

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 TSANG Wai Che David (曾偉之醫生) (Reg. No.: M03876)

Date of hearing: 24 February 2020 (Monday)

Present at the hearing

Council Members/Assessors: Prof. Felice LIEH-MAK, GBS, CBE, JP  
(Chairperson of the Inquiry Panel)  
Dr PONG Chiu-fai, Jeff  
Dr CHIU Shing-ping, James  
Mr MUI Cheuk-nang, Kenny  
Mr WOO King-hang

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Mr Hatten Kong instructed by  
Messrs. Keith Lam, Lau & Chan

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

1. The charges against the Defendant, Dr TSANG Wai Che David, are:

*“That he, being a registered medical practitioner, was convicted at the Kowloon City Magistrates’ Courts on 17 November 2017 of the following offences:*

- (a) careless driving, which is an offence punishable with imprisonment, contrary to section 38(1) of the Road Traffic Ordinance, Chapter 374, Laws of Hong Kong; and*
- (b) driving a motor vehicle with alcohol concentration in breath exceeding 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 was at all material times and still is a registered medical practitioner. His name has been included in the General Register from 24 March 1980 to present and his name has never been included in the Specialist Register.
3. According to the Brief Facts of the Case prepared by the Police and upon which the Defendant was convicted of the said offences, the Defendant was driving his car along the 2<sup>nd</sup> lane of Hung Hom South Road at around 03:18 hours in the morning of 19 October 2016. After crossing Hung Ling Street, the Defendant's car collided with the rear right corner of a stationary medium goods vehicle parked on the 1<sup>st</sup> lane of Hung Hom South Road. At that time, it was raining and the road surface was wet.
4. Police officers later arrived at the accident scene and asked the Defendant to undergo a screening breath test. The result of the screening breath test indicated that the Defendant's breath had 84 micrograms of alcohol in 100 millilitres, which was almost 4 times the prescribed limit of 22 micrograms of alcohol in 100 millilitres. Under caution, the Defendant admitted to the Police that he had spent 3 hours at a pub in Causeway Bay and drunk 3 glasses of whisky.
5. The Police then declared arrest of the Defendant and escorted him back to the Hung Hom Police Station for further investigation. The Defendant later underwent an evidential breath test at 03:56 hours with the result that his breath had 102 micrograms of alcohol in 100 millilitres.
6. The Defendant was subsequently charged and convicted on his own plea of the said offences.
7. On 17 November 2017, the Defendant was ordered by a Magistrate sitting at the Kowloon City Magistrates' Courts to perform community service for 140 hours and be disqualified from driving all types of vehicles on any roads in Hong Kong for a period of 30 months. In addition, the Defendant was ordered to attend and complete a driving improvement course at his own cost within the last 3 months of the disqualification order.
8. Meanwhile, the Defendant reported the said convictions to the Medical Council by letter dated 7 November 2017.

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

9. There is no dispute that both “*careless driving*” and “*driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit*” were and still are offences punishable with imprisonment. In the premises, our disciplinary powers under section 21(1)(a) of the Medical Registration Ordinance (“MRO”), Chapter 161, are engaged.
10. Section 21(3) of 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.”*
11. We are therefore entitled to take the said convictions as proven against the Defendant.
12. Accordingly, we also find the Defendant guilty of the disciplinary offences as charged.

### **Sentencing**

13. The Defendant has a clear disciplinary record.
14. In line with 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 convictions, the credit to be given to him must necessarily be of a lesser extent than in other cases.
15. 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.
16. Driving a motor vehicle whilst under the influence of alcohol is a serious offence. The Defendant, being a registered medical practitioner, ought to know better than any lay person the effect of alcohol on driving. It was mere luck that no one was injured in the accident.

17. Through his solicitors, the Defendant submitted to the Preliminary Investigation Committee (“PIC”) that he was remorseful of his wrongdoings and had quit drinking after the accident. The Defendant also told the PIC that he had sold his car, surrendered his driving licence at the first appearance before the Magistrate and would not apply for driving licence again.
18. We appreciate that the Defendant is a compassionate and conscientious doctor and has tremendous support from his professional colleagues and patients.
19. We accept that the Defendant has shown remorse and he has learnt a hard lesson from the said convictions. Given his insight into his wrongdoings, we believe that the risk of his committing the same or similar offence in the future is low.
20. Having regard to the nature and gravity of the disciplinary offences and what we have heard and read in mitigation, we order that a warning letter be issued to the Defendant. We further order that our said order be published in the Gazette.

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