

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Lik Kong (Reg. No.: M11403)

Date of hearing: 25 February 2020 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr LEE Wai-hung, Danny
Dr LI Mun-pik, Teresa
Mr CHAN Wing-kai
Mr CHAN Hiu-fung, Nicholas, MH

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Mr Alan NG as instructed by
Messrs. TANG, WONG &
CHEUNG Solicitors

Senior Government Counsel (Ag.) representing the Secretary: Ms Esther CHAN

1. The charges against the Defendant, Dr WONG Lik Kong, are:

“That, he, being a registered medical practitioner:

- (a) was convicted at the Eastern Magistrates’ Courts on 18 August 2016 of the offence of driving a motor vehicle with alcohol concentration in breath 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; 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 2016.”

Facts of the case

2. The name of the Defendant was at all material times and still is included in the General Register. His name had been included in the General Register from 20 June 1997 to present. His name had 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 offence of “*driving a motor vehicle with alcohol concentration in breath above the prescribed limit*”, a team of police officers was conducting an anti-drink driving operation in North Point area. At around 02:16 hours in the morning of 14 July 2016, a private car, later known to be driven by the Defendant, was seen to be travelling unsteadily along Java Road. The Police then intercepted the Defendant and asked him to undergo a screening breath test. The result of the screening breath test indicated that the Defendant’s breath had 33 micrograms of alcohol in 100 millilitres, which exceeded the prescribed limit of 22 micrograms of alcohol in 100 millilitres of breath. Under caution, the Defendant remained silent.
4. The Police then declared arrest of the Defendant and escorted him back to the Chai Wan Police Station for further investigation. The Defendant later underwent an evidential breath test at around 03:16 hours. The Defendant provided 2 specimens of breath and the analyzed result was 24 micrograms of alcohol in 100 millilitres of breath.
5. The Defendant was subsequently charged and convicted on his own plea of the said offence.
6. On 18 August 2016, the Defendant was ordered by the trial Magistrate to pay a fine of \$5,000 and be disqualified from driving all types of vehicles on any roads in Hong Kong for a period of 6 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.
7. The Medical Council first came to know about the said criminal conviction of the Defendant when he declared it in his application form for annual practicing certificate for 2017. There is no dispute that this application form, although dated 11 October 2016, was actually received by the Central Registration Office on 21 December 2016.

Findings of the Inquiry Panel

8. It is not disputed that the offence of “*driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit*” was and still is punishable with imprisonment. By virtue of section 21(1)(a) of the Medical Registration Ordinance (“MRO”), Chapter 161, Laws of Hong Kong, our disciplinary powers against the Defendant are engaged.
9. 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.”
10. We are therefore entitled to treat the said criminal conviction as proven against the Defendant. Accordingly, we also find the Defendant guilty of the disciplinary offence (a).
11. There is no dispute that the Defendant failed to report his said criminal conviction to the Medical Council within 28 days, contrary to section 29.1 of the Code of Professional Conduct published in January 2016 (“the Code”).
12. It is clearly stated in section 29.1 of the Code that “...*Failure to report within the specified time will in itself be ground for disciplinary action. In case of doubt the matter should be reported.*”
13. Indeed, note 2 to the application form for renewal of practising certificate also reminded the Defendant that “[a]ny conviction of an offence punishable with imprisonment must be declared, irrespective of whether a sentence of imprisonment was imposed. If not sure whether the offence is punishable with imprisonment, the conviction should be reported. Conviction of an offence not punishable with imprisonment will be ignored.”
14. In our view, the Defendant’s failure to report the said criminal conviction to the Medical Council within the specified time is inexcusable and his conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore also find the Defendant guilty of professional misconduct as per disciplinary charge (b).

Sentencing

15. The Defendant has a clear disciplinary record.
16. In line with published policy, we shall give credit to the Defendant for his frank admission and full 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 him in relation to disciplinary offence (a) must necessarily be of a lesser extent than in other cases.
17. 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 high standards and good reputation.
18. Driving a motor vehicle whilst under the influence of alcohol is a serious offence. We fully agree with the trial Magistrate that drink driving posed a serious hazard for other road users. It was mere luck that no one had been injured in this case. The Defendant, being a registered medical practitioner, ought to know better than any lay person the effect of alcohol on driving.
19. We accepted that the Defendant has shown remorse and he has learnt a hard lesson from the said criminal conviction. Given his genuine remorse and adequate insight into his misdeed, we believe the chance of committing the same or similar offence in the future is low.
20. 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

21. We wish that this decision will impress upon the profession not to drive after drinking.

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