



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

Disciplinary Inquiry under s.18 of DRO

Defendants: Dr CHEW Sung-kwong, Edward 趙崇光牙科醫生 (Reg. No. D03347)
Dr KWONG Share-moon 鄺社滿牙科醫生 (Reg. No. D02019)
Dr LEE Ho-chi, Dominic 李浩智牙科醫生 (Reg. No. D02056)
Dr SI, George Justin 施德昌牙科醫生 (Reg. No. D03880)

Date of hearing: 19 January 2017

Present at the hearing

Council Members: Prof CHEUNG Shun-pan, Gary (Temporary Chairman)
Dr CHENG Chi-fung
Dr NG Pong-yin, Robert
Dr YOUNG Wan-yin, Betty

Legal Adviser: Mr Stanley NG

Defence: Mr Chris HOWSE of Messrs. Howse Williams Bowers representing Defendants, Dr KWONG Share-moon (“Dr KWONG”) and Dr SI, George Justin (“Dr SI”) ; Defendant Dr CHEW Sung-kwong, Edward (“Dr CHEW”) acting in person; Defendant Dr LEE Ho-chi, Dominic (“Dr LEE”) acting in person

Legal Officer representing the Secretary: Mr Mark CHAN, Senior Government Counsel

1. The charges against each of the Defendants, Dr CHEW Sung-kwong, Edward and Dr SI, George Justin, and the amended charges against each of the Defendants Dr KWONG Share-moon and Dr LEE Ho-chi, Dominic are identical, as follows:-

“In or about February 2015, you, being a registered dentist, instigated, sanctioned, or failed to take adequate steps to prevent the publication and distribution of flyers of ‘Christian Caleb Health Care Centre Ltd.’, with which you have a financial and/or professional relationship, for the purpose of canvassing; and that in relation to the facts alleged you have been guilty of unprofessional conduct.”

Facts of the case

2. The complainant in this case is Ms [REDACTED]. Ms [REDACTED] received dental service from Christian Caleb Health Care Centre Ltd (“the Centre”) on 17 February 2015.
3. In her statement dated 30 December 2016, Ms [REDACTED] said that she worked at the [REDACTED] in 2015. She said that in early 2015 her church received from the Centre a pile of promotional flyers (“the Flyers”).
4. According to the Flyers, the Centre would offer 40-50% discount on a number of its dental health care services for Christian members who had received baptism, and 30-40% discount to Christian members’ relatives and friends who had not received baptism. There was a price list of dental services for Christian members, and a separate price list of the same for Christian members’ relatives and friends. The Flyers also contained descriptions of dental treatments and dental facilities provided by the Centre.
5. At all material times, all four Defendants worked at the Centre as practicing dentists and/or company directors.
6. At today’s inquiry, all four Defendants admitted to the respective charges against them. All four Defendants admitted that they had failed to take adequate steps to prevent the publication and the distribution of the Flyers.

Burden and Standard of Proof

7. The Council bears in mind that the burden of proof is always on the Legal Officer and the Defendants do not have to prove their 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.
8. Each of the Defendants faces one charge. The Council needs to look at all the evidence and to consider and determine each of the charges separately.

Unprofessional Conduct

9. 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

10. The Council has looked at the Flyers. The initial intention of the scheme of the Centre might perhaps be for targeting at a closed audience by way of certification by the pastor/preacher/deacon/responsible person/principal of the church/organisation/school. In practice, the scheme was that Christian members could introduce their relatives and friends to

attend the Centre and to take advantage of the offered discounts. The circulation would clearly go beyond the intended audience.

11. The Flyers presented some form of information to patients; however, the contents appeared to be heavily biased towards advantages and in favour of certain types of treatment. The Flyers highlighted the availability of advanced technology and associated advantages with an implied aim to attract lay person/ public to visit the clinic.
12. These clearly amounted to impermissible canvassing under the Council's Code of Professional Discipline ("the Code").
13. The Council considers that a practising dentist associated with or employed by other persons or organisations should exercise due diligence to ensure that there is no impermissible canvassing carried out by those other persons or organisations.
14. The Council is satisfied that by failing to take adequate steps to prevent the publication and the distribution of the Flyers, the conduct of each of the Defendants 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.
15. The Council therefore finds all the Defendants guilty of the respective charges against them.

Sentencing of the Defendants

16. All the Defendants have a clear record.
17. All the Defendants do not contest the charges at today's inquiry. The Council will give the Defendants credit for their admission.
18. Dr CHEW worked full time at the Centre since April 2014. He was aware of the existence of the Flyers and its contents, and he had brought up the issue with the major shareholder of the Centre; however, he failed to recognize the implication and ramification of the Flyers. The Council is not convinced that even after the PIC Notice had been served, Dr CHEW had taken any action to prevent further distribution of the Flyers.
19. Dr KWONG admitted to the charge as early as in his submission to the PIC of the Council. As soon as Dr KWONG learnt about the issue, he had acted promptly to stop further distribution of the Flyers and requested to inspect and amend any future publication concerning the Centre.
20. Dr LEE is a salaried director of the Centre. In mitigation, Dr LEE submitted that he did not work as a practising dentist at the Centre, and did not receive any tangible benefit from the publication and the distribution of the Flyers. Although Dr LEE claimed unawareness of the Flyers and its distribution, the written agreement he entered into with the Centre, which he provided to the Council, clearly stipulated that he as director shall comply with, abide by and observe all the provisions of the Dentists Registration Ordinance, its subsidiary legislation and all the provisions of the Code. As a director of a dental company in the capacity of a registered dentist, Dr LEE has to ensure the Centre's compliance with these provisions.

21. Dr SI worked full time at the Centre since September 2013. He claimed that he was not conversant with written Chinese, and therefore failed to recognize the implication of the Flyers. However, he was the longest serving dentist in the Centre amongst all the Defendants. There should be ample opportunities for him to find out the details of the contents and the intent of the Flyers.
22. 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.
23. Having regard to the gravity of the case and the respective mitigation submitted by the Defendants, the Council makes the following orders:-
- (a) In respect of the charge against Dr CHEW, a warning letter be given to him.
 - (b) The order against Dr CHEW in (a) above shall be published in the Gazette.
 - (c) In respect of the amended charge against Dr KWONG, a warning letter be given to him.
 - (d) The order against Dr KWONG in (c) above shall not be published in the Gazette.
 - (e) In respect of the amended charge against Dr LEE, a warning letter be given to him.
 - (f) The order against Dr LEE in (e) above shall be published in the Gazette.
 - (g) In respect of the charge against Dr SI, a warning letter be given to him.
 - (h) The order against Dr SI in (g) above shall be published in the Gazette.

Remarks

24. This is an unfortunate case of registered dentists working as directors of dental company being disciplined because of the decisions and running of the clinic by another party. It highlights the importance of being conversant with the provisions of the Code, being aware of the activities of the company, and good communication with non-dental directors or managers to ensure the company's compliance.
25. Registered dentists working for dental company should be alert to any breach of the Code due to actions of others that may have professional implication on themselves.



Prof CHEUNG Shun-pan, Gary
Temporary Chairman
The Dental Council of Hong Kong