

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LAM Wai Kwong Ringo (林偉光醫生) (Reg. No.: M09985)

Date of hearing: 22 October 2018 (Monday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr PONG Chiu-fai, Jeffrey
Dr MOK Pik-tim, Francis
Mr HUNG Hin-ching, Joseph
Mr POON Yiu-kin, Samuel

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant : Dr David KAN of Messrs. Howse
Williams Bowers

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

1. The charge against the Defendant, Dr LAM Wai Kwong, Ringo, is:

“That he, being a registered medical practitioner, was convicted at the Eastern Magistrates’ Courts on 2 May 2017 of 3 counts of the offence of indecent assault, which is an offence punishable with imprisonment, contrary to section 122(1) of the Crimes Ordinance, Chapter 200, Laws of Hong Kong.”

Facts of the case

2. The Defendant was at all material times and still is a registered medical practitioner. His name has never been included in the Specialist Register.

3. There is no dispute that the Defendant was convicted after trial on 2 May 2017 of 3 counts of the offence of indecent assault, which is an offence punishable with imprisonment.
4. According to the prosecution case, which was accepted by the trial Magistrate, the incidents leading to the conviction of the Defendant for the 3 counts of the offence of indecent assault happened on 9 July 2016 and 3 August 2016.
5. Briefly stated, the Defendant's clinic was situated at Malahon Centre, 10-12 Stanley Street, Central, Hong Kong. Madam X was a clinic assistant working in the Defendant's clinic.
6. At around 9:45 hours in the morning of 9 July 2016, Madam X met the Defendant on her way to work. Whilst they were alone inside the lift of Malahon Centre, the Defendant suddenly patted on Madam X's buttock once from behind. Madam X found this insulting and she was shocked. She immediately went out when the lift doors were opened.
7. At around 11:00 hours on 3 August 2016, Madam X was instructed by the Defendant to go to his office to fetch an apparatus for taking photographs. Madam X then asked the Defendant if he wanted her to get a camera or mobile phone. The Defendant replied that he needed his mobile phone. At the same time, the Defendant lifted his right hand and patted on Madam X's right breast once. After Madam X had found the Defendant's mobile phone, she left his office and made a complaint to her boyfriend by phone.
8. At around 13:00 hours on the same day, Madam X was instructed by the Defendant to come to his office and helped him to upload some photographs from his mobile phone to a computer. When Madam X walked past the Defendant, she suddenly felt her left buttock was patted once from behind. Madam X turned around and saw the Defendant standing behind her. Madam X felt that her left buttock was patted by the Defendant's palm. After she had finished uploading the photographs, Madam X left the Defendant's office and made a report to the Police.
9. The Defendant subsequently appealed against both conviction and sentence. On 22 December 2017, his appeal to the Court of First Instance was dismissed and the Defendant was imprisoned for 4 months. A copy of the Judgment of the Court

on appeal was adduced by the Legal Officer as part of her case against the Defendant.

Findings of the Inquiry Panel

10. Section 21(3) of the Medical Registration Ordinance expressly provides that:

“Nothing in this section shall be deemed to require the 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. Taking into consideration the Certificate of Trial, the transcript of the trial hearing before the Magistrate and the Judgment of the Court on hearing of the appeal against conviction and sentence, we find the aforesaid conviction to be conclusively proven against the Defendant.

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

Sentencing

13. In line with published policy, we shall give the Defendant credit for his 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.

14. The Defendant was found guilty by the Council after due inquiry on 8 September 2010 of professional misconduct. That was a consolidated inquiry. In respect of the 1st charge relating to his criminal conviction for failure to keep proper dangerous drugs registers, the Council ordered that the Defendant’s name be removed from the General Register (“GR”) for a period of 2 months. And in respect of the 2nd charge relating to his quotation of unapproved and/or misleading qualifications, the Council ordered that the Defendant be reprimanded.

15. We acknowledge that the nature of the criminal offence involved in the previous case is quite different from the one here. But then again, the Defendant

committed the present criminal offence after he was given an opportunity to be restored to the GR.

16. We bear in mind that the 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 its high standards and good reputation.
17. It is clearly stated in paragraph 27.2 of the Code of Professional Conduct (2016 edition) (the “Code”) that a particularly serious view will likely be taken in respect of offences involving indecent behaviour.
18. The Defendant did not make any submission in mitigation in respect of the circumstances of the criminal offence, other than that it did not arise out of a doctor / patient relationship.
19. However, in dismissing his appeal, the Court of First Instance emphasized that the culpability of the Defendant lay in that:-
 - “41. 案件發生時，上訴人不單是 X 的上司，也是她的僱主，他深知一旦 X 作出舉報，後者便會遭解僱。上訴人因此有恃無恐地在升降機內作出侵犯舉動，他一定程度上是濫用其作為僱主的地位。另外一點也增加本案嚴重性的，就是事件發生在升降機內。升降機是一狹小空間，X 某程度上是無處可逃。過往的案例顯示，在升降機內干犯猥褻侵犯，是會增加案情嚴重性的...
 42. 至於第二及第三項控罪，這兩控罪發生的時間與首項控罪相隔約一個月，上訴人沒有半點收斂，他基本上是有恃無恐、變本加厲，在同一天內兩次侵犯 X，對後者作出公然侮辱...”
20. We gratefully agree with the learned appeal judge that the Defendant’s wrongdoings were serious and they constituted an abuse of his position as employer of Madam X. It is also clear to us from reading the transcript of the criminal trial of the Defendant that the effect of his repeated indecent assaults on Madam X was to humiliate her.

21. We need to ask ourselves whether the Defendant can be safely allowed to remain in practice, having regard to our responsibility to safeguard the public from persons who are unfit to practise medicine. It is essential in our view to maintain amongst members of the public a well-founded confidence that any registered medical practitioner whom they consult will be a person of unquestionable integrity, probity and trustworthiness. Any person who lacks these essential attributes can hardly be a fit and proper person to practise medicine.
22. In mitigation, the Defendant sought to convince us that he has already considered the precaution and remedial measures which he has or will put in place to prevent an incident of this nature from happening again. In particular, a chaperone must be present at the Defendant's consultations with any female patient and he will ensure that he is not alone with any staff of the opposite gender in his clinic unless the location is under CCTV surveillance. He will also voluntarily submit himself to supervision by another medical practitioner during his future practice.
23. The Defendant also provided us with copy of a medical report prepared on him by Dr YU, a specialist in psychiatry. In Dr YU's opinion, the Defendant is not suffering from any psychiatric disorder or sexual deviation and the risk of his reoffending is estimated to be very low.
24. We need to emphasize that insight is not to be equated with remorse. However, the real point is that we are not satisfied on the evidence before us that the Defendant has insight into his wrongdoings. Despite the precautions and remedial measures submitted by the Defendant, we cannot safely allow him to remain in practice.
25. Having considered the nature and gravity of this case and what we have heard and read in mitigation, we order that the name of the Defendant be removed from the GR for a period of 6 months.
26. We have considered carefully whether the operation of the removal order should be suspended. We do not consider it appropriate to suspend the operation of the removal order for the reasons aforesaid.

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