

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Dates of hearing: 23 September 2013 (Day 1), 14 October 2013 (Day 2)

Defendant: Dr WONG Wing Kin Sunny (黃永健醫生) (Reg. No.: M14499)

1. The charges against the Defendant, Dr WONG Wing Kin Sunny, are that:-

“In or around 2009 to 2010, in connection with his research project on "Psychiatric Morbidity in Chinese Patients with HIV" and/or his dissertation based thereon which he submitted for Part III Fellowship Examination of the Hong Kong College of Psychiatrists in 2010, he, being a registered medical practitioner, conducted himself in a manner in fundamental breach of the principles of professional ethics, in that:

(a) he conducted the research project without having obtained the necessary approval from the relevant ethics committee;

(b) he accessed patients' personal data through the "CMS" system (standing for "Clinical Management System") of the Hospital Authority without informed consent from the patients;

(c) he approached patients and obtained their personal data without their informed consent;

(d) he made false statements in the dissertation in his reporting of sampling, data collecting and usage of assessment tools;

(e) in his dissertation he improperly manipulated or falsified the data collected in his research project;

(f) in his dissertation he grossly misrepresented what he had

done and found in his research project.

In relation to the facts alleged, either singularly or cumulatively, he has been guilty of misconduct in a professional respect.”

Facts of the case

2. The Defendant was a psychiatry trainee registered with the Hong Kong College of Psychiatrists (“the College”), proceeding to the Part III Fellowship Examination. The Part III Examination consisted of a dissertation and an oral examination about the dissertation. Passing of the examination was a prerequisite and the final step for acquiring the specialist qualification of Fellowship of the College, which in turn was a prerequisite for becoming a specialist.
3. The Defendant’s research project was “Psychiatric Morbidity in Chinese Patients with HIV”. The project was proposed to be conducted in a public hospital under the management of the Hospital Authority.
4. As the research project was to be conducted in a clinical setting, he was required to obtain prior approval from the ethics committee of the institution at which the project would be conducted.
5. In September 2010, the Defendant submitted his dissertation to the College, in preparation for the oral examination to be held in December 2010. Subsequently, when some queries were raised about the dissertation, the Defendant withdrew from taking the examination.
6. Investigation by the College revealed that:-
 - (a) the Defendant had not obtained from the relevant ethics committee approval for conducting his research project;
 - (b) he gained unauthorized access to the CMS system of the Hospital Authority in order to identify patients as his research subjects;
 - (c) he approached patients to conduct the research and obtained their personal data without obtaining informed consent from them;
 - (d) although the research protocol stated that the research data were obtained by administering the questionnaire “Structured Clinical Interview for DSM-IV Axis I Disorders”, the questionnaire was in

fact not administered;

- (e) the dissertation stated that the research followed the sampling method, data collection procedure, and assessment tools described in the dissertation, although none of them had been followed;
 - (f) all raw data had been destroyed and were not available for verification;
 - (g) the data stated in the dissertation were either improperly manipulated or falsified to lead to false research findings and conclusions;
 - (h) the research procedure and findings reported in the dissertation were gross misrepresentations of the truth.
7. After the investigation, the College terminated the Defendant's membership status. The College also reported the matter to this Council in respect of his professional conduct.

Findings of the Council

8. The facts of the case were not in dispute. The Defendant admitted all these facts.
9. There are two important aspects in the present case. Firstly, the research was conducted in a clinical setting which involved patients as research subjects. Secondly, the manner of conducting and reporting on the research involved the professional integrity of the Defendant as a doctor. The former is a matter of professional ethics. The latter is a matter of honesty. Both aspects are of fundamental importance to the professional conduct of a doctor.
10. There are strict rules governing clinical research, both internationally and locally. These rules are designed to protect the rights, safety and well being of the subjects in clinical research. The rules set out in section 23 of the Code of Professional Conduct are derived from the international guidelines in relation to clinical research.
11. Among these rules, the following are of particular relevance to the present case:-
- (a) there should be prior approval of the research protocol from an

- appropriate ethics committee;
- (b) the research should be conducted in compliance with the approved protocol;
 - (c) freely given informed consent should be obtained from every subject;
 - (d) all information should be recorded, handled and stored in a way that allows its accurate reporting, interpretation and verification.
12. The Defendant violated all these rules in conducting the research. Section 23.16 of the Code of Professional Conduct categorically provides that fraudulent practice of clinical research constitutes professional misconduct.
 13. Despite not having obtained the necessary approval, the Defendant falsely stated in the dissertation that he had obtained approval for conducting the study from the relevant cluster of the Hospital Authority.
 14. Without authorisation by the relevant hospital or the patients concerned, the Defendant secretly accessed the computerized CMS system to identify patients with the history of “men have sex with men” for his research. Doctors in the employment of the Hospital Authority are permitted to access the CMS system only on a need-to-know basis and with the consent of the relevant patients. This is a blatant breach of the patients’ privacy, especially given that the CMS system contains confidential information of all patients of all hospitals and clinics under the management of the Hospital Authority.
 15. Although the dissertation stated that the subjects were recruited from patients in the out-patient HIV clinic, all subjects were patients in in-patient wards.
 16. Instead of explaining to the subjects that he was conducting a research and that they had the right not to take part, the Defendant approached the subjects and asked them questions as if he was giving them clinical consultation. The subjects were thus taking part in the research unknowingly, and were misled to provide their medical information to the Defendant who was not involved in their treatment at all. This was done without the knowledge of the doctors in charge of the respective patients.
 17. Although the dissertation stated that the subjects were interviewed by use of 2 standard and elaborate sets of questionnaires, these questionnaires were not administered to the subjects at all. The Defendant did not even

- have the questionnaires with him when he interviewed the subjects.
18. When the Defendant compiled the dissertation, he manipulated the raw data in order to obtain satisfactory analytical graphs. He admitted that he fabricated those data, changing them whenever necessary until he obtained satisfactory graphs.
 19. To put it shortly, the whole research and report were basically fabricated. The findings were scientifically invalid. Fortunately, the dissertation was eventually withdrawn and not published. Otherwise, the false research findings could have misled other doctors to the detriment of patients.
 20. The Defendant's conduct involves the fundamental issues of honesty and professional ethics. These are important requirements for all doctors.
 21. The Defendant held a nonchalant attitude towards many of the ethical issues in his research and dissertation, such as conducting the research without ethics approval, gaining unauthorized access to medical information of persons who were not his patients, conducting research on patients without informed consent and in the disguise of clinical consultation, fabrication of data in reporting, and dishonest representation in his dissertation of what he had done in the research. He was prepared to disregard all the relevant rules of professional ethics, in order to achieve his personal purpose of obtaining the specialist qualification.
 22. We remind ourselves that the findings in the College's investigation are not binding on us. We must make an independent judgment based on the evidence before us. We have examined the evidence in relation to each charge, and came to our own findings on the charges.
 23. We are satisfied that the Defendant's conduct in each of the charges fell far short of the standard expected amongst registered medical practitioners. We find him guilty of professional misconduct in all the charges.
 24. Although the Defendant admitted that he had not obtained approval for his research from the relevant ethics committee, he claimed that he had in fact submitted 10 copies of application for approval to the relevant ethics committee. We have not made a finding on this issue, as it is unnecessary for deciding on the charges. Nevertheless, the credibility of the Defendant's claim is questionable, given his inconsistent stories at different stages of the College's investigation. When first questioned about the approval from the relevant ethics committee, he said that he had received the approval, and also promised to retrieve the approval when asked to do

so. However, on the next day he said that he had not received the approval. This suggests that he was making up the story as he went along, changing it when being cornered.

Sentencing

25. The Defendant has a clear record.
26. We shall give him credit for his cooperation in preliminary investigation and in this inquiry. Nevertheless, given that the evidence is overwhelming, the extent of credit in such cases will necessarily be lesser than the extent of credit in other cases.
27. The charges can be divided into 2 groups. The first group which covers Charges (a), (b) and (c) is related to professional ethics. The second group which covers Charges (d), (e) and (f) is related to honesty.
28. As we have pointed out, both professional ethics and honesty are of fundamental importance to the professional conduct of a doctor. A person who does not have the required standard of professional ethics and honesty is not a fit and proper person to practise medicine.
29. Conducting research on human subjects without informed consent from the patients violates the basic rights of the subjects. This is particularly important in respect of clinical research on patients admitted to a hospital, as the patients will be misled to believe that they are being given clinical consultation or treatment. That is the reason for the mandatory rule for obtaining informed and voluntary consent from patients before the research can be conducted on them.
30. Honesty and integrity are essential attributes required of all doctors.
31. The present case involved about 80 patients. It was an organized and dishonest scheme for an extended period.
32. We bear in mind that the purpose of a disciplinary order is to protect the public from persons who are unfit to practise medicine, and to maintain public confidence in the medical profession by maintaining its reputation.
33. Fortunately no harm was caused by the research to any of the patients.
34. We are of the view that the Defendant has learned a hard lesson, and the

- likelihood of reoffending is low.
35. Having regard to the gravity of the case and the mitigating factors, we make a global order in respect of all charges that the Defendant's name be removed from the General Register for a period of 1 month.
 36. We have considered whether the order can be suspended. We are of the view that suspension is not justified.
 37. We must emphasise that this is a lenient order given the gravity of the case. The removal period would have been longer if not because of the mitigation of the Defendant's cooperation throughout preliminary investigation and this inquiry.

Prof. Felice Lieh-Mak, GBS, CBE, JP
Temporary Chairman, Medical Council