香港牙醫管理委員會
The Dental Council of Hong Kong

Disciplinary Inquiry under s.18 of DRO

Defendant: Dr LIU Kwok-wai, Harry 廖國偉牙科醫生 (Reg. No. D02168)

Date of hearing: 10 November 2022

Present at the hearing

Council Members: Dr LEE Kin-man, JP (Chairman)
Dr FOO Tai-chuen
Dr LEUNG Kwok-ling, Ares
Dr WAI Tak-shun, Dustin
Dr TSANG Hin-kei, Century
Dr TO Chun-yin, Peter

Legal Adviser: Mr Stanley NG

Defendant: Represented by Mr Chris HOWSE of Messrs Howse Williams, Solicitors

Legal Officer representing the Secretary: Miss Vienne LUK, SGC

The Charge

1. The amended charge against the Defendant, Dr LIU Kwok-wai, Harry, is as follows:-

> "During the period from about June 2014 to July 2016, you, being a registered dentist, disregarded your professional responsibility to adequately treat and care for your patient, [redacted] ("the Patient") or otherwise neglected your professional duties to the Patient in that, you failed to assess and/or monitor the periodontal status of the Patient's teeth during the orthodontic treatment; and that in relation to the facts alleged you have been guilty of unprofessional conduct."

Facts of the case

2. The name of the Defendant has been included in the General Register ("GR") since 2 February 1987. The name of the Defendant has never been included in the Specialist Register.

3. On 9 June 2014, the Patient consulted the Defendant complaining that her front teeth were protruding and that there were spaces between her upper central incisors. The Patient requested for orthodontic treatment. The Defendant took impressions of the upper and lower jaw. An orthopantomogram ("OPG") and a lateral cephalogram were also taken.

4. As shown in the Patient's clinical notes, the Defendant offered three treatment options, as follows:

> *"1. Upright upper and lower molars with extraction of 15 25 35 45 + upper anterior bite plane for 6 months (may need occlusion reduction / RCT / Crown) ...*
> *2. only align 14 to 24 and 34 to 44 with closing of space between 11 and 21 and overjet reduction (molar scissor bite untouch) with extraction of 15 25 35 45 ...*
> *3. only align upper anterior with no extraction of teeth."*

5. On 16 June 2014, the Patient returned to see the Defendant and agreed to proceed with the second treatment option. The Defendant took pre-treatment photographs.

6. Orthodontic treatment then started and lasted for around two years.

7. On 11 July 2016, the Defendant removed the orthodontic appliance. On 18 July 2016, the Defendant provided the retainers to the Patient. The Defendant took a post-treatment OPG, lateral cephalogram and photographs.

8. On 30 July 2016, the Patient returned to see the Defendant and requested further retraction of the upper anterior teeth. The Defendant told the Patient that it was not possible unless further extractions were performed and closing the spacing in the lower arch would make the upper front teeth protrude more. The Patient had not returned to see the Defendant since this consultation.

9. The Patient next consulted a Dr LING on 3 February 2017 for "scaling and polishing".

10. On 16 May 2018, the Patient consulted a Dr SHEK for orthodontic treatment and scaling and polishing. In Dr SHEK's referral letter dated 13 June 2018, she recorded that the Patient presented with the following:

> *"Unsatisfactory oral hygiene*
> *16, 26 mesially tilted, bone loss, not mobile*
> *36 mesially tilted, M angular bone loss*
> *17/47, 27/37 crossbite, bone loss, not mobile*
> *Generalised root resorption and gingival recessions*
> *Overjet +2.0mm"*

She also recorded that the Patient was advised to see periodontist and orthodontist for follow-up. Photographs of two radiographs were shown in the referral letter.

11. On 25 March 2019, the Patient consulted a Dr NG, a specialist in orthodontics. In Dr NG's letter dated 29 June 2019, she noted *"Oral hygiene is fair with significant gingival recession, loss of interdental papilla at lower anterior teeth"*. Her diagnosis was *"Class 1 skeletal pattern with bimaxillary dentoalveolar protrusion with Class II molar and canine relationship on both sides and scissor bite at 17 and 27."*

12. On 30 April 2019, the Patient consulted a Dr KAM for scaling and polishing.

13. On 3 June 2019, the Patient consulted a Dr FUNG, a specialist in periodontology. From Dr FUNG's referral letter dated 10 July 2019, he noted that the Patient:

> *"... presented with localized chronic periodontitis with:*
> - *Fair OH in general, inadequate plaque control at lingual surface of molars and mesial surface of tilted 16, 26*
> - *Moderate amount of supra- and subgingival calculus, esp. molars area*
> - *Generalised bleeding upon probing*
> - *Increased probing pocket depth up to 7mm at:*
> - *16MB, 26MP, 36 mid-L, 37DB, 46ML"*

14. Dr FUNG advised the Patient to seek a second opinion and further dental care from the Prince Philip Dental Hospital.

15. By an email dated 20 April 2018, the Patient lodged a complaint against the Defendant.

Burden and Standard of Proof

16. The Council bears in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his innocence. The Council also bears in mind that the standard of proof for disciplinary proceedings is the preponderance of probability. However, the more serious the act or omission alleged, the more inherently improbable must it be regarded. Therefore, the more inherently improbable it is regarded, the more compelling the evidence is required to prove it on the balance of probabilities.

17. There is no doubt that the allegation against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse a registered dentist of unprofessional conduct. Therefore, we need to look at all the evidence and to consider and determine the disciplinary charge against him carefully.

Unprofessional Conduct

18. According to section 18(2) of the Dentists Registration Ordinance, Cap. 156 ("DRO"), "unprofessional conduct" means an act or omission of a registered dentist which would be reasonably regarded as disgraceful or dishonourable by registered dentists of good repute and competency.

Findings of Council

19. The Defendant admits the factual particulars of the disciplinary charge against him but it remains for us to consider and determine on the evidence whether he has been guilty of unprofessional conduct.

20. In respect of the amended charge, we only focus at the period from about June 2014 to July 2016. Events after this period only form part of the background.

21. We agree with the Secretary's expert that diminished oral hygiene together with periodontal disease would make orthodontics a high-risk treatment for the periodontium.

22. Performing orthodontic treatment without assessment and monitoring of periodontal status of patients is a direct risk of periodontal destruction by allowing the progression of existing periodontal disease unchecked. Further, orthodontic tooth movement may exacerbate periodontal destruction in patients with existing periodontal inflammation. The clinical relevance is orthodontic tooth movement should only be performed on healthy periodontium or after periodontal therapy. In case of periodontal relapse, orthodontic therapy should be suspended until the periodontal inflammation has been successfully treated and thus the periodontal disease is controlled again.

23. It is a good practice for periodontal assessment to include measurement of the gingival recession, periodontal pocket depth, bleeding on probing, degree of furcation involvement, clinical mobility, etc. In the present case, before the commencement of the orthodontic treatment, the Defendant had performed clinical assessment and taken radiographs, study model and photographs. The pre-operative radiographs and photographs taken by the Defendant were basic and essential. They assisted him to assess the bone level and soft tissue status of the Patient before commencement of the orthodontic treatment. Amongst other assessment procedures, they are important indicators of the periodontal status. It formed the record and the baseline to compare future changes. We are of the view that the Defendant had taken steps to assess the periodontal status of the Patient.

24. As said, the purpose of taking pre-operative x-ray is to provide baseline information to compare future bone level changes. The Defendant had taken a post-operative x-ray, which when compared with the pre-operative x-ray, clearly showed that there were changes in the bone level. There was a total of around 20 consultations during the entire orthodontic treatment. The Defendant wrote in his submission to the Preliminary Investigation Committee that during the course of the orthodontic treatment, he observed that the Patient had periodontal issues i.e. inflammation of the gums. The Defendant said that upon each occasion that he saw the Patient, he had advised her of the importance of oral hygiene, and reminded her to brush her teeth more thoroughly. If the Defendant had observed that there were periodontal issues, there was more the reason for him to continuously monitor the periodontal status of the Patient. This should have alerted him to timely perform necessary assessment procedures as to diagnose the periodontal status and manage the periodontal problems accordingly. However, there is no record that the Defendant had monitored the Patient's periodontal status at all. We are satisfied that the Defendant had failed to monitor the Patient's periodontal status during the course of the treatment. Such failure was an elemental failure, and in our view amounted to unprofessional conduct.

25. We are satisfied that the conduct of the Defendant had seriously fallen below the standard expected amongst registered dentists. It would be reasonably regarded as disgraceful and dishonourable by registered dentists of good repute and competency.

26. We therefore find the Defendant guilty as charged.

Sentencing

27. The Defendant has no previous disciplinary records.

28. The Council gives credit to the Defendant's cooperation and admission to the facts of the charge.

29. The Council bears in mind that the purpose of a disciplinary order is not to punish the Defendant, but to protect the public and maintain public confidence in the dental profession.

30. In mitigation, the Defendant told us that he has studied articles relevant to the problems arisen in this case. The Defendant said he now pays special attention to assessing and monitoring the periodontal condition of all his patients. Prior to commencing any orthodontic treatment, he will thoroughly explain to patients the importance of proper oral hygiene. He will refer patients presenting with periodontal problems, such as lots of calculus, generalized inflammation of the gum tissue, periodontal pockets or bone loss, to periodontists for proper assessment and treatment, prior to assessing their suitability for orthodontic treatment. For patients receiving orthodontic treatment, he will actively monitor and assess their periodontal condition, advise them of the importance of proper oral hygiene, and perform scaling when necessary. He will also refer orthodontic patients to a periodontist if periodontal pockets or bone loss are found in the course of treatment, and will not continue until the periodontal issues are resolved. We accept that the risk of re-offending is low.

31. We also accept that the Defendant is remorseful and has learnt a hard lesson.

32. Having regard to the gravity of the case and the mitigation submitted by the Defendant, we order that the Defendant be reprimanded. Our order shall be published in the Gazette.

Remarks

33. The Council has other observation. The Council stresses that no part of the following observation was taken into account when considering the findings and sentencing above.

34. Orthodontic treatment, be it by conventional fixed orthodontic appliances, clear aligner therapy or any other orthodontic treatment modalities, involves irreversible tooth movement and related structure changes. Therefore, thorough assessment and continuous monitoring are mandatory in all stages. A dentist who is involved in any stages of orthodontic treatment, including treatment planning, delivery and/or adjustment of orthodontic appliances, has responsibility to adequately assess and monitor at all stages.

Dr LEE Kin-man, JP
Chairman
The Dental Council of Hong Kong