



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

**Disciplinary Inquiry under s.18 of DRO**

Defendant: Dr SO, Johnny Man-hon 蘇文瀚牙科醫生 (Reg. No. D02269)

Date of Hearing: 8 August 2024

**Present at the Hearing**

Council Members: Dr LEE Kin-man, JP (Chairman)  
Dr HSE Mei-yin, Kitty, JP  
Dr TSANG Hin-kei, Century  
Dr ZHANG Chen

Legal Adviser: Mr Stanley NG

Legal Representative for the Defendant: Mr Ricky K.Y. LI, Counsel, instructed by Messrs W. H. CHIK & Co., Solicitors

Legal Officer representing the Secretary: Mr Edward CHIK, Senior Government Counsel (Ag.)

**The Charge**

1. The Defendant, Dr SO, Johnny Man-hon, is charged that:-

“In or about July to September 2021, you, being a registered dentist, disregarded your professional responsibility to adequately treat and care for your patient, [REDACTED] or otherwise neglected your professional duties to her in that, you failed to perform appropriate preoperative assessment before the extraction of the tooth 46; and that in relation to the facts alleged you have been guilty of unprofessional conduct.”

**Facts of the Case**

2. On 26 July 2021, the patient [REDACTED], aged around 87 (“the Patient”) attended the Defendant at his clinic. She was accompanied by her daughter (“the Daughter”). The Patient had history

of high blood pressure, diabetes, breast cancer and had major surgery in relation to her feet and was on Aspirin, medication for diabetes as well as breast cancer.

3. The Daughter indicated that the Patient would like to have a new lower partial denture made. Oral examination did not find any partial denture on her lower jaw, but multiple retained roots at teeth 46, 45, 44, 43 and 33. There were two metal-ceramic crowns at teeth 36 and 37.
4. According to the Defendant, he advised the Patient to have extraction of the retained roots on her lower jaw to alleviate the risk of infection and mis-fitting of denture, but that he would not be able to fabricate the new denture for her. She was also informed that if she decided to have the retained roots extracted, she needed to stop taking Aspirin for a few days before the extraction. No x-ray was taken.
5. On 4 August 2021, the Patient, accompanied by her Daughter, consulted the Defendant. The Defendant confirmed that the Patient was off Aspirin for 4 days, and then conducted oral examination on the Patient. The Defendant then extracted the retained roots of teeth 43 and 44. The said extractions were uneventful. Antibiotic was prescribed. The Patient was scheduled to return on 30 August 2021 to have the remaining retained roots extracted.
6. On 30 August 2021, the Daughter called and informed that the Patient did not stop taking Aspirin, and thus the extraction appointment was re-scheduled to 3 September 2021.
7. On 3 September 2021, the Patient, accompanied by her Daughter, consulted the Defendant. Extraction was performed on tooth 33. Then tiny fragments (root tips) of teeth 41 and 31 were removed, followed by extraction of retained root at tooth 45. These extractions were uneventful. Then the Defendant moved onto the retained roots at tooth 46. Tooth 46 was badly broken down, the crown of the tooth was basically gone, leaving only a thin enamel shell on the buccal side of the tooth standing above the gum, and there were caries developed into the root phase.
8. As the Defendant was attempting to remove the retained roots at tooth 46, the mesial root came out but the distal root crumbled. The Defendant suspected that the root tip remained in the socket. The Defendant did not continue with the removal of the root tip and asked the Patient to come back on another day for the removal. Antibiotics and painkiller were prescribed. An appointment was scheduled on 5 September 2021.
9. On 5 September 2021, the Defendant's nurse told the Defendant that the Daughter rang up indicating that the Patient still had blood in saliva and swelling around the lower right side of the jaw. Thus, they were unable to attend the appointment.
10. On 9 September 2021, the Daughter came to the Defendant's clinic and complained about the extraction at tooth 46 had caused the Patient much pain and suffering.
11. On 13 September 2021, the Patient, accompanied by her Daughter, consulted the Defendant. The Patient reported to have less pain and the swelling subsided. Examination found the wound was no longer painful. The Patient indicated that she was taking her own medication for the past 10 days, and the Daughter requested to have more medication for the Patient. Antibiotics and painkiller were prescribed. The Defendant advised that the root tip at tooth 46 should be removed, but the daughter indicated that she was not confident to let the Defendant continue with the removal.
12. By way of a complaint letter dated 15 September 2021, the Daughter lodged a complaint against the Defendant with the Council.

### **Burden and Standard of Proof**

13. We bear in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his innocence. We also bear 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.
14. There is no doubt that the allegations against the Defendant here are serious. 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**

15. 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**

16. Although the Defendant admits to the facts of the charge, it remains however for us to consider and determine whether he is guilty of unprofessional conduct.
17. Examination and assessment of the patient’s condition are the hallmarks of the diagnosis and treatment planning process. Failure to carry out examination and assessment in an appropriate and sufficient manner would not be in the best interest of the patient as other factors might not have been considered.
18. According to the Secretary’s expert, preoperative assessment typically includes medical history assessment, physical examination and radiographic investigation.
19. The Defendant had performed a medical history assessment, which showed that the Patient had a complex medical history including diabetes, hypertension, breast cancer and major surgery in relation to her feet. The Patient was on Aspirin, medication for diabetes and cancer treatment. The Defendant had also conducted physical examination on the Patient.
20. The Defendant had taken note that the Patient was on Aspirin and made assessment accordingly before proceeding to extraction. We do not see anything improper with this assessment.
21. In our view, radiographic investigation serves both diagnostic and record purposes and has to be decided by dentists according to any particular clinical situation with justifications.
22. In any case, a dentist should consider if the clinical situation of the patient necessitates a radiographic investigation. There is an element of clinical judgment of the operating dentist. A dentist should also consider if radiographic investigation is feasible in any particular situation, for instance, a patient may not be willing and/or unable to undergo radiographic investigation for different reasons. If radiographic examination is not feasible, then the dentist should consider if there are any other alternatives and of any suitable follow-up protocol.

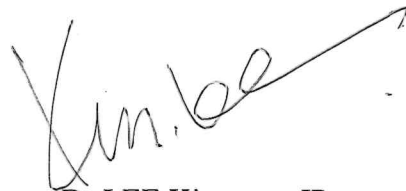
23. In the Patient's case, the right first mandibular molar tooth (tooth 46) was significantly broken down indicating retained roots. Therefore, a crucial aspect of the pre-operative assessment was to determine the difficulty of the extraction and evaluated if there was any complexity involved. It was essential to conduct further radiographic investigation to assess the root morphology, bone structure, and identify any abnormalities that might impact the extraction process. A radiograph, such as periapical or panoramic radiograph, could provide valuable information for evaluating various aspects before extracting a badly broken down mandibular molar, especially for this Patient with a complex medical history and advanced age.
24. Without an appropriate preoperative radiographic assessment, complications may arise from potentially difficult tooth extraction. In the present case, the Defendant did not perform any preoperative radiographic assessment and investigation on the Patient. Without radiographic assessment and investigation, it was impossible for the Defendant to assess the anatomical factors and to plan the surgical details in relation to the extraction of the root.
25. The Defendant's failure to perform preoperative radiographic assessment was clearly inadequate and inappropriate in the present case. It was an elemental and grievous failure.
26. 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. We therefore find the Defendant guilty as charged.

### **Sentencing**

27. The Defendant has no previous disciplinary record.
28. The Defendant does not contest the charge at today's inquiry. We will give the Defendant credit for his admission.
29. We bear 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. The Defendant told us that for this case he mistakenly underestimated the diagnostic value of radiographic investigation. That was a judgment error. He said this was not a systemic error but only an unusual occurrence. He told us that he has now adopted rectification measures. He is now more cautious and prudent in conducting radiographic examination. We accept what the Defendant told us. We accept that this is an isolated case and the risk of re-offending is low.
31. Having regard to the gravity of the case and the mitigation submitted by the Defendant, the Council orders that a warning letter be served on the Defendant. The Council's order shall be published in the Gazette.

**Remark**

32. The Defendant told us that he has not taken any CPD. However, he undertakes that he will enroll in courses in relation to contemporary practices in the coming year. We strongly advise the Defendant to forthwith participate in CPD courses.

A handwritten signature in black ink, appearing to read 'Kin. Lee', with a long, sweeping horizontal stroke extending to the right.

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