

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LEE Vincent (Reg. No.: M09693)

Date of hearing: 21 April 2020 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr CHEUNG Chin-pang
Dr YAM Kwong-yui
Ms HUI Mei-sheung, Tennessy, MH, JP
Mr CHAN Hiu-fung, Nicholas, MH

Legal Adviser: Mr Stanley NG

The Defendant is present and he is not legally represented.

Senior Government Counsel (Ag.) representing the Secretary: Ms Esther CHAN

1. The amended charges against the Defendant, Dr LEE Vincent, are:

“That he, being a registered medical practitioner, was convicted at the Kowloon City Magistrates’ Courts on 18 September 2018 of:

- (a) the offence of careless driving, which is an offence punishable with imprisonment, contrary to section 38(1) of the Road Traffic Ordinance, Chapter 374, Laws of Hong Kong; and*
- (b) the offence of driving a motor vehicle with alcohol concentration in breath exceeding 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 General Register from 26 September 1994 to present. His name had been included in the Specialist Register under the specialty of Paediatrics since 2 January 2003.
3. According to the Brief Facts of the case prepared by the police and upon which the Defendant was convicted of the offences of “*careless driving*” and “*driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit*”, at about 1445 hours on 10 June 2018, the Defendant was driving his motor vehicle without carrying any passenger, travelling along the first lane of west-bound Ching Cheung Road, Kowloon. Upon reaching Ching Cheung Road near Lamppost AB 4176, the Defendant lost control of his vehicle, which dashed out the 5A Roundabout and damaged a black-and-white Chevrons traffic sign on the central podium.
4. The police arrived at the scene. At about 1558 hours on the same day, the police conducted a Screening Breath Test on the Defendant whose reading was 120 micrograms (μg) of alcohol per 100 milliliters (ml) of breath that was above the prescribed limit of $22\mu\text{g}/100\text{ ml}$. The police arrested the Defendant, who remained silent under caution.
5. Between 1625 hours and 1635 hours on the same day, the police carried out an Evidential Breath Test on the Defendant in the Breath Test Centre at Cheung Sha Wan Police Station. The breath sample provided by the Defendant was $102\ \mu\text{g}$ of alcohol per 100 ml of breath (Tier 3) which was in excess of the prescribed limit of $22\mu\text{g}/100\text{ ml}$. The police later took a Record of Interview from the Defendant who remained silent.
6. The Defendant was subsequently charged of the said offences.
7. On 18 September 2018, the Defendant was convicted on his own plea of the said offences at the Kowloon City Magistrates’ Courts in Case No. KCCC 2535/2018.
8. On 2 October 2018, the Defendant was sentenced. In respect of the charge of “*careless driving*”, the Defendant was sentenced to a fine of HK\$2,000. In respect of the charge of “*driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit*”, the Defendant was ordered to perform community service for 240 hours and be disqualified from holding or obtaining

a driving licence for all classes for 2 years, or until the completion of a driving improvement course whichever was later. The Defendant had to complete a driving improvement course at his own cost within the last 3 months of the disqualification order.

9. Meanwhile, the Defendant reported the said convictions to the Medical Council by letter dated 3 October 2018.

Findings of the Inquiry Panel

10. There is no dispute that both “*careless driving*” and “*driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit*” were and still are offences punishable with imprisonment. In the premises, our disciplinary powers under section 21(1)(a) of the Medical Registration Ordinance (“MRO”), Chapter 161, are engaged.

11. Section 21(3) of 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. We are therefore entitled to take the said convictions as proven against the Defendant.

13. The Defendant admitted the two charges against him.

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

Sentencing

15. The Defendant has a clear disciplinary record.

16. 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.

17. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant for the criminal offences 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.
18. Careless driving and driving a motor vehicle whilst under the influence of alcohol are serious offences. In particular, the proportion of alcohol found in the Defendant's breath, according to the Evidential Breath Test, was 102 μg of alcohol per 100 ml of breath (Tier 3), which far exceeded the prescribed limit of 22 $\mu\text{g}/100$ ml. No doubt such alcohol proportion posed a serious hazard to other road users and was mere luck that no one had been 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.
19. We accept that the Defendant has shown remorse and he has learnt a hard lesson from the said criminal convictions. Given his genuine remorse and adequate insight into his misdeed, we believe the chance of committing the same or similar offences in the future is low.
20. Having regard to the nature and gravity of this case and what we have heard in mitigation, we shall make a global order in respect of both charges that a warning letter be issued to the Defendant. We further order that our order be gazetted.

Remarks

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

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