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

Disciplinary Inquiry under s.18 of DRO

Defendant: Dr PANG Tak-chuen (彭德全牙科醫生) (Reg. No. D02981)

Date of hearing: 25 October 2019

Present at the hearing

Council Members: Dr LEE Kin-man (Chairman)
Dr CHAN Chi-chun
Prof. CHEUNG Shun-pan, Gary
Dr LAU Kin-kwan, Kenny
Dr LEUNG Kwok-ling, Ares
Dr TONG Chi-kit, Antonio

Legal Adviser: Mr Stanley NG

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

Legal Officer representing the Secretary: Mr Mark CHAN, Asst. PGC (Ag),
Ms Sanyi SHUM, Government Counsel

The Amended Charges

1. The amended charges against the Defendant, Dr PANG Tak-chuen are as follows:

> "In about 2007, you, being a registered dentist, disregarded your professional responsibility to adequately treat and care for your patient, Ms [redacted] ("the Patient") or otherwise neglected your professional duties to the Patient in that, you –
>
> (i) failed to carry out proper and effective Root Canal Therapy on the Patient for her tooth 17;

(ii) failed to properly or adequately advise the Patient of her treatment progress after the Root Canal Therapy in (i) above; and/or

(iii) failed to refer the Patient to another dentist or specialist of the relevant discipline for treatment.

and that in relation to the facts alleged you have been guilty of unprofessional conduct."

Facts of the case

2. This case is about one tooth i.e. tooth 17. On 30 March 2007, the Patient consulted the Defendant. She complained of pain at night in quadrant one that radiated to head and caused sleep disturbance.

3. The Defendant noted caries on the periapical radiograph at the mesial aspect of upper right second molar (tooth 17).

4. Caries removal of tooth 17 was performed under local anaesthesia, during which root canal treatment ("RCT") was suggested and commenced due to the caries having extended "down to pulp". Blocked mesio-buccal and disto-buccal canals were noted.

5. After a total of 3 visits, RCT was completed on 23 April 2007. On the same visit, the Defendant suggested a crown for tooth 17.

6. Three years later on 21 April 2010, the Patient complained to the Defendant about the foul smell from quadrant one. A periapical radiograph was taken. No tenderness upon percussion of tooth 17 was noted. Unerupted tooth 18 region was found to be tender for which Corsodyl was prescribed.

7. More than 3 weeks later on 13 May 2010, the Patient returned to the Defendant reporting mobility and pain elicited on biting of tooth 17. Scaling was subsequently performed. The Defendant advised that unerupted tooth 18 be removed and tooth 17 to receive root canal retreatment should signs and symptoms persist.

8. On 23 March 2015, the Patient presented to the Defendant complaining about problems with food packing in both quadrant one and two. The Defendant took periapical radiographs and advised that tooth 17 be extracted.

9. On 28 April 2015, the Patient was attended by Dr SEH [redacted] in Lok Sin Tong Dental Clinic, when she complained about partial filling dislodgment from a root canal treated tooth in quadrant one. Periapical radiograph was taken and the presence of recurrent caries at mesio-palatal aspect of tooth 17 with "no RCT done" were noted. Dr SEH informed the Patient that no root canal filling was present in tooth 17 and advised the Patient to return to her previous dentist (i.e. the Defendant) for filling.

10. Two days later on 30 April 2015, the Patient returned to the Defendant who advised her that mobile tooth 17 be either extracted or to receive root canal retreatment by an endodontist. It was also noted that distal of tooth 17 was too deep to fill.

11. On 7 May 2015, the Defendant restored occluso-palatal surfaces of tooth 17 with amalgam.

12. The Patient was attended by Dr LIN [redacted] on 9 January 2018 who took a periapical radiograph of tooth 17. Dr LIN extracted tooth 17 on 18 January 2018.

13. By a letter from Messrs. Howse Williams, Solicitors ("HW") to the Council dated 2 August 2019, the Defendant admitted to the facts of all charges (i) to (iii) and would defer to the Council as to whether such admissions would amount to unprofessional conduct.

14. At today's inquiry, the parties produce a Statement of Agreed Facts. The Defendant admits the facts as set out in Charges (i) to (iii).

Burden and Standard of Proof

15. 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.

Unprofessional Conduct

16. 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

Charge (i)

17. Generally, a "proper" RCT would consist of diagnosis based on history and clinical findings; informed consent; delivery of treatment; and follow-up advice.

18. In the present case, the Defendant had taken pre-operative x-rays of tooth 17; had informed the Patient of his diagnosis; and had cleaned, shaped and filled the palatal canal of tooth 17. It was considered by the Defendant that there were 2 blocked canals, namely the mesial-buccal and disto-buccal, and he left them untreated.

19. In the record, there was no evidence of the Patient being informed of the situation. No management option or follow-up advice was given to the Patient in about 2007. The Council considers this as improper.

20. Generally, an "effective" RCT would depend on its outcome, which can be viewed from either the patient's perspective or from the dentist's perspective. From the patient's perspective, this

would generally be the relief of the chief complaint. From the dentist's perspective, in addition to the relief of the chief complaint, it would also include the overall evaluation of pathology.

21. In the present case, the symptoms relating to tooth 17 was relieved as a result of the treatment. Tooth 17 had been retained in the Patient's mouth for 8 years since the RCT done by the Defendant in 2007 without any complaint or symptoms.

22. Although the Defendant's RCT done in 2007 had deviated from the standard of a best practice, it could not be said to be totally ineffective. In fact, the Council agrees with the expert that the reason for extraction of the tooth is multifactorial and may not be solely due to the result of the previous root canal therapy. The Council considers the Defendant's failure is not grievous to the extent amounting to unprofessional conduct. Therefore, the Council is not satisfied that the conduct of the Defendant had seriously fallen below the standard expected amongst registered dentists.

23. The Council therefore acquits the Defendant of charge (i).

Charge (ii)

24. There is no clinical record or any documentation whatsoever to show that the Defendant had in about 2007 advised the Patient of her treatment progress after the RCT done by him on tooth 17. From the record, there appears to be follow-up advice given by the Defendant since May 2010.

25. In fact, the Defendant admitted that in about 2007 he had failed to properly or adequately advise the Patient of her treatment progress after the RCT done by him on tooth 17.

26. The Council considers it elemental for dentists to advise patients of treatment progress as and when appropriate. In this case, no evidence shows any of such advice had been given at all.

27. The Council is satisfied that the conduct of the Defendant had seriously fallen below the standard expected amongst registered dentists. It would be reasonably regarded as disgraceful or dishonourable by registered dentists of good repute and competency.

28. The Council therefore finds the Defendant guilty of charge (ii).

Charge (iii)

29. In 2007, the Defendant considered that there were two blocked canals, and he did not do anything to them. The two untreated canals should have rung the bell of there being a challenge. There is no clinical record or any documentation whatsoever to show that the Defendant had offered to refer the Patient to another dentist or specialist in respect of the two untreated canals. It was not until 30 April 2015 that the record indicated the possibility of referring to an endodontist.

30. In fact, the Defendant admitted that in about 2007 he had failed to refer the Patient to another dentist or specialist of the relevant discipline for treatment.

31. The failure to refer the Patient to an appropriate dentist or specialist to deal with challenging clinical situations was clearly inadequate.

32. The Council is satisfied that the conduct of the Defendant had seriously fallen below the standard expected amongst registered dentists. It would be reasonably regarded as disgraceful or dishonourable by registered dentists of good repute and competency.

33. The Council therefore finds the Defendant guilty of charge (iii).

Sentencing

34. The Council takes note that the Defendant has no previous disciplinary record.

35. The Council gives credit to the Defendant's cooperation and early admission to the facts of the charges.

36. The Council considers that the Defendant is remorseful and he has taken action to make improvement on his deficiency.

37. 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.

38. Having regard to the gravity of the case and the mitigation submitted by the Defendant, the Council makes the following orders:-

(a) In respect of charges (ii) and (iii), that a warning letter be issued to the Defendant.
(b) The order in paragraph (a) above shall be published in the Gazette.

Remarks

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

40. In this case, there has been a long lapse of time since the RCT of tooth 17. A most important thing to protect patient's interest is therefore the clinical record. Keeping good clinical record is therefore important.

41. In this case, the dental treatment was given at an agreed fee for the treatment of the 3 canals of tooth 17. It was therefore particularly important to keep the patient informed of any deviation from the original treatment plan.

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