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

Disciplinary Inquiry under s.18 of DRO

Defendant: Dr HUI Tak-leung 許德樑牙科醫生 (Reg. No. D03080)

Date of hearing: 2 December 2021

Present at the hearing

Council Members: Dr LEE Kin-man (Chairman)
Dr LEUNG Kwok-ling, Ares
Dr LIU Wai-ming, Haston
Dr TSANG Hin-kei, Century

Legal Adviser: Mr Stanley NG

Defendant: Represented by Ms Phyllis CHIU, Messrs. Mayer Brown, Solicitors

Legal Officer representing the Secretary: Miss Cassandra FUNG, Senior Government Counsel

The Charges

1. As set out in the Notice of Inquiry dated 20 July 2021, the charges against the Defendant, Dr HUI Tak-leung, are as follows:-

> "In and about March 2020, 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 –
>
> (i) failed to carry out appropriate and/or sufficient examination(s) and/or assessment(s) before performing the extraction of the lower left last molar (tooth situated at around 37-38 position) on the Patient; and/or
>
> (ii) failed to make timely referral for managing the remained root;
>
> and that in relation to the facts alleged you have been guilty of unprofessional conduct."

Facts of the Case

2. On 16 March 2020 at around 1800 hours, the Patient attended the Defendant's clinic for consultation and presented with pain at lower left last molar. The Defendant said he extracted the left third molar (38) on the same day under local anaesthesia due to gross caries. The Defendant prescribed a 3-day course of Ponston, a non steroidal anti-inflammatory drug as post-operative analgesics. That night since 1930 to until 2130 hours, the Patient developed chill and trembling.

3. Post-operatively, the Patient developed gradual increase of facial swelling and persistent pain despite taking the analgesics prescribed by the Defendant.

4. On 20 March 2020, the Patient attended the Defendant's clinic with a chief complaint of pain at 38 tooth extraction wound. The Defendant applied dry socket paste to 38 socket for the pain and prescribed a 5-day course of analgesic (Ponstan) as well as antibiotics (amoxicillin 250mg three times a day).

5. The symptoms did not improve and the Patient returned to the Defendant's clinic on 21 March 2020. The Defendant informed the Patient that the symptoms might be due to the buccal caries of the upper left first premolar (tooth 24). The Defendant applied socket paste to 38 wound and warned the Patient of the possibility of extraction of tooth 24.

6. The Patient presented with further pain and facial swelling on 22 March 2020 and visited the Accident and Emergency Department at Kwong Wah Hospital in the evening. He was advised to seek treatment at dental clinic the next day.

7. On 23 March 2020, the Patient saw Dr SAM [redacted] ("Dr SAM"), a general dentist, with the chief complaint of intense pain and swelling on his lower left face. On physical examination, the lower left face was swollen, firm and tender. The swelling extended to the lower border of the mandible. There was pus and exudates from the tooth 38 socket. A panoramic radiograph was taken and a retained root at the left mandible was found. The Patient was prescribed with antibiotics. The Patient was referred to see Dr [redacted] TSUI ("Dr TSUI"), a Specialist in Oral & Maxillofacial Surgery, on the same day.

8. The Patient attended Dr TSUI's clinic on 23 March 2020. The Patient reported to Dr TSUI that a lower left molar was extracted on 16 March 2020 after a few months of pain. The Patient presented with facial swelling on the left mandibular angle and chin region with no fluctuation. There was severe trismus and slight purulent exudate found in the 38 socket. Dr TSUI prescribed antibiotics, which included a 7-day course of Augmentin 625mg three times a day and a 5-day course of Metronidazole 400mg three times a day.

9. On 24 March 2020 morning, the Patient's condition further deteriorated and was admitted to the Department of General Surgery via the Accident and Emergency Department of Queen Elizabeth Hospital for facial swelling and fever. The Patient had past medical history of diabetes, hypertension, hyperlipidemia and acid reflux. Emergency operation was performed subsequently for incision and drainage. Intraoperatively, left facial abscess overlying parotid gland which extended to zygomatic arch superiorly, pre-auricular space posteriorly and the inferior border of the mandible inferiorly.

10. On 10 April 2020, the Patient's son lodged a complaint against the Defendant to the Council.

Burden and Standard of Proof

11. 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

12. 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)

13. Charge (i) is that the Defendant had failed to carry out appropriate and/or sufficient examination(s) and/or assessment(s) before performing the extraction of the lower left last molar (situated at around 37-38 position) on the Patient.

14. The Defendant does not contest charge (i) but it remains for the Council to consider and determine on the evidence whether he has been guilty of unprofessional conduct.

15. Examination and assessment of the patient's conditions 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.

16. According to the Defendant's clinical record, there was no written entry at all about the medical history of the Patient. This is an essential part of the assessment before any clinical examination is carried out. In this case, the Patient had a medical history of diabetes, which made him more susceptible to post-operative infection.

17. A panoramic radiograph was subsequently taken by Dr SAM on 23 March 2020 ("the Radiograph") from which a retained root was found in the 37-38 region. We however agree with Dr CHOI [redacted] ("Dr CHOI"), the Secretary's expert, that given (i) the tooth being extracted by the Defendant was the last tooth present at the lower left quadrant; and (ii) although the extraction site was labeled by the Defendant as tooth 38, there was no record indicating if tooth 38 was mesially tilted or not, whether the retained root belonged to the tooth being extracted by the Defendant would become questionable.

18. We cannot therefore establish if the retained root found from the Radiograph at 37-38 region was a result of the extraction of tooth 38 which was a fractured part or it was a retained root already left in that area before the extraction. Having said that, we however take the view that

the subsequent infection caused to the Patient arose from the extraction of the last molar in the lower left quadrant, which was mentioned as tooth 38 by the Defendant. In this particular case, given that there were so many uncertainties, a pre-operative radiograph was therefore essential. In our view, the omission in this case to take a pre-operative x-ray was an elemental and grievous failure.

19. In view of the above, the Council is satisfied that the conduct of the Defendant had seriously fallen below the standard expected amongst registered dentists. It would be regarded as disgraceful and dishonourable by registered dentists of good repute and competency.

20. The Council therefore finds the Defendant guilty of charge (i).

Charge (ii)

21. The Legal Officer offers no evidence in respect of charge (ii).

22. We therefore find the Defendant not guilty of charge (ii).

Sentencing

23. The Defendant has no previous disciplinary record.

24. The Council gives credit for the Defendant's admission and cooperation throughout these proceedings.

25. The Defendant told us that he has now adopted rectification measures. As part of his routine practice now, he will ensure that medical history of patients be taken so as to identify any systemic disease. He will also conduct radiographic assessment before extraction. In light of the rectification measures taken, we agree that the risk of re-offending is low.

26. 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.

27. 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 charge (i), the Defendant be reprimanded; and

    (b) The order above shall be published in the Gazette

Remarks

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

29. We must say that the record keeping of the Defendant was totally inadequate. The Patient visited the Defendant's clinic on 16 March 2020. There was no record of history of the Patient being taken. There was not even any record of the chief complaint. There was no record regarding the Patient's general condition, presence of extraoral and/or intraoral swelling or lymphadenopathy. There was not even any entry stating whether the tooth was completely removed or not. The Patient returned to the Defendant on 20 March 2020 with a chief complaint of pain at the 38 extraction site. There was no record about the physical examination findings, if any. Again, at the next visit on 21 March 2020, there was no entry regarding the Patient's general condition, facial swelling or about the extraction site.

30. Despite the presence and persistence of infection, we notice that the Defendant did not take any post-operative radiograph for proper assessment of the extraction site and this was improper and inadequate.

31. The Defendant was only lucky that he was not charged with the failure to keep adequate or sufficient clinical record and proper post-operative management when symptoms suggestive of complications arose.

32. We would advise the Defendant to deeply reflect on our above observations.

33. We note during mitigation that the Defendant had not enrolled in any voluntary CPD programme. We would advise the Defendant to seriously consider the matter.

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