

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LO Chung Hong (羅仲康醫生) (Reg. no M15423)
Date of hearing: 26 April 2012, 4 September 2012

26 April 2012

1. The charge against the Defendant, Dr LO Chung Hong, is that:

“He, being a registered medical practitioner, was convicted at the Fanling Magistrates’ Courts on 21 October 2009 of an offence punishable with imprisonment, namely indecent assault, contrary to section 122(1) of the Crimes Ordinance, Chapter 200, Laws of Hong Kong.”

Facts of the case

2. At the material time in 2009, the Defendant was a medical officer at the Accident and Emergency Department of Tuen Mun Hospital. A female patient aged 15 went to the hospital complaining of abdominal pain, diarrhea and vomiting. She was seen by the Defendant. The Defendant told her to lie down on the examination couch for physical examination. During the examination, the curtains of the cubicle were drawn, and no chaperone or other persons were inside the cubicle.
3. According to the patient, the Defendant pulled up her one-piece dress and her brassiere up to her collar bone, and then pressed on each of her breasts for 5 to 6 times with his ungloved fingers, and touched her nipple during the process.

4. In the criminal trial, the Defendant denied having pulled up the patient's brassiere and touched her breasts. He denied having performed any breast examination on the patient.
5. The trial Magistrate accepted the patient's evidence and rejected the Defendant's evidence, and convicted the Defendant of the offence of indecent assault. The Magistrate sentenced the Defendant to 9 months of imprisonment.
6. The Defendant subsequently appealed against the conviction. His appeal was dismissed by the Court of First Instance. His application for leave to appeal to the Court of Final Appeal was refused by the Appeal Committee of the Court of Final Appeal.

Findings of Council

7. The disciplinary charge is that the Defendant was convicted of an offence punishable with imprisonment. All that we have to be satisfied is that the Defendant was so convicted.
8. The Defence admitted that the Defendant was convicted of the criminal offence of indecent assault.
9. Having regard to the admission, the transcript of the criminal trial and the certificate of trial, we are satisfied that the Defendant was convicted of the offence of indecent assault which was and is an offence punishable with imprisonment.
10. We find that the disciplinary charge has been proved to the required standard.

Sentencing

11. The Defendant has a clear disciplinary record.
12. The Defendant has been cooperative during the inquiry, in that he admitted the allegations of the disciplinary charge. In accordance with our published

policy of giving credit for honest admissions, we shall give him credit in sentencing. However, given the overwhelming evidence of the disciplinary charge, the credit will not be as extensive as in other cases.

13. We note the various character references adduced in mitigation. Nevertheless, we cannot lose sight of the fact that he has been convicted of an offence of indecency on the standard of proof beyond reasonable doubt.
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 and to maintain public confidence in the medical profession by upholding the reputation of the profession.
15. Acts of indecency committed by doctors on patients is a serious matter which we must deal with seriously. The public relies in doctors a high degree of trust, and we must not allow that trust to be abused.
16. After serving his sentence, the Defendant has resumed practice as a general practitioner since 2010. His employer who has been supervising his medical practice in the past 2 years is of the opinion that he deserves a chance to continue his medical practice and requires guidance and support.
17. In the circumstances, we shall postpone sentence to another date not earlier than 2 months from today. In the interim, the Defendant shall undergo assessment by a clinical psychologist to be appointed by this Council. We shall sentence having regard to the psychologist's report.
18. However, we must emphasize that all sentencing options are open.
19. The inquiry is now adjourned to another date to be fixed in due course.

4 September 2012

20. At the hearing on 26 April 2012, we postponed sentence pending a report on the Defendant's psychological condition.

21. We have received the psychological report, and have heard from the clinical psychologist. The psychologist, having conducted a series of assessment sessions and tests on the Defendant, reached the opinion that there was no indication of any signs of sexual deviation, paraphilia or devious sexual intent. He is of the opinion that the Defendant was fully motivated in turning a new page in his life.
22. As we have pointed out, indecent behaviour by doctors on patients is a serious matter which we must deal with seriously, because of the high degree of trust which is reposed by the public in doctors.
23. We repeat our previous remark 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 and to maintain public confidence in the medical profession by upholding the reputation of the profession.
24. After serving his criminal sentence of 9 months of imprisonment, the Defendant was released in August 2010. He has resumed practice since October 2010, and has been working under the full-time employment of another doctor from February 2011 until now. The employer having supervised the Defendant for over a year is of the view that the Defendant is fit to practise as a family doctor and deserves another opportunity to start his medical career again.
25. Having considered the gravity of the case, we are of the view that the appropriate sentence is removal from the General Register for 1 year.
26. We then move on to consider whether the sentence can be suspended. On that question, the crucial consideration is whether he is a fit and proper person to resume practice as a doctor.
27. We note that the incident of indecent assault is a one-off incident. While that by itself does not make the misconduct less serious, it is a factor relevant to assessment of the likelihood of re-offending.
28. Having considered the psychological report and the character references, including his current employer who has been supervising him in medical

practice for over a year, we are of the view that the Defendant has learned a hard lesson and will take particular caution to stay within the bounds of proper medical practice. We are of the view that the likelihood of re-offending is low.

29. Nevertheless, having regard to the criminal offence, and acting responsibly as the regulatory body of medical practitioners, we cannot allow the Defendant to continue to practise unless precautionary measures have been implemented to ensure the safety of his patients.

30. Having considered the gravity of the case and the mitigating factors, we make the following orders:-

(a) The Defendant's name be removed from the General Register for a period of 1 year.

(b) The application of the removal order be suspended for a period of 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 this 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 this 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 this Council immediately.

(iii) At any time he performs physical examination of patients, he must do so in the presence of a chaperone.

(iv) He should provide to this 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 this Council. Before this Council has

accepted the proposed doctor as the supervising doctor, he cannot continue to practise.

(v) In the case of any change of the supervising doctor, he must seek advance approval from this Council.

31. The Defendant must bear in mind that the removal order is liable to be activated in the case of breach of any of the conditions or adverse report by the supervising doctor.

32. We must emphasize that the removal order is suspended only in the exceptional circumstances that we are reasonably satisfied that with the precautionary measures the safety of the Defendant's patients will be sufficiently protected. The Defendant must take particular caution to ensure that he practises properly in accordance with the rules of medical ethics.

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