香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY

MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LEUNG Chin Wan Tasman (梁展雲醫生) (Reg. No.: M06773)

Date of hearing: 18 February 2019 (Monday)

Present at the hearing

Council Members/Assessors: Prof. Felice LIEH-MAK, GBS CBE JP
(Chairperson of the Inquiry Panel)
Dr LEUNG Chi-chiu
Dr FUNG Ho-wang
Ms HUI Mei-sheung, Tennessy, MH JP
Mr WONG Hin-wing

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant : Mr Julian LAM instructed by Messrs. Kennedys

Senior Government Counsel representing the Secretary : Miss Carmen POON

1. The charge against the Defendant, Dr LEUNG Chin Wan Tasman, is :

> "That on or about 6 April 2013, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [redacted] ("the Patient") in that he failed to properly examine the laceration on the Patient's finger to recognise the extensor tendon injury before performing suturing of the wound.
>
> In relation to the facts alleged, he has been guilty of misconduct in a professional respect."

Facts of the case

2. The name of the Defendant has been included in the General Register from 4 February 1988 to present and his name has never been included in the Specialist Register.

3. The Defendant admits the factual particulars of the disciplinary charge against him.

4. Briefly stated. The Patient's right middle finger was cut by a broken glass flower vase on 6 April 2013. The wound was about 1.5cm long and located at the proximal interphalangeal ("PIP") joint dorsal side of her right middle finger. On the same day, the Patient sought treatment from the Defendant. According to the Defendant, he found on examination slight limitation of flexion and extension of the PIP joint of her right middle finger at terminal range due to pain. The Patient could open and close the fist of her right hand. With the consent of the Patient, the Defendant then proceeded to close the wound.

5. However, the Defendant failed to notice the extensor tendon injury before performing suturing of the wound.

6. On 13 April 2013, the Patient returned to see the Defendant and complained that the wound was still painful. On examination, the Patient could not fully extend the PIP joint and the terminal range was still limited by pain. After removing the sutures, the wound was found to be mildly opened, suggestive of minor wound infection. Re-suturing of the wound was subsequently performed.

7. And yet, the pain in the wound was not relieved. The Patient later attended the Accident & Emergency Department of Ruttonjee & Tang Shiu Kin Hospitals for treatment. The provisional diagnosis was infected laceration and suspected extensor tendon injury. The Patient was referred to the Department of Orthopaedic & Traumatology of Pamela Youde Nethersole Eastern Hospital ("PYNEH") for further management. Eventually, the diagnosis of incomplete rupture of the extensor tendon was confirmed on 29 April 2013. Operation was performed on 30 April 2013 and repair of the Patient's extensor tendon was carried out.

8. Meanwhile, the Patient lodged this complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

9. 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.

10. There is no doubt that the allegation made against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine the disciplinary charge against him carefully.

Findings of the Inquiry Panel

11. The Defendant admitted that he failed to properly examine the laceration on the dorsal side of the Patient's right middle finger to recognize the extensor tendon injury before performing suturing of the wound on 6 April 2013. However, it remains for us to consider and determine on the evidence before us whether his conduct constituted misconduct in a professional respect.

12. It is the unchallenged opinion of Dr TSE, the Secretary's expert, and which we accept that:

"Given the history of cut by a glass flower vase, it is most important to examine for injury to the tendons. The best time to confirm any tendon injury is at the time of exploration and suture of the wound.

… The cut tendon should not be difficult to be detected if a conscious effort was spent to look for it…"

13. In our view, since the Defendant had decided to perform the exploration and suture of the wound in his clinic without referring the Patient to see a specialist or for admission to hospital, he ought to have carried out the examination of the Patient's finger properly before performing suturing of the wound.

14. We agree with Dr TSE that dorsal hand wounds often involve extensor tendons, because of their superficial lie and thin overlying skin. And the most certain way to identify a tendon injury is direct visualization at the time of exploration.

15. We appreciate that a diagnosis of incomplete rupture of the tendon of the Patient's right middle finger was only confirmed on her fourth admission to PYNEH on 29 April 2013. However, the real point is had the Defendant examined the laceration on the Patient's finger properly, which he admitted he did not, the Defendant ought to be able to come up with a provisional diagnosis of suspected extensor tendon injury and to refer her to orthopaedic specialist or hospital for further investigation and treatment.

16. In our view, the Defendant's conduct has fallen below the standards expected of registered medical practitioner in Hong Kong. Accordingly, we find him guilty of misconduct in a professional respect as charged.

Sentencing

17. The Defendant has a clear disciplinary record.

18. In accordance with our published policy, we shall give him credit in sentencing for admitting the factual particulars of the disciplinary charge against him.

19. 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 the public confidence in the medical profession by maintaining its professionalism and upholding its good reputation.

20. We accept that the Defendant had shown sufficient insight into his failings and had since taken relevant CME courses to improve his professional knowledge. Given his genuine remorsefulness, we believe that the chance of his committing the same or similar disciplinary offence would be low.

21. Having considered the nature and gravity of the disciplinary charge in this case and what we have heard and read in mitigation, we order that a warning letter be issued to the Defendant.

Prof. Felice LIEH-MAK, GBS CBE JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong