



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

Disciplinary Inquiry under s.18 of DRO

Defendant: Dr LAU Lai-ming (Reg. No. D01956)

Date of hearing: 8 June 2023

Present at the hearing

Council Members: Dr LEE Kin-man, JP (Chairman)
Dr FOO Tai-chuen
Dr HSE Mei-yin, Kitty, JP
Dr LIU Wai-ming, Haston

Legal Adviser: Mr Stanley NG

Legal representative for the Defendant: Dr David KAN, Messrs Howse Williams, Solicitors

Legal Officer representing the Secretary: Mr Louis POON, Government Counsel

The Charges

1. The charges against the Defendant, Dr LAU Lai-ming, are as follows:-

“You, being a registered dentist, disregarded your professional responsibility to adequately treat and care for your patient, [REDACTED] (“the Patient”), or otherwise neglected your professional duties to the Patient in that --

- (i) in or about July 2018, you failed to carry out proper and adequate examination and/or assessment on the Patient’s tooth 37 prior to the root canal treatment (“the Treatment”);
- (ii) in or about July 2018, you failed to carry out proper Treatment on the Patient;
- (iii) you failed to take appropriate follow up action(s) when the Patient complained about the pain and/or discomfort on or about 27 July 2018, 7 August 2018, 16 August 2018, and/or 3 December 2018; and/or

- (iv) you failed to refer the Patient to another dental practitioner or a specialist when the circumstances so required;

and that in relation to the facts alleged you have been guilty of unprofessional conduct.”

Burden and Standard of Proof

2. 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. The 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.
3. There is no doubt that each of the allegations against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse a registered dentist of unprofessional conduct. Therefore, we need to look at all the evidence and to consider and determine each of the disciplinary charges against him separately and carefully.

Unprofessional Conduct

4. 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.

Facts of the Case

5. The name of the Defendant has been included in the General Register (“GR”) since 17 July 1985. His name has never been included in the Specialist Register.
6. On 23 July 2018, the Patient consulted the Defendant regarding a pain at mandibular left second molar i.e. tooth 37. The Defendant explained the clinical findings to the Patient and suggested root canal treatment (“RCT”) and a crown to protect the tooth. The Patient consented to the proposed treatments. The Defendant performed RCT of tooth 37 on the same day.
7. On 27 July 2018, the Patient consulted the Defendant and complained of persistent pain at tooth 37. The Patient informed the Defendant that the pain was experienced on flossing, causing sleep disturbance and the inability to chew food. The Patient said he had questioned the Defendant on why X-ray was not taken prior to the RCT, but received no response from the Defendant. The Defendant performed obturation of tooth 37 with gutta-percha.
8. At the follow-up consultation on 7 August 2018, the Patient informed the Defendant that he was still experiencing pain. The Defendant proceeded to crown preparation of tooth 37.
9. At the follow-up consultation on 16 August 2018, the Patient informed the Defendant that he was still experiencing pain, and again questioned why the Defendant did not take any X-ray,

but received no response from the Defendant. The Defendant cemented the crown on tooth 37 and advised the Patient to avoid chewing hard food. A 6-month review was planned.

10. The Patient returned to see the Defendant on 19 November 2018. The Defendant performed curettage on tooth 37, and prescribed Amoxil and Flagyl for 5 days and Ponstan for 4 days. The Defendant advised the Patient that re-RCT might be required if the pain persisted.
11. On 26 November 2018, the Patient complained to the Defendant that tooth 37 was still painful. The Defendant advised that re-RCT was required. The re-RCT was performed on the same day.
12. On 1 December 2018, the Patient experienced severe acute pain from tooth 37 that caused sleep disturbance.
13. On 3 December 2018, the Patient returned to the Defendant. The Defendant obturated the root canals. The Defendant advised the Patient to avoid flossing on tooth 37 and prescribed another 5 days of antibiotics. The Patient asked the Defendant why he did not take an X-ray to assess the tooth's condition, but received no response from the Defendant.
14. On 10 December 2018, the Patient complained to the Defendant that tooth 37 was still painful upon touching. The Patient questioned why the Defendant did not take an X-ray to assess the tooth's condition. The Defendant referred the Patient to Hercules Medical Diagnostic & Laboratory Group Limited for an orthopantomography (OPG). The Defendant claimed that he had advised the Patient to return for referral to an endodontist for further management.
15. On 18 January 2019, the Patient saw a Dr Lam for a second opinion. Dr Lam referred the Patient to a Dr Low, a specialist in Endodontics.
16. On 30 January 2019, the Patient saw Dr Low. Dr Low found that tooth 37 had a C-shaped canal configuration and was tender to percussion and palpation on the buccal mucosa overlying the root apices. Dr Low commented that the root filling was unsatisfactory with apical radiolucency around the root apices observed on the periapical radiograph. However, no pre-operative radiograph was provided by Dr Low. Dr Low diagnosed tooth 37 as chronic apical periodontitis and performed root canal retreatment for the tooth. Dr Low predicted that prognosis of tooth 37 was good and recommended a crown replacement.
17. On 21 May 2019, the Patient lodged a complaint with this Council against the Defendant.

Findings of Council

18. The Defendant admitted the factual particulars of all the charges against him. However, it remains for us to consider and determine whether in respect of each of the charges the Defendant was guilty of unprofessional conduct.

Charge (i)

19. Examination and assessment of the patient's condition are the hallmarks of the diagnosis and treatment planning process. A proper and adequate examination and assessment includes understanding the patient's chief complaint and taking relevant history, performing intra-oral and extra-oral examination, and conducting special test, for example, radiological assessment if so required. Failure to carry out a proper and adequate examination and assessment would not be in the best interest of the patient.

20. According to the clinical record of the Defendant, we can only see that there was record of the Patient's chief complaint and that examination was done. We cannot however locate from the record what particular examinations were performed. There was no record that any pre-operative radiograph had been taken, and in fact, according to the Patient, the Defendant had not taken any radiograph, whether pre-operative, intra-operative, or post-operative, at all.
21. At the consultation on 23 July 2018, the Patient complained of pain of tooth 37. In our view, radiographic examination of painful tooth is essential and fundamental unless there are reasons to justify otherwise; for instance, radiograph cannot be taken from the patient or X-ray facilities are unavailable. In this case, from the Defendant's record, we do not see the Defendant had put down any justification why pre-operative radiograph could not be taken from the Patient.
22. We agree with the Secretary's expert that pre-operative intraoral radiographs are essential in making a proper diagnosis, assessing the level of difficulty, treatment planning, verifying the working length, assessing the technical quality of obturation, and for reviews.
23. The Defendant should have taken pre-operative radiograph of tooth 37, but had failed to do so. We are satisfied that the conduct of the Defendant had seriously fallen below the standard expected amongst registered dentists. It would be reasonably regarded as disgraceful and dishonourable by registered dentists of good repute and competency.
24. We therefore find the Defendant guilty of charge (i).

Charge (ii)

25. In this case, the proper endodontic treatment in or about July 2018 was to relieve the Patient's pain from the tooth 37. The Defendant's treatment plan to relieve pain was to perform RCT.
26. A proper RCT would include the cleaning, the shaping and the filling of the pulp at an appropriate time.
27. From the clinical record, we note that there was record on 23 July 2018 showing working length and file size. We believed that the Defendant had cleaned the pulp.
28. There was record on 27 July 2018, which was 4 days later, of root filling performed using gutta-percha. The Patient however still complained of pain on this occasion. We have grave doubt if it was even suitable for root filling to be done on that day. Further, the Defendant had not taken any intra-operative or post-operative radiograph. It was therefore impossible for the Defendant to assess if the root filling of tooth 37 was satisfactorily performed or not.
29. We already found above that the Defendant had not taken any pre-operative radiograph of tooth 37. Coupled with the failure to take intra-operative radiograph, and particularly, the failure to take post-operative radiographs to assess the outcome, the RCT done by the Defendant was in our view far from proper.
30. We are satisfied that the conduct of the Defendant had seriously fallen below the standard expected amongst registered dentists. It would be reasonably regarded as disgraceful and dishonourable by registered dentists of good repute and competency.

31. We therefore find the Defendant guilty of charge (ii).

Charge (iii)

32. On 27 July 2018, the Patient complained of pain and/or discomfort of tooth 37. The appropriate follow-up action should be to review and re-assess the painful status, whether the tooth was suitable for obturation. Without any review and re-assessment, the Defendant obturated the tooth on that day. This was clearly inappropriate.
33. On 7 August 2018, the Patient still complained of pain and/or discomfort of tooth 37. Again, what the Defendant should have done was to investigate the cause of pain. However, the Defendant had failed to do so. Instead, the Defendant proceeded to prepare the crown and take working impression. This was clearly inappropriate.
34. On 16 August 2018, the Patient complained of pain and/or discomfort of tooth 37. Nothing was done to investigate the cause of pain. This was clearly inappropriate.
35. On 3 December 2018, the Patient complained of pain and/or discomfort of tooth 37. Instead of investigating the cause of pain, the Defendant re-obturated the pulp of tooth 37. This was clearly inappropriate.
36. What the Defendant should have done on all these occasions was to advise the Patient to take radiograph for the purpose of investigation of pain, but he had never done so despite that the Patient had on numerous occasions queried the Defendant why no radiograph was taken. The Defendant simply did not respond to the Patient's queries.
37. We are satisfied that the conduct of the Defendant had seriously fallen below the standard expected amongst registered dentists. It would be reasonably regarded as disgraceful and dishonourable by registered dentists of good repute and competency.
38. We therefore find the Defendant guilty of charge (iii).

Charge (iv)

39. Whether a dental practitioner should refer a case to another dental practitioner or a specialist depends largely on the clinical judgement made by the dental practitioner himself/herself of whether the circumstances so required.
40. In this case, the Defendant had been continuously taking care of the Patient's tooth 37 by handling the Patient's pre-operative and post-operative pain. We cannot see from the evidence if there was any circumstance since 23 July 2018 to 10 December 2018 which required that a referral must be made.
41. On 10 December 2018, the Defendant referred the Patient to Hercules Medical Diagnostic & Laboratory Group Limited for an OPG. The Defendant claimed that he had advised the Patient to return for referral to an endodontist for further management.
42. The Patient had never consulted the Defendant after 10 December 2018. Even if it was the Defendant's intention to refer the Patient to a specialist, he was deprived of the opportunity to do so.

43. We are not satisfied on the evidence that charge (iv) has been proven.
44. We therefore acquit the Defendant of charge (iv).

Sentencing

45. The Defendant has no previous disciplinary record.
46. We bear 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.
47. We must stress that in this case the failure to take appropriate pre-operative, intra-operative and post-operative radiographs for RCT was an elemental failure.
48. We however give significant weight to the Defendant's timely admission of the disciplinary charges, his long services to the dental profession and the community, and his CPD record. We take note that the Defendant had apologized to the Patient. We accept that the Defendant is remorseful. We also accept that the Defendant has insight into his mistakes, and the risk of re-offending is low.
49. We take into account the "totality principle" when sentencing charges (i) to (iii). Having regard to the gravity of the case and the mitigation submitted by the Defendant, we make a global order that, in respect of charges (i), (ii) and (iii), a warning letter be issued to the Defendant. Our order shall be published in the Gazette.



Dr LEE kin-man, JP
Chairman
The Dental Council of Hong Kong