

# OPINION

THE STRAITS TIMES

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The Straits Times says

## Intelligence brief Trump should heed

The United States Intelligence Community's 2019 assessment of threats to US national security, presented on Jan 29, is, by its own description, the "nuanced, independent and unvarnished intelligence" that policymakers, security agencies and domestic law enforcement need to protect American lives and interests around the world. While the cantation about threats from China and Russia is entirely predictable, this year's assessment is noteworthy for observing that the two powers are more aligned than at any point since the mid-1950s, and that the relationship is likely to strengthen as some of their interests and threat perceptions converge in the face of perceived US unilateralism and interventionism.

This much is not entirely unexpected for any careful observer of global politics. At the 2017 Shangri-La Dialogue in Singapore, Russian and Chinese delegations held their own meeting on the sidelines of the security conference, reflecting their swiftly building strategic relationship. Russian Deputy Defence Minister Alexander Fomin, responding to a question on Chinese behaviour in the South China Sea, praised China as "a good country... a big country and a peace-loving country", saying that the Russian assessment arose from careful consideration of the global circumstances. At the time, Moscow was chafing at the US decision to base the Terminal High Altitude Area Defence missile system in South Korea.

However, government leaders and military planners will need to pay special heed to the intelligence assessment's next warning that as China and Russia seek to expand their global influence, they are eroding once well-established security norms and increasing the risk of regional conflicts, particularly in West and East Asia. At the same time, it says, some US allies and partners are seeking greater independence from Washington in response to their perceptions of changing US policies on security and trade, and are becoming more open to new bilateral and multilateral partnerships. This intelligence assessment is significantly on target. Across Asia, the perception is growing that the America-led era is diminishing.

While President Donald Trump's first reaction was to dismiss his intel chiefs as "passive and naive", he soon changed position, declaring they were all "on the same page". If so, Mr Trump could make a start by dropping his dislike for his predecessor Barack Obama's policies that, for instance, prevent him from acknowledging that Iran is keeping its side of the bargain on not developing nuclear weapons. The US strategic affairs community, for its part, should moderate its tendencies to view Russia from a purely Atlantic perspective that lead to policies, including sanctions, that push Moscow ever closer to Beijing and stop Mr Trump from improving ties with Russia. Under the circumstances, though, this may be a big ask.

HomeFront

## The puzzling case of SMC's judgment on a doctor who was fined \$100,000

Why did the Singapore Medical Council tribunal impose a heavy fine on a doctor for not informing a patient of side effects of a common injection? And how will that decision affect how doctors practise medicine henceforth?



Salma Khalik

Senior Health Correspondent

Last month, a disciplinary tribunal convened by the Singapore Medical Council (SMC) released its judgment in the case of Dr Lim Lian Arn, an orthopaedic surgeon in private practice.

Dr Lim was given the maximum fine of \$100,000 for not informing his patient of the possible side effects of an injection he had given her. This judgment caused an uproar in the medical community because doctors say the H&L (steroid) injection that he administered is commonly used as it is a cost-effective treatment, and the side effects are rare and limited to a short period. Most doctors do not tell patients of possible side effects.

The Straits Times Forum pages carried several letters from doctors asking if they now need to alert patients to every possible side effect of every medication they give.

One doctor started a petition to Health Minister Gan Kim Yong that garnered more than 6,000 names. It sought clarification and stated that "the majority of the medical professionals performing these injections do not routinely take or document a detailed informed consent, as stated by the SMC's own expert witnesses".

The SMC responded, saying that doctors are not expected to inform patients of all possible complications.

It quoted an appellate court comment that an "information dump" would not be appropriate. Also, "a reasonable patient would not need or want to know and understand every iota of information before deciding on whether to undergo a proposed treatment", it said.

Few would argue with this stand. Most patients trust their doctors to do their best for them. Many would also not be able to process a laundry list of possible, though improbable, side effects. If the side effects are major or common, then of course the doctor needs to apprise the patient of them so that he can make a considered decision. The patient can also ask the doctor about side

effects and the doctor should be obliged to take the time to explain them.

This is the way medicine here is generally practised and given the SMC statement, going forward, nothing has changed – except when doctors give steroid jabs. But that was the basis for the doctors' worry, their letters and the petition.

To be honest, I found the entire process against Dr Lim, as well as the SMC's statement that followed, terribly confusing. On the one hand, the SMC implied that doctors do not really need to tell patients about the many possible, though unlikely, side effects of these injections. Its statement said: "It should be emphasised that Dr Lim was charged for wholly failing to inform the patient of any possible complications and not for failing to inform the patient of all possible complications that could arise from the H&L injection."

So Dr Lim's \$100,000 fine was NOT because he failed to inform the patient of the side effects of the jab, but because he did not tell her of any side effects of the treatment he was recommending.

The complete treatment consisted of bracing, oral medication and the injection. There was nothing mentioned in Dr Lim's hearing of needing to inform the patient of side effects of the oral medication or bracing, so that leaves only the jab.

In fact, the charge against Dr Lim was specific. It said that he "failed to advise the patient of the risks and possible complications arising from the administration of 10mg of triamcinolone acetonide with 1 per cent lignocaine in a total volume of 2ml ("H&L injection"), before administering the H&L injection into the patient's left wrist".

This means that the penalty meted out by the tribunal was because Dr Lim had not told the patient of the side effects of the jab, and only the jab.

Did the tribunal make a mistake in finding Dr Lim guilty of following the practice of most doctors here in not spelling out the relatively minor side effects of the injection?

### Questions about the case

A number of questions arise from the judgment and recent SMC statement.

### SHOULD THE COMPLAINTS COMMITTEE HAVE EVEN SENT THE CASE FOR A DISCIPLINARY HEARING IN THE FIRST PLACE?

According to the SMC statement,



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the committee had asked two experts, who said they would have explained and taken notes to that effect. An expert during the hearing said it was "good practice" to do so.

But good practice is different from something that doctors are mandated to do. If doctors are hauled up for not following non-compulsory good practices, the list of doctors to be hauled up before disciplinary hearings would be extremely long.

The SMC's complaints committees need to be somewhat more discerning. Having said that, the committee is merely the first cut, to ascertain that there is a prima facie case, not that the doctor is guilty of an offence. That will be for the tribunal to ascertain.

### WHY DID THE SMC ASK FOR A FIVE-MONTH SUSPENSION?

That is not a light penalty. The SMC said it sought a five-month suspension "based on previous sentencing precedents involving similar circumstances".

That was rather puzzling. Let's just look at a couple of previous cases of like nature.

Dr Eu Kong Weng was found

guilty in 2011 of not sufficiently explaining the possible risks and complications in haemorrhoids surgery. The patient developed an infection. Dr Eu, who was then head of colorectal surgery at the Singapore General Hospital, was given a three-month suspension, which he appealed against.

The three-judge court upheld his guilty verdict and the three-month suspension, but said: "If we had the discretion, we would have imposed a shorter period of suspension. However, the law does not allow us to do that as the three-month suspension is the minimum mandated."

At that time, the maximum fine was \$10,000. Since then, the fine has been raised to \$100,000 to bridge the wide gap between a \$10,000 fine and a three-month suspension. What the patient suffered in that case was far more serious; Dr Eu had fought the case; and yet the appellate court would have preferred a lighter sentence.

In this case, Dr Lim pleaded guilty, saving a long litigious process, and the side effects were temporary. So why did SMC want five months when the appellate

court said three months was longer than was necessary for Dr Eu?

In another case, that of general practitioner Peter Yong Thiam Look, the SMC had asked for a suspension of four to six months and a fine of \$10,000.

Dr Yong was not only guilty of not informing his patient of possible side effects, but he also operated on the patient's finger in his clinic with the help of an assistant who was not a nurse, instead of in a procedure room or an operating theatre. It resulted in an infection in the patient's palm.

Dr Yong had a previous offence for which he was suspended for six months and fined \$5,000. Taking that into account, the tribunal ordered a six-month suspension and a \$10,000 fine.

Again, a repeat offender with a far more serious offence merited a six-month suspension and a \$10,000 fine. Was the SMC unduly harsh in asking for a five-month suspension for Dr Lim?

That the SMC asked for a five-month suspension set the stage for what followed, since it flagged how seriously the professional watchdog regarded the offence.

### WHY DID THE TRIBUNAL FIND THE DOCTOR GUILTY, AND WHY SUCH A HEAVY PENALTY?

The fact that Dr Lim had pleaded guilty and asked for a \$100,000 fine is not sufficient reason for the tribunal to agree. He may have done so simply to avoid a protracted case, which would have been stressful. If the sentence had been too light, given the five-month suspension the SMC had asked for, there was the risk of SMC appealing for a more severe penalty – which means the case would drag on.

This, too, could have been the tribunal's reasoning in finding him guilty and meting out a \$100,000 fine. It's worth noting that the tribunal found the treatment "appropriate and reasonable".

If that was so, was it fair to Dr Lim? I don't think so, even if it is what he prefers, rather than dragging out the process and being cleared by the appellate court at a far later date.

So if the doctor involved is not complaining, one might ask: What's the problem? The problem is the precedent it sets.

### Implications of the judgment

Since the SMC has upheld the tribunal judgment – it would be difficult for it not to, as its counsel had asked for even more severe penalties – going forward, it means that doctors giving H&L injections in future would also need to spell out all the possible side effects.

And by extension, side effects of other treatments of similarly low risk would also need to be spelled out.

Some doctors are already listing out the side effects for something as common as blood-taking for people going for health screening.

Will this spell a change in the way medicine will be practised here in future? Where patients are given information overload in order for doctors to protect themselves against heavy penalties?

Both the Ministry of Health and the SMC need to spell this out clearly and unequivocally.

Meanwhile, for doctors giving H&L injections, this is what the charge against Dr Lim said:

"You did not advise the patient of the risks and possible complications that can arise from the H&L Injection, namely:

(i) post-injection flare, in particular, that:

(1) the patient may experience increased pain and inflammation in the area injected that can be worse than the pain and inflammation caused by the condition being treated;

(2) the onset of the post-injection flare is usually within two hours after the injection and typically lasts for one to two days;

(ii) the post-injection flare can be treated by rest, intermittent cold packs and analgesics;

(iii) change in skin colour, including depigmentation (loss of colour), hypopigmentation (lightening) and hyperpigmentation (darkening);

(iv) skin atrophy (thinning);

(v) subcutaneous fat atrophy;

(vi) local infection; and

(vii) tendon rupture."

Oh, and don't forget to document that you had done so.

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