

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 LI Chun Him (李俊謙醫生) (Reg. No.: M16192)

Date of hearing: 8 February 2022 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel  
(Chairperson of the Inquiry Panel)  
Dr CHEUNG Chin-pang  
Dr CHENG Chi-kin, Ashley  
Mr HUNG Hin-ching, Joseph  
Mr HUI Man Kit, Patrick

Legal Adviser: Mr Stanley NG

Defence Counsel representing the Defendant: Mr TANG Siu Lun Alan instructed by  
Messrs. Ivan Lee & Co.

Senior Government Counsel (Acting) representing the Secretary: Miss Camille SHEK

1. The charges against the Defendant, Dr LI Chun Him, are:

*“That he, being a registered medical practitioner:*

- (a) *was convicted at the Fanling Magistrates’ Courts on 6 May 2021 of the offence of dangerous driving, which is an offence punishable with imprisonment, contrary to section 37(1) of the Road Traffic Ordinance, Chapter 374, Laws of Hong Kong; and*

(b) *was convicted at the Fanling Magistrates' Courts on 6 May 2021 of the offence of driving a motor vehicle with alcohol concentration in blood above 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 Defendant's name has been included in the General Register from 2 July 2010 to the present and his name has been included in the Specialist Register under the specialty of Emergency Medicine since 9 April 2018.
3. According to the Brief Facts of the Case prepared by the Police and upon which the Defendant was convicted, the accident location was an open space car park for storage of new and repaired vehicles at Kiu Wong Street, Tin Shui Wai, New Territories. There was no road marking regulating the traffic direction. The road condition and visibility at the accident location was very clear and the traffic flow was light. There was a drop bar at the car park entrance with many different car yards and car parks alongside, with the possibility of vehicles coming in and out. Most of vehicles there were large vehicles. The speed limit of 50 kmph was imposed.
4. At 1307 hours on 4 September 2020, the Defendant was driving Private Car ND7933 towards the entrance of the car park in high speed. The security guard there raised the drop bar to avoid collision but the Defendant's car still hit the drop bar. The Defendant kept driving fast in the car park and had a head-on collision with a stationary medium goods vehicle ("MGV"). The Defendant then reversed his car for around 50m to hit another stationary MGV's front. Afterwards, the Defendant accelerated his car until it came to a halt after crashing into iron railings (3m damaged) with the front of his car seriously damaged. The security guard there and a staff of Crown Motors Ltd ("CML") witnessed the course of the accident. The staff of CML reported the case. The two MGVs, which belonged to CML, were slightly damaged.
5. A police officer attended the scene for initial enquiry. The said police officer saw the Defendant's car with multiple damages and was crashed into the iron railings. The said police officer found a nearly empty bottle of "Black Label"

whisky in an open black bag at the front compartment of the Defendant's car. The Defendant provided the police with the camcorder of his car which captured the course of the accident.

6. At 1351 hours on the same day, a Screening Breath Test ("SBT") was conducted on the Defendant with 117 µg / 100ml. This exceeded the prescribed limit of 22 micrograms of alcohol in 100 millilitres of breath. At 1353 hours, the Defendant was arrested. The Defendant sustained shoulder injury and was taken to Tuen Mun Hospital for further enquiry.
7. Upon arrival at the Tuen Mun Hospital, at 1705 hours, a doctor there took blood specimen from the Defendant. The Government Chemist Certificate confirmed that the blood of the Defendant was found containing not less than 194 milligrams of alcohol per 100 millilitres of blood.
8. The visibility at the accident location was very clear and the traffic flow was light. The route of the Defendant's driving into the open car park had many different car yards and car parks alongside. There was the possibility of vehicles coming in and out. Most of the vehicles there were large vehicles. In addition, the Defendant drove into the car park where drop bar was present to stop vehicles from entry and large vehicles parked in allocated spaces might move in any minutes. The high speed and manner resembling to forcible entry into a car park with intent to crash into the drop bar and, having entered the car park, remained in high speed disregarding the access setup and car parking allocations was bringing high risk in danger so that the Defendant was considered by the standard of a competent and capable driver as dangerous.
9. The police investigation concluded that considering the road condition bearing potential danger to the knowledge of the Defendant but the Defendant still applied undesired driving manner at risk, such as:
  - (1) driving in a relatively high speed while approaching the car park entrance without slowing down or stoppage before the drop bar, and immediately after the impact the Defendant failed to stop but kept dashing forward into the car park; and
  - (2) even though the staff of CML stood in front of the Defendant's car after the first impact with a stationary MGV, the Defendant still ignored that staff but to continue his dangerous driving manner which caused more

crashes to other properties. The Defendant only stopped his car when it was stuck at the iron railings.

10. Therefore, the Defendant's driving clearly fell far below the expected standard and it would be obvious to a competent and careful driver that driving in that way would be dangerous resulting in the accident, and the Defendant was driving on the road under the influence of alcohol concentration in excess of the prescribed limit (Tier 3).
11. On 6 May 2021, the Defendant was found guilty on his own plea in FLCC 375/2021 of the offences of (i) dangerous driving, contrary to section 37(1) of the Road Traffic Ordinance, Cap. 374 ("RTO"); and (ii) driving a motor vehicle with alcohol concentration in blood above the prescribed limit, contrary to section 39A(1) of RTO at the Fanling Magistrates' Courts. The said offences were and still are punishable with imprisonment.
12. In respect of both offences, the Defendant was sentenced to 2 months' imprisonment, suspended for 3 years, imposed a fine of \$15,000, and disqualified from driving for 3 years.

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

13. Section 21(3) of the Medical Registration Ordinance, Cap. 161, 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."*

14. We are therefore entitled to take the said conviction as conclusively proven against the Defendant.
15. Accordingly, we also find the Defendant guilty of the disciplinary offences as charged.

## Sentencing

16. The Defendant has a clear disciplinary record.
17. In line with published policy, we shall give him credit for his frank admission and cooperation in this inquiry. 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.
18. According to the paragraph 29 of the Code of Professional Conduct (Revised in January 2016), a doctor who has been convicted of an offence punishable with imprisonment is required to report the matter to the Council within 28 days from the conviction, even if the matter is under appeal. Failure to report within the specified time will in itself be ground for disciplinary action. It is there incumbent upon the Defendant to report criminal convictions to the Council. The Defendant's submission that he had promptly written to the Council to report on his criminal convictions will therefore not be given too much credit.
19. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant a second time for the said offences 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.
20. The offences committed in the present case are very serious. The proportion of alcohol found in the Defendant's blood was at Tier 3, which was the highest tier under section 39A of RTO. The manner of his driving as described in the Brief Facts, and as stated above, was clearly dangerous. It is mere luck that no third party was injured in this case. Further, we note from the transcripts of the court proceedings in FLCC 375/2021 that on the day of the accident the Defendant admitted that he was driving and drinking at the same time, and he drove all the way from Tai Po to Tin Shui Wai, which was a long route. This was no doubt dangerous and was very serious.
21. In mitigation, the Defendant told us that the reason he committed the offences was due to immense pressure from both family and work. We must emphasize that it is not excusable that due to the immense pressure that offences of this serious nature were committed, particularly in view of the potential danger of causing serious injuries to third parties and damages to properties. The

Defendant, being a registered medical practitioner, ought to know better than any lay person the effect of alcohol on driving.

22. We were however told that the Defendant has since the incident taken initiative to enroll in some professional counselling courses that could strengthen his understanding and awareness about the harm that could be caused by drink driving plus engaging in some marriage counselling service to resolve his family issues.
23. The Defendant admitted the seriousness of his misdeed and he deeply regretted his foolish decision to drive after drinking.
24. We accept that the Defendant has shown full remorse and he has learnt a hard lesson from the criminal convictions. Given his genuine insight into his misdeed, we believe that the risk of his committing the same or similar offences in the future is low.
25. Having regard to the nature and gravity of this case and what we have heard and read 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.

**Remark**

26. Although the Defendant told us that he has enrolled in counselling courses, we are nevertheless concerned with the mental aspect and the possibility of alcohol dependence, and if so, whether such alcohol dependence has any adverse impact on his work, and whether there is any monitor by his supervisor of his work performance due to the effect of alcohol. We therefore advise the Defendant to continue all his counselling courses.
27. The Defendant's name is included in the Specialist Register under the Specialty of Emergency Medicine. We shall leave it to the Education and Accreditation Committee to decide on whether anything may need to be done to his specialist registration.

Dr CHOI Kin, Gabriel  
Chairperson of the Inquiry Panel  
The Medical Council of Hong Kong