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

Disciplinary Inquiry under s.18 of DRO

Defendant: Dr MA Siu-wing, Raymond 馬兆榮牙科醫生 (Reg. No. D01561)

Date of hearing: 20 June 2019

Present at the hearing

Council Members: Dr LEE Kin-man (Chairman)
Dr FOO Tai-chuen
Dr LAM Tak-chiu Wiley, JP
Dr YOUNG Wan-yin, Betty

Legal Adviser: Mr Stanley NG

Legal representative for the Defendant: Mr Chris HOWSE, Messrs. Howse Williams, Solicitors; Defendant present at inquiry

Legal Officer representing the Secretary: Mr Mark CHAN, APGC(Ag),
Ms Anna CHU, SGC(Ag)

The Charges

1. The charges against the Defendant, Dr MA Siu-wing, Raymond are as follows:-

> "In about June 2015 to January 2017, 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 –
>
> (i) you failed to explain to the Patient the possible risks and complications associated with cutting healthy teeth for crowns; and/or
>
> (ii) you devised and implemented an inappropriate treatment plan for the Patient, necessitating extensive cutting of sound tooth substance and resulting in gingival and pulpal complications
>
> and that in relation to the facts alleged you have been guilty of unprofessional conduct."

Facts of the case

2. Ms [redacted] ("Ms [redacted]") had her 6 upper front crowns (teeth "13" to "23") made in around 2003 for cosmetic reasons. For 10 years, she was satisfied with those 6 upper crowns and never had any problem associated with them until they developed dark lines around the metal margins near the gums. As to her lower teeth, she had 2 lower wisdom teeth (teeth "38" and "48") extracted in Germany in 2013.

3. In about June 2015, Ms [redacted] went to her beauty salon for a facial session. The beauty salon was promoting a dental check-up package to its customers. A beautician of the beauty salon highly recommended Ms [redacted] to consult the Defendant for an initial free-of-charge dental assessment.

4. In about late June 2015, three staff from the beauty salon accompanied Ms [redacted] to the Defendant's dental clinic for the assessment. Having examined Ms [redacted]'s teeth, the Defendant told Ms [redacted] that the best way to solve the metal-showing problem on her top front crowns was to have them replaced with porcelain crowns. He also told her that in order to make her upper teeth look even, a total of 10 upper crowns should be done. For the uneven lower teeth, the Defendant told her that unevenness could be dealt with by placing another 10 porcelain lower crowns. The Defendant told her that by placing 10 porcelain crowns at the top and another 10 at the bottom she would definitely get a brilliant Hollywood smile and excellent appearance. Ms [redacted] told the Council that the Defendant had never given her any options or told her of the possible risks and complications of crowning. She said she was rushed into agreeing to the crowning procedure.

5. In September 2015, Ms [redacted] consulted Dr Karnstedt in Germany. Dr Karnstedt was of the view that all her teeth and gums were healthy, and recommended replacement of the existing 6 crowns only. Dr Karnstedt advised that there was no reason for additional work. Ms [redacted] did not pay heed to Dr Karnstedt's advice. She was led by the Defendant to believe that 20 crowns would give her a superior smile than 6 new crowns.

6. On 19 November 2015, the Defendant provided Ms [redacted] with the first set of 10 upper porcelain crowns from tooth "15" to tooth "25" with shade A1.

7. Ms [redacted] suffered from severe toothache after the cementation of those 10 upper crowns by the Defendant.

8. On 7 December 2015, the Defendant recorded Ms [redacted]'s complaint of pain and disappointment with the crowns in the clinical notes. Painkiller Arcoxia was prescribed.

9. On 16 January 2016, Ms [redacted] consulted Dr Danny LOW ("Dr LOW"), an endodontist. Ms. [redacted] reported that provision of multiple crowns was in progress ("15" to "25" and "35" to "45"), in which generalized dull pain was noted. Intra-oral examination revealed that temporary crowns were presented with gingival inflammation noted. Upper incisors ("11", "12", "21" and "22") were tender to percussion as well as tender upon palpation of associated labial mucosa overlying root apices. Whereas, lower left incisors ("31" and "32") were tender to percussion, as well as tender to palpation of associated labial mucosa overlying root apices. No treatment was done and medication was prescribed for management of discomfort. Ms [redacted] had been advised to discuss with the dentist for RCT of symptomatic tooth/teeth.

10. There was no record of preparation of the 10 lower crowns. On 26 January 2016, the lower crowns were fitted (teeth "35" to "45").

11. On 16 November 2016, the Defendant carried out root canal treatment ("RCT") on three painful lower left teeth (teeth "31", "32" and "33").

12. On 16 January 2017, when Ms [redacted] consulted Dr LOW. Dr LOW noted facial swelling, flare-up of root-treated "31", "32" and "33". Dr LOW had to re-do RCT for the three lower front teeth.

13. On 26 January 2017, Ms [redacted] made an emergency visit to Dr LOW for her painful teeth "11" and "12". Dr LOW had to carry out RCT on these two teeth in the same visit.

14. In May 2017, when Ms [redacted] was in Germany, she suffered from severe pain in tooth "24" and she had to seek urgent RCT from Dr Köhnke in Germany.

15. In June 2017, when Ms [redacted] was still in Germany, she suffered from severe pain in tooth "42". Dr Köhnke carried out RCT on tooth "42".

16. In June 2018, Ms [redacted] suffered from severe pain in teeth "35" and "45". In the following month of July, severe pain happened to tooth "44". RCT were done on these teeth.

17. All the aforementioned teeth which required RCT were teeth with crowns provided by the Defendant.

18. At all material times, the Defendant had not explained to Ms [redacted] the possible risks and complications associated with cutting healthy teeth for crowns.

19. The Defendant had made submission to the Preliminary Investigation Committee of this Council by a letter dated 27 April 2018 from Messrs. Howse Williams Bowers, and now renamed as Messrs. Howse Williams, his Solicitors ("the PIC Submission"). In the Defendant's PIC Submission, the Defendant admitted to the facts of both charges (i) and (ii).

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

Burden and Standard of Proof

21. 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

22. 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

On Charge (i)

23. In the present case, Ms [redacted]'s desire was to have better looking teeth, and the Defendant rushed her into agreeing to the crowning procedure. No doubt, this was an elective aesthetic crowning case.

24. Crowning is a very destructive and irreversible dental procedure. It will result in significant loss of sound tooth substance and occlusal contacts.

25. In the context of clinical dentistry, risks mean the possibility of there being factors which would lead to undesirable outcome in a treatment, and complications mean unwanted but possible situations arising from the treatment procedures.

26. In order to accommodate the thickness of the porcelain of the crowns for necessary strength and aesthetics, further and extensive cutting of sound tooth substance was required. Furthermore, excessive cutting of tooth structure will increase the risk in this case significantly. It might lead to pulpal insult and the intrusion in the biologic width which may result in periodontal health issues such as marginal gingival inflammation and periodontal destruction.

27. The possible complications were pulpal pathology, periodontal infection, restoration failure, crown longevity issue, and aesthetics failure.

28. The Defendant should have but had never explained to Ms [redacted] about all these possible risks and complications. There was also no mentioning at all of any risks and complications in the Defendant's clinical notes. In fact, the Defendant's clinical notes were grossly and disproportionately brief and incomplete. Most importantly, the Defendant had done nothing to highlight to Ms [redacted] the possible aesthetics failure.

29. The Council considers it elemental for the Defendant to explain to Ms [redacted] about all these possible risks and complications. However, the Defendant had failed to do so.

30. 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.

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

Charge (ii)

32. The Council takes the view that there is no absolute contraindication for crowning for aesthetics reasons provided that a thorough and proportionate diagnostic and treatment planning process has been carried out and a valid informed consent is obtained.

33. An appropriate treatment plan would involve the dentist weighing the benefits that may bring to the patient by crowning against the risks of doing so. The benefits in Ms [redacted]'s case would be improvement of aesthetics in the elements of tooth colour, shape and position, and the relation to the gum. To achieve these benefits, crowning is not the only option. In fact, there are other options in the restorative ladder, which are far less destructive than crowning. In fact, crowning is a very destructive procedure in the restorative ladder, and it is irreversible. For instance, to change the colour and/or shape of the teeth, there are the options of bleaching or porcelain veneer. To change the position, there is the option of orthodontics. To change the relation to the gum, there is an option to extend the crown margin more gingivally. An appropriate treatment plan would therefore require the dentist to give to the patient all these options, and to advise the patient to proceed with less invasive options or phased treatment progression, and not to immediately proceed to crowning.

34. In this case, the Defendant had only devised and implemented one-and-only-one plan, which was crowning. He had never given Ms [redacted] any less invasive option nor suggested phased treatment progression. The Defendant only implemented mock up after Ms [redacted] had expressed her dissatisfaction to the crowns, but not pre-operatively. This was grossly inappropriate. No doubt, the extensive cutting of sound tooth substance, in Ms [redacted]'s case, had resulted in her having to go through multiple RCTs, and developing facial swellings, gingival and pulpal inflammations, and pain.

35. 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.

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

Sentencing

37. Charges (i) and (ii) committed by the Defendant are very serious.

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

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

40. 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.

41. 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), that the name of the Defendant be removed from the General Register for a period of 3 months.
(b) In respect of charge (ii), that the name of the Defendant be removed from the General Register for a period of 3 months.
(c) The orders in paragraphs (a) and (b) above be concurrent.

(d) The operation of the removal orders in the paragraphs above be suspended for a period of 18 months, subject to the conditions set out below during the suspension period.

(e) The conditions are in the following terms –

(i) The Defendant's practice during the suspension period be subject to supervision by a monitor to be appointed by the Council.

(ii) The monitor shall conduct supervision visits to the Defendant's clinic at least once in every 3 months during the suspension period.

(iii) The supervision visits shall be conducted without advance notice to the Defendant.

(iv) The monitor shall be given unrestricted access to all parts of the clinic and all documents (including clinical records) which in his opinion are necessary for proper supervision of the Defendant in his dental practice. In particular, the monitor shall ensure the Defendant has put in place and implemented good record keeping, valid informed consent and treatment planning protocol.

(v) The Defendant shall prove to the satisfaction of the monitor by the end of the suspension period that he has satisfactorily completed 15 hours of continuing dental education courses in record keeping, consent and treatment planning. Prior approval of the courses from the Chairman of the Council is required.

(vi) The monitor shall report to the Council the progress of the supervision at the end of the 6th, 12th and 18th month during the suspension period. If any irregularity is detected, the irregularity should be reported as soon as practicable.

(f) The orders in paragraphs (a) to (e) above shall be published in the Gazette.

Other observation

42. 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.

43. Dentists are entrusted by patients with full professional autonomy in prescribing and delivering the best treatment option to solve their dental problems and meet their needs including their cosmetic needs. A dentist should have the responsibility to ensure that he himself has a clear understanding of the patient's cosmetic needs and expectations. He should ensure that the expectations can be met within his competency in a professional and ethical way.

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