

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr YEUNG Kok Fung (楊珏峰醫生) (Reg. no M15964)
Date of hearing: 9 December 2013

1. The amended charge against the Defendant, Dr YEUNG Kok Fung, is that:

“He, being a registered medical practitioner, was convicted at the Kwun Tong Magistrates’ Courts on 29 November 2011 of an offence punishable with imprisonment, namely, indecent assault, contrary to section 122(1) of the Crimes Ordinance, Cap. 200, Laws of Hong Kong.”

Facts of the case

2. At around 00:20 hours on 27 July 2011, a young lady (“the Victim”), aged 25, was walking alone at outside No.822 Lai Chi Kok Road, Sham Shui Po, Kowloon, Hong Kong. The Victim was checking messages in her mobile phone when the Defendant suddenly pushed her back from behind. As a result, the Victim fell on the ground and both her knees were bleeding. The Defendant immediately covered her mouth with his left hand and touched both her breasts twice with his right hand. The Victim cried for help but there was no one around. The Defendant tried to run away and the Victim chased after him. The Victim also used her mobile phone to call the Police.
3. When the Victim reached the intersection of Cheung Sha Wan Road and Tai Nam West Street, she saw a police patrol car. Police officers on board joined the Victim in chasing after the Defendant. Eventually, the Defendant was intercepted by the police officers. The Victim pointed out to the police officers that he was the one who had indecently assaulted her. And then the Defendant was arrested.
4. The Defendant was later charged with the offence of indecent assault [“the Charge”], contrary to section 122(1) of the Crimes Ordinance, Cap. 200, Laws of Hong Kong.

5. The Defendant pleaded not guilty to the Charge. And on 29 November 2011, the Defendant was convicted of the Charge after trial by a Magistrate sitting at the Kwun Tong Magistrates' Court. Then on 13 December 2011, the Defendant was sentenced to 4 months imprisonment.
6. The Defendant subsequently appealed against the conviction and sentence. On 16 October 2012, the Defendant's appeal against conviction was dismissed. However, his appeal against sentence was allowed by reducing the sentence by one month to 3 months.
7. The Defendant applied for leave to appeal to the Court of Final Appeal but his application was dismissed by the Appeal Committee on 4 October 2013 on the ground that it disclosed no reasonable grounds for leave to appeal.

Findings of Council

8. The Defendant admits that he was convicted of the offence as stated in the amended charge.
9. Pursuant to section 21(3) of the Medical Registration Ordinance, the Medical Council may consider any record of the case in which the Defendant's conviction is recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence for which he has been convicted.
10. Taking into consideration the Certificate of Trial and the transcript of the trial hearing before the Magistrate, we are satisfied that the Defendant was convicted in Hong Kong of an offence punishable with imprisonment, namely, indecent assault, contrary to section 122(1) of the Crimes Ordinance, Cap. 200, Laws of Hong Kong.
11. Therefore, we find the Defendant guilty of the disciplinary offence.

Sentencing

12. The Defendant has a clear disciplinary record. His name has been included in the General Register from 2 July 2009 to present but his name has never been included in the Specialist Register.
13. In line with our published policy, we shall give him credit for his frank admission in this Inquiry and cooperation during preliminary investigation. 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.
14. We bear in mind that the 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 the reputation of the profession.
15. The Medical Council always takes a particularly serious view on criminal conviction of offences involving indecent behavior or violence. In the present case, the indecent assault on the Victim was aggravated by the fact that the offence was committed on a woman alone at midnight and violence was involved.
16. We must ask ourselves whether the Defendant can be safely allowed to remain in practice, having regard to our responsibility to safeguard the public from persons who are unfit to practise medicine.
17. Counsel for the Defendant heavily relies on the Medical Council's Decision on sentencing Dr LO Chung Hong. However, the facts of the case are quite different. In Dr LO's case, no violence was involved. But in this case, the Defendant committed the indecent assault with violence.

18. In the case of Dr LO, the Medical Council was satisfied on the information provided that he had taken active steps to reform himself. But in our view, the Defendant does not appear to have sufficient insight of his own problems. We are not given any information in the course of mitigation what the Defendant has done to reform himself. We are only told by his Counsel that the Defendant practised as a part-time doctor after his release from prison.
19. Having regard to the nature and gravity of the offence for which the Defendant has been convicted and what we have heard in mitigation, we consider that removal from the General Register for a period of 18 months is appropriate.
20. We have considered the issue of suspension order but we are not satisfied on the information before us that the removal order should be suspended by reason of the nature and gravity of the offence for which the Defendant has been convicted.
21. We further recommend that when the Defendant applies for restoration of his name in the General Register, he should provide cogent evidence to the satisfaction of the Medical Council of his insight into his problems and that he has reformed himself.

Prof. Felice LIEH-MAK, GBS, CBE, JP
Temporary Chairman, Medical Council