

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Chi Chung (黃致聰醫生) (先前註冊為黃智聰醫生)
(Reg. No.: M17045)

Date of hearing: 5 November 2018 (Monday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr CHENG Chi-man
Dr KONG Wing-ming, Henry
Ms NG Ka-man, Rendy
Mr POON Yiu-kin, Samuel

Legal Adviser: Mr Edward SHUM

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

Senior Government Counsel (Ag.) representing the Secretary: Ms Carmen SIU

1. The charge against the Defendant, Dr WONG Chi Chung, is:

“That he, being a registered medical practitioner, was convicted at the Tuen Mun Magistrates’ Courts on 28 April 2017 of two counts of the offence of committing an act outraging public decency, which is an offence punishable with imprisonment, contrary to Common Law”.

Facts of the case

2. The Defendant was at all material times and still is a registered medical practitioner. His name has never been included in the Specialist Register.

3. The Defendant admitted the factual particulars of the disciplinary charge against him.
4. Briefly stated, the Defendant was at all material times a neurosurgery trainee at Tuen Mun Hospital (“TMH”). His supervisor was one Dr HO. Also working in Ward D2 of TMH (“Ward D2”) were two nurses by the surname of SUEN and SO.
5. On 12 June 2015, the Defendant was on night shift duty in Ward D2. At around 23:00 hours on 12 June 2015, Dr HO saw the Defendant extending his mobile phone underneath Nurse SUEN’s skirt with its back side facing upwards for around 1 second. Dr HO did not confront the Defendant immediately but he later relayed the incident to Nurse SUEN, who in turn subsequently made a report to the Police.
6. On 15 June 2015, the Defendant was arrested by the Police. Further investigation revealed that his mobile phone contained 69 underskirt videos and 4 underskirt photographs. Amongst them, Nurse SUEN confirmed that 13 footages were taken on 12 June 2015 at Ward D2 and it was her, whose underskirt was captured; and Nurse SO also confirmed that 1 footage was taken on 7 June 2015 at Ward D2 and it was her, whose underskirt was captured. The rest of the underskirt videos and photographs were captured from unidentified victims.
7. The Defendant was subsequently charged and convicted on his own plea of the offence of committing an act outraging public decency. He was sentenced to community service order for 160 hours.
8. According to the court transcript, the Defendant submitted through his counsel to the trial Magistrate that he committed the offence so that his professional qualification as a registered medical practitioner would be revoked and he would then gain relief and freedom. In support of his submission, the Defendant also adduced a medical report from his treating psychiatrist who opined that he was suffering from ‘Major Depressive Disorder’ and ‘Obsessive Compulsive Disorder’ at the material times of the offence.
9. By an e-mail dated 19 May 2017, the Defendant reported his criminal conviction to the Medical Council. Pursuant to their powers under the Medical Practitioners (Registration and Disciplinary Procedure) Regulation, the Chairman and Deputy

Chairman of the Preliminary Investigation Committee (“PIC”) referred the Defendant’s case to the Health Committee (“HC”) for consideration of his fitness to practise.

10. Pursuant to the HC’s direction, the Defendant later submitted himself to medical examination by Dr LAM Chi Leung (“Dr LAM”), a specialist in psychiatry. The expert report prepared by Dr LAM on the Defendant was placed before the HC for consideration at its hearing on 15 May 2018. Having considered the available information, the HC was satisfied that the Defendant’s mental condition is currently in remission and the HC also certified and reported back to the PIC Chairman that the Defendant is mentally fit to practise medicine, surgery and midwifery. The PIC subsequently decided to refer this case to us for inquiry.

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 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.”

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

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

Sentencing

14. The Defendant has a clear disciplinary record.
15. 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.

16. 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.
17. It is clearly stated in paragraph 27.2 of the Code of Professional Conduct (2016 edition) (the “Code”) that a particularly serious view will likely be taken in respect of offences involving indecent behaviour. We are particularly concerned that the Defendant committed the offence when he was on duty as a doctor and the 2 identified victims were his nursing colleagues working in the same ward.
18. 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.
19. 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.
20. In this connection, our attention was drawn to Dr LAM’s comment in his expert report to HC, a copy of which was placed before us by the Legal Officer, that the Defendant released his cumulative distress from family and heterosexual conflicts and academic failure via the repeated outraging acts. In the words of Dr LAM:-

“... Dr WONG was suffering from recurrent Major Depressive Disorder... The diagnosis is consistent with the opinion of his treating psychiatrist for the fact that Dr WONG was under great distress with depressed mood, marked diminished interest, fatigue, feeling of worthlessness and guilt, and diminished ability to think and decide aggravated by the dilemmas between his mother and his wife since late 2013, the accidental pregnancy and abortion of his wife in February 2015. Dr WONG has significant academic and occupational impairment at that time...

I formulate the apparent long-standing low mood with obsessive compulsive symptoms are part and parcel of Dr WONG’s exacerbated personality traits under distress... Dr WONG released his cumulative distress from family and heterosexual conflicts and academic failure via malpractice coping skills, for a

psychological point of view, the repeated outraging acts. He did not seek help until he was caught red-handed on 12 June 2015...”

21. We need to emphasize that the Defendant’s psychiatric illness at the material times would only go to mitigation. In our view, any attempt to release one’s stresses by an act outraging public decency like the present must be condemned.

22. But then again, we acknowledge that the Defendant’s mental condition is currently in remission and he has, according to Dr LAM, “good prognosis for his major depressive disorder because he has regular compliance to current psychiatric and psychological treatments since 2016”. We also noted from reading the report prepared by Ms LAW, his clinical psychologist at the Social Welfare Department dated 9 May 2018 that :-

“During the course of psychological treatment, Dr WONG attended sessions regularly and appeared to be genuinely motivated for treatment in managing his mood problem. He was forthcoming and ready to explore his personal history in understanding his offending behavior during the index offence. As of our last session dated on 26/4/2018, he demonstrated concrete strategies and lifestyle adjustment to facilitate stability of his mood and stress level. He appeared to show insight towards his offending behavior. By the current observation, Dr WONG appeared to be able to manage his mood problem associated to his previous offending behavior. Given the above, I opined that the chance for him to reoffend is low.

Further psychological intervention will be provided to Dr WONG in further managing his condition and also to further strengthen his rehabilitation. He also showed positive attitude in receiving further treatment.”

23. We believe that the Defendant has learnt a hard lesson and he had shown remorse towards the offence. There is nothing in the evidence suggestive of deviated sexual behaviour. However, given the recurrent nature of his major depressive disorder and his personality traits, we need to be satisfied that he will not commit the same or similar offence in future. We agree that the risk of his reoffending is likely to be low provided that the Defendant continues to receive treatments in accordance with the advice of his treating doctor and clinical psychologist.

24. 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-yee, Joseph, SBS
Chairperson of the Inquiry Panel
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