

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WOO Chai Fong Donald (賀澤烽醫生) (Reg. No.: M05162)

Date of hearing: 30 August 2023 (Wednesday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Dr CHEUNG Chin-pang
Dr LAU Ho-lim
Mrs BIRCH LEE Suk-yee, Sandra, GBS, JP
Ms NG Ka-man, Rendy

Legal Adviser: Mr Edward SHUM

Government Counsel representing the Secretary: Miss Linda CHAN

The Defendant is present and he is not legally represented.

1. The charge against the Defendant, Dr WOO Chai Fong Donald, is:

“That he, being a registered medical practitioner, was convicted at the Shatin Magistrates’ Courts on 20 October 2022 of the offence of driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit (Tier II), 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 name of the Defendant has been included in the General Register from 19 September 1983 to the present. His name has been included in the Specialist Register under the specialty of Ophthalmology since 4 March 1998.
3. By a letter dated 3 November 2022, the Defendant informed the Secretary of the Medical Council (the “Council”) that he “*was convicted with drunk drive on 6 October 2022*”.
4. According to the Certificate of Trial issued by the Second Clerk of the Shatin Magistrates’ Courts on 9 January 2023, the Defendant was found guilty on his own plea after trial by a Magistrate of the offence of “*Driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit (Tier II)*”, contrary to section 39A(1) of the Road Traffic Ordinance, Cap. 374, Laws of Hong Kong.
5. According to the Agreed Brief Facts of Case upon which the Defendant was convicted by the trial Magistrate:-

“At 0005 hours on 2022-09-10, while PC 11762 (“PW1”) and party were on duty in uniform and mounting a roadblock at chainage 25.9E, Tsing Sha Highway (Shatin bound), PW1 intercepted a private car... (“OV”) and a strong alcohol smell was emanated from the male driver WOO Chai-fong (“D”). D was requested to undergo a direct Screening Breath Test (“SBT”).

2. At 0011 hours, PW1, a qualified screening breath device operator, requested D to conduct a Screening Breath Test (“SBT”) by using the approved screening breath device... At 0014 hours, D provided a valid breath specimen and the result was 49 ug/100ml in breath, exceeding the prescribed limit of 22 ug/100ml. D was arrested and subsequently escorted to Tsing Yi Police Station for an Evidential Breath Test (“EBT”).

3. At 0040 hours on 2022-09-10 and inside Tsing Yi Police Station Report Room, WSGT 57000 (“PW2”), a qualified breath analyzing instrument... operator, explained the procedures... to D, demonstrated to him how to provide a breath specimen with the screening breath device... Upon PW2’s request, D provided two valid breath specimens

at 0056 hours and both readings were 37ug/100ml, which exceeded the prescribed limit of 22ug/100ml...”

Findings of the Inquiry Panel

6. The offence of “*Driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit*”, contrary to section 39A(1) of the Road Traffic Ordinance, Cap. 374, Laws of Hong Kong, was at all material times and still is an offence punishable with imprisonment. Pursuant to section 21(1)(a) of the Medical Registration Ordinance (“MRO”), Cap. 161, Laws of Hong Kong, our disciplinary powers over the Defendant are engaged.

7. 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.”

8. Since the Defendant was found guilty of the said offence on his own plea after trial, we are therefore entitled to treat his criminal conviction as conclusively proven.

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

Sentencing

10. The Defendant has a clear disciplinary record.

11. In line with our published policy, we shall give the Defendant credit in sentencing for his admission and 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.

12. We bear in mind that the primary 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.
13. Driving a motor vehicle whilst under the influence of alcohol is a serious offence. 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. Indeed, the Defendant admitted the seriousness of his misdeed and promised the trial Magistrate that he would never drive after drinking again.
14. We noted from reading the transcript of the criminal trial before the Magistrate that the Defendant had a clear criminal and driving offence records before the subject incident. We accept that the Defendant has learned his lesson. Given the Defendant's insight into his wrongdoing, we believe the chance of his repeating the same or similar breach of the law in the future would be low.
15. Taking into consideration the nature and gravity of the disciplinary offence, we order that a warning letter be issued to the Defendant. We further order that our said order be published in the Gazette.

Remark

16. The name of the Defendant is registered in the Specialist Register under the specialty of Ophthalmology; and we shall leave it to the Education and Accreditation Committee to decide on whether anything needs to be done in respect of his specialist registration.

Prof. TANG Wai-king, Grace, SBS, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong