Dental Council of Hong Kong

Disciplinary Inquiry under s.21 of DRO

Defendant: Dr. LEE Chi-sing, Alex (Reg. No. D02184)

Date of hearing: 7 November 2011, 17 November 2011

7 November 2011

1. The Defendant, Dr. LEE Chi-sing, Alex, is charged that:

"He, being a registered dentist, during the period from about February 2008 to August 2008, disregarded his professional responsibility to adequately treat and care for his patient [redacted] ("[redacted]"), or otherwise neglected his professional duties to her in that:-

(a) he failed to provide proper implant treatment to [redacted]; and

(b) he failed to adequately and properly explain to [redacted] before the surgery about the possible complications including nerve damage; and

(c) he failed to properly perform implant procedures which caused mental nerve damage to [redacted],

and that in relation to the facts alleged he has been guilty of unprofessional conduct."

Facts of the case

2. The patient was 68 years old when she sought treatment from the Defendant in February 2008. She had been wearing dentures for quite some time. Other than teeth 13 and 15, the patient was edentulous in both the upper and lower arches. On the recommendation of a friend, she consulted the Defendant on 15 February 2008 indicating that she wished to have dental implants. After a brief examination, the Defendant quoted a fee for the

implant treatment. According to the Defendant's records, the fee was $120,000. No explanation whatsoever was given by the Defendant on the nature of the procedure, the risks and complications involved, and the alternatives available. A panoramic radiograph was taken, and the Defendant noted "*Heavily resorbed lower* arch". The treatment plan was to install "*upper and lower implant supported dentures*".

3. On the next visit in the morning of 21 February 2008, the Defendant immediately performed the dental implant surgery. Other than the panoramic radiograph taken on the first visit, there is no evidence of any pre-operative assessment and planning. He extracted teeth 13 and 15, and performed surgical placement of 4 implants in the maxilla and 4 implants in the mandible. Full upper denture was immediately delivered.

4. In the same afternoon, the patient felt persistent numbness of her lower left lip. She telephoned the Defendant's clinic at about 4 pm, and the clinic assistant told her that the situation would get better. On the next day, the patient told the Defendant over the telephone that there was still numbness in the lower left labial area.

5. A week later on 28 February 2008, the Defendant removed the sutures and noted that the feeling of numbness was still present. The Defendant decided to "*KIV*" (i.e. keep in view).

6. On 4 March 2008, there was not much improvement and a large ulcer appeared in the 33/34 sulcus area. On 25 March 2008, a CT scan was taken. Damage to the inferior dental nerve or the mental nerve was suspected as the most likely reason for the paraesthesia.

7. On 10 April 2008, numbness persisted. The Defendant reversed the two implants in quadrant 3 by 2 to 3 mm in hope of relieving the pressure on the nerve.

8. On 24 April 2008, there was no improvement of the numbness. The Defendant removed the two implants in quadrant 3 completely, and referred the patient to a specialist in Oral & Maxillofacial Surgery for advice and treatment. Interestingly, although this is of no significance, the appointment was for the patient to consult the

OMS specialist on 17 April 2008.

9. The OMS specialist saw the patient on 17 April 2008. Subjective and objective neurosensory tests were performed, showing hypoaesthesia of the lower left lip. The assessment was repeated on 17 July 2008, and the results showed no improvement. Eventually, it was decided to explore, reposition and re-connect the damaged nerve with simultaneous placement of 3 implants in the left mandible.

10. The surgery and implant placement was done under general anaesthesia on 20 August 2008. The inferior alveolar nerve was explored and transpositioned, and 3 implants were inserted. Neurosensory assessment on 27 November 2008 and 10 February 2009 showed that there was little improvement, and the patient experienced hyperaesthesia instead. Further assessment on 2 October 2009 and 2 February 2010 showed that hyperaesthesia was more severe and crossed the midline affecting both sides of the chin.

12. The patient was referred back to the Defendant for implant-supported prostheses. Upper and lower screw-retained fixed dentures were fitted. However, the patient could not tolerate the lower fixed denture due to food and plaque retention. A lower overdenture was made to replace the fixed denture on 20 March 2009. In August 2009, there was soft tissue overgrowth at lower left posterior region. In February 2010, the Defendant cemented a lower partial acrylic provisional bridge to replace the overdenture. As of today, she is still wearing that provisional bridge and is in constant pain.

The Council's findings

13. The Defendant does not dispute the facts alleged. In fact, when the Defendant was notified by the Preliminary Investigation Committee of the complaint, he honestly accepted the facts complained against him in that he:-

    (i) failed to provide proper implant treatment;

    (ii) failed to explain clearly to the patient before the surgery the possible complications; and

(iii) the patient suffered from mental nerve damage arising from the implant procedures he carried out in February 2008.

14. Although there is no dispute about the facts, it remains our responsibility to decide whether the Defendant's conduct constitutes unprofessional conduct according to the definition in the Dentists Registration Ordinance, i.e. whether his conduct would be reasonably regarded as disgraceful or dishonourable by registered dentists of good repute and competency.

15. Dental implant treatment requires careful pre-operative assessment and planning in order to ensure that the known risks would be minimized and the implants will be properly inserted to achieve osseointegration and support for the prosthodontic restoration. In respect of madibular implant, it is a known risk of damage to the inferior dental nerve, and proper precautions must be taken to minimize such risk. Pre-operative assessment and planning are part and parcel of the implant treatment. Failure to make proper assessment and planning is like navigating a hostile surgical path without a roadmap.

16. According to expert evidence, resorption of bone in an edentulous patient would result in the mental nerve canal shifting from its usual position on the side of the mandible to the top of the alveolar ridge. Incision on the alveolar ridge in such situation can be dangerous, as it can easily cause damage to the inferior dental nerve. The proper precautions to avoid injury to the nerve include supplementary radiographs (such as periapical radiographs and CT) to help identification of the vital anatomical structures including the mental foramen. Intra-operatively a pre-fabricated surgical guide is considered to be the protocol to enhance accurate placement of dental implants, especially in an atrophic edentulous jaw with few anatomical landmarks.

17. The Defendant was well aware of the fact that the patient was edentulous and that the mandible was heavily resorbed. Nevertheless, he went ahead to perform the surgical placement of the dental implants without further assessment and planning. To do so is to assume the risk of nerve injury recklessly. This is completely unacceptable.

18. The fact that the patient suffered persistent numbness of the chin shortly after the surgery indicated that the mental nerve was damaged during the surgery. The long persistence and severity of the numbness and pain showed that the damage was quite severe. When the OMS specialist performed exploration of the left inferior dental nerve on 19 August 2008, the mid-section of the nerve was found to be thin and fibrotic, confirming that the nerve had previously been injured.

Charge (a)

19. We are satisfied that the Defendant's conduct in performing the implant surgery without proper assessment and planning is way below the standard expected amongst registered dentists. Such conduct will certainly be regarded as dishonourable and disgraceful by registered dentists of good repute and competency. We find him guilty of unprofessional conduct as set out in Charge (a).

Charge (b)

20. The Defendant accepted the patient's evidence that no explanation at all was given before the surgery was performed.

21. All surgical operation requires valid and informed consent. Informed consent requires that, before operating, the patient be given adequate and proper advice and explanation on the nature of the operation, the risks involved, the consequence of the operation, and the alternative options available to the patient. The alternatives should include the option of no treatment where appropriate. Such explanation is necessary for the patient to weigh up the risks and benefit, so that an informed decision can be made. A surgical operation performed without such advice and explanation is performed without valid consent. Furthermore, performing an operation without consent constitutes the civil tort of battery. This is especially important for an irreversible operation.

22. We are satisfied that the Defendant's conduct in failing to give the necessary advice and explanation to the patient before the implant surgery clearly falls below the standard expected amongst registered dentists, and will be reasonably regarded as disgraceful and

dishonourable. We find him guilty of unprofessional conduct as set out in Charge (b).

Charge (c)

23. Charge (c) related to improper performance of the implant procedures which caused damage to the patient's mental nerve.

24. As we have pointed out earlier, dental implant in the mandible involves the known risk of damage to the mental nerve, and proper precautions must be taken to minimize that risk. If no such precaution is taken in performing the surgery, a dentist is submitting the patient to the risk of nerve injury and is liable for the resulting nerve injury.

25. The Defendant took no precaution to guard against and minimize the risk of nerve injury. There is clear evidence of nerve damage prior to exploration by the OMS specialist, and the persistent numbness shortly after the implant surgery by the Defendant showed that the nerve injury was caused by the implant surgery. This is also consistent with the Defendant's admission to the Preliminary Investigation Committee.

26. We note that the conduct in Charge (c) in some respect overlaps the conduct in Charge (a). However, the latter is in respect of the whole implant treatment including pre-surgical advice and consent and post-surgical care, whereas the former is in respect of the implant surgery which caused the consequence of nerve damage.

26. We are satisfied that the patient's mental nerve was damaged as a result of the improper manner in which the Defendant performed the implant surgery. Such conduct is clearly below the standard expected amongst registered dentists and will be regarded as disgraceful and dishonourable by registered dentists of good repute and competency. We find him guilty of unprofessional conduct as set out in Charge (c).

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17 November 2011

Sentencing

27. The Defendant has a clear record.

28. As we have pointed out, the main problem in this case was the lack of proper pre-operative assessment and planning, which is essential in implant surgeries. The assessment and planning performed by the Defendant was minimal and grossly insufficient, especially for the patient whom the Defendant noticed to be edentulous with a heavily resorbed lower arch, which made her a high risk case for placing mandibular implants. To rush into a major implant operation without proper assessment and planning, as what the Defendant did in this case, puts the patient in great risk of nerve damage. Furthermore, no explanation of the risks involved was given to the patient, thus the surgery was performed without informed consent.

29. The Defendant has been fully cooperative at the earliest opportunity, during preliminary investigation and in the inquiry. Upon being notified of the complaint, he immediately and frankly admitted all the allegations made by the patient. This reflects his remorse and the low risk of re-offending. He deserves credit in sentencing of a large extent.

30. Shortly after the patient suffered post-operative problems, the Defendant adopted a responsible attitude in attempting to remedy his errors. He referred the patient to other dentists for follow-up treatment and accompanied the patient in such follow-up consultations. He paid for the costs of all such follow-up treatments. Such responsible attitude coupled with positive action is a strong mitigating factor.

31. The injury to the patient's nerve is serious. As far as we understand, the damage is likely to be permanent. The patient has been suffering from serious pain constantly, and the pain is likely to continue. Nevertheless, we take note that the pain might have been exacerbated by subsequent surgical procedures by another dentist, and the pain might not have been completely caused by the surgery performed by the Defendant.

32. Having regard to the gravity of the case and the mitigating factors, we order that:-

(a) the Defendant's name be removed from the General Register for a period of 1 month;

(b) the removal order be suspended for a period of 12 months, subject to the condition that within the suspension period:-

(i) the Defendant shall complete 15 hours of dental training courses in implant dentistry accredited under the CPD programme of the Dental Council, in addition to completion of all the courses in which his solicitor told us in mitigation that he has enrolled;

(ii) documentary proof of satisfactory completion of the above-mentioned courses be provided to this Council as soon as practicable, but not later than 1 month after the end of the suspension period.

33. The Defendant is warned that the removal order will be activated upon failure to comply with the condition. In normal cases of this nature the appropriate sentence is immediate removal from the General Register. He should treasure the opportunity we have given him and take particular caution in future practice.

Dr. Homer Tso, SBS, JP
Chairman, Dental Council