

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 TSE Tat Chi (謝達志醫生) (Reg. No.: M18435)

Date of hearing: 16 August 2024 (Friday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel  
(Chairperson of the Inquiry Panel)  
Dr CHOW Yu-fat  
Prof. TAN Choon-beng, Kathryn  
Mr WONG Hin-wing, Simon, MH, JP  
Mr NG Ting-shan

Legal Adviser: Mr Stanley NG

Defence Counsel representing the Defendant: Mr WONG Ting Kwong and  
Miss TANG Fong Ki Tiffany,  
instructed by Messrs. NG Au Yeung &  
Partners

Government Counsel representing the Secretary: Miss Crystal WONG

1. The charge against the Defendant, Dr TSE Tat Chi, is:

*“That he, being a registered medical practitioner, was convicted at the District Court on 17 October 2022 of the offence of riot, which is an offence punishable with imprisonment, contrary to section 19(1) and (2) of the Public Order Ordinance, Cap. 245.”*

## **Facts of the case**

2. The name of the Defendant has been included in the General Register from 1 July 2017 to the present. His name has never been included in the Specialist Register.
3. In gist, on 29 September 2019, there was a procession towards Central Government Offices (“CGO”), Admiralty. The procession was not authorized by the Commissioner of Police. When the protesters, mainly dressed in black colour, arrived outside CGO of Harcourt Road, they occupied the carriageway and nearby flyover, and caused blockage.
4. At the latest around 1622 hours, a riot broke out in the vicinity outside CGO. Around 500 protesters gathered and occupied Tim Wa Avenue, the footpaths near CGO, the carriageway of Harcourt Road and its nearby flyover. They threw petrol bombs, bricks, stones and other hard objects towards CGO’s direction. Some protesters shot hard objects towards CGO using giant rubber bands as catapults. Some shot laser beams toward the police. There were protesters destroying and setting fire to the water-filled barriers placed there by the police. There were also protesters charging towards the water-filled barriers, using umbrellas, road signs, wooden boards, and self-made equipment as cover. There were protesters waving their umbrellas and flags. Some hard objects thrown by the protesters broke the glass windows/curtain wall of CGO. The police had issued numerous warnings to the protesters, used tear gas and blue-dyed water, but of no avail.
5. At around 1638 hours, the Defendant was at the planter area of Harcourt Road outside CGO. At that area, there were protesters setting up roadblocks and setting fire to the water-filled barriers. Some protesters there (near the position of a police water cannon vehicle) were going on the offensive.
6. At around 1648 hours, the police took action to disperse and arrest the protesters. At around the same time, a police sergeant together with other police officers saw the Defendant at the planter separating the Eastbound and Westbound lanes of Harcourt Road, running away. The police sergeant eventually subdued and arrested the Defendant.

7. At the time of arrest, the Defendant was wearing a black baseball cap, a black T-shirt, a pair of long black trousers, greyish to black colour shoes. He had black colour sleeve covers on both arms. On both hands, he was wearing black gloves with protective guards at the metacarpal positions. He had a gas mask with filter hanging around his neck. He was holding a hiking pole, and hanging on the pole was a white colour cable tie and iron wires. He was also carrying a black nap sac on his back. There were a number of items in his nap sac, including bronchial dilators for inhalation, antiseptic solution, gauze, bandage and surgical gloves.
8. Subsequently, the Defendant was charged with the offence of riot, contrary to section 19(1) and (2) of the Public Order Ordinance, Cap. 245.
9. The Defendant together with eleven other defendants faced trial in DCCC 240 of 2021. The Defendant was D11 in the case. On 14 October 2022, the Defendant informed the Deputy District Judge that he intended to plead guilty to the charge. On 17 October 2022, the Defendant was convicted of the charge.
10. The Defendant reported his conviction to the Medical Council through his solicitors by a letter dated 2 November 2022.
11. On 25 March 2023, the Defendant was sentenced to 4 years' imprisonment.
12. The Defendant's solicitors by a letter dated 30 March 2023 informed the Medical Council of the sentence.

### **Findings of the Inquiry Panel**

13. It is not disputed that the Defendant was convicted on his own plea in Case No. DCCC 240 of 2021 on 17 October 2022 of the offence of riot, which is an offence punishable with imprisonment. Accordingly, our disciplinary powers under section 21(1)(a) of the Medical Registration Ordinance ("MRO") are engaged.
14. 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.”*

15. We are therefore entitled to take the said conviction as conclusively proven against the Defendant.
16. Accordingly, we find the Defendant guilty of the disciplinary offence as charged against him.

### **Sentencing**

17. The Defendant has a clear disciplinary record.
18. In line with our published policy, we shall give credit to the Defendant for his frank admission and full cooperation throughout the 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.
19. We bear in mind that the 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.
20. In the Reasons for Sentence in DCCC 240 of 2021, the Deputy District Judge had these to say:-

“108. ... 本席就本案案情，有如下觀察：—

...

(11) 本案十二名被告的角色及參與程度，本席有如下觀察：—

...

(xi) D11 手持一把行山杖及雙手戴黑色手套（掌骨位置有保護甲），本席細心檢視該對手套實物，那些「掌骨位置的保護甲」是手背中背中間位置的四粒硬的突起物，若戴上這手套執起拳頭用這四粒突起物攻擊別人，其傷害力比不戴此手套而揮拳襲擊為大；而 D11 手持的行山杖亦可作攻擊用途（當時案發現場地勢平坦，D11

完全無需使用行山杖在現場行走)；D11 不只是只憑自己身處暴動現場去壯大暴動聲勢的暴動者；

109. 各辯方大律師在求情陳詞時均指出各被告在本案暴動的參與程度低；本席剛才已作出分析，裁定所有被告都不只是只憑自己身處暴動現場去壯大暴動聲勢的暴動者，他們在本案暴動的參與程度都不是最低的。另外上訴庭在 *Tang Ho Yin* 案「判案書」第 24 段說暴動罪的嚴重性，不可只憑個別參與者有作出或沒有作的行為來判斷，必須考慮其協助的那群人的所作所為 ...

...

114. 本席沒有忽視在本案中，除了 D3 曾向政總投擲硬物外，都沒有證據顯示案中其他十一名被告有如楊家倫案中的申請人將一些燒着的火種放置在一輛的士的後輪，燃燒的士車身近液體氣缸位置；也沒有如 *Tang Ho Yin* 案中的上訴人向警方投擲磚塊；亦沒有如梁天琦案中的第一申請人向警員方向投擲垃圾桶頂蓋，襲擊倒地警長，揮拳襲擊一名便衣警員，及第二申請人向警員投擲發泡膠箱（但沒有擊中）。而本案亦沒有證據顯示有警員受傷 ...

...

117. 考慮了本案案情，再加上本席對各被告在本案暴動參與程度的分析後，本席認為他們都不只是只憑身處暴動現場去壯大暴動聲勢的暴動者，他們在本案暴動的參與程度都不是最低的；大部份被告都攜帶着不同的物品（防火手套、防切割手套、雨傘、對講機、噴漆、索帶、行山杖等），本席已指出該等物品均可供他們在進行破壞時使用或保護自己，本席認為如此環境、如此裝備，說他們沒有參與破壞，絕對是脫離現實，自欺欺人；就本案十二名被告，本席均採用 5 年 4 個月監禁為量刑基準。

...

123. D11 在新冠肺炎疫情期間，自動請纓在前線不同崗位服務染疫病人，在休假期間仍自願返回有關的社區治療設施服務病人，全力支持和配合政府的抗疫工作，自願在深切治療病房和隔離設施服務。本席認為 D11 冒着染上新冠肺炎的風險去服務染疫病人，應給予稍高的判刑折扣。考慮到他在案件開審前三天（2022 年 10 月 14 日）才向控方表示若然控辯雙方能在案情撮要的內容上達成協議的話，D11 打算在案件開審日認罪，但亦考慮了 D11 在疫情期間曾服務染疫病人，本席給予 25% 判刑折扣予 D11；再沒有其他有效的求情因素可令判刑有進一步折扣，故此本席判處 D11 監禁 4 年。”

21. The Deputy District Judge had clearly refuted the submission that the Defendant only appeared at the scene as a first aider and to assist anyone in need.

22. We have considered the mitigation letters as submitted. We accept that the Defendant is remorseful.
  
23. Taking into consideration the nature and gravity of the case and what we have heard and read in mitigation, we order that the name of the Defendant be removed from the General Register for a period of 9 months. We further order that the removal order be suspended for a period of 36 months.

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