



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

Disciplinary Inquiry under s.21 of DRO

Defendant: Dr WONG Kin Kwok, Michael 王健國牙科醫生 (Reg. No. D01124)

Dates of hearing: 17 July 2014 (Day 1), 23 July 2014 (Day 2)

Ruling on Defence application for recalling Secretary's witness and reopening Defence case (23 July 2014)

1. The Defendant was not legally represented at the last hearing. Today he is legally represented by a solicitor. Defence Solicitor applies for special leave for him to (a) recall the patient who had given evidence for further cross-examination; and (b) reopen the defence case to call further witness(es). The grounds for the application are that the Defendant wrongly thought that the inquiry was a part of the preliminary investigation and was not aware of the importance of the inquiry, and that he had not sought legal representation previously.
2. The Legal Officer opposes the application, for the reason that the application is unmeritorious. She also pointed out that at the last hearing the Defendant twice confirmed that it was his considered decision to conduct the inquiry without legal representation.

3. This is not a complicated case. The charges are straight forward, and are fully comprehensible to any person who has a reasonable degree of understanding, including dentists who have undergone rigorous tertiary education and professional training in order to be registered. A dentist who is fit to be registered for practising dentistry should have no difficulty at all in understanding the charges and the evidence, not to mention the Defendant's position as an experienced practising dentist for 37 years. We do not accept the claim that the Defendant was mistaken as to the nature of the inquiry.
4. We must also point out that the nature and importance of the inquiry are stated clearly in the various letters to the Defendant and the Practice Directions. There have been ample strong advices for the Defendant to seek legal representation as early as possible, and warning of the importance of the inquiry. All these are stated in plain language, which is fully understandable to non-legally trained persons. Furthermore, at the last hearing the Defendant categorically confirmed that he did not wish to have legal representation, and would conduct the inquiry by himself.
5. At the last hearing, the Legal Adviser gave clear guidance and explanation to the Defendant in each step of the inquiry. From the way that he conducted the inquiry, we neither see that he did not understand the nature of the inquiry nor he had difficulty in conducting his own defence.
6. The procedure of an inquiry is prescribed in regulation 27 of the Dentists (Registration and Disciplinary Procedure) Regulations. There must be exceptional and valid grounds justifying departure from the prescribed procedure, before permission can be granted for reopening a closed case. There is no such justification in this case. We reject the application.

7. We shall now announce our judgment on the charges.

JUDGMENT

1. The Defendant, Dr WONG Kin Kwok, Michael, is charged that:-

“He, being a registered dentist, in the period from about November 2012 to December 2012, disregarded his professional responsibility to adequately treat and care for his patient Mr [REDACTED] (“the Patient”), or otherwise to have neglected his professional responsibility to the Patient in that –

- (a) he failed to properly and adequately examine and provide treatment to the Patient on 7 December 2012 when the Patient returned to him on complaint of prolonged pain following his extraction of the Patient’s tooth 46 on 23 November 2012 (“the extraction”); and/or
- (b) he failed to give proper advice and/or offer proper follow-up treatment to the Patient when, on a date after 7 December 2012, the Patient informed him over the telephone that a radiograph taken by another dentist indicated that there were remnants of the extracted tooth remaining in the extraction site;

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

Facts of the case

2. The Patient consulted the Defendant in the morning of 23 November 2012 for pain in the lower right first molar. The Defendant found that the tooth was heavily filled and part of the crown was fractured. After taking a panoramic radiograph, the Defendant advised, and the Patient agreed, to have the tooth extracted on the same day, and to have an implant to be inserted in January 2013.
3. The treatment commenced at around 1 pm. The Defendant expected the extraction to be simple, but it turned out to be complicated and the tooth was fractured during extraction. After about 45 minutes the Defendant told the Patient to leave, and an appointment was made for 12 January 2013 for the dental implant procedure. No analgesic or antibiotic was prescribed. There is dispute as to whether the Defendant told the Patient that there were root fragments remaining in the extraction site.
4. After the extraction, the Patient suffered pain at the extraction site. He left Hong Kong on a business trip from 28 November to 6 December 2012. On 7 December 2012, he went back to the Defendant complaining of pain. The Defendant examined the wound visually. No radiograph was taken. He assured the Patient that the wound was healing well and that it was normal to have pain after a surgical extraction. He told the Patient to return on 12 January 2013 as scheduled. No analgesic or antibiotic was prescribed.
5. The pain at the extraction site continued. The Patient also felt that there was a piece of sharp object protruding from the gum at the extraction site. On 8 December 2012, having lost confidence in the Defendant, he saw another dentist who took a panoramic radiograph. That dentist told the Patient that the extraction was incomplete, as the radiograph indicated that there were root fragments in the extraction site.
6. The Patient then telephoned the Defendant on the same day, telling him about what was shown in the radiograph. There is dispute as to whether the Defendant told the Patient to return at an earlier date for further examination.

7. On 15 December 2012, another dentist removed two pieces of root fragments surgically from the extraction site.
8. On 7 January 2013, the Patient made a complaint against the Defendant to this Council.

Findings of the Council

9. There is no dispute that the Patient's tooth 46 was fractured during extraction, and remnants of the tooth remained in the socket after the extraction on 23 November 2012. It is clear that 2 pieces of root fragments, which were shown in the panoramic radiograph taken on 8 December 2012, were removed from the extraction site on 15 December 2012.
10. In the radiograph taken by the Defendant on 23 November 2012, it was clearly shown that some form of endodontic treatment was performed on the tooth. In the clinical record kept by the Defendant, the tooth was marked with the notation "*dead teeth*" (sic). This indicated that the tooth was in all likelihood brittle and prone to fracture during extraction. This should have called for caution, and difficulty in extraction should have been expected. The tooth should first be freed from the gingival cuff gently by use of an elevator, so as to permit positioning of the forceps' beaks beneath the soft tissue cuff in order to gain mechanical advantage in engaging the tooth. Forces should be applied in a slow and calculated manner to permit expansion of the alveolus, thus minimizing the possibility of fracturing the tooth. Swift, jerky movements of either the elevator or forceps are more likely to lead to fracturing of the tooth and associated bony alveolar fractures.
11. Nevertheless, the Defendant treated it as a case of simple extraction, which turned out to be a complicated extraction with the tooth fractured. The Defendant said that it was his misjudgment in the first place.

12. In dental treatment, complications can often arise. There is nothing wrong, if the treating dentist takes appropriate action to avoid the complications, and to deal with them properly if they do arise.
13. In extraction of a brittle tooth, it may be difficult to remove the tooth intact. The roots may break off and not come out with the crown. If the tooth is fractured during extraction, it is the dentist's professional responsibility to ensure that all fragments are removed. If there are remaining fragments which cannot be removed at the initial extraction appointment, the dentist must tell the patient that there are remaining fragments which will be removed at a later appointment. The patient should also be advised as to the implications of the fragments remaining in the socket. The situation must be recorded in the clinical record, so as to ensure that the remaining fragments will not be forgotten or overlooked, and to ensure that proper follow-up action will be taken. Where necessary, medicine such as antibiotics to prevent infection and analgesic for palliation of pain should be prescribed.
14. Having considered all the evidence, we accept the Patient's evidence that:-
 - (a) On 23 November 2012 after the extraction, the Defendant did not tell the Patient that the tooth was not removed completely and there were fragments remaining in the extraction site. He simply told the Patient to return on 12 January 2013 for the dental implant procedure.
 - (b) On 7 December 2012, the Defendant simply examined the Patient visually without taking any radiograph. He told the Patient that the wound was healing well and it was normal to have pain after a surgical extraction. He did not tell the Patient that there were still fragments of the extracted tooth remaining in the extraction site. No analgesic was prescribed.
 - (c) On 8 December 2012, instead of asking the Patient to return on an early date for further examination, the Defendant simply said that the tooth fragments were not a big problem and could be removed at the

same time as the dental implant procedure to be performed on 12 January 2013.

15. We reject the Defendant's claim that after the extraction on 23 November 2012, he told the Patient that there were root fragments which he would remove at the same time as the implant procedure scheduled for 12 January 2013. We shall set out only the main reasons for our finding:-
- (a) The Defendant made no record whatsoever about remnants of the extracted tooth remaining in the extraction site or the actions necessary for following up the incomplete extraction. This was particularly significant, given the Defendant's busy practice, seeing many other patients day in and day out. This suggests that he might not even be aware that there were tooth fragments remaining in the extraction site which required followed-up action.
 - (b) A retained root could become infected, thus causing inflammation at the extraction site. The Patient should be closely monitored. It was illogical for the Defendant, knowing that there were fragments in the extraction site and thus the risk of infection, to ask the Patient to return 7 weeks later on 12 January 2013 for the implant procedure, without scheduling an earlier appointment for assessing the Patient's recovery. If the Patient was found to have infection on 12 January 2013, the implant procedure could not be done at the same time as the removal of the fragments.
 - (c) If the Defendant had told the Patient about the remaining tooth fragments, the Patient would have known that there were tooth fragments in the extraction site. In that case, when the radiograph taken on 8 December 2012 indicated that there were tooth fragments in the extraction site, there was no reason for the Patient to inform the Defendant over the telephone of a fact already known to both of them.

Charge (a)

16. If a patient complains of pain for 2 weeks after an extraction, a responsible dentist should conduct careful clinical and radiographic examinations to ascertain the reason for the prolonged pain and take necessary follow-up action. Analgesic should also be prescribed to relieve the patient's suffering from pain. It is a dereliction of the dentist's professional responsibility to send the patient away without any palliation, leaving him to continue to be tormented by the pain.
17. On 7 December 2012, when the Patient returned complaining of pain at the extraction site for 2 weeks after the extraction, the Defendant neither took any radiograph of the extraction site to ascertain the condition nor provided any palliation to the Patient. It was unacceptable for the Defendant to simply tell the Patient that the wound was healing well and it was normal to have pain after a surgical extraction.
18. We are satisfied that the Defendant's conduct would be reasonably regarded as disgraceful or dishonourable by registered dentists of good repute and competency. We find him guilty of unprofessional conduct as alleged in Charge (a).

Charge (b)

19. If a patient who has undergone dental treatment tells the treating dentist that another dentist made some finding about the treatment outcome which causes the patient to be concerned, it is the treating dentist's professional duty to address the patient's concern, by asking the patient to return as soon as practicable so as to assess the patient's condition and to determine whether and what follow-up action is necessary. This is particularly so if the patient is in pain. Even if the treating dentist is busy with other patients, he must accord priority to the patient. It is unacceptable for the treating dentist to act dilatorily, waiting until he is less busy or has time to spare.

20. On 8 December 2012, when the Patient informed the Defendant over the telephone that there were tooth fragments in the extraction site as shown by a radiograph, the Patient was still in pain and obviously was concerned at discovering that the extraction was incomplete. The Defendant should address the Patient's concern immediately and tell the Patient to return as soon as practicable for further examination, so as to ascertain the actual situation and determine whether and what follow-up action would be necessary. This he did not do. Instead, he said it was not a big problem and the fragments would be removed more than a month later at the 12 January 2013 appointment.
21. Even if on the Defendant's claim that he had offered an appointment one week later to the Patient (which we have rejected), to delay seeing the Patient (who was in pain and was concerned about the incomplete extraction) for another week is below the standard of care expected of registered dentists.
22. We are satisfied that the Defendant's conduct would be reasonably regarded as disgraceful or dishonourable by registered dentists of good repute and competency. We find him guilty of unprofessional conduct as alleged in Charge (b).

Sentencing

23. The Defendant has a previous disciplinary conviction in February 1981, for charges relating to canvassing for patients. He was reprimanded.
24. The previous conviction was dissimilar in nature and was 31 years before the present offending acts. In the circumstances, the previous conviction is not an aggravating factor in sentencing. Nevertheless, we cannot disregard the fact that this is not the first time that he breached the rules of professional ethics, and there is every reason for him to exercise particular caution in order to ensure that he practises in compliance with the rules of

professional ethics. The net effect is that the usual mitigation of clear record is not available to him.

25. There is no mitigation factor of weight in this case.
26. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant. The purpose is to protect the public from persons who are unfit to practise dentistry for reason of competence, honesty or otherwise, and to maintain public confidence in the dental profession by upholding the reputation of the profession.
27. We do not agree that this is merely a case of wrong clinical judgment. In addition to lack of the necessary competence both in the extraction and the Defendant's subsequent management of the Patient's complications, there is the problem of a fundamental disregard of his professional responsibility to the Patient. We hasten to clarify that as the Defendant was not charged with impropriety in executing the extraction, the manner of extraction is not a factor affecting our decision on sentencing.
28. The Defendant's conduct in this case shows that he adopts an uncaring attitude towards his patient, and puts his personal interest before the Patient's well-being. Throughout the inquiry, he emphasized that on 23 November 2012 he had forgone lunch when the extraction turned out to be complicated, and that he had another patient appointment at 2 pm. When the Patient returned and complained of prolonged pain on 7 December 2012, he said that the Patient came without prior appointment, suggesting that he had no time for examining the Patient carefully. On 8 December 2012 when the Patient expressed concern about the incomplete extraction over the telephone, he ultimately bowed to the pressure of the Patient and due to his busy schedule one week later was the earliest time that he could see the Patient. At the inquiry he emphasized that he was approaching retirement age, suggesting that he should be excused for not exercising proper care to discharge his professional responsibility to the Patient. All these showed that he adopted an uncaring attitude towards the Patient, despite the various factors indicating that immediate attention should be paid to the Patient's

condition. He was more concerned about work which would generate additional revenue, at the expense of the Patient's health and well-being.

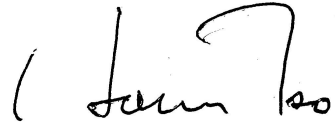
29. It is a fundamental rule of professional ethics that every dentist must put the patients' well-being as his first priority, and must not allow his personal or commercial interest to compromise the care provided to his patients.
30. Patients as laymen rely on dentists to exercise proper professional care to safeguard their well-being. If a dentist does not do so, his patients' health can be jeopardized, sometimes resulting in serious consequences. There is no way for the patients to tell whether the dentist has acted with professional care, until adverse consequences have materialized thus revealing the impropriety of the dentist's conduct. All dentists must act with self-discipline in treating patients, in order to protect the patients' well-being.
31. Having regard to the gravity of the case and the mitigating factors, we order that the Defendant's name be removed from the General Register for a period of 3 months.
32. We have considered the question of suspension of the removal order. We do not consider that this is an appropriate case for suspension.

Other remarks

33. While it is for the future Council to consider the Defendant's application for restoration to the General Register if and when it is made, we recommend that before approving the application the Defendant should be required to produce cogent evidence of proper recognition of a dentist's professional responsibility and measures to ensure that he will adopt the proper attitude towards patients.

34. We feel obliged to make some observations about other irregularities in the Defendant's practice revealed in this inquiry. However, such irregularities have not influenced our decision in sentencing, as they are not subject-matters of the charges.
35. The first matter is the Defendant's practice of maintaining patient records. He told us that the patient records were written by his clinic assistants, and he would subsequently verify that the records were accurate and reflected the truth.
36. This is a highly unusual practice, as clinic assistants are not dentally trained and are not in the position to describe dental procedures and findings properly in the clinical records. Furthermore, as is evident from the lack of record of important clinical matters, and the wrong dating of the entry about the telephone conversation with the Patient on 8 December 2012, the Defendant's purported verification of the records is obviously inadequate and unreliable. He must take active measures to ensure the accuracy and adequacy of the patient records.
37. The second matter is the quoting of unquotable qualifications on the Defendant's business card which was produced as exhibit. On the business card, 2 qualifications were quoted, both of which were not quotable qualifications. In fact, there was no such qualifications as 英國愛丁堡大學牙科醫生 (transliteration "Dental Surgeon of the University of Edinburgh of the United Kingdom") and 英國格拉斯哥內外科醫學院牙科醫生 (transliteration "Dental Surgeon of the College of Physicians and Surgeons of Glasgow of the United Kingdom"). If he holds the qualifications of "Bachelor of Dental Surgery, University of Edinburgh" and "Fellow of the Royal College of Physicians and Surgeons of Glasgow", he can only quote them in such form but not in another form misleading the public that he was *the* only dentist of the institution.
38. A registered dentist is only permitted to quote qualifications which are entered in the List of Quotable/Registrable Additional Qualifications. The

quoted qualification must be strictly in the form permitted, and not in a misleading form.

A handwritten signature in black ink, appearing to read "Homer TSO". The signature is written in a cursive style with a large, stylized initial "H".

Dr Homer TSO, SBS, JP
Chairman, Dental Council