

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

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr LAM Shung Lay Jerry (林崇禮醫生) (Reg. No.: M01269)

Date of hearing: 28 September 2020 (Monday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS  
(Chairperson of the Inquiry Panel)  
Dr LAU Chor-chiu, GSM, MH, JP  
Prof. WONG Wing-kin, Gary  
Prof. WONG Yung-hou, MH  
Mr NG Ting-shan

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Warren SETO of  
Messrs. Mayer Brown

Senior Government Counsel (Ag.) representing the Secretary: Miss Liesl LAI

The Defendant is not present.

1. The amended charge against the Defendant, Dr LAM Shung Lay Jerry, is:

“That, on or about 1 April 2016, he, being a registered medical practitioner, disregarded his professional responsibility to his patient Madam A (“the Patient”), in that he failed to arrange treatment and/or surgery for the Patient after MRI scan of the Patient’s breasts which suggested that the Patient was suspicious of malignancy.

In relation to the facts alleged, either singularly or cumulatively, he has been guilty of misconduct in a professional respect.”

### **Facts of the case**

2. The Defendant's name has been included in the General Register from 30 August 1968 to the present. His name has been included in the Specialist Register under the Specialty of General Surgery since 4 March 1998.
3. Briefly stated, on 23 March 2016, the Patient consulted the Defendant for symptoms of blood-stained nipple discharge. After assessment, the Patient was referred by the Defendant to go to St. Teresa's Hospital ("STH") for a MRI scan of her breasts.
4. On 29 March 2016, the Patient underwent a MRI scan of her breasts at STH. The MRI report prepared by a Dr LI of STH noted, amongst others, that the MRI revealed features suspicious of malignancy in her right breast.
5. On 1 April 2016, the Patient returned to see the Defendant. However, the Defendant failed to note the said finding of a Dr LI. Nor did the Defendant arrange treatment and/or surgery for the Patient after the MRI scan of her breasts had reviewed features suspicious of malignancy in her right breast.
6. The Patient's son subsequently lodged this complaint against the Defendant with the Medical Council.

### **Burden and Standard of Proof**

7. We bear in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his innocence. We also bear in mind that the standard of proof for disciplinary proceedings is the preponderance of probability. However, the more serious the act or omission alleged, the more inherently improbable must it be regarded. Therefore, the more inherently improbable it is regarded, the more compelling the evidence is required to prove it on the balance of probabilities.
8. There is no doubt that the allegation against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. Therefore, we need to look at all the evidence and to consider and determine the amended disciplinary charge against him carefully.

### **Findings of the Inquiry Panel**

9. The Defendant admits the factual particulars of the amended disciplinary charge against him. However, it remains for us to consider and determine on the evidence whether the Defendant's conduct has fallen below the standards expected of registered medical practitioners in Hong Kong.
10. It is evident from the evidence before us that the Defendant arranged for the MRI scan with the intention to rule out malignancy in the Patient's breasts. And yet, the Defendant failed to take note of Dr LI's findings that the MRI revealed features suspicious of malignancy in the Patient's right breast and wrongly advised the Patient that the results of the MRI scan were benign and that she could wait for half to one year before coming back for a review.
11. And by failing to arrange treatment and/or surgery for the Patient after the results of the MRI were made known to him, the Defendant had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as charged.

### **Sentencing**

12. The Defendant has one previous disciplinary record back in 2016 relating to his failure to properly advise the Patient that his daughter would take over and/or perform part of the haemorrhoid ligation in his stead. We accept that the present amended disciplinary charge is not of similar nature.
13. In line with published policy, we shall give him credit in sentencing for his frank admission and cooperation throughout this inquiry.
14. We bear in mind that the primary purpose of a disciplinary order is not to punish the Defendant but to protect the public from persons who are unfit to practise medicine and to maintain public confidence in the medical profession by upholding the high standards and good reputation of the profession.
15. We appreciate that the Defendant apologized to the Patient upon learning his mistake. However, we need to ensure that the Defendant will not repeat the same or similar breach in the future.

16. Having considered the nature and gravity of the amended disciplinary charge in this case and what we have heard and read in mitigation, we order that the Defendant's name be removed from the General Register for a period of 1 month. We further order that the operation of the removal order be suspended for a period of 12 months.

**Remark**

17. The Defendant's name is included in the Specialist Register under the Specialty of General Surgery. We shall leave it to the Education and Accreditation Committee to decide on whether anything may need to be done to his specialist registration.

Prof. LAU Wan-ye, Joseph, SBS  
Chairperson of the Inquiry Panel  
The Medical Council of Hong Kong