

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LOK Pui Sang (駱培生醫生) (Reg. No.: M08063)

Date of hearing: 25 July 2017 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS (Chairman)
Dr HO Chung-ping, MH JP
Dr HO Pak-leung, JP
Mr YU Kwok-kuen, Harry
Dr MOK Pik-tim, Francis
Dr KHOO Lai-san, Jennifer

Legal Adviser: Mr Edward SHUM

Defendant : Dr LOK Pui Sang (who is not legally represented)

Senior Government Counsel representing the Secretary: Miss Carmen POON

1. The charges against the Defendant, Dr LOK Pui Sang, are :

“That he, being a registered medical practitioner:

- (a) was convicted at the Kwun Tong Magistrates’ Courts on 12 April 2013 of the offence of theft, which is an offence punishable with imprisonment, contrary to section 9 of the Theft Ordinance, Chapter 210, Laws of Hong Kong; and
- (b) has been guilty of misconduct in a professional respect in that he 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 2009.

In relation to the facts alleged, either singularly or cumulatively, he has been guilty of misconduct in a professional respect.”

Facts of the case

2. The Defendant was at all material times a registered medical practitioner. His name has been included in the General Register from 7 March 1991 to present and his name has never been included in the Specialist Register.

3. On 12 April 2013, the Defendant was convicted on his own plea of the offence of theft by the Principal Magistrate of the Kwun Tong Magistrates' Court (the "Court") and was fined \$5,000.
4. There is no dispute that the offence of theft was punishable with imprisonment.
5. The facts of the case, which the Defendant admitted, were set out in the Brief Facts of Case placed before the Court, a copy of which was adduced by the Legal Officer as part of her case against the Defendant.
6. Briefly stated, on 9 March 2013, the Defendant took away from the Fa Yuen Street Public Library (the "Library") a coin bag containing \$56.7 in cash, a student octopus card and a student card together with a USB all belonging to the victim, one Ms Chun. The victim later realized that her properties were stolen. The Police subsequently arrived and CCTV was reviewed, which showed the Defendant taking the victim's properties away.
7. When the Defendant visited the Library again on 20 March 2013, he was recognized by the Library staff, who notified the Police. The Police later arrived and arrested the Defendant. The Defendant admitted under caution that he committed the offence out of greed and he deeply regretted what he did. The victim's properties were recovered intact by the Police at the Defendant's office.
8. It was until 24 December 2013 when the Defendant applied for renewal of his annual practising certificate that he first informed the Council of his criminal conviction of theft on 12 April 2013.

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 allegations made against the Defendant here are serious ones. 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 each of the disciplinary charges against him separately and carefully.

Findings of Council

11. Although the Defendant admits the factual particulars of the disciplinary charges against him, it remains our duty to consider and determine whether he is guilty of professional misconduct.

12. In this connection, section 21(3) of the Medical Registration Ordinance stipulates that:-

“Nothing in this section shall be deemed to require the Council to inquire into the question whether the registered medical practitioner was properly convicted but the Council 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.”

13. It is essential in our view to maintain amongst members of the public a well-founded confidence that any registered medical practitioner whom they consulted will be a person of unquestionable integrity, probity and trustworthiness.
14. Moreover, paragraph 27 of the Code of Professional Conduct (2009 edition) (the “Code”) stipulates that “A doctor convicted of any offence punishable by imprisonment is liable to disciplinary proceedings... A particularly serious view will be taken in respect of offences involving dishonesty (e.g....theft)...”
15. By committing theft in the circumstances described above, the Defendant’s conduct has clearly fallen below the standards expected of registered medical practitioners in Hong Kong.
16. Accordingly, we find the Defendant guilty of disciplinary charge (a).
17. Paragraph 29.1 of the Code also stipulates that “A doctor who has been convicted in or outside Hong Kong of an offence punishable by imprisonment... is required to report the matter to the Council within 28 days from the conviction... Failure to report within the specified time will in itself be ground for disciplinary action...”
18. There is no dispute that the Defendant failed to report his criminal conviction of theft (which was an offence punishable with imprisonment) within the stipulated time limit of 28 days.
19. Given that there is no reasonable excuse for his failure to do so, we also find the Defendant guilty of disciplinary charge (b).

Sentencing

20. The Defendant has a clear disciplinary record.
21. In line with our published policy, we shall give him credit for his frank admission in this Inquiry and cooperation during the preliminary investigation stage. However, given that there is hardly any room for dispute in a disciplinary case involving criminal conviction, the credit to be given to the Defendant must necessarily be of a lesser extent than in other cases.

22. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant for the offence of theft 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 the high standards and good reputation of the profession.
23. We accept the Defendant committed the offence out of greed and he deeply regretted what he did. In our view, the Defendant has learnt his lesson and the chance of committing the same or similar offences in the future will be low.
24. Having considered the nature and gravity of the disciplinary charges for which the Defendant is found guilty and what we have heard and read in mitigation, we make a global order that the Defendant's name be removed from the General Register for a period of 2 months and we further order that the operation of the removal order be suspended for 24 months.

Prof. LAU Wan Yee Joseph, SBS
Chairman, Medical Council