

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY **MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr TANG Man Chun (鄧文俊醫生) (Reg. No. M16346)

Date of hearing: 22 July 2013

1. The charge against the Defendant, Dr TANG Man Chun, is that:

“He, being a registered medical practitioner, was convicted at the Kwun Tong Magistracy on 16 August 2012 for three counts of indecent assault, which is an offence punishable with imprisonment, contrary to section 122(1) of the Crimes Ordinance, Cap. 200, Laws of Hong Kong.”

Facts of the case

2. The Defendant was a doctor at a public hospital at the material times. At 10:15 pm on 27 September 2011, he entered a female room in a locked surgical ward and approached a 24 years old female patient (“Victim A”). He made enquiry with Victim A about her condition. Suddenly, he inserted his hand inside the patient’s clothes and pressed her breasts. After touching the patient’s breasts for a while, he left the room without making any record in the patient’s medical record. The patient then made a complaint to another patient in the same room.
3. Later at 10:40 pm, the Defendant entered another female room in the same surgical ward and approached a 23 years old female patient (“Victim B”). He made enquiry with the patient about her conditions. Suddenly, he pulled up the patient’s clothes and palmed her breasts. He then left the room without making any record in the patient’s medical record. The patient was shocked and relayed the incident to her boyfriend and a nurse. The nurse then made a report to the police. Another nurse reminded the Defendant that he should record his examination of the patient in the medical chit board.

Later, he returned to the ward and made a record in Victim B's medical chart board.

4. Later at 11:30 pm, the Defendant returned to Victim A's room. He approached Victim A and made enquiry about her condition again. Before Victim A replied, the Defendant inserted his hand inside her clothes and pressed her breasts. Victim A raised her hands to defend but in vain. When Victim A asked why he did so, he left without replying.
5. The Defendant was arrested outside the same ward for the offence of indecent assault at 2:15 am on 28 September 2011. Under caution, he remained silent and refused to answer any question, both on arrest and in a subsequent video-recorded interview which lasted for 20 minutes. However, after he was positively identified by Victim A in an identification parade on 3 October 2011, he asked for a further interview in which he admitted that he had touched the breasts of both Victim A and Victim B, saying that when he touched their breasts he felt excited and started to grab them.
6. Victim B also positively identified the Defendant in an identification parade on 10 November 2011.
7. The Defendant was charged with 3 counts of indecent assault, 2 counts in respect of Victim A and 1 count in respect of Victim B. On 16 August 2012, he pleaded guilty to all 3 criminal charges and admitted the Brief Facts of the Case presented by the prosecution in the criminal case. He was convicted of all 3 criminal charges, and was sentenced to 180 hours of community service on each charge. The sentences were ordered to be served concurrently.

Findings of Council

8. The Defendant admits the facts of the disciplinary case and that he was convicted of the 3 criminal charges as stated in the disciplinary charge. In view of the transcripts of the criminal trial, the certificate of the criminal trial and the Defendant's admission in this inquiry, we are satisfied that the Defendant was convicted of the criminal charges as stated in the disciplinary charge.

9. We find him guilty of the disciplinary offence.

Sentencing

10. The Defendant has a clear record.

11. We give him credit for his cooperation both during preliminary investigation and in this inquiry. However, given that there is little room for dispute in disciplinary cases involving conviction of criminal offences, the credit for such cooperation will necessarily be less than the credit in other cases.

12. Any act of indecency by a doctor towards his patients is a serious matter. The public places a high degree of trust on doctors, and given our duty to protect the public, we cannot allow that trust to be abused.

13. In the present case, the gravity of the indecent acts was aggravated by the following factors:-

(a) There were 3 separate assaults on 2 female patients, all within a period of about 75 minutes.

(b) The 3 incidents took place inside a locked hospital ward, with restricted access for only authorised persons.

(c) It is a serious case of breach of trust, as patients are entitled to expect their doctors to safeguard their interests, particularly in the security of hospital wards to which unauthorised persons are prohibited from entering.

(d) The assault on Victim A was repeated within 75 minutes, when Victim A protested and tried to defend herself from the Defendant's assault.

(e) As the trial magistrate in the criminal trial pointed out, grievous effect was inflicted on the victims.

14. The Defence has produced many character references, all seeking to show that the incidents were out of the Defendant's previously normal character.

15. The Defence also produced the psychiatric reports compiled by Dr WONG Chung Kwong, who had provided psychiatric treatment to the Defendant after the sexual assault incidents. Dr WONG was of the view that at the material time the Defendant *“was suffering from two severe psychiatric disorders, i.e. Obsessive Compulsive Disorder and Bipolar II Disorder. Unfortunately, not only had he never received any psychiatric treatment, he also had no awareness that he was psychiatrically ill”*. Nevertheless, despite such diagnosis of severe psychiatric disorders, Dr WONG was of the confident opinion that after 12 assessment and treatment sessions within a 9-week period from 24 October 2011 to 5 March 2012, the Defendant had fully recovered from both disorders by 3 January 2012.
16. Given Dr WONG’s role as the Defendant’s treating psychiatrist, there is a role conflict for him to be an expert psychiatrist. His opinion on the Defendant’s condition is not independent. In view of such role conflict, we do not place much weight on his reports. We are not convinced that the Defendant’s abnormal behaviour will not recur.
17. The practice of medicine is a heavy stress engagement, in particular given that doctors often face issues of life and death and have to make difficult decisions. A doctor must be reasonably stable mentally, in order to properly discharge his medical duties. Otherwise, he is not a fit and proper person to practise medicine. We cannot put the patients at risk of being handled by such a person as their curer.
18. We are of the view that the Defendant was affected by some mental instability at the material time, although we cannot be sure about the cause of the instability and what triggered it. We are not satisfied that the matters affecting his mental instability will not recur. We note that in the 3 assault incidents, the Defendant was completely uninhibited from his sexual aggression despite (i) the patient’s protest and physical resistance; (ii) the presence of other patients in the same room; and (iii) the security setting of a restricted access ward with nurses present. He has proved to pose a danger to his patients, and we cannot put his patients at further risk.
19. In the circumstances, given our duty to protect the public, we cannot allow him to continue to practise medicine. He must be removed from the General Register.

20. We are of the view that removal for a year is appropriate for this case. However, we do not rule out the possibility that sometime in the foreseeable future he may be able to provide satisfactory evidence that he has completely rehabilitated and is therefore fit and proper person to be restored to the General Register. Giving the greatest allowance to such possibility and to give him an opportunity to be restored within a shorter period, as an exceptional measure we reduce the period of removal to 6 months.
21. We order that the Defendant's name be removed from the General Register for a period of 6 months.
22. We have considered the issue of suspension of the removal order. We are of the view that the order cannot be suspended, given the gravity of the case.

Other remarks

23. There are other observations which we feel obliged to make, although they have not affected our decisions in the inquiry.
24. We note with serious concern that Counsel acting for the Defendant in the criminal trial told the court that the Medical Council has a rehabilitation system under which *“a person who is disbarred can reapply for reinstatement, and...depending upon the [sentence in the criminal trial] the period that he will have to spend in the wilderness before he can look for being reinstated is somewhere between about six months and two years, and to a considerable extent the period of time that he will have to spend in the wilderness disbarred will be affected by the sentence that [the court] finds is appropriate in [the criminal case]. In other words, the more lenient the sentence that [the court] feels capable of imposing, the lesser period that he'll be in the wilderness.”*
25. That is a completely distorted representation of the disciplinary proceedings of the Medical Council, which is governed by the Medical Registration Ordinance and its subsidiary legislations. The Council decides on the appropriate disciplinary order from the disciplinary aspect, which is entirely

independent from the sentence in the criminal trial. We hope that the court in criminal trials will not be misled by such misrepresentation.

26. While the Defendant's application for restoration to the General Register should be considered by the Council at the time it is made, we recommend that such application should not be approved unless independent and cogent evidence is produced to satisfy the Council that (i) the Defendant has completely rehabilitated; and (ii) is a fit and proper person to be given the right to practise medicine. This necessarily will require independent assessment of the reasons for the Defendant's abnormal behaviour during the indecent assault incidents, and the measures taken to rehabilitate and to prevent recurrence of such abnormal behaviour.
27. We further recommend that, if the application for restoration is to be approved, a condition of practice under supervision for at least 3 years be imposed.

Prof. LAU Wan-yee, Joseph, SBS
Chairman, Medical Council