

# 香港醫務委員會

## The Medical Council of Hong Kong

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

Defendant: Dr WONG Man Shun (王孟順醫生) (Reg. No. M11813)

Date of hearing: 14 August 2014

1. The charges against the Defendant, Dr WONG Man Shun, are:

“That in 2012, he, being a registered medical practitioner:

(a) was convicted at the Eastern Magistrates’ Courts on 3 September 2012 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; and

(b) failed to report to the Medical Council the conviction mentioned in paragraph (a) above within 28 days of the conviction, contrary to Part II of the Code of Professional Conduct as published in January 2009; in relation to the fact alleged, he has been guilty of misconduct in a professional respect.”

#### **Facts of the case**

2. The Defendant was at all material times and still is a registered medical practitioner.

3. On 3 September 2012, the Defendant was convicted after trial by a Magistrate sitting at the Eastern Magistrates’ Courts of the offence of indecent assault, contrary to section 122(1) of the Crimes Ordinance, Cap. 200, Laws of Hong Kong.

4. The offence of indecent assault was at all material times and still is an offence punishable with imprisonment.

5. On 19 November 2012, the Medical Council received the Defendant's application for annual practising certificate for 2013 in which the Defendant admitted that his conviction for the offence of indecent assault had not been reported to the Medical Council.
6. Meanwhile, the Defendant also appealed against his conviction for the offence of indecent assault to the Court of First Instance. On 31 May 2013, his appeal was heard before the Court of First Instance. On 6 June 2013, the Court of First Instance handed down the Judgment and dismissed his appeal.

### **Findings of Council**

7. Section 21(3) of the Medical Registration Ordinance ("MRO") expressly provides that:-

"Nothing in this section shall be deemed to require the Council to inquire into the question whether the registered medical practitioner was properly convicted but the Council 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. The Council is clearly entitled to take the said conviction as conclusively proven against the Defendant. In any case, the Defendant frankly accepted that he is not going to challenge the correctness of the said conviction.
9. Taking into consideration the transcript of the trial of the Defendant in the Eastern Magistrates' Court, the Certificate of Trial and the Judgment of the Court of First Instance, 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.
10. We therefore find the Defendant guilty of disciplinary offence (a).
11. As regards charge (b), it is clearly stated in paragraph 29.1 of the Code on Professional Conduct ("the Code") that a doctor is required to report his conviction of an offence punishable by imprisonment within 28 days from the conviction, even if the matter is under appeal. Failure to report within the

specified time will in itself be ground for disciplinary action; and in case of doubt the matter should be reported.

12. The mere fact that his conviction was under appeal could not relieve the Defendant of his duty to report. Given the serious nature of the offence and indecent behaviour involved, we are of the view that the Defendant's failure to comply with his duty to report under paragraph 29.1 of the Code in this case constituted a conduct falling short of the standard expected amongst registered medical practitioners in Hong Kong. We also find the Defendant guilty of charge (b).

### **Sentencing**

13. The Defendant has a clear disciplinary record.
14. In line with our published policy, we shall give him credit for his frank admission in this Inquiry. 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.
15. 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.
16. It is clearly stated in paragraph 27.2 of the Code that a particularly serious view will likely be taken in respect of offences involving, amongst others, indecent behaviour.
17. We have considered the transcript of the trial of the Defendant at the Magistrates' Court and the Judgment of the Court of First Instance. We find it appalling that the Defendant indecently assaulted his female patient ["the Victim"] under the false pretext of relieving her pain. Indeed, the Defendant went so far as to unbuckle the Victim's brassiere and to kiss her back. We also noted from reading the verdict of the learned Magistrate that the Victim was

frightened and found it extremely disgusting when the Defendant suddenly unbuckled her brassiere and kissed her on the back.

18. 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.
19. Having considered the nature and gravity of this case and what we read and heard in the mitigation, we order in respect of disciplinary offence (a) that the Defendant's name be removed from the General Register for 1 year.
20. We have considered whether the order for removal from the General Register can be suspended and we are satisfied on the information before us that we should do so. We accept that the Defendant has learnt his lesson and the chances of his committing the same or similar disciplinary offence(s) in the future would be low. We also noted that the Defendant participated in a lot of voluntary works after his release from prison by providing free consultations and medical treatment to needy patients and his generosity and dedication were highly appreciated.
21. We must emphasize that the operation of the removal order is suspended only because the Defendant has reformed himself and we are reasonably satisfied that precautionary measures can be taken to ensure the safety of the Defendant's patients will be sufficiently protected.
22. We therefore further order that the operation of the removal order be suspended for 3 years, subject to the following conditions:-
  - (i) at all times during the suspension period, he must practise under supervision by another registered medical practitioner acceptable to the Medical Council. The supervising doctor must possess at least 10 years of post-registration experience in Hong Kong, and shall practise in the same premises with the Defendant with reasonable opportunities to keep the Defendant under supervision;
  - (ii) the supervising doctor shall submit regular reports to the Medical Council on the Defendant's professional conduct at 6-month intervals. If any irregularity in the Defendant's conduct is detected, he must report such irregularity to the Medical Council immediately;

- (iii) at any time he performs physical examination of female patients, he must do so in the presence of a chaperone;
  - (iv) he should provide to the Medical Council the name and practising address of the supervising doctor, together with a written undertaking by the supervising doctor to supervise him in accordance with the conditions imposed by the Medical Council. Before the Medical Council has accepted the proposed doctor as the supervising doctor, he cannot continue to practise; and
  - (v) in the case of any change of the supervising doctor, he must seek advance approval from the Medical Council.
23. As regards disciplinary charge (b), we do not accept that there was any room for ambiguity in the understanding of paragraph 29.1 of the Code. But then again, we noted that the delay in report was for some 2 months only. We therefore further order that a warning letter be served on the Defendant in respect of charge (b).

Prof. LAU Wan Yee Joseph, SBS  
Chairman, Medical Council