

香港醫務委員會
The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr CHU Ki Cheong (朱琦昌醫生) (Reg. No.: M13187)

Date of hearing: 12 December 2019 (Thursday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr LEE Wai-hung, Danny
Dr FUNG Tak-kwan, James
Mr LAM Chi-yau
Mr KAN Pak-him, Christopher

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Mr David BOYTON and Ms Peggy
PAO as instructed by Messrs. Francis
KONG & Co.

Senior Government Counsel (Acting) representing the Secretary: Ms Carmen SIU

1. The amended charges against the Defendant, Dr CHU Ki Cheong, are:

“That, he, being a registered medical practitioner, was convicted at the Shatin Magistrates’ Courts on 22 December 2015 of the offences of:

(a) driving while disqualified, which is an offence punishable with imprisonment, contrary to section 44(1)(b) of the Road Traffic Ordinance, Chapter 374, Laws of Hong Kong; and

(b) using a vehicle without third party insurance, which is an offence punishable with imprisonment, contrary to sections 4(1) and 4(2)(a) of the Motor Vehicle Insurance (Third Party Risks) Ordinance, Chapter 272, Laws of Hong Kong.”

Facts of the case

2. The Defendant's name has been included in the General Register from 3 July 2001 to present. His name had never been included in the Specialist Register.
3. The Defendant admits the factual particulars of the amended disciplinary charges against him.
4. According to the Brief Facts of the Case upon which the Defendant was convicted by the Magistrate sitting at Shatin Magistrates' Courts of the aforesaid offences, the Defendant was driving along Tate's Cairn Highway at around 08:43 hours on 9 November 2015 when the Police found his car to be travelling at a speed of 101 kilometres per hour. The speed limit of that section of Tate's Cairn Highway was 80 kilometres per hour. The Defendant was later intercepted by the Police when his car came out from Tate's Cairn Highway.
5. After the Defendant was intercepted, the Police asked him to produce his driving licence for inspection. The Defendant merely produced his Hong Kong Identity Card and admitted that he had been disqualified from driving. Since the Defendant was disqualified from driving, his use of his car on the road was also without valid third party insurance coverage.
6. The Defendant was arrested by the Police and escorted back to the Ma On Shan Police Station for further investigation. Under caution, the Defendant admitted that he had been disqualified as a result of a speeding offence from driving for 6 months since 3 August 2015.
7. The Defendant was convicted on his own plea of the aforesaid offences at the Shatin Magistrates' Courts on 22 December 2015. Then on 4 January 2016, the Defendant was fined \$3,000 for speeding. In addition, the Defendant was imprisoned for 12 days and disqualified from driving for 2 years as from 3 February 2016 in respect of the offence of "Driving while disqualified".

Furthermore, the Defendant was fined \$5,000 and disqualified from driving for 12 months as from 4 January 2016 in respect of the offence of “Using a vehicle without third party insurance”.

8. The Defendant subsequently reported his convictions to the Medical Council through his solicitors by a letter dated 26 January 2016.

Findings of the Inquiry Panel

9. There is no dispute that the aforesaid offences are punishable with imprisonment. By virtue of section 21(1) of the Medical Registration Ordinance (“MRO”), Chapter 161, Laws of Hong Kong, our disciplinary powers against the Defendant are engaged.

10. Section 21(3) of the MRO expressly provides that:

“Nothing in this section shall be deemed to require an inquiry panel to inquire into the question whether the registered medical practitioner was properly convicted but the panel may consider any record of the case in which such conviction was recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence.”

11. Moreover, the Defendant does not dispute the aforesaid convictions against him. We are therefore entitled to treat the aforesaid convictions as proven against the Defendant.

12. Accordingly, we also find the Defendant guilty of the disciplinary offences as charged.

Sentencing

13. The Defendant has a clear disciplinary record.
14. In line with published policy, we shall give him credit for his frank admission in this inquiry and cooperation during the preliminary investigation stage. However, given that there is hardly any room for dispute in a disciplinary case involving criminal convictions, the credit to be given to him must necessarily be of a lesser extent than in other cases.

15. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant a second time for the aforesaid offences but to protect the public from persons who are not fit and proper to practise medicine and to maintain the public confidence in the medical profession by upholding its high standards and good reputation.
16. Driving his car on a road while disqualified was a flagrant disregard of the disqualification order imposed by the court on the Defendant. This was aggravated by speed driving while his car was without third party insurance. It was mere luck that no one was prejudiced by the lack of third party insurance coverage.
17. The Defendant told the trial Magistrate through his Counsel in mitigation that his mother experienced severe abdominal pain on 8 November 2015 after undergoing endoscopic examination a few days ago. Worrying about her medical condition, the Defendant drove to Choi Hung to see his mother at her home after he tried to find a taxi for some 20 minutes but in vain. Having checked her medical condition, the Defendant returned to St. Teresa's Hospital to work and parked his car there overnight. Next morning, after he went off duty, the Defendant bought some painkillers from St. Teresa's Hospital and took them to see his mother.
18. We fully agree with the trial Magistrate that there was no necessity for the Defendant to drive his car in the morning of 9 November 2015. The Defendant was on his way home after visiting his mother when his car was intercepted by the Police.
19. Although we accept that the aforesaid offences did not relate to the medical practice of the Defendant, there is no doubt in our minds that the Defendant's conduct had brought the medical profession into disrepute. We are particularly concerned about his flagrant disregard of the disqualification order and his thoughtless and selfish decision to drive his car without third party insurance when he had, in our view, ample alternatives like taking a taxi or public transport in the morning of 9 November 2015.

20. Having considered the nature and gravity of this case and what we have read and heard in mitigation, we shall make a global order in respect of the amended disciplinary charges (a) and (b) that the name of the Defendant be removed from the General Register for a period of 1 month. We further order that the removal order be suspended for 12 months.

Dr CHOI Kin, Gabriel
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong