

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LAI Kai Cheong (Reg. No.: M09066)

Date of hearing: 18 February 2020 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr IP Wing-yuk
Prof. CHU Kent-man
Mr LAM Chi-yau
Mr NG Ting-shan

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Ms Anjelica TANG of Messrs.
Mayer Brown

Government Counsel representing the Secretary: Miss Christine WONG

1. The charge against the Defendant, Dr LAI Kai Cheong, is:

“That he, being a registered medical practitioner, was convicted at the Eastern Magistrates’ Courts on 19 April 2018 of the offence of driving a motor vehicle with alcohol concentration in breath above the prescribed limit, which is an offence punishable with imprisonment, contrary to section 39A(1) of the Road Traffic Ordinance, Chapter 374, Laws of Hong Kong.”

Facts of the case

2. The name of the Defendant was at all material times and still is included in the General Register. His name had been included in the Specialist Register from 3 March 2004 to present.

3. At around 2150 hours on 1 February 2018, the police were conducting a Pre-screening Breath Test Operation at No. 28 Connaught Road West, Central. Meanwhile, the Defendant was driving his car, travelling along that road and was stopped to undergo a Pre-screening Breath Test (“PST”). The Defendant’s PST result was “FAIL” and he had to undergo a Screening Breath Test (“SBT”).
4. At 2200 hours, the police conducted a SBT on the Defendant with a reading of 24 micrograms (µg) of alcohol in 100 milliliters (ml) of breath, which was above the prescribed limit of 22 µg of alcohol in 100 ml of breath. The police arrested the Defendant.
5. The Defendant was subsequently conveyed to the Breath Test Centre in Central Police Station for Evidential Breath Test (“EBT”). Between 2246 hours and 2251 hours, the police conducted EBT on the Defendant. The Defendant’s EBT result was 26 µg of alcohol in 100 ml of breath, which was above the prescribed limit of 22 µg of alcohol in 100 ml of breath under section 39A(1) of the Road Traffic Ordinance (“RTO”), Chapter 374.
6. The Defendant was charged with the offence of driving a motor vehicle with alcohol concentration in breath above the prescribed limit contrary to section 39A(1) of the RTO. The said offence was and still is punishable with imprisonment.
7. On 19 April 2018, the Defendant pleaded guilty and was convicted of the charge in Case No. ESCC 625/2018. On the same day, the Defendant was fined HK\$5,000. The Defendant was disqualified from driving all classes of vehicles for a period of 6 months, and ordered to attend and complete a driving improvement course within the last 3 months of the disqualification period.
8. The Defendant reported the abovementioned conviction to this Council within 28 days of the conviction by way of a letter dated 12 May 2018.
9. At today’s hearing, the parties submitted to us a signed Statement of Admitted Facts dated 18 February 2020. The Defendant admitted *inter alia* the abovementioned conviction and sentence.

Findings of the Inquiry Panel

10. There is no dispute that the abovementioned offence is 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.

11. 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.”

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

13. Accordingly, we also find the Defendant guilty of the disciplinary offence as charged.

Sentencing

14. The Defendant has a clear disciplinary record.

15. In line with published policy, we shall give credit to the Defendant for his frank admission and full cooperation throughout these disciplinary proceedings. However, given that there is hardly any room for dispute in a disciplinary case involving criminal conviction, the credit to be given to him must necessarily be of a lesser extent than in other cases.

16. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant for the criminal offence for a second time, but to protect the public from persons who are unfit to practise medicine and to maintain public confidence in the medical profession by upholding its high standards and good reputation.

17. Driving a motor vehicle whilst under the influence of alcohol is a serious offence. It is mere luck that no one was injured in this case. The Defendant, being a registered medical practitioner, ought to know better than any lay person the effect of alcohol on driving. Indeed, the Defendant admitted the seriousness of his misdeed and he regretted his decision to drive after drinking.

18. We accept that the Defendant has shown remorse and he has learnt a hard lesson from the criminal conviction. Given his genuine insight into his misdeed, we believe that the risk of his committing the same or similar offences in the future is low.

19. Having regard to the nature and gravity of this case and what we have heard and read in mitigation, we order that a warning letter be issued to the Defendant. We further order that our order be gazetted.

Remarks

20. The Defendant's name is included in the Specialist Register under the Specialty of General Surgery. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

21. We wish that this decision will impress upon the profession not to drive after drinking.

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