香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY

MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WU Daniel Yiang (吳彥醫生) (Reg. No.: M04163)

Date of hearing: 30 March 2026 (Monday)

Present at the hearing

Council Members/Assessors: Prof. FOK Tai-fai, SBS, JP
(Chairperson of the Inquiry Panel)
Dr WONG Lap-gate, Michael
Dr LAI Hoi-ching, JoJo
Mrs BIRCH LEE Suk-yee, Sandra, GBS, JP
Ms CHAN Chung-ho, Karrie

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Mr Chris HOWSE of Messrs. Howse Williams

Legal Officer representing the Secretary: Miss Agnes FONG, Senior Government Counsel

The Charges

1. The charges against the Defendant, Dr WU Daniel Yiang, are:

*"That in or about October 2018 to November 2018, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [redacted] ("**the Patient**"), in that he:*

*(a) failed to ensure that the Patient had been sufficiently informed of the details, including the procedure, nature, pros and cons, success rates, potential surgical complications which involved the second toe, recovery plan and/or alternative treatment option(s), of a non-conventional surgical procedure, namely, left foot syndesmosis procedure for hallux valgus correction ("**the Operation**"), before undergoing the Operation;*

(b) improperly adopted inconsistent and/or different descriptions for the Operation in the following documents:

Document	*Date*	*Descriptions for the Operation*
*(i) Pre-Authorization Insurance Form ("**the Insurance Form**")*	*2 November 2018*	*"Modified McBride procedure"*
(ii) Consent for Surgical/Invasive Procedure Form endorsed by the Patient before the Operation	*Undated*	*"left foot syndesmosis procedure for hallux valgus correction"*
(iii) Operative Report	*19 November 2018*	*"L. Syndesmosis procedure, Bunionectomy"*
(iv) Clinical Discharge Summary	*20 November 2018*	*"Syndesmosis procedure"*
*(v) Hong Kong Adventist Hospital Physician Fee Note ("**the Fee Note**")*	*20 November 2018*	*"Modified McBride Procedure and Bunionectomy"*

(c) provided incorrect and/or inaccurate information for "expected treatment / CPT-Code" in the Insurance Form; and/or

(d) provided incorrect and/or inaccurate information for "Name of Operation / Procedure" in the Fee Note.

In relation to the facts alleged, either singularly or cumulatively, he has been guilty of misconduct in a professional respect."

Facts of the case

2. The name of the Defendant has been included in the General Register from 18 December 1980 to the present. His name has been included in the Specialist Register under the Specialty of Orthopaedics & Traumatology since 4 March 1998.

3. On 4 June 2015, the Patient first consulted the Defendant at Hong Kong Adventist Hospital ("HKAH"). Her main problem was left foot Hallux Valgus, bunion pain, and second claw toe. The Defendant suggested operative treatment because of symptomatic Hallux Valgus with secondary deformity.

4. On 29 October 2018, the Patient returned to the Defendant's clinic with progressively increased left foot bunion pain. She also had low back pain and right knee IT band snapping. The Defendant suggested Syndesmosis procedure to her Hallux Valgus, which was further discussed with pre-operative clinic visit on 15 November 2018.

5. From 19 November 2018 to 20 November 2018, the Patient was admitted to HKAH under the care of the Defendant, for left foot Syndesmosis procedure under spinal anaesthesia. The Patient was discharged on 20 November 2018.

6. The Defendant saw the Patient at the out-patient department at HKAH on a number of occasions afterwards.

7. On 14 January 2019, the Patient complained to the Defendant about second toe pain. There were later hospital out-patient visits on 22 and 31 January, 18 and 21 February, 25 March and 14 May 2019. The Patient consistently complained of left toe discomfort, pain and progressive clawing deformity with lateral deviation.

8. The Patient had physiotherapy at HKAH until 24 September 2019. After treatment, the physiotherapist reported that the Patient's left second toe was still swollen and stiff with reduced sensation. The Patient was unable to wear shoes as they would affect the colour of the second toe and nail.

9. By way of a statutory declaration made on 7 September 2022, the Patient lodged a complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

10. We bear in mind that the burden of proof is always on the Secretary and the Defendant does not have to prove his innocence. We also bear 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.

11. There is no doubt that the allegations against the Defendant here are serious ones. Indeed, it is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. Therefore, we need to look at all the evidence and to consider and determine each of the disciplinary charges against him separately and carefully.

Findings of the Inquiry Panel

12. The Defendant admits the factual particulars of the charges against him but it remains for us to consider and determine on the evidence whether he is guilty of misconduct in a professional respect.

13. We gratefully adopt as our guiding principles the following statements of law expounded in *Montgomery v Lanarkshire Health Board* [2015] UKSC 11:-

> *"87. ... The doctor is therefore under a duty to take reasonable care to ensure that the patient is aware of any material risks involved in any recommended treatment, and of any reasonable alternative or variant treatments. The test of materiality is whether, in the circumstances of the particular case, a reasonable person in the patient's position would be likely to attach significance to the risk, or the doctor is or should reasonably be aware that the particular patient would be likely to attach significance to it.*
>
> ...
>
> *90. ... [T]he doctor's advisory role involves dialogue, the aim of which is to ensure that the patient understands the seriousness of her condition, and the anticipated benefits and risks of the proposed treatment and any reasonable alternatives, so that she is then in a position to make an informed decision. This role will only be performed effectively if the information provided is comprehensible. The doctor's duty is not therefore fulfilled by bombarding the patient with technical information*

which she cannot reasonably be expected to grasp, let alone by routinely demanding her signature on a consent form."

14. It is stated in section 2.7 of the Code of Professional Conduct (2016 Edition) ("the Code") that:

> *"2.7 Consent is valid only if:-*
>
> ...
>
> *(b) the doctor has provided proper explanation of the nature, effect and risks of the proposed treatment and the other treatment options (including the option of no treatment); and*
>
> *(c) the patient properly understands the nature and implications of the proposed treatment."*

15. According to Dr TSOI, the Secretary's expert, from the Defendant's Operative Report dated 19 November 2018 ("Operative Report"), the Defendant performed distal lateral soft tissue release (DLSTR), which was similar to the conventional Modified McBride Procedure. The Defendant also performed excision of the exostosis (bunionectomy) and capsulotendesis.

16. Besides the above standard procedures, according to points 8, 9, 10, 12 and 13 of the Operative Report, the Defendant made 4 x 2mm drilled holes over distal part of 1st metatarsal. He passed 2 cerclage sutures through the 1st metatarsal drill holes and wrapped around the 2nd metatarsal bone subperiosteally. He also put a 4-hole mini-plate on lateral side of the 2nd metatarsal (probably for anchorage of the cerclage sutures). The opposing distal third cortices of 1st and 2nd metatarsals were fishscaled with osteotome. The Defendant then tied the cerclage sutures after X-Ray confirmation of satisfactory MPV correction. According to Dr TSOI, these procedures were certainly not part of Modified McBride procedure, but instead the Syndesmosis procedure. The Syndesmosis procedure with steps described at points 8, 9, 10, 12 and 13 of the Operative Report was not mentioned in any standard textbook or internationally recognized journals. The Syndesmosis procedure is not considered a standard procedure generally accepted by orthopaedic peers. The Syndesmosis procedure is not a conventional surgical procedure.

17. Prior to the surgical procedure, the Patient had signed on a consent form. The name of the procedure was "left foot syndesmosis procedure for Hallux Valgus Correction".

18. In the pre-operative Out-Patient Department notes, the Defendant only wrote down complications discussed. There was nothing mentioning about alternative treatment, or any alternative operative procedures.

19. According to Dr TSOI, which we agree, correction of Hallux Valgus deformity can be categorized into (i) soft tissue procedure such as McBride/Modified McBride procedure (non-bone breaking procedure), (ii) corrective osteotomy (either distal or proximal osteotomy) and (iii) a combination of (i) and (ii). The Patient's Hallux Valgus and second toe deformity belonged to moderate degree deformity. There were many soft tissue procedures (non-bone breaking) as well as corrective osteotomies (bone breaking procedures) that could correct the deformity with promising results.

20. Since the Defendant's Syndesmosis procedure was not a conventional procedure, the Defendant should have sufficiently informed the Patient of the details, including the procedure, nature, pros and cons, success rates, potential surgical complications which involved the second toe, recovery plan and/or alternative treatment options before undergoing the Syndesmosis procedure, but he had failed to do so. The Patient was only given a consent form to sign on hastily before the operation. No fact sheet was provided to the Patient regarding the operation. The Defendant was not there to explain to the Patient about the details of the consent form. Simply asking the Patient to sign on a standard consent form without written or verbal explanation was not informed consent.

21. The Defendant's conduct had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect under charge (a).

22. There is no dispute that the Defendant had adopted inconsistent and/or different descriptions of the operation in different documents. In the Pre-Authorization Insurance Form to BUPA dated 2 November 2018 ("Insurance Form"), it was described as "Modified McBride procedure". In the Consent for Surgical/Invasive Procedure Form endorsed by the Patient prior to the operation, it was described as "left foot syndesmosis procedure for hallux valgus correction". In the Operative Report dated 19 November 2018, it was described as "L. Syndesmosis procedure, Bunionectomy". In the Clinical

Discharge Summary dated 20 November 2018, it was described as "Syndesmosis procedure". In HKAH Physician Fee Note ("Fee Note"), it was described as "Modified McBride Procedure and Bunionectomy".

23. The use of inconsistent and/or different descriptions of the operation as such was in our view clearly improper.

24. The Defendant's conduct had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect under charge (b).

25. In the Insurance Form, the "Expected treatment / CPT-Code" was written as "Modified McBride procedure". This information was incorrect and/or inaccurate in that the Defendant not only performed the Modified McBride procedure, but also performed the Syndesmosis procedures on the Patient.

26. The Defendant's conduct had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect under charge (c).

27. In the Fee Note, the "Name of the Operation/Procedure" was written as "Modified McBride Procedure and Bunionectomy". Again, this information was incorrect and/or inaccurate. It would be misleading to suggest that the Defendant had performed only Modified McBride Procedure and Bunionectomy on the Patient.

28. The Defendant's conduct had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect under charge (d).

Sentencing

29. The Defendant has one previous disciplinary record relating to the issuance of a sick leave certificate to the patient in 2005 when he considered the issuing of the sick leave certificate to be inappropriate. After due inquiry, the Defendant was ordered to be issued with a warning letter and the disciplinary order was not published in the Gazette. The previous disciplinary record is not similar to the offences in the present proceedings.

30. We bear in mind that the primary 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.

31. In line with our published policy, we shall give the Defendant credit in sentencing for his admission and cooperation throughout these disciplinary proceedings.

32. We have considered the reference letters from doctors and patients as submitted and the charitable work undertaken by the Defendant.

33. The Defendant told us that he has taken remedial steps, which include providing additional printed materials to his patients to ensure his patients have a more comprehensive and sufficient understanding of the relevant information, including general nature of the surgery, potential risks of possible complications and other surgical options. There are now also pre-surgery and post-surgery information and instruction provided to the patients. With these remedial measures in place, we accept that the risk of repetition is low.

34. Taking into consideration the nature and gravity of the Defendant's case and what we have heard and read in mitigation, we order that in respect of charge (a), a warning letter be issued to the Defendant. In respect of charges (b) to (d), we make a global order that the Defendant be reprimanded. Our orders above shall be published in the gazette.

Remark

35. The name of the Defendant is included in the Specialist Register under the Specialty of Orthopaedics & Traumatology. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

Prof. FOK Tai-fai, SBS, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong