

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LEUNG Hoi Ying (梁愷盈醫生) (Reg. No.: M17769)

Date of hearing: 16 October 2018 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr HO Pak-leung, JP
Dr YAM Kwong-yui
Ms HUI Mei-sheung, Tennessy, MH JP
Ms NG Ka-man, Rendy

Legal Adviser: Mr Edward SHUM

Defendant: Dr LEUNG Hoi Ying (who is not legally represented)

Senior Government Counsel (Ag.) representing the Secretary: Miss Sanyi SHUM

1. The charges against the Defendant, Dr LEUNG Hoi Ying, are:

“That she, being a registered medical practitioner:

- (a) was convicted at the Eastern Magistrates’ Courts on 7 March 2017 of fraud, which is an offence punishable with imprisonment, contrary to section 16A(1) of the Theft Ordinance, Chapter 210, Laws of Hong Kong; and
- (b) has been guilty of misconduct in a professional respect in that you failed to report to the Medical Council the conviction mentioned in paragraph (a) above within 28 days of the conviction, contrary to section 29.1 of the Code of Professional Conduct published in January 2016.”

Facts of the case

2. The Defendant was at all material times and still is a registered medical practitioner. Her name has been included in the General Register from 1 July 2015 to present and her name has never been included in the Specialist Register.
3. The Defendant admitted the factual particulars of the disciplinary charges against her.
4. Briefly stated, the Defendant enrolled as a basic orthopaedic trainee at Prince of Wales Hospital after her graduation from the Chinese University of Hong Kong. Between January and June 2016, the Defendant was seconded to Pamela Youde Nethersole Eastern Hospital (“PYNEH”) for surgical training.
5. On 20 February 2016, the Defendant notified the clerk of the Department of Surgery of PYNEH that she intended to take study leave for attending an examination of the Hong Kong Intercollegiate Board of Surgical Colleges (“HKIBSC”) in March 2016.
6. On 2 March 2016, the Defendant signed and submitted to the Hospital Authority (“HA”) an application form for 3 days of paid study leave. In support of her application, the Defendant also enclosed a document allegedly issued by HKIBSC informing her of the arrangements for the Objective Structured Clinical Examination (“Part 3 Examination”) scheduled on 14 and 15 March 2016.
7. The Defendant’s application for study leave was subsequently approved and the Defendant took leave on 7 and 8 March 2016 and further in the afternoon of 14 and 15 March 2016.
8. Sometime in April 2016, the clerk of the Department of Surgery of PYNEH telephoned the manager of HKIBSC to enquire about the Defendant’s examination results but was informed that the Defendant had never enrolled for the Part 3 Examination. Nor was the Defendant eligible for enrollment because she had yet to pass the Part 2 Examination.
9. The College of Surgeons of Hong Kong later confirmed by a letter with HA that the document allegedly issued by HKIBSC was forged.

10. The Defendant was subsequently charged and convicted on her own plea of the offence of fraud. She was sentenced to probation order for 12 months and was ordered to make restitution for the 3 days of paid study leave and to pay costs of \$1,000.

Findings of the Inquiry Panel

11. 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 Inquiry 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 aforesaid conviction as conclusively proven against the Defendant. Accordingly, we find the Defendant guilty of disciplinary offence (a).
13. There is no dispute that the Defendant did not report the aforesaid conviction to the Council within 28 days of the conviction contrary to section 29.1 of the Code of Professional Conduct (2016 edition) (the “Code”). And we also find the Defendant guilty of disciplinary charge (b).

Sentencing

14. The Defendant has clear disciplinary record.
15. In line with published policy, we shall give her credit for her frank admission to the PIC 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 her 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, 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 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.
18. It is clearly stated in paragraph 27.2 of the Code that a particularly serious view will likely be taken in respect of offences involving dishonesty. No doubt this is a case involving dishonesty. Indeed, the Defendant went all out to forge a document in order to perpetuate her fraud.
19. In mitigation, the Defendant told us that she had high expectations of herself. She always wished to contribute to the society and be able to provide the best treatment to her patients. At the time of the criminal offence, she was heavy laden with stress from work and studies. She was desperate for a break from work. Out of naivety and impulsiveness, she submitted a forged document to support her application for study leave. She deeply regretted for her childish action and felt guilty at the disappointment of her parents, friends, colleagues and patients. After the incident, she had attended several sessions of psychiatric consultations for anxiety and poor stress management. Constructive advice and suggestions by the treating psychiatrist help her recognize her limitations and provide her with proper stress management strategy.
20. We noted from reading the letters written by her senior colleagues that the Defendant was all along a responsible and compassionate doctor; and her enthusiasm and reliable performance in work were highly appreciated.
21. We need to emphasize that forging a document is a serious offence. However, we appreciate that the Defendant was so stressed out by her work that she committed the fraud out of impulsiveness and naivety. This was a one-off incident and she has learnt a painful lesson. In our view, she is not likely to reoffend.
22. Having considered the nature and gravity of this case and what we have heard and read in mitigation, we order that in respect of disciplinary offence (a), the name of the Defendant be removed from the General Register for 3 months. We also order that the removal order be suspended for a period of 12 months.

23. We further order in respect of disciplinary charge (b) that a warning letter be issued to the Defendant.

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