



香港牙醫管理委員會
The Dental Council of Hong Kong
Disciplinary Inquiry under s.21 of DRO

Defendant: Dr. LI Hiu-pan 李曉濱牙科醫生 (Reg. No. D03529)

Dates of hearing: 1 December 2011 (Day 1), 6 December 2011 (Day 2),
29 December 2011 (Day 3)

1. The Defendant, Dr. LI Hiu-pan, is charged that:

“She, being a registered dentist, disregarded her professional responsibility to adequately treat and care for her patient [REDACTED] (transliteration of [REDACTED]) (“[REDACTED]”), or otherwise to have neglected her professional duties to Ms Cheng in that, in about May 2010 -

- (i) she devised and implemented an improper dental treatment plan for [REDACTED]; and
- (ii) she failed to advise [REDACTED] that the extraction of tooth 11 was incomplete and there were remnants of the said tooth left in the socket,

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

Facts of the case

2. The Patient went to see the Defendant on 12 May 2010 for treatment of her fractured tooth 11. After some discussion between the Patient and the Defendant,

it was decided to extract teeth 11 and 21, to be restored with a 4-unit fixed bridge using teeth 12 and 22 as abutments.

3. The Defendant proceeded to extract tooth 21 and then tooth 11. During extraction, tooth 11 fractured below the gingival margin, leaving the root in the socket. The Defendant then trimmed down teeth 12 and 22 in preparation for the bridge. After the trimming, she made an impression of the upper teeth for construction of a porcelain-fused-to-metal bridge. A temporary crown was placed on the trimmed tooth 12, and a temporary acrylic bridge spanning across teeth 21 to 22 was cemented onto tooth 22, leaving the tooth 11 cavity exposed. The Patient was then told to return the next week.
4. After the extraction, the wound at the tooth 11 cavity was swollen and remained unhealed for a number of days. On 18 May 2010, the Patient consulted another dentist ("Dr A") for a second opinion. Dr A took a periapical radiograph and informed the Patient that part of the root of tooth 11 was still in the socket. The Patient was surprised, and went to the Defendant's clinic on the same day complaining about inappropriate treatment and asking for her dental records.
5. Between 25 May 2010 and 20 July 2010, the Patient received treatment from Dr A. The remaining part of the root of tooth 11 was extracted. When the temporary crown and temporary bridge were removed, it was discovered that there were caries on teeth 12, 13, 22 and 23. The caries were treated and the teeth were prepared for further treatment by firstly a temporary bridge and then a permanent bridge.

Analysis of evidence

6. There was dispute between the Patient and the Defendant on what happened before and during the treatment. The Patient said that there was not much discussion

before the treatment proceeded, as the treatment option of a 4-unit bridge at the price of \$6,800 had been agreed beforehand through a friend's friend who referred her to the Defendant. The Defendant, on the other hand, said that she conducted thorough clinical examination on and gave comprehensive advice to the Patient on various treatment options before the treatment decision of a 4-unit bridge was reached. There was also dispute as to whether the Defendant informed the Patient that the extraction of tooth 11 was incomplete and the root was still in the socket. The Defendant said that she had, but the Patient insisted that she had not.

7. Many things which the Defendant claimed to have done were glaringly missing from her patient record. We agree that the absence of such record does not mean that the claimed actions had not been taken, and the patient record is only one of the many factors which we have to take into consideration in determining whether such actions had been taken. We agree entirely with the following observation by the English Court in *Rhodes v. Spokes* [1996] 7 Med LR which had been helpfully referred to us by the Legal Officer:-

“The failure to take a proper note is not evidence of a doctor’s negligence or of the inadequacy of treatment. But a doctor who fails to keep an adequate note of a consultation lays himself open to a finding that his recollection is faulty and someone else’s is correct. After all, a patient has only to remember his or her own case, whereas the doctor has to remember one case out of hundreds which occupied his mind at the material time.”

8. In this respect, we must point out that it is the professional responsibility of all registered dentists to maintain accurate and adequate patient records. This is not only for the treating dentist but also all dentists who may follow up the same patient, to ensure that proper care will be provided to the patient. The Defendant seemed to misunderstand that the purpose of patient records was for the use of the treating dentist only in reminding himself or herself of what had been done.

9. While we will not unrealistically require that minute details be recorded in patient records, we will expect that all significant issues are recorded, including medical and dental history, clinical findings, investigations performed, advice given, treatment plan, treatment provided, complications arising and issues to be followed up. This is particularly important, given that dental treatments often span over a long period of time involving many sessions, and may have implications for future patient care many years later. That is why dental records are often relied on in forensic dentistry.
10. It is entirely unrealistic for a dentist to recall from memory, unaided by documentation, the many issues relating to a particular patient in each of the treatment sessions. Documentation of the significant issues is particularly important where precise measurements are involved.
11. We accept the evidence of the Patient and reject the evidence of the Defendant and her dental surgery assistant. We shall give the main reasons for our findings. We find the Patient to be a straight-forward and candid witness. The minor inconsistencies in her evidence do not affect her credibility. While she might not have remembered the technical issues said by the Defendant, the incomplete extraction of a tooth is a plain and striking matter to any patient and would not have escaped the attention of the Patient. Her reaction to Dr A's advice that the extraction of tooth 11 was incomplete was consistent with the reaction of someone who believed that the tooth had been completely extracted.
12. On the other hand, the Defendant's reaction to the Patient's complaint was consistent with the fact that she had not informed the Patient of the incomplete extraction. If she had told the Patient on 12 May 2010, we expect that the Defendant would have immediately replied that the Patient had already been informed well beforehand. Furthermore, incomplete extraction of a tooth is an unusual and significant event which should have been recorded in the patient record, so as to ensure proper follow up in due course. If the Defendant

considered it necessary to record the much less significant matter of bridge-fitting with temporary cement at the follow-up session, there was no reason that she should omit recording the much more significant matter of informing the Patient of the incomplete extraction.

13. Much of what the Defendant said was not supported by the patient record, including intra-oral examination, the finding that teeth 11 and 21 were not mobile, multiple caries, offer to salvage tooth 21 and to construct a 3-unit bridge, the Patient's rejection of the treatment advice, the treatment plan of a second temporary bridge until the extraction wounds had healed and the gum and bone had stabilized before a final bridge was made. There was no record of the dental charting, the medical history and the dental history. All that was recorded under "*Treatment plan & Quotation*" was the fee to be charged.

14. Having assessed all the evidence, we make the following findings:-
 - (a) The Patient was referred to the Defendant by a friend's friend whom the Patient had not met. The Patient decided on consulting the Defendant because she charged a lower fee than other dentists whom she had considered and that friend's friend recommended the Defendant.
 - (b) It was agreed between that friend's friend and the Defendant that a 4-unit fixed bridge would be installed at the fee of \$6,800.
 - (c) The Defendant did not advise the Patient of the other treatment options, as the treatment decision had been decided before the Patient attended for consultation and treatment.
 - (d) Tooth 11 was fractured below the gingival margin during extraction. The Defendant did not inform the Patient that part of the root of the tooth was still in the socket and would need to be followed up.

- (e) The Defendant prepared teeth 12 and 22 for the fixed bridge without proper treatment of the caries associated with the abutment teeth. There was also no assessment of the periodontal status of the abutment teeth.
15. From the pre-operative photographs and radiographs taken by Dr A, it is clear that teeth 12 and 22 had not been properly prepared for an impression to be taken for construction of the bridge. There were extensive caries which had not been treated, including caries in the abutment teeth. It was completely artificial for the Defendant to argue that her intention was to treat the caries before fitting the bridge and the bridge would be temporary.
16. While the Defendant's contention that the ceramic-fused-to-metal bridge was only a temporary bridge was not impossible, we must point out that this is not the usual practice of most dentists particularly where there is concern as to cost. This contention also militates against the Defendant's own evidence that she had reduced her fees for the Patient significantly as a favour to the friend. There is no sensible reason for her to incur such expenses completely unnecessarily.
17. The Defendant claimed that she chose a high quality temporary bridge because of the Patient's concern for good looks. If the Defendant had that consideration in mind, we fail to see how she would have made the poorly constructed and ugly looking temporary crown on tooth 12 and the temporary bridge over teeth 21 and 22, leaving a most unsightly gap at the position of tooth 11.

Charge (i)

18. In respect of charge (i), we have to determine whether the treatment plan devised and implemented by the Defendant was improper.

19. We must emphasize from the outset that a proper treatment plan must follow from proper investigation and diagnosis. Without a proper diagnosis, the treatment cannot address properly the dental problems, even if the treatment plan may by chance and by luck tackle some of the dental problems. A competent dentist exercising proper care must conduct proper examination and investigation before making a diagnosis of the patient's dental problems, and before formulating a treatment plan to address the diagnosed problems. It is unprofessional for a dentist not to follow this fundamental protocol.
20. While some patients may ask for a particular treatment to be performed even before being examined and diagnosed by the dentist, a dentist must not compromise his professional conduct by bowing to such unreasonable requests. If the requested treatment is inappropriate for the patient's conditions, it should not be performed simply because the patient desires it. Dentists as professionals are not mere technicians meting out treatments as dictated by the layman.
21. We are satisfied that the Defendant had not performed proper examination and investigation before embarking on the treatment. She did not make any proper diagnosis of the Patient's caries, periodontal and occlusal status. Her treatment plan, if any, was crude and grossly improper, as was evidenced in part by her improper preparation of the abutment teeth for the fixed bridge.
22. We are satisfied that the Defendant's conduct would be reasonably regarded as disgraceful and dishonourable by registered dentists of good repute and competency. This constitutes unprofessional conduct according to the definition in section 18(2) of the Dentists Registration Ordinance. We find her guilty of charge (i).

Charge (ii)

23. We now turn to charge (ii). It is not disputed that tooth 11 had not been completely extracted and part of the root was left in the socket. We have made the finding earlier that the Defendant did not inform the Patient of the incomplete extraction.
24. The question for us is whether the Defendant in that situation was required to inform the Patient of the incomplete extraction. The answer must be “yes”. An incomplete extraction poses a health hazard to the patient, and could lead to infection of the wound. The extraction site must be closely monitored, and the patient must be advised to seek help in case of infection. Furthermore, the dentist should inform the patient of any procedures which has not been properly completed. Failure to inform the Patient of the incomplete extraction is conduct below the standard expected amongst registered dentists.
25. We are satisfied that the Defendant’s conduct would be reasonably regarded as disgraceful and dishonourable by registered dentists of good repute and competency. We find her guilty of unprofessional conduct as set out in charge (ii).

Sentencing

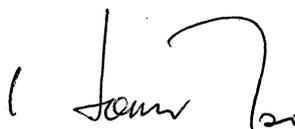
26. The Defendant has a clear record. Other than this, there is no mitigation of weight.
27. We have regard to the fact that no injury was caused to the Patient, despite the fact that the treatment plan was improper. The Patient’s dental condition was restored properly, although by another dentist.
28. We are of the view that she committed the unprofessional conduct more because she lacked the fortitude required of a professional to resist the demand of the

Patient, rather than because of a reckless disregard of her professional responsibility. She should have learned a harsh lesson, and will take particular caution in her future practice to ensure that she will properly discharge her responsibility as a professional, rather than as a seller of her dental skills.

29. We bear in mind our duty to protect the public and to maintain public confidence in the profession. On the other hand, we are of the view that with this lesson it is unlikely that she will re-offend. In the circumstances, we are prepared to give her an opportunity to make amends for her misconduct and to provide service to the society in a proper manner.
30. We order that the Defendant be reprimanded in respect of both charges.

Other remarks

31. We feel obliged to make the following observation. The Defendant produced to us a curriculum vitae with the qualification of FRACDS (i.e. Fellow of the Royal Australasian College of Dental Surgeons), when in fact she has only passed Part 1 of the examination for that qualification. She has quoted a qualification which she does not hold. This is unacceptable conduct.
32. The Defendant must bear in mind that the quoting of qualifications which she does not have is not only a matter of professional conduct but is also a matter of dishonesty. She must take particular care to ensure that this will never happen again.



Dr. Homer Tso, SBS, JP
Chairman, Dental Council