

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Ching Yiu (王靖堯醫生) (Reg. No.: M13129)

Date of hearing: 29 July 2024 (Monday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr LAI Wing-him
Dr CHEUNG Wan-kit, Raymond
Ms LIU Lai-yun, Amanda
Ms HO Yuk-wai, Joan

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Michael CHAO of
Messrs. Mayer Brown

Government Counsel representing the Secretary: Mr Gabriel CHEUNG

The Defendant is not present.

1. The charges against the Defendant, Dr WONG Ching Yiu, are:

“That he, being a registered medical practitioner:

- (a) was convicted at the Kwun Tong Magistrates’ Courts on 3 August 2022 of the offence of dangerous driving, which is an offence punishable with imprisonment, contrary to Section 37(1) of the Road Traffic Ordinance, Cap. 374, Laws of Hong Kong; and*

(b) *has been guilty of misconduct in a professional respect in that he failed to report to the Medical Council the conviction mentioned in paragraph (a) above within 28 days of the conviction, contrary to section 29.1 of the Code of Professional Conduct published in January 2016.*”

Facts of the case

2. The name of the Defendant has been included in the General Register from 3 July 2001 to the present. His name has never been included in the Specialist Register.
3. In his application for Annual Practising Certificate for 2023 dated 5 October 2022, which was received by the Medical Council on 11 October 2022, the Defendant declared that he has been “*convicted of... dangerous driving... [on] 3/8/22*” but “*the conviction has not been reported to the Medical Council*”.
4. According to the Certificate of Trial issued by the Kwun Tong Magistrates’ Court on 13 April 2023, the Defendant was found guilty on his own plea after trial by a Magistrate of the offence of “*Dangerous Driving*”, contrary to section 37(1) of the Road Traffic Ordinance, Cap. 374, Laws of Hong Kong.
5. According to the Agreed Brief Facts of Case upon which the Defendant was convicted by the trial Magistrate:-

“At 1928 hours on 2022-03-16, PW1... was travelling along Clear Water Bay Road (south bound) towards Tai Au Mun Road. Upon reaching incident location, PW1 spotted private car... (driven by Deft) overtook PW1’s vehicle by crossing continuous double white line and entered to opposite bound. Deft’s vehicle travelled for at least 50 meters in opposite bound at speed of 70-80 km/hr and almost collided with an unknown vehicle which was about to emerge from... (slip road of a public meter carpark). Deft’s vehicle went back to Clear Water Bay Road south bound and left towards Tai Au Mun Road. PW1’s car camera captured the episode and was handed over to Police... for investigation.

2. *PW2 was investigation officer; he issued Notice Requiring Identification of Driver... to Deft on 2022-03-31, Deft identified himself as driver at the time of the incident. On 2022-03-31, PW2 arrested Deft for*

'Dangerous driving' and took caution statement from Deft. Under caution, Deft admitted the offence. PW2 also drew a sketch of the scene...

3. *Deft overtook PW1 by crossing continuous double white line and travelled in opposite bound for 50 meter at speed of 70-80 km/hr. (speed limit of the concerned road was 50 km/hr) The act of Deft almost caused a traffic accident. Additionally (i) Deft's vehicle accelerated and overtook PW1 shortly in front of a traffic lights controlled pedestrian crossings despite the traffic lights were green; (ii) D[eft] only swerved his vehicle back to the southbound at the end of the straight road where it soon beg[a]n with a right bend and in front of another private car which was preceding PW1, (iii) at this juncture, there was a PLB coming on the opposite bound. The way Deft drove fell far below what would be expected of a competent and careful driver and it would be obvious to a competent and careful driver that driving in that way would be dangerous. Therefore, Deft was charged for the above offence."*

6. The Defendant was fined \$8,000 and disqualified from holding or obtaining a driving licence for 9 months or until the completion of a driving improvement course at his own cost, whichever was the later; and the Defendant had to attend and complete a driving improvement course at his own cost within the last 3 months of the disqualification order.

Findings of the Inquiry Panel

7. The offence of "*Dangerous Driving*", contrary to section 37(1) of the Road Traffic Ordinance, Cap. 374, Laws of Hong Kong, was at all material times and still is an offence punishable with imprisonment. Pursuant to section 21(1)(a) of the Medical Registration Ordinance ("MRO"), Cap. 161 of the Laws of Hong Kong, our disciplinary powers over the Defendant are engaged.
8. Section 21(3) of 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."

9. Since the Defendant was found guilty of the said offence on his own plea after trial, we are therefore entitled to treat his criminal conviction as conclusively proven.
10. Accordingly, we also find the Defendant guilty of the disciplinary offence (a).
11. There is no dispute that the Defendant failed to report his said criminal conviction to the Medical Council within 28 days, contrary to section 29.1 of the Code of Professional Conduct published in January 2016 (“the Code”).
12. It is clearly stated in section 29.1 of the Code that “... *Failure to report within the specified time will in itself be ground for disciplinary action. In case of doubt the matter should be reported.*”
13. We disagree with the Defendant’s explanation to the Preliminary Investigation Committee that his failure to report the said criminal conviction to the Medical Council within the specified time was “*a mere clerical oversight*”; and in our view his conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore also find the Defendant guilty of professional misconduct as per disciplinary charge (b).

Sentencing

14. The Defendant has a clear disciplinary record.
15. In line with our published policy, we shall give the Defendant credit in sentencing for his admission and 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 the Defendant must necessarily be of a lesser extent than in other cases.
16. We bear in mind that the primary purpose of a disciplinary order is not to punish the Defendant for the criminal offence for a second time, 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 good reputation and high standards.
17. Dangerous driving is a serious offence. The Defendant frankly admitted in the Agreed Brief Facts, upon which he was convicted by the trial Magistrate, that

“it would be obvious to a competent and careful driver that driving in [the] way [he did] would be dangerous”. It was mere luck that no one had been injured in this case.

18. We are told in mitigation that the Defendant was not feeling well at the time of the subject incident. The Defendant deeply regretted and apologized for committing the offence out of a hurry to get back home to take scheduled medications. We accept that the Defendant has learned his lesson; and we believe the chance of his repeating the same or similar breach of the law in the future would be low.
19. 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 that a warning letter be issued to the Defendant. We further order that our said order be published in the Gazette.

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