

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

ORDER MADE BY THE INQUIRY PANEL OF  
THE MEDICAL COUNCIL OF HONG KONG

DR YUEN LEONARD HSU (REGISTRATION NO.: M13826)

It is hereby notified that after due inquiry held on 31 October 2022 in accordance with section 21 of the Medical Registration Ordinance (‘MRO’), Chapter 161 of the Laws of Hong Kong, the Inquiry Panel of the Medical Council of Hong Kong (‘Inquiry Panel’) found Dr YUEN Leonard Hsu (Registration No.: M13826) guilty of the following disciplinary charges:—

*‘That he, being a registered medical practitioner:—*

- (a) was convicted at the Kowloon City Magistrates’ Courts on 19 June 2018 of the offence of driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit (Tier II), which is an offence punishable with imprisonment, contrary to Section 39A(1) of the Road Traffic Ordinance, Chapter 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.’*

2. The name of Dr YUEN Leonard Hsu was at all material times and still is included in the General Register and the Specialist Register under the speciality of Ophthalmology.

3. There is no dispute that Dr YUEN was convicted on his own plea at the Kowloon City Magistrates’ Courts on 19 June 2018 of the offence of driving a motor vehicle with alcohol concentration in breath exceeding the prescribed limit (Tier II) i.e. over 35 but below 66 micrograms of alcohol in 100 millilitres of breath, which was at all material times and still is an offence punishable with imprisonment, contrary to section 39A(1) of the Road Traffic Ordinance, Chapter 374 of Laws of Hong Kong.

4. As a result of the said conviction, on 10 July 2018, Dr YUEN was fined \$5,000, disqualified from holding or obtaining a driving licence for all classes for 12 months; and ordered to attend and complete a driving improvement course at his own cost within the last 3 months of the disqualification period.

5. Although Dr YUEN had declared the said conviction in his application form dated 30 October 2018 for renewal of annual practicing certificate for 2019, there is no dispute that Dr YUEN failed to report to the Medical Council (the ‘‘Council’’) the said conviction within 28 days of the conviction, contrary to section 29.1 of the Code of Professional Conduct published in January 2016 (the ‘‘Code’’).

6. 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.’*

7. The Inquiry Panel was therefore entitled to take the said conviction as conclusively proven against Dr YUEN. Accordingly, the Inquiry Panel found Dr YUEN guilty of the disciplinary charge (a).

8. According to the Brief Facts of the Case prepared by the Police and upon which Dr YUEN was convicted of the said offence, Dr YUEN was driving along Hung Hom Bypass at around 00:33 hours on 13 May 2018 when he was intercepted by the Police, which was then conducting an Anti-Drink Operation. Dr YUEN was asked to undergo a Screening Breath Test at 00:40 hours, which indicated that his breath had 41 micrograms of alcohol in 100 millilitres of breath. The Police then declared arrest of Dr YUEN and escorted him back to Hung Hom Police Station. Dr YUEN later underwent an Evidential Breath Test at 01:33 hours with the result that his breath had 37 micrograms of alcohol in 100 millilitres of breath.

9. Before sentencing Dr YUEN, the learned Magistrate called for a Background & Community Service Order Report (“the Report”). A copy of the Report was submitted by Dr YUEN through his solicitors to the Preliminary Investigation Committee of the Council and was placed before the Inquiry Panel for consideration.

10. The Inquiry Panel noted from reading the Report that Dr YUEN’s wife told the probation officer, who prepared the Report, that Dr YUEN all along enjoyed a healthy lifestyle and he had *‘no vice habits like, smoking..., being alcoholic, taking drugs...’*. According to Dr YUEN, he and his wife were invited to join a fundraising dinner organized by the New Sight Eye Care, a charity group through which he participated in voluntary medical services for needy people in developing countries. The probation officer also observed in the Report that Dr YUEN *‘showed a deep remorse to have contravened the law and attributed his commission of the present offence to his wrong decision to drive back home after drinking on the night-in-question and his underestimation on the risks and legal consequences of drink-driving.’*

11. It was 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.’*

12. In the view of the Inquiry Panel, Dr YUEN’s failure to report the said conviction to the Council within the specified time is inexcusable and his conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. The Inquiry Panel therefore found Dr YUEN guilty of professional misconduct as per disciplinary charge (b).

13. Driving a motor vehicle whilst under the influence of alcohol is a serious offence. It was mere luck that no one had been injured in this case. Dr YUEN, being a registered medical practitioner, ought to know better than any lay person the effect of alcohol on driving. Indeed, Dr YUEN frankly admitted to the probation officer the seriousness of his misdeed.

14. Taking into consideration the nature and gravity of the disciplinary charges and what was heard and read in the mitigation, the Inquiry Panel made a global order in respect of both charges (a) and (b) that a warning letter be issued to Dr YUEN.

15. The order is published in the *Gazette* in accordance with section 21(5) of the MRO. The full decision of the Inquiry Panel of the Council is published in the official website of the Medical Council of Hong Kong (<http://www.mchk.org.hk>).

LAU Wan-ye, Joseph Chairman, *The Medical Council of Hong Kong*