

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr YU Kam Ying Clara (俞錦瑩醫生) (Reg. No.: M13402)

Date of hearing: 29 October 2019 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr CHOW Yu-fat
Dr CHAN Nim-tak, Douglas
Mr KWONG Cho-shing, Antonio, MH
Mr POON Yiu-kin, Samuel

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Ms Phyllis CHIU of
Messrs. Mayer Brown

Government Counsel representing the Secretary: Mr Felix LEE

1. The charge against the Defendant, Dr YU Kam Ying Clara, is:

“That she, being a registered medical practitioner, was convicted at the Eastern Magistrates’ Courts on 14 October 2016 of the offence of 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. Her name has been included in the General Register from 19 April 2002 to present and her name has been included in the Specialist Register under the Specialty of Anaesthesiology since 8 October 2014.
3. According to the Brief Facts of the Case prepared by the Police and upon which the Defendant was convicted of the said offence, the Defendant was driving along Wong Chuk Hang Road when she was intercepted by the Police for speeding at around 09:33 hours in the morning of 6 August 2016. The Defendant's car was found to be travelling at 62 kilometres per hour but the speed limit of that section of Wong Chuk Hang Road was 50 kilometres per hour only.
4. After the Defendant was intercepted, the Police asked her to undergo a screening breath test. The result of the screening breath test indicated that the Defendant's breath had 43 micrograms of alcohol in 100 millilitres, which was almost double of the prescribed limit of 22 micrograms of alcohol in 100 millilitres.
5. The Police then declared arrest of the Defendant and escorted her back to the Aberdeen Police Station for further investigation. The Defendant later underwent another screening breath test with the result that her breath had 36 micrograms of alcohol in 100 millilitres notwithstanding that almost one hour had elapsed since the first screening breath test was done.
6. The Defendant was subsequently charged and convicted on her plea of the said offence and of speeding, contrary to section 41(1)(a) of the Road Traffic Ordinance, Cap. 374, Laws of Hong Kong.
7. On 28 October 2016, the Defendant was ordered by the trial Magistrate to pay a total fine of \$5,300 and be disqualified from driving all types of vehicles on any roads in Hong Kong for a period of 12 months. In addition, the Defendant was ordered to attend and complete a driving improvement course at her own cost within the last 3 months of the disqualification order.

8. There is no dispute that the said offence of driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit was and still is punishable with imprisonment.

Findings of the Inquiry Panel

9. Section 21(3) of the Medical Registration Ordinance, Cap. 161, 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 take the said conviction as conclusively proven against the Defendant.
11. Accordingly, we also find the Defendant guilty of the disciplinary offence as charged.

Sentencing

12. The Defendant has a clear disciplinary record.
13. In line with published policy, we shall give her credit for her 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 her must necessarily be of a lesser extent than in other cases.
14. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant a second time for the said criminal offence 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.

15. Driving a motor vehicle whilst under the influence of alcohol is a serious offence. The Defendant, being a registered medical practitioner and a specialist in anesthesiology, ought to know better than any lay person the effect of alcohol on driving.
16. In her submission to the Preliminary Investigation Committee (“PIC”), the Defendant apologized for her misdeed and admitted her inadequacy as a medical professional. The Defendant also told the PIC that she had since the incident been exceedingly careful with the calculation of her alcohol consumption, given her slower than average metabolism.
17. We need to remind the Defendant that instead of calculating her alcohol consumption on the assumption that her metabolism is slower than an average person, she should take extra care in avoiding alcohol consumption before driving or going to work.
18. We accept that the Defendant has shown remorse and she has learnt a hard lesson from the said conviction. Given her insight into her misdeed, we believe that the risk of her committing the same or similar offence in the future is low.
19. Having regard to the nature and gravity of the disciplinary offence 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.

Remark

20. The Defendant’s name is included in the Specialist Register under the Specialty of Anaesthesiology. We shall leave it to the Education and Accreditation Committee to decide on whether anything may need to be done to her specialist registration.

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