

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Date of hearing: 25 February 2010
Defendant: Dr YUEN Chung Cheong (源鎮昌醫生)

1. The charges alleged against Dr YUEN Chung Cheong are that:

“He, being a registered medical practitioner:

- (a) was convicted at the Shatin Magistrates’ Courts on 25 April 2008 of an offence punishable with imprisonment, namely, failing to comply with traffic signal, contrary to regulations 18 and 61(1) of the Road Traffic (Traffic Control) Regulations made under the Road Traffic Ordinance, Chapter 374, Laws of Hong Kong;
- (b) was convicted at the Shatin Magistrates’ Courts on 25 April 2008 of an offence punishable with imprisonment, namely, driving whilst disqualified, contrary to section 12(2)(b) of the Road Traffic (Driving-offence Points) Ordinance, Chapter 375, Laws of Hong Kong;
- (c) was convicted at the Shatin Magistrates’ Courts on 25 April 2008 of an offence punishable with imprisonment, namely, using a vehicle without third party insurance, contrary to sections 4(1) and 4(2)(a) of the Motor Vehicle Insurance (Third Party Risks) Ordinance, Chapter 272, Laws of Hong Kong;
- (d) failed to report to the Medical Council the said convictions within 28 days of the conviction, contrary to Part II of the updated Code as promulgated in Issue 13 – April 2007 of the Newsletter of the Medical Council of Hong Kong, and by reason of the fact alleged he is guilty of misconduct in a professional respect.”

Facts of the case

2. The Defendant, Dr YUEN Chung Cheong, has been a registered medical practitioner in Hong Kong since 6 March 1996.
3. At 2128 hours on 20 February 2008, the Defendant drove a private car with a licence plate number of “EZ9306” and disobeyed a red light traffic signal at the junction of Hung Mui Kuk Road and Chung Pak Road.
4. The Defendant was then stopped by the Police in Tin Sum Street. He could not produce any driving licence for inspection.
5. The Defendant’s driving licence had been suspended since 17 December 2007. He had been disqualified by the Kwun Tong Magistracy under section 8 of the Road Traffic (Driving-offence Points) Ordinance, Chapter 375, Laws of Hong Kong from holding or obtaining a driving licence for all classes of vehicles for 3 months commencing from 17 December 2007.
6. Meanwhile, the Defendant’s insurance policy did not cover disqualified drivers. As such, he was using a vehicle without third party insurance at the time in question.
7. Accordingly, on 25 April 2008, the Defendant was convicted at the Shatin Magistrates’ Courts of the following offences, which are punishable with imprisonment:
 - (a) failing to comply with traffic signal, contrary to regulations 18 and 61(1) of the Road Traffic (Traffic Control) Regulations made under the Road Traffic Ordinance, Chapter 374, Laws of Hong Kong;
 - (b) driving whilst disqualified, contrary to section 12(2)(b) of the Road Traffic (Driving-offence Points) Ordinance, Chapter 375, Laws of Hong Kong;
 - (c) using a vehicle without third party insurance, contrary to sections 4(1) and 4(2)(a) of the Motor Vehicle Insurance (Third Party Risks) Ordinance, Chapter 272, Laws of Hong Kong.

8. The Defendant reported the above convictions to the Medical Council of Hong Kong in a letter dated 22 July 2008.

Findings of the Council

9. The Defendant chooses not to attend this Inquiry. His legal representative confirmed that proceeding with the Inquiry in his absence would not cause prejudice to him.
10. The facts are obvious from the charges. The Defendant was convicted of the three criminal offences which are punishable with imprisonment on 25 April 2008. Under Part II of the Professional Code and Conduct, the Defendant is required to report the convictions to the Medical Council within 28 days, i.e. on or before 23 May 2008. However, he did not do so. He reported the convictions by a letter dated 22 July 2008 which was received by the Medical Council on 14 August 2008.
11. The Defendant admits that he was convicted of the three offences on 25 April 2008. On the basis of his admission and the Certificate of Trial, we are satisfied that the Defendant was convicted as alleged in charges (a), (b) and (c).
12. As to charge (d), the Defendant admits that he only made the report to the Council in his letter dated 22 July 2008. According to the Medical Council's record, the letter was received by the Medical Council on 14 August 2008. No reason for the failure to report within time was advanced by the Defendant. The Defendant admits that the failure to report within time amounts to professional misconduct.
13. Nevertheless, it is for this Council to determine whether this failure to report within time constitutes professional misconduct. In deciding on this issue, we take into consideration the length of time that he was late in reporting the convictions and the circumstances in which he made the report. We find that the Defendant's conduct in this respect falls short of the standard expected among registered medical practitioners. We are satisfied that this amounts to professional misconduct. We find him guilty of charge (d).

Sentencing

14. The Defendant has a clear disciplinary record. We also give him credit for admitting the facts of the charges. In relation to charges (a), (b) and (c), our concern is not to punish him for the three traffic offences. He has already been sentenced by the court for those offences. Our concern is the implication of the convictions in relation of charges (b) and (c) on his practice as a medical practitioner.
15. In mitigation, the Defendant put forward that at the material time of the traffic offences he was rushing back home because his domestic helper had not locked the door. We do not accept this as a mitigating factor of any weight, nor do we see any other mitigation of weight.
16. We are particularly concerned with the Defendant's driving whilst being disqualified. This is a deliberate disregard of the law in disobeying the order of the court. The conviction of using a vehicle without third party insurance also reflects his disregard of the law's protection of the public. These are matters which bring disgrace to the profession.
17. On the failure to report the convictions within time, we take note that the Defendant voluntarily reported to the Medical Council by sending a letter dated 22 July 2008, which the Council received on 14 August 2008.
18. Having regard to the gravity of the case and the mitigation advanced, we make the following orders:-
 - (i) In respect of charge (a), a warning letter be served on the Defendant.
 - (ii) In respect of charge (b), the Defendant's name be removed from the General Register for a period of 2 months, and the order be suspended for a period of 18 months subject to the condition that he shall not commit any further disciplinary offence during the suspension period.
 - (iii) In respect of charge (c), the Defendant's name be removed from the General Register for a period of 2 months, and the order be suspended for a period of 18 months subject to the condition that he shall not commit any further disciplinary offence during the suspension period.

- (iv) Both orders in respect of charges (b) and (c) shall run concurrently, as they arose from the same incident.
 - (v) In respect of charge (d), a warning letter be served on the Defendant.
 - (vi) The above orders shall be published in the gazette in accordance with the provisions of section 21(5) of the Medical Registration Ordinance.
19. We note that the Defendant is under limited registration. If for any reason the suspended removal orders are activated and his limited registration expires during that 2-month removal period, the effect of the removal orders will preclude him from applying for registration or restoration to the General Register until the removal period has expired.

Dr CHENG Chi Man
Temporary Chairman, Medical Council