



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

Disciplinary Inquiry under s.18 of DRO

Defendant: Dr CHAN Siu-tung 陳紹東牙科醫生 (Reg. No. D03966)

Date of Hearing: 28 November 2024

Present at the Hearing

Council Members: Dr LEE Kin-man, JP (Chairman)
Dr KO Hay-ching, Brian
Dr TSANG Hin-kei, Century
Dr ZHANG Chen

Legal Adviser: Mr Stanley NG

Legal Representative for the Defendant: Mr Chris HOWSE, Messrs. Howse Williams, Solicitors

Legal Officer representing the Secretary: Mr David YIM, Senior Government Counsel

The Charge

1. The charge against the Defendant, Dr CHAN Siu-tung, is as follows:-

“On 12 April 2023 at the Kwun Tong Magistrates’ Courts, you, being a registered dentist, were convicted of the offence of ‘unlawful recording of intimate parts’, contrary to section 159AAC(1)(a)(i) and (2) of the Crimes Ordinance, Cap. 200, Laws of Hong Kong, which is an offence punishable with imprisonment.”

Burden and Standard of Proof

2. 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.

Facts of the Case

3. The name of the Defendant has been included in the General Register (“GR”) since 16 July 2012. His name has never been included in the Specialist Register.
4. According to the brief facts of the case in the criminal proceedings, upon which the Defendant was convicted, at 1309 hours on 20 October 2022, at Popcorn 1, The Wings, 9 Tong Yin Street, Tseung Kwan O, New Territories, the Defendant was spotted by a police officer to be following a female (“the Victim”) and placing his mobile phone under the skirt of the Victim with the camera facing upward on an ascending escalator. The police officer then intercepted the Defendant and alerted the Victim. The police officer subsequently arrested the Defendant. Upon caution, the Defendant admitted recording the Victim’s up-skirt video out of impulse, and said “我一時衝動先影佢裙底，比次機會”. The police officer discovered that the Defendant had taken two up-skirt videos of the Victim (Duration: 1 minute 1 second and around 30 seconds respectively) with the Victim’s underwear captured.
5. The Defendant was charged with the offence of “unlawful recording of intimate parts”, contrary to section 159AAC(1)(a)(i) and (2) of the Crimes Ordinance, Cap. 200, Laws of Hong Kong (“the Offence”).
6. On 12 April 2023, the Defendant was convicted on his own plea in Case No. KTCC 678/2023 of the Offence. On 26 April 2023, the Defendant was sentenced to a Community Service Order of 120 hours.

Findings of Council

7. There is no dispute that the Offence is punishable with imprisonment. By virtue of section 18(1)(a) of the Dentists Registration Ordinance, Cap. 156 (“DRO”), our disciplinary powers against the Defendant are engaged.
8. Section 18(3) of the DRO expressly provides that:

“Nothing in this section shall be deemed to require the Council to inquire into the question whether the registered dentist 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.”
9. We are therefore entitled to take the aforesaid conviction as proven against the Defendant.
10. Accordingly, we find the Defendant guilty of the disciplinary charge.

Sentencing

11. The Defendant has no previous disciplinary record.
12. We shall give the Defendant credit for his cooperation in that he did not contest the disciplinary charge. However, given that there is hardly any room for dispute in a disciplinary case involving criminal conviction, the credit to be given to him must necessarily be of a lesser extent than in other cases.
13. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant but to protect the public from persons who are unfit to practise dentistry and to maintain public confidence in the profession by upholding its high standards and good reputation.
14. We acknowledge that the Defendant did not commit the act of taking up-skirt videos during the course of his dental practice. However, we take a particularly serious view in respect of offences involving indecent behaviour. The offence committed by the Defendant was very serious. The Defendant's act had no doubt harmed the Victim and tarnished the good reputation of the dental professionals.
15. It is essential in our view to maintain amongst members of the public a well-founded confidence that any registered dentist whom they consult will be a person of unquestionable integrity, probity and trustworthiness. In particular, dental treatment of patients will usually require close contacts, and the trust between the profession and patients has to be upheld at all times. Any person who lacks any of these essential attributes can hardly be a fit and proper person to practise dentistry.
16. We need to 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 dentistry.
17. We accept that the Defendant had shown remorse and frankly admitted the criminal offence before the Magistrate. We particularly note from reading the court transcripts that the Defendant had no previous criminal record.
18. Following the Defendant's commission of the criminal offence on 20 October 2022, the Defendant had consulted Dr Greg Mak Kai Lok ("Dr Mak"), a Specialist in psychiatry, on 25 October 2022. The Defendant saw Dr Mak approximately once a month until 31 January 2023 when he started seeing Dr Mak approximately once every three months.
19. The Defendant had also attended a clinical psychologist, Dr Amos Cheung ("Dr Cheung"), from 16 November 2022 onwards. Dr Cheung saw the Defendant once every month initially from 16 November 2022 to 17 February 2023 and from 29 March 2023 onwards, approximately once every six weeks or more.
20. The Defendant also enrolled in the Caritas Specialised Treatment and Prevention Project against Sexual Violence and attended 13 counselling sessions from 8 November 2022 to 3 May 2024. The Defendant subsequently became a volunteer at the Caritas Social Centre, sharing his personal experience, including what he had done to reflect upon the incident and the steps he had taken to prevent reoccurrence.

21. In Dr Mak's Psychiatric Report dated 21 June 2024, he had this to say of the Defendant:

" ...

9. History of Present Condition Given by Dr. Chan

9.2 *He was under significant stress as a result of preparing for his Specialist exit examination in December 2022 in prosthodontics.*

9.3 *At the time, Dr Chan was not on good terms with his wife ... Instead, he bottled up all his sad feelings.*

...

11. Diagnoses of Dr Chan

11.1 *When Dr Chan first attended me, I noted that he was suffering from Adjustment Disorder with mixed anxiety depressive reaction.*

11.2 *He was also suffering from untreated Dysthymia since a young age due to witnessing long standing parental discord, bottling up of negative feelings from his mother and feeling stressed about need to satisfy the expectations of his parents academically and professionally.*

12. Opinion

12.1 *Since mid-2023, Dr Chan has been mentally stable and in remission. I also note that Dr Chan no longer had any depressive mood or anxiety spells and no longer had any urges to repeat previous deviant behaviour.*

12.2 *Dr Chan had advised me that since February 2024, he has implemented a new schedule which is much more balanced, for example his working hours have been reduced and he is spending more time with his wife.*

12.3 *Dr Chan has always shown good compliance with medication and as a result, significant improvement was noted in his dysthymic mood in the early stages of treatment.*

12.4 *Prognosis of Dr Chan is good and relapse is unlikely if he continues to adopt his altered lifestyle, maintains good medication compliance and ensures that he seeks prompt assistance when necessary.*

12.5 *As the index offence is closely related to his previously poor marital relationship which has now improved; stress from heavy workload and specialist examination, neither of which exist anymore; it is unlikely that Dr Chan will commit the same offence again.*

12.6 *I will continue to see Dr Chan approximately every four months in the near future for the purposes of further consolidating his current stable condition..."*

22. In Dr Cheung's Clinical Psychological Report dated 21 June 2024, he had this to say of the Defendant:

" ...

41. *Based on Dr Chan's clinical history and presentation during sessions, it is highly likely that the Incident was brought on by the accumulation of multiple stressors. These include his exam-related stress and concerns, stressful lifestyle, exam-related anxieties, perfectionist*

attitude, and maladaptive thrill-seeking coping tendencies. The stress that built up and the absence of appropriate adaptive stress management strategies over time likely hampered Dr Chan's decision-making ability and clouded his judgment at the time of the Incident.

...

N. Prognosis and risk of reoffending

...

48. Taking into account the circumstances surrounding the offence, it can be inferred that the psychological risk factors that led Dr Chan to engage in such behaviours were misguided attempts to alleviate the significant stress he was experiencing from extensive working hours and academic pressure. It is important to note that these factors are no longer present.

49. Dr Chan is currently in a phase of maintenance and support. Dr Chan's consultations are scheduled on an as-needed basis. Provided Dr Chan continues to maintain his current lifestyle and ensures that he seeks treatment when he requires it, the likelihood of Dr Chan reoffending is extremely low..."

23. We need to emphasize that the Defendant's psychiatric/psychological condition at the material times would only go to mitigation. In our view, any act of outraging public decency like the present one must be condemned.
24. But then again, we acknowledge that according to both Dr Mak and Dr Cheung, the Defendant's mental condition is currently in the maintenance phase of treatment, and the chance of re-offending is low.
25. Whilst we believe that the Defendant has learnt a hard lesson and had insights into his wrongdoing, we are nevertheless of the view that there is a need, both for the protection of the public as well as in the best interest of the Defendant, to monitor him for a period of time in terms of his ability to cope with the underlying stresses and negative emotions.
26. Having considered the nature and gravity of this case and what we have heard and read in mitigation, we order that the name of the Defendant be removed from the General Register for a period of 3 months. We further order that the operation of the removal order be suspended for a period of 12 months on the following conditions, namely that:-
 - (a) the Defendant shall at his own expense submit himself to be examined by a psychiatrist acceptable by the Council at least once every 6 months during the suspension period;
 - (b) the examining psychiatrist shall be allowed full access to all treatment records kept on the Defendant by his treating psychiatrist and clinical psychologist; and

- (c) the examining psychiatrist shall report directly to the Chairman of the Council at 6-monthly intervals. Any irregularity or non-compliance with psychiatric and/or psychological treatments should be reported to the Chairman of the Council as soon as practicable.

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

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