

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr NG Yung Kok (吳榕珏醫生) (Reg. No.: M18592)

Date of hearing: 26 November 2021 (Friday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr CHAN Tin-sang, Augustine
Dr CHENG Chi-kin, Ashley
Mr HUNG Hin-ching, Joseph
Mr LAW Yu-wing

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Mr Chris HOWSE of
Messrs. Howse Williams

Senior Government Counsel (Ag.) representing the Secretary: Miss Liesl LAI

1. The charge against the Defendant, Dr NG Yung Kok, is:

“That he, being a registered medical practitioner, was convicted at the Kowloon City Magistrates’ Courts on 7 May 2021 of the offence of committing an act outraging public decency, which is an offence punishable with imprisonment, contrary to Common Law and punishable under section 101I(1) of the Criminal Procedure Ordinance, Chapter 221, Laws of Hong Kong.”

Facts of the case

2. The name of the Defendant has been included in the General Register from 1 July 2017 to the present. His name has never been included in the Specialist Register.

3. Briefly stated, the Defendant reported to the Medical Council by an e-mail dated 25 May 2021 that he was convicted of the offence of committing an act outraging public decency at the Kowloon City Magistrates' Court on 7 May 2021 and was sentenced by the Magistrate to Community Service Order for 120 hours on 21 May 2021.

4. According to the Brief Facts of the Case upon which the Defendant was convicted:

“In the evening of 2020-04-04, PW2 [Prosecution Witness 2] was taking escalator from the concourse to Exit A at Tsim Sha Tsui MTR station. During which, PW2 spotted D [Defendant] acting furtively by putting his mobile phone (Exh 1) under PW1's upskirt. Feeling worried for indecency, PW2 thus intercepted D and alerted PW1 [Prosecution witness 1] for the situation. D immediately deleted the upskirt video. Upon arrival of police, D was arrested by PW3 [Prosecution Witness 3]. Under caution, D admitted he was taking upskirt video of PW1 out of working pressure and deleted the video after being spotted due to afraid of losing his job as a doctor.

On 2021-02-19, D was formally charged with one count of 'Outraging Public Decency'.”

Findings of the Inquiry Panel

5. There is no dispute that the offence of “committing an act outraging public decency” was and still is an offence punishable with imprisonment in Hong Kong. By virtue of section 21(1)(a) of the Medical Registration Ordinance, Cap. 161 (“MRO”), our disciplinary powers against the Defendant are engaged.

6. Section 21(3) of the 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.”

7. Taking into consideration the Certificate of Trial and the transcript of the hearing before the Magistrate, we find the aforesaid conviction to be conclusively proven against the Defendant.

8. Accordingly, we find the Defendant guilty of the disciplinary offence as charged.

Sentencing

9. The Defendant has a clear disciplinary record.
10. In line with our published policy, we shall give the Defendant credit for his 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 the Defendant must necessarily be of a lesser extent than in other cases.
11. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant for the criminal offence 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 good reputation and high standards.
12. We acknowledge that the Defendant did not commit the act outraging public decency during the course of his medical practice. However, it is clearly stated in section 27 of the Code of Professional Conduct (2016 edition) (the “Code”) :

“27.1 A doctor convicted of any offence punishable with imprisonment is liable to disciplinary proceedings of the Council, regardless of whether he is sentenced to imprisonment. A conviction in itself will invoke the Council’s disciplinary procedure even if the offence does not involve professional misconduct...”

27.2 A particularly serious view will likely to be taken in respect of offences involving... indecent behaviour...”
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 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.
14. We need to ask ourselves whether the Defendant can be safely allowed to remain in practice, having regard to our responsibility to safeguard the public from persons who are unfit to practise medicine.
15. We accept that the Defendant had shown remorse and frankly admitted the criminal offence before the Magistrate. We particularly note from reading the court transcripts that the Defendant had no previous criminal record.

16. We also note that following the Defendant's arrest in respect of the criminal offence in April 2020, the Defendant had consulted Dr Wong Chung Kwong ("Dr Wong"), a Specialist in psychiatry. The Defendant was diagnosed by Dr Wong to be suffering from two psychiatric disorders.
17. In this connection, in Dr Wong's first Psychiatric Report dated 1 March 2021, he had this to say of the Defendant:

"Mr Ng first consulted me on 26 June 2020. He consulted me for his depressed mood and other mental symptoms. He would also like to understand his behaviour that led to his arrest by the police ...

...

In the new case session on 26 June 2020, I diagnosed Mr Ng to have been suffering from two psychiatric disorders, i.e. Obsessive Compulsive Disorder and Major Depressive Disorder.

...

Mr Ng admits that he committed the offence on 24 April 2020 as he was charged. He was at work on that day. He had been sleeping very poorly for a few weeks. He felt very depressed. He had the depressive symptoms and obsessive and compulsive symptoms ... He was scolded by his senior in the morning. He felt humiliated. He felt very low in his self-esteem. He suddenly felt the urge to commit the act that subsequently led to his being charged. He tried to resist the urge. However, the impulse kept coming up in his mind. He struggled for some time. Finally he yielded to the impulse and acted it out.

My professional opinion is that Mr Ng was suffering from two psychiatric disorders at the material time of the offence, i.e. Obsessive Compulsive Disorder and Major Depressive Disorder, both of moderate to severe degree. His action that led to his being charged with the offence was a manifestation of his Obsessive Compulsive Disorder, compounded by the coexisting Major Depressive Disorder.

The psychiatric nature of Mr Ng's act that led to his being charged was a compulsion. It was an irrational act. As I have explained ... compulsions to act irrationally occur commonly among patients suffering from Obsessive Compulsive Disorder. The compulsions include actions that are everyday life in nature, such as checking to make sure things are in good order, tidying things, and matters related to personal hygiene such as hand washing and showering. Patients are usually unsuccessful in resisting these compulsions. In contrast, as a rule, patients are able to resist compulsions to act unlawfully. If Mr Ng had not been suffering Major Depressive Disorder, he would have been able to

control the compulsion and he would not have committed the offence. Unfortunately, the co-existence of Major Depressive Disorder compromised his ability to control himself. He acted out and hence committed the offence.

To conclude, at the material time of the offence, Mr Ng's state of mind was under the combined effects of Obsessive Compulsive Disorder and Major Depressive Disorder. The combined effects rendered him unable to control himself from acting irrationally.

...

First and foremost, at the material time of the offence, Mr Ng was suffering from two psychiatric disorders, Major Depressive Disorder and Obsessive Compulsive Disorder, both of moderate to severe degree.

Second, he has a normal character. He has no delinquent predisposition. He has never been a reckless or ruthless person.

Third, at the material time of the offence, Mr Ng's mental faculty was substantially impaired by the combined effects of the two disorders. He was deeply depressed. His cognitive functions were impaired. His ability to control his impulse was substantially impaired.

Fourth, his act that led to his being charged with the offence is a manifestation of Obsessive Compulsive Disorder, i.e. a compulsion. The act was irrational in nature.

Fifth, his chance of committing a similar offence or any other offences is very small for the following reasons: (i) he has a normal character; (ii) he is fully motivated to receive psychiatric treatment and he has recovered from both disorders; (iii) he will continue to complete the consolidation phase of treatment and his chance of future relapse in both disorders is small; (iv) even if he relapses in one or both disorders, he now realizes the importance of early treatment and as such he will not let both disorders deteriorate to any severe degree before he seeks treatment; (v) both disorders respond very well to treatment even if they relapse; and therefore (vi) the chance that he will suffer from similar compulsions to act irrationally is very small."

18. In Dr Wong's second Psychiatric Report dated 10 August 2021, he had this to say of the Defendant:

"... I have seen Dr Ng again on 10 March, 26 April, 2 June and 22 July, to continue to provide maintenance phase psychiatric treatment for him. Each session lasted one hour ...

In each session, I assessed his mental state. He has continued to stay in a state of full remission from Obsessive Compulsive Disorder and Major Depressive Disorder.

My therapeutic plan for Dr Ng is that I will continue to see him at intervals of six weeks for another six months, then at intervals of nine weeks for six months, and then at intervals of three months for one year. Each session will last one hour. I expect the maintenance phase of treatment can be terminated by mid 2023.

... In addition to on-going maintenance psychiatric medication, I have continued to provide him with further psychotherapy to help him further enhance his psychological resilience. Having observed his good response to the psychotherapy, I am glad to say that his chance of reoffence is extremely low.

In future, after the completion of the maintenance phase of treatment, even if he should suffer from a relapse in one or both disorders, because he has good insight of the disorders and good self-awareness, he would seek early psychiatric treatment, thus making it highly improbable that he will reoffend.

Dr Ng has been practising medicine again. I have no reservation to give the psychiatric opinion that he is fit to practise.”

19. We need to emphasize that the Defendant’s psychiatric illness at the material times would only go to mitigation. In our view, any act of outraging public decency like the present one must be condemned.
20. But then again, we acknowledge that according to Dr Wong the Defendant’s mental condition is currently in the maintenance phase of treatment, and the chance of re-offending is low.
21. Whilst we acknowledge that the Defendant has learnt a hard lesson and had insights into his wrongdoing, we are nevertheless of the view that there is a need, both for the protection of the public as well as in the best interest of the Defendant, to monitor him for a period of time in terms of his ability to cope with the underlying stresses and negative emotions. We need to be satisfied that the Defendant will not commit the same or similar offence in future.
22. Having considered the nature and gravity of this case and what we have heard and read in mitigation, we order that the name of the Defendant be removed from the General Register for a period of 4 months. We further order that the operation of the removal order be suspended for a period of 1 year on the following conditions, namely, that:

- (a) the Defendant shall at his own expense submit himself to be examined by a psychiatrist nominated by the Council at least once every 6 months during the suspension period;
- (b) the examining psychiatrist shall be allowed full access to all treatment records kept on the Defendant by his treating psychiatrist and clinical psychologist; and
- (c) the examining psychiatrist shall report directly to the Chairman of the Council at 6-monthly intervals. Any irregularity or non-compliance with psychiatric and/or psychological treatments should be reported to the Chairman of the Council as soon as practicable.

Prof. LAU Wan-ye, Joseph, SBS
Chairperson of the Inquiry Panel
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