

**香港醫務委員會**  
**The Medical Council of Hong Kong**

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr POON Ho Ting Samuel (Reg. No.: M18830)

Date of hearing: 27 May 2024 (Monday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel  
(Chairperson of the Inquiry Panel)  
Dr CHUNG Kin-lai  
Dr WONG Mo-lin, Maureen  
Ms FUNG Dun-mi, Amy, MH, JP  
Mr WONG Ka-kin, Andy

Legal Adviser: Mr Edward SHUM

Senior Government Counsel representing the Secretary: Mr Edward CHIK

Counsel for the Defendant: Ms Christy Wong  
as instructed by Messrs. Ho. Tse, Wai & Partners

The Defendant is present.

1. The charges against the Defendant, Dr POON Ho Ting, Samuel are:

“That he, being a registered medical practitioner:

- (a) was convicted at the Tuen Mun Magistrates’ Courts on 5 August 2021 of the offence of driving / using an unregistered / unlicensed vehicle, which is an offence punishable with imprisonment, contrary to Sections 52(1)(a) and 52(10)(a) of the Road Traffic Ordinance, Chapter 374, Laws of Hong Kong; and
- (b) was convicted at the Tuen Mun Magistrates’ Courts on 5 August 2021 of the offence of using vehicle without insurance, which is an offence punishable with imprisonment, contrary to Sections 4(1) and 4(2) of the Motor Vehicle Insurance (Third Party Risks) Ordinance, Chapter 272, Laws of Hong Kong.”

### **Facts of the case**

2. The name of the Defendant has been included in the General Register from 1 July 2018 and to the present. His name has never been included in the Specialist Register.
3. There is no dispute that the Defendant was convicted on his own plea of the abovementioned offences at the Tuen Mun Magistrates' Courts on 5 August 2021.
4. The Defendant reported his convictions to the Medical Council by email on 10 August 2021.

### **Burden and Standard of Proof**

5. We bear in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his innocence. We also bear 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 the Inquiry Panel**

6. There is no dispute that the abovementioned offences were and still are punishable with imprisonment. By virtue of section 21(1) of the Medical Registration Ordinance ("MRO"), Cap. 161, Laws of Hong Kong, our disciplinary powers against the Defendant are engaged.
7. Section 21(3) of the MRO expressly provides that:  
  
*"Nothing in this section shall be deemed to require an inquiry panel to inquire into the question whether the registered medical practitioner was properly convicted but the panel may consider any record of the case in which such conviction was recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence."*
8. We are therefore entitled to take the said criminal convictions as conclusively proven against the Defendant.
9. Accordingly, we also find the Defendant guilty of the disciplinary charges (a) and (b).

## Sentencing

10. The Defendant has a clear disciplinary record.
11. In line with our published policy, we shall give credit to the Defendant in sentencing for his frank admission and full cooperation throughout these disciplinary proceedings. However, given that there is hardly any room for dispute in a disciplinary case involving criminal conviction, the credit to be given to him must necessarily be of a lesser extent than in other cases.
12. We bear in mind that the primary purpose of a disciplinary order is not to punish the Defendant, but to protect the public from persons who are unfit to practise medicine and to maintain public confidence in the medical profession by upholding its high standards and good reputation.
13. Driving an unregistered / unlicensed vehicle and especially one without third party insurance is a serious matter. In this regard, we noted from reading the Statement of Agreed Facts upon which the Defendant was convicted of the abovementioned offences that the vehicle involved had been unregistered / unlicensed and without third party insurance for some 6 months and 3 months respectively.
14. Taking into consideration the nature and gravity of this case and what we have read and heard in mitigation, we shall make a global order in respect of the disciplinary charges (a) and (b) that a warning letter be issued to the Defendant. We further order that our order shall be published in the Gazette.

Dr CHOI Kin, Gabriel  
Chairperson of the Inquiry Panel  
The Medical Council of Hong Kong