It noted that the 2024 Tribunal had indicated the kind of evidence which may assist a reviewing Tribunal.

27. The Tribunal had regard to the evidence of Dr Zeng's insight and remediation. It had regard to Dr Zeng's oral evidence in addition to the documents provided including those from

XXX and from the Probation Service. Dr Zeng has been attending the Horizon Programme and has also undertaken XXX to help to understand how he came to commit the sexual offence. The Tribunal also took into account Dr Zeng's lengthy written reflections. The Tribunal was of the view that Dr Zeng's insight has developed since the last hearing. Dr Zeng has clearly demonstrated that he is remorseful for his actions and has undertaken work to explore his offending behaviour and strategies to reduce the risk of reoffending. However, the Tribunal noted that, in oral evidence, the majority of Dr Zeng's reflections focussed on his personal development rather than the impact of his offending behaviour upon his victims. Further, it was mindful that Dr Zeng's probation requirements and Horizon Programme have not yet been completed. As such, it was of the view that it could not conclude that Dr Zeng has gained full insight, nor has fully remediated.

28. The Tribunal noted Dr Zeng's self-assessment that the risk of him reoffending is negligible. The Tribunal had regard to the evidence provided in terms of the progress Dr Zeng has made. However, it was cognisant to the fact that there was no independent risk assessment information available. It noted Dr Zeng's evidence that there were still 3-4 blocks of the Horizon Programme he was yet to complete before a report was available. In the absence of such independent information and completion of the programme, the Tribunal could not be satisfied that the risk of reoffending could be classed as 'low'.

29. The Tribunal considered that there is insufficient evidence to demonstrate that Dr Zeng's medical knowledge and skills have been kept up-to-date during the last 12 months. It accepted that he is currently working in a role within the healthcare domain where he has conversations with surgeons about clinical diagnosis and data. However, no other evidence, such as completion of clinically related e-learning or attendance at clinical courses, has been provided. It noted that Dr Zeng had sought to book a clinical skills course in January 2025 which is due to take place in September 2025.

30. In light of its finding that Dr Zeng has not gained full insight, without a formal independent information on the risk matrix further to his engagement in Horizon, XXX and without sufficient evidence that his knowledge and skills are up-to-date, the Tribunal was of the view that there would remain a risk to patient safety should Dr Zeng be allowed to resume unrestricted practice.

31. In terms of public confidence, the Tribunal had regard to paragraph 154 of the *Sanctions Guidance* (February 2024 edition) which states:

'154 ... The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. ...'

The Tribunal noted that Dr Zeng's name remains on the Sex Offenders' Register until 17 May 2028. The Tribunal was of the view that a member of the public would be shocked if a doctor whose name is on the Sex Offenders' Register were allowed to practice unrestricted. As such, it concluded that a finding of impaired fitness to practise is necessary in the public interest. Further, the Tribunal was of the view that a finding of impairment was necessary in order to promote and maintain proper professional standards and conduct for members of the profession given the lack of evidence to demonstrate that Dr Zeng has kept his clinical knowledge and skills up-to-date.

32. This Tribunal has therefore determined that Dr Zeng's fitness to practise is impaired by reason of a conviction or caution for a criminal offence.

Determination on Sanction - 14/03/2025

1. Having determined that Dr Zeng's fitness to practise is impaired by reason of a conviction for a criminal offence, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to his registration.

The Evidence

2. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing where relevant to reaching a decision on what action, if any, it should take with regard to Dr Zeng's registration.

3. The Tribunal received no further evidence at this stage of the hearing.

Submissions

4. On behalf of the GMC, Mr Salek Ahmed, Counsel, submitted that the appropriate sanction is a further period of suspension.

5. Mr Ahmed drew the Tribunal's attention to various paragraphs of the SG. He submitted that, given that Dr Zeng's conviction relates to sexual misconduct, more serious action is likely to be appropriate (paragraph 150 of the SG). He further submitted that no doctor registered as a sex offender should have unrestricted registration (paragraph 154 of

the SG). He reminded the Tribunal that Dr Zeng has just over three years left on Sex Offenders' Register; until the end of May 2028.

6. Mr Ahmed submitted that there are no exceptional circumstances which could justify this Tribunal taking no action. He submitted that the imposition of conditions would not be appropriate or workable given the serious nature of this case. He noted that the offence was unrelated to Dr Zeng's professional work; it occurred in his own home and in his personal life. He submitted that there are no conditions which could properly be formulated which would address Dr Zeng's behaviour and the risk that he poses. He submitted that an order of conditions would also not adequately maintain trust and confidence in the medical profession.

7. Mr Ahmed submitted that a period of suspension would be both appropriate and proportionate given the circumstances of this case. He submitted that suspension would have a deterrent effect and could be used to send a signal to the doctor and the profession about what is regarded as behaviour unbefitting of a registered doctor (paragraph 91 of the SG). He submitted that suspension would be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession (paragraph 92 of the SG). Mr Ahmed drew the Tribunal's attention to paragraph 97 of the SG in terms of factors being present that would indicate suspension may be appropriate.

8. Mr Ahmed also drew the Tribunal's attention to paragraph 163 of the SG which states that no doctor is allowed to resume unrestricted practice following a period of suspension unless the Tribunal considers that they are safe to do so. He also highlighted paragraph 154 of the SG which states that the Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration.

9. On behalf of Dr Zeng, Mr Lee Gledhill, Counsel, submitted that Dr Zeng acknowledges that a further period of suspension would allow for further consolidation and that may be the appropriate way forward. He submitted that the Tribunal should take the proportionate response to the evidence at this time.

He submitted that erasure would be a step too far. Dr Zeng has engaged and is working with the Horizon Programme and probation to ensure that there is no future repetition of his offending behaviour.

10. Mr Gledhill confirmed that Dr Zeng would potentially like to work for the health service again in a non-patient facing arena. He submitted that conditions can be formulated

to enable him to potentially return to work, whilst ensuring that there is an element of supervision, mentorship and/or support. Mr Gledhill submitted that conditions can be formulated which would be workable and a sensible way of moving forward. He submitted that there are many roles that are non-patient facing that Dr Zeng could carry out and many safeguards could be put in place.

11. Mr Gledhill submitted that, should the Tribunal determine to impose conditions on Dr Zeng's registration, Dr Zeng would still need to remediate, show insight and bring evidence of his fitness to practise in the round. It also does not prevent a risk assessment being undertaken for any future review that may enable more relaxed conditions. Mr Gledhill submitted that conditions would enable Dr Zeng to prove himself to the public that he is an able practitioner, he is sorry and that he has moved on. Dr Zeng recognises the harms caused to his victims of his crime and has sought to wrestle with that and understand who he was then, and how he is clearly a very different person now. Mr Gledhill submitted that Dr Zeng will continue to work on his CPD and will continue to reflect.

12. Mr Gledhill stated that, should the Tribunal not consider conditions to be suitable, then it would consider suspension. With regards to its duration, Mr Gledhill submitted that Dr Zeng would like to provide evidence of improvement and in relation to risk assessment. He suggested imposing no greater than a 12 month suspension, but less if possible. He reminded the Tribunal that the Horizon Programme is due to end in a couple of months' time and he would then need time for consolidation and assessment to take place, so a review in at least six months' time would be realistic.

The Tribunal's Determination

13. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal had regard to the SG. It bore in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

14. The Tribunal reminded itself that it must consider all three limbs of the overarching objective, considering the purpose of sanction as a whole and not give excessive weight to any one limb. The Tribunal must consider not only whether the sanction it imposes is sufficient to protect the public, but it must also explain how any sanction it imposes is an appropriate and proportionate response to the need to promote and maintain public confidence in the profession as a whole and to promote and maintain proper professional standards and conduct for members of the profession. In reaching its decision, the Tribunal has balanced fairness to Dr Zeng with the public interest.

15. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Zeng's interests with the public interest. It has already given a detailed determination on impairment and has taken those matters into account during its deliberations on sanction.

16. The Tribunal considered the aggravating and mitigating factors in this case. It considered that the aggravating factors included the serious nature of the offence, which was a sexual offence warranting a criminal conviction. As a result, Dr Zeng's name was placed on the Sex Offenders' Register for a period of five years. There were multiple victims. The Tribunal also noted that there is no evidence from an independent qualified specialist in relation to Dr Zeng's current risk of reoffending. Further, there is limited evidence available with regards to Dr Zeng keeping his clinical knowledge and skills up-to-date.

17. The Tribunal also considered the mitigating factors. Dr Zeng was apologetic from an early stage and has demonstrated remorse for his actions. He has demonstrated that his insight has developed since the previous hearing and has provided evidence of remediation. For example, he has engaged with the Probation Service and has been undertaking the Horizon Programme. He also sought to XXX in order to help to understand the reasons for his offending behaviour. There is no evidence of repetition of Dr Zeng's offending behaviour. Dr Zeng has booked onto a clinical skills course which is due to take place in September 2025.

No action

18. The Tribunal first considered whether to conclude Dr Zeng's case and take no further action. It had regard to the SG, including paragraph 154 which states:

'154 ... The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. ...'

Taking this into account, and in view of its findings on impairment, it considered that it would not be sufficient, proportionate, nor in the public interest to conclude this case by taking no action. It also considered that there are no exceptional circumstances which would warrant taking no action in this case.

Conditions

19. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Zeng's registration. The Tribunal recalled that in order for conditions to be imposed, they must be appropriate, proportionate, workable and measurable.

20. The Tribunal bore in mind that Dr Zeng's name remains on the Sex Offenders' Register. It also noted that Dr Zeng's offending behaviour occurred outside of the workplace. It was of the view that, in the circumstances, it would not be possible to formulate conditions that would be workable. Further, it considered that conditions would not address the risks in this case, and therefore would not be appropriate in order to satisfy the overarching objective. It considered that conditions would not be sufficient, in light of its findings on impairment, to promote or maintain public confidence in the medical profession or to uphold proper professional standards.

Suspension

21. Having determined that the imposition of conditions would not be appropriate, the Tribunal considered whether to suspend Dr Zeng's registration for a further period. It considered the following paragraphs of the SG were relevant:

'97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.

a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.

...

e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.

f No evidence of repetition of similar behaviour since incident.'

'119 As a general principle, where a doctor has been convicted of a serious criminal offence or offences, they should not be permitted to resume unrestricted practice until they have completed their sentence.'

'154 ... The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. ...'

22. The Tribunal was of the view that Dr Zeng's conviction for a sexual offence, which warranted a sentence including a requirement for his name to be on the Sex Offenders' Register for a period of five years, was serious. It considered the aggravating and mitigating factors in this case carefully. It also bore in mind paragraph 150 of the SG which states:

'150 Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.'

23. The Tribunal was of the view that, despite Dr Zeng's conduct being serious, there were mitigating factors weighing in his favour. As such, the Tribunal concluded that it was not fundamentally incompatible with continued registration, and erasing Dr Zeng's name from the Medical Register would be disproportionate at this stage. The Tribunal noted the evidence before it in relation to remediation, insight and reflection.

24. The Tribunal was of the view that suspension would be sufficient and appropriate to uphold all three limbs of the overarching objective.

25. The Tribunal determined that suspending Dr Zeng's registration for a period of 12 months would be the appropriate sanction in this case. In reaching its decision, it took note of the mitigating factors including the remediation undertaken, reflections provided and Dr Zeng's developing insight. However, it also noted the seriousness of the offence, he is yet to complete the Horizon Programme. Further, Dr Zeng's name remains on the Sex Offenders' Register until May 2028. There is a current lack of evidence that Dr Zeng's clinical knowledge and skills are up-to-date and no evidence from an independent qualified specialist with regards to risk of reoffending. In such circumstances, the Tribunal considered that a period of suspension of 12 months was necessary and appropriate to enable Dr Zeng time to demonstrate further progression in terms of remediation and insight, and to demonstrate that his clinical knowledge and skills are up-to-date.

26. The Tribunal determined to direct a review of Dr Zeng's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Zeng to demonstrate how he has fully remediated and gained full insight. It therefore may assist the reviewing Tribunal if Dr Zeng provides:

- A formal independent assessment by a qualified specialist with expertise in the area of sexual offences with regards to Dr Zeng's risk;

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- Further evidence of Dr Zeng's insight and reflections on his previous offending behaviour including how it has impacted his victims;
- Evidence that Dr Zeng has maintained his medical knowledge and skills, including CPD Certifications and reflections on any courses undertaken;
- Updated testimonials.

27. Dr Zeng will also be able to provide any other information that he considers will assist.

28. The Tribunal have directed to suspend Dr Zeng's registration for a further period of 12 months. The MPTS will send Dr Zeng a letter informing him of his right of appeal and when the direction and the new sanction will come into effect. The current order of suspension will remain in place during the appeal period.