



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

Disciplinary Inquiry under s.18 of DRO

Defendant: Dr WAI King-hei 衛景熹牙科醫生 (Reg. No. D01077)

Date of hearing: 15 October 2015

1. The Defendant, Dr WAI King-hei, is charged that :

“That he, being a registered dentist, on or about 3 September 2014, disregarded his professional responsibility to adequately treat and care for his patients or otherwise to have neglected his professional duties to them in that he used boiling water, which is not a proper method for sterilisation, to process the used dental instruments; and that in relation to the facts alleged he has been guilty of unprofessional conduct.”

Defendant's Absence

2. The Defendant is absent at today's inquiry.
3. The Legal Officer informed the Council that the Notice of Inquiry dated 10 July 2015 (“Notice of Inquiry”) [Exhibit A] was sent to the Defendant by registered post, and according to the record of the Hong Kong Post Office, it was successfully delivered on 14 July 2015.
4. The Defendant had written a letter dated 29 September 2015 to the Secretary [Exhibit DE1]. In the first paragraph of the said letter, the Defendant made reference to the Notice of Inquiry.
5. By a letter of 7 October 2015 [Exhibit DE2], the Defendant informed the Secretary that he had already submitted his written defence on 29 September 2015, and therefore he would not appear at today's inquiry.
6. The Council is satisfied that the Notice of Inquiry was successfully served on the Defendant in accordance with the provisions of regulation 17 of the Dentists (Registration and Disciplinary Procedure) Regulations, Cap. 156A.

7. The Council does not consider that proceeding with today's inquiry in the absence of the Defendant would have caused the Defendant any prejudice. The Council will therefore proceed with today's inquiry in the absence of the Defendant.
8. The Council makes it clear that the Council will not treat the Defendant's absence as anything adverse to the Defendant when considering the case.

Facts of the Case

9. The Defendant's name has been included in the General Register of this Council from 20 July 1976 to present.
10. The Legal Officer called Mr. CHAN Chau-lun ("CHAN"), Dental Inspector, to give evidence.
11. According to CHAN, he had conducted a routine surprise inspection of the Defendant's dental clinic on 3 September 2014, during which it was found out that there was no autoclave in the Defendant's clinic. CHAN said the Defendant told him that he would put the used dental instruments in a stainless steel pot with 100°C boiling water placed over an electric stove and keep the boiling not less than 40 minutes for disinfection. CHAN also said the Defendant told him that if the practice of using boiling water did not meet the infection control requirements of the Council, he was willing to purchase a new autoclave for sterilization purpose. CHAN had taken pictures of the stainless steel pot and the electric stove used by the Defendant for sterilization [at Exhibit C].
12. CHAN said he had subsequently conducted another routine surprise inspection of the dental clinic of the Defendant on 30 April 2015. At this inspection, a new autoclave was installed in the Defendant's clinic. CHAN had taken a picture of the new autoclave [at Exhibit D].
13. The Defendant had sent to the Council a letter dated 8 May 2015. In the letter, the Defendant said he would stop using the method of boiling water in a stainless steel pot with 100°C over 40 minutes. The Defendant said instead he had begun using autoclave for sterilization. The Defendant had attached two pictures of his autoclave [at Exhibit E].
14. The Defendant had sent to the Council another letter dated 29 September 2015, which according to the Defendant this letter is his written defence. In this letter, the Defendant said that his dental clinic was set up in November 1976. Back then, he sterilized his used dental instruments by boiling water over 100°C for 20 minutes with high-pressure pot. About 10 years later, he considered that it was not a safe method, as there were reported cases about high-pressure pot explosion, and therefore he used stainless steel pot to sterilize the used dental instruments instead, and extending the boiling to 40 minutes. The Defendant said in most occasions, he would prefer to use sterile disposable dental instruments in his clinic. The Defendant said within 39 years of his practice, there had been regular inspections by the Council; however no advice concerning the sterilizing process was suggested until the 3 September 2014 inspection, when the dental inspector then suggested using autoclave for sterilization in accordance with international infection control guidelines. The Defendant said corrective action was taken immediately by installing an autoclave.

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. This 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.

Findings of Council

16. There is no dispute that CHAN had conducted a routine surprise inspection at the Defendant's dental clinic on 3 September 2014. There is also no dispute that during the said inspection, it was found out that there was no autoclave used in the Defendant's clinic. Instead of using autoclave, the Defendant admitted that he sterilized the used dental instruments by using boiling water at 100°C of about 40 minutes in a stainless steel pot.
17. The Council is satisfied on the evidence that on 3 September 2014, the Defendant used boiling water as the process for sterilization of used dental instruments.
18. Sterilization is the process of rendering an item free of all forms of viable microorganisms, including spores. The method of using boiling water at 100°C for about 40 minutes is not possible to render an item free of all forms of viable microorganisms. Using boiling water at 100°C for about 40 minutes is therefore not the proper method of sterilization.
19. By using boiling water at 100°C for about 40 minutes to sterilize used dental instruments, the Defendant had thus put patient's safety at risk, and this would affect the public confidence of the profession.
20. 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.
21. The dental profession was given autonomy to self-regulate. The public therefore expects registered dentists to have certain level of knowledge and expertise, and to follow the professional norms and principles. By using boiling water at 100°C for about 40 minutes to sterilize used dental instruments, the Defendant's conduct had seriously deviated from the professional norm. The Defendant's conduct was seriously below the standard expected amongst registered dentists. It would be regarded as disgraceful and dishonourable by registered dentists of good repute and competency.
22. The Council therefore finds the Defendant guilty of the charge.

Sentencing

23. The Defendant has a clear record.

24. 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.
25. The practice of disinfection and sterilization has been evolving, for the main purpose of enhancing patient's safety. This is why the public would expect individual registered dentists to keep up with updated knowledge and skills. The obligation is upon registered dentists to update their knowledge and skills. The Defendant by saying that he was never advised beforehand that using boiling water at 100°C at 40 minutes was not a proper method of sterilization is not a valid mitigating factor.
26. The Council has considered the fact that the Defendant had stopped using boiling water as the method of sterilization, and had since then installed an autoclave. However, the Council considers that the process of sterilization should be quality assured for the protection of the public.
27. Having regard to the gravity of the case, the Council makes the following orders:-
 - (a) The name of the Defendant be removed from the General Register for a period of three months; and
 - (b) The order in (a) above shall be published in the Gazette.

Other Remarks

28. While it is for the Council in future to consider the Defendant's application for restoration to the General Register, we recommend that the Council should ensure that the following conditions be satisfied:-
 - (a) The Defendant be required to produce evidence of having completed satisfactorily 10 hours of continuing dental education in courses of infection control organized by established dental institutions, which shall be pre-approved by the Chairman of the Council, before the application for restoration is approved.
 - (b) Upon restoration to the General Register, the Defendant's practice be subject to inspection by a Practice Monitor appointed by the Council, in accordance with terms to be specified by the Council. The Council should review the Defendant's performance after 12 months having regard to the reports of the Practice Monitor, and decide whether the condition can be lifted.



Dr LEE Kin Man
Chairman

The Dental Council of Hong Kong