

香港醫務委員會
The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr YIP Wai Chun Andrew (葉維晉醫生) (Reg. No.: M04760)

Dates of hearing: 10 June 2026 (Wednesday) (Day 1);
11 June 2026 (Thursday) (Day 2);
8 August 2026 (Saturday) (Day 3);
28 August 2026 (Friday) (Day 4); and
4 October 2026 (Sunday) (Day 5)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Dr WONG Lap-gate, Michael
Prof. LUI Cho-ze, Joseph
Mrs BIRCH LEE Suk-yee, Sandra, GBS, JP
Mr FUNG Cheuk-nang, Clement, MH

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Mr Ashok SAKHRANI, Outside Counsel
as instructed by Messrs. Kennedys

Legal Officer representing the Secretary: Ms Carmen SIU,
Senior Government Counsel

The Amended Charges

1. The amended charges against the Defendant, Dr YIP Wai Chun Andrew, are:

“That he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”), in that, on or about 17 October 2017, he:-

- (a) inappropriately and/or without proper justification prescribed Pembrolizumab (the “Medicine”) to the Patient when:*
 - (i) it was not yet an approved treatment for extensive-stage small cell lung cancer; and/or*
 - (ii) it was not appropriate for the Patient’s condition at the time;*
- (b) failed to conduct sufficient assessment of the Patient’s condition before prescribing the Medicine to him;*

- (c) *failed to refer the Patient to an oncologist or palliative care specialist for review;*
- (d) *prescribed the Medicine to the Patient without proper consultation with the Patient;*
- (e) *failed to adequately advise the Patient or his family on the benefit(s), side effect(s) and/or appropriateness of taking the Medicine; and/or*
- (f) *failed to maintain adequate medical records of the Patient.*

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 6 August 1982 and up to the present. His name has been included in the Specialist Register under the Specialty of Urology since 4 March 1998.
3. Briefly stated, the Patient, now deceased, was at all material times residing in Xian. According to his son, the Patient was diagnosed with small cell lung cancer (“SCLC”) in or around May 2016. The Patient was treated with radiotherapy and chemotherapy at Tangdu Hospital in Xian but without success.
4. The Patient was discharged from Tangdu Hospital on 10 October 2017. According to the Certificate of Diagnosis issued by his treating doctor on the same day, apart from SCLC of the left lung, multiple metastases were found in the lymph node, pancreas, liver, brain and bone. It was associated with obstructive jaundice, deranged electrolytes (hypokalaemia, hyponatremia and low chloride level) and low protein. The Patient was advised, amongst others, to have adequate rest and avoid strenuous activities; regular tests for complete blood profiles, liver and kidney functions; and return for outpatient follow-up in a month’s time.
5. According to the Patient’s son, he learned about the Defendant’s medical practice, Eminence Medical Specialist Centre Limited, through the WeChat platform sometime in or around September 2017. At that time, he was looking for information from health columns in the internet on immunotherapy treatment. He then came to know that there were two drugs which might be able to treat SCLC, namely, “K” drug (KEYTRUDA) and “O” drug (OPDIVO).
6. There is no dispute that KEYTRUA, which is the trade name of Pembrolizumab, was at all material times not available in Chinese Mainland.
7. Through the WeChat platform, the Patient’s son approached the Defendant’s medical practice for enquiry and exchanged WeChat messages with the Defendant’s clinic manager, Mr KWONG [REDACTED] (“Mr KWONG”). There is no dispute that the Patient’s son was asked by Mr KWONG to fill out a

patient registration form and sent it back through the WeChat platform. It was specifically stated in the patient registration form that the person who would attend the Defendant's clinic for consultation on 17 October 2017 was not the Patient himself.

8. On 17 October 2017, the Patient's sister attended the Defendant's clinic in Central and met with the Defendant. There is conflicting evidence as to what happened during this consultation.
9. There is however no dispute that the Patient's sister was charged and paid HK\$96,640.00 for 3 vials of KEYTRUDA 100mg after the consultation with the Defendant.
10. According to the Patient's son, the Patient was given 1 vial of KEYTRUDA on 18 October 2017 by a nurse in Xian. However, in the early hours of 22 October 2017, the Patient coughed blood and was taken to Tangdu Hospital where he was diagnosed with acute liver failure. The Patient passed away soon afterwards.
11. The Patient's son later lodged this complaint against the Defendant with the Secretary of the Medical Council (the "Council").

Burden and Standard of Proof

12. 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.
13. 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

14. Much time has been spent on what is meant by pembrolizumab being granted "Orphan Drug" destination by the US Food And Drug Administration ("FDA"). But in our view, the real point is that pembrolizumab was at all material times not yet approved for extensive-stage SCLC. In this regard, the Secretary's expert witness, Dr TIN, and the Defendant's expert witness, Dr FOO, both agreed and we accept that by 2017, "*pembrolizumab was approved to be used in melanoma and non-[SCLC], head and neck cancer and classic Hodgkin lymphoma [but there] was no approved indication in [SCLC]*".

15. Our attention was drawn by Counsel for the Defendant to the English decision in *Simms v Simms* [2003] Fam 83. In that case, a mentally incapacitated adult and a 16-year-old girl were suffering from variant Creutzfeldt-Jakob disease (“CJD”), a rare neurodegenerative disorder which involves abnormal prion proteins being deposited in the brain; and for which no recognized effective treatment or cure had yet been found. The President of the Family Division of the English High Court accepted on the evidence that there was a responsible body of relevant medical opinion which supported the experimental therapy proposed by overseas medical research that a drug called “Pentosan Polysulphate (PPS)” could inhibit the formation of abnormal prion protein in mice. PPS was licensed in Germany and the USA as a clinical medicine for treatment in interstitial cystitis, thrombophlebitis or thrombosis. Since there was no alternative treatment available and there were possible benefits to the patients from treatment with PPS, the proposed drug treatment was lawful as being in the best interests of each patient to receive it.
16. Variant CJD is a very rare medical condition; and it may not be practical to conduct a systematic research programme like a randomized control trial because there are so few cases to study. Indeed, Butler-Sloss P also pointed out in her judgment in *Simms v Simms* that:-
 - “3. *Variant CJD is recognized as a new disease which was first identified in March 1996, and a small number of cases of vCJD were then identified from the previous year. There have been 129 recorded cases in the United Kingdom and a small number in other countries... There are gaps in the present knowledge of the mechanism of the disease and in the precise relationship between the abnormal proteins, the loss of nerve cells and neurological dysfunction.*”
17. It was against this peculiar background that Butler-Sloss P made her comment in *Simms v Simms* that:-
 - “48. *... The Bolam test ought not to be allowed to inhibit medical progress. And it is clear that if one waited for Bolam test be compiled with to its fullest extent, no innovative work such as the use of penicillin or performing heart transplant surgery would ever be attempted...*”
18. It does not follow in our view that it would always be in the patient’s best interests to receive experimental treatment when other treatments have failed and there is no alternative treatment available. The comment by the Court in *Simms v Simms* is not meant to be invariably applicable to all diseases.
19. It is beside the point in our view whether the reference to “*Aspartate aminotransferase (AST) or alanine aminotransferase (ALT) greater than 3 and up to 5 times upper limit of normal (ULN) or total bilirubin greater than 1.5 and up to 3 times ULN*” in the package insert of pembrolizumab connoted an absolute contradiction for pembrolizumab. The real point is whether prescription of

pembrolizumab was appropriate for the Patient's condition at the time. A doctor may prescribe medicine to a patient only after proper consultation and only if drug treatment is appropriate. This is particularly true when, as Dr FOO said, which we agree, "[u]sing pembrolizumab in small cell carcinoma at that time was a venture into unknown territory"; and "the prevailing medical literature did not support using it in [SCLC]."

20. We do not accept on the evidence before us that there was a responsible body of medical opinion which supported the experimental treatment of SCLC by pembrolizumab. Indeed, Dr FOO accepted under cross-examination that "*there was insufficient scientific evidence then for pembrolizumab to be used in [SCLC] since active research was ongoing*". Like Dr TIN, Dr FOO was unaware of "*any clinical trials or studies*" in or before October 2017 "*on patients with extensive-stage SCLC, with abnormal liver function*". Dr FOO further accepted under cross-examination that although "*[p]embrolizumab was used as an investigational drug in [SCLC]. Nobody knows whether it works or not*".
21. We also disagree with Dr FOO that all of the scientific data at that time "*were in favour o[f] using pembrolizumab in, pre-treated, extensive-stage [SCLC] and none was against*." Apart from an abstract from the 2017 ASCO (American Society of Clinical Oncology) Annual Meeting which stated that although "*[m]aintenance pembro did not improve PFS (progression free survival) in these patients but favorable OS (overall survival) suggests that some SCLC patients can benefit from maintenance pembro*", the medical literature that Dr FOO was referring to all originated from the same "KEYNOTE-028" Study.
22. However, Dr FOO accepted under cross-examination that the Study presented at the 2017 ASCO Meeting concerned the benefits of maintenance pembrolizumab in extensive-stage SCLC patients.
23. Unlike the 24 patients in the "KEYNOTE-028" Study, there is no evidence before us whether the Patient was tested "PD-L1" positive. Also, unlike the 24 patients, the Patient did not have normal liver functions.
24. It is wrong in our view to extrapolate from these single-arm observational studies that there was a responsible body of medical opinion which supported the Defendant's "off-label" use of pembrolizumab in this case.
25. Our attention was drawn by Dr TIN to the KEYNOTE-028 Study which showed that "*[t]he median time to response [to pembrolizumab treatment] was 2.0 months (range, 1.7 to 3.7 months)*". We agree with Dr TIN that "*[p]rescribing [p]embrolizumab out of "goodwill" for a terminal cancer patient with very limited life expectancy was clearly a futile treatment*."
26. Dr FOO disagreed. He further explained to us under cross-examination that "*the time to response, two months, is a statistical term, is a median time. In real life, it... can sometimes be earlier, much earlier, or later because it is a median*".
27. Both Dr TIN and Dr FOO agreed that pembrolizumab could not be given to the Patient unless and until his liver functions returned to normal ranges. Indeed,

Dr FOO also agreed under cross-examination that *“in this particular patient who had deranged liver function, the consequence of him having drug-induced hepatitis would be more serious than someone who did not have deranged liver function”*.

28. It was the unchallenged evidence of Dr FOO that *“with the sort of really serious [SCLC], the risk of [the Patient] dying within the first 1 or 2 months is probably 90%”*. This is particularly true when, if the Defendant’s evidence is to be believed, the Patient was so ill that he could not talk on the phone. Viewed in this light, any possible benefits of pembrolizumab treatment might be illusory.
29. For these reasons, we are satisfied on the evidence before us that the Defendant’s prescription of pembrolizumab to the Patient was inappropriate and without proper justification. In doing so, the Defendant had his conduct in this case fallen short of the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as per the amended disciplinary charge (a).
30. In response to the complaint against him, the Defendant initially told the Preliminary Investigation Committee (“PIC”) of the Council in his medical report dated 22 November 2019 that:-
 - “5. *The patient could not attend my clinic for assessment at the scheduled time on 17 October 2017 because he was too ill and bed-bound. I only came to learn of this at the scheduled consultation so I could not assess the patient. The relative came to my clinic at around 3pm on 17 October 2017 with the requested documents for a medical consultation on behalf of the patient.*
 6. *The consultation was a face to face interview and conducted in Putonghua. My clinic assistant was present in the consultation room during the whole interview. I requested to speak directly to the Patient since he could not attend but was informed that the patient was too ill to talk on the phone.”*
31. When being cross-examined, the Patient’s sister denied that the Defendant had requested to talk directly to the Patient. She also disagreed that the Patient was too ill to talk on the phone.
32. The Patient’s liver functions was found to be grossly deranged in the laboratory tests report issued by Tangdu Hospital on 16 October 2017, with (1) elevated total bilirubin of 97.1 umol/L (normal range of 5.1-19 umol/L); (2) elevated direct bilirubin of 58.1 umol/L (normal range of 0-6.8 umol/L); (3) elevated indirect bilirubin of 39.0 umol/L (normal range of 0-14 umol/L); (4) elevated ALT of 164 U/L (normal range of 5-40 U/L); and (5) elevated AST of 133 U/L (normal range of 8-40 U/L).

33. According to the laboratory tests report, blood sample(s) were taken on 16 October 2017 at 09:44 hours. Apparently, the Patient was still able to travel from home to Tangdu Hospital to take blood sample(s) for laboratory tests.
34. The Defendant sought to corroborate his evidence on what happened during the consultation with the Patient's sister by calling his clinic assistant, Madam WONG [REDACTED] ("Madam WONG") to give evidence.
35. Madam WONG told us under cross-examination that beside reading the patient registration document, which was not provided to us, and the Defendant's medical records, she prepared her witness statement in this case purely from her own memory.
36. Madam WONG also told us that she had worked in the Defendant's clinic for around two years before this incident but she never received any medical or nursing training. We find it unbelievable that she could remember in exact details what the Defendant claimed to have told the Patient's sister during the consultation. When being cross-examined why some parts of her witness statement were identical to what the Defendant mentioned in his witness statement, Madam WONG was unable to give us a satisfactory explanation.
37. We do not find Madam WONG to be a reliable and honest witness. We do not accept her evidence on what happened during the consultation. Indeed, Madam WONG went so far as to claim in her witness statement that the Defendant *"talked to the Patient's son on the phone to explain the details of immunotherapy/Keytruda including the purpose of the drug, the side effects and the importance of ensuring the importance for the Patient's deranged liver function to return to normal before the drug could be administered."* This is actually contradictory to the Defendant's own evidence.
38. We accept the evidence of the Patient's sister that at no time had the Defendant requested to talk to the Patient over the phone. Nor had the Defendant ever requested to talk to the Patient's son over the phone.
39. We do not accept the Defendant's claim that he could safely rely on the Patient's treating doctor at Tangdu Hospital to *"assess and confirm the suitability of [pembrolizumab] having regard to the Patient's clinical condition and prognosis."* It is idle in our view for the Defendant to argue that pembrolizumab *"must be used under the clinical judgment and decision of the Patient's Mainland treating doctor, who had full knowledge of the Patient's medical condition and prognosis."*
40. In our view, the Defendant had a personal responsibility to conduct sufficient assessment of the Patient's condition before prescribing pembrolizumab to him.
41. As Judge Freedman stressed in the English case of *Holdsworth v Luton And Dunstable University Hospital NHS Foundation Trust* [2016] EWHC 3347 (QB) at [38]:-

"... it needs to be stressed... that the mere fact that a patient is insistent about receiving a certain type of treatment does not and cannot, of itself, justify such

treatment being provided. The mode of treatment must always be a clinical decision based upon a clinical assessment as well, of course, of taking into account the patient's wishes..."

42. It is apparent from reading the online registration form filled out and submitted by the Patient's son via WeChat platform in or around September 2017 that the Patient would not be attending the Defendant's clinic in person for consultation. Madam WONG told us in her evidence-in-chief that although the Defendant's clinic had telemedicine facility, this was the first time for a patient in Chinese Mainland not to come in person for consultation.
43. Hence, if the Patient was, which we do not accept, too ill to talk to the Defendant over the phone during the consultation, there was every reason for the Defendant to try to understand the underlying pathology which made him feel so ill after he went to Tangdu Hospital for laboratory tests on the day before.
44. The Defendant claimed that the Patient's grossly deranged liver functions were caused by "*obstruction in the biliary duct [which] could be treated by insertion of a stent into the bile duct*". But we agree with Dr TIN that physical examination of the Patient should be done to "*rule out some of the very sinister causes of the deranged liver function[s]*".
45. In failing to conduct sufficient assessment of his condition before prescribing pembrolizumab to the Patient, the Defendant has in our view by his conduct in this case fallen short of the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as per the amended disciplinary charge (b).
46. The Defendant initially claimed in his medical report dated 22 November 2019 that:-

“3. *The patient's relative contacted my clinic manager for my medical advice and to purchase immunotherapy drugs, which were only available in Hong Kong and not in Mainland China at the time. The relative had informed him this was their last hope of treatment for the patient's terminal condition. The patient's family had learned about the availability of immunotherapy treatment in Hong Kong through health columns on the internet in Mainland China and also through other patients, who came to Hong Kong and procured the immunotherapy drugs. The relative was informed the process which was needed to be undergone before prescription of the immunotherapy drugs.*

4. *This process involved consideration of the relevant medical records and reports and a face to face medical consultation to assess the patient's clinical condition and appropriateness of the use of immunotherapy agent for the patient. Oral advice was given to the relative to bring the patient, the requested medical records, reports and relevant documents, including latest blood*

investigation results, to come to Hong Kong for a face to face consultation with me.”

47. In the course of the cross-examination of the Patient’s son, Counsel for the Defendant put forward a different case, which first appeared in the Defendant’s 2nd Supplemental Witness Statement dated 12 May 2026, that the Patient’s treating doctor at Tangdu Hospital “*explicitly recommended that [pembrolizumab] could be considered as a potential treatment for the Patient, and that it should be obtained from Hong Kong as a last-resort measure.*”
48. We find it unbelievable that the Patient’s treating doctor would ask the Patient’s son to import from Hong Kong a medicine, which could not be lawfully used by him on the Patient in Chinese Mainland. We accept the evidence of the Patient’s son that when being asked about the efficacy of pembrolizumab in treating SCLC, the Patient’s treating doctor at Xian merely told him that the Patient could give it a try.
49. As Dr FOO said, which we accept, “[m]edical practitioners at the time including [the Defendant] may have limited knowledge about pembrolizumab”. The fact that the Defendant needed to rely on a sales representative from the manufacturer of pembrolizumab to relay to him what the statement “*no contradiction on the use of drug*” in the package insert meant reinforces in our view how inadequate his knowledge about pembrolizumab was at the time.
50. The Defendant had no experience in treating someone like the Patient in this case, who had not only extensive-stage SCLC but also grossly deranged liver functions. It follows in our view that the Defendant ought to have referred the Patient to an oncologist for review.
51. In failing to do so, the Defendant had in our view by his conduct in this case fallen short of the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as per the amended disciplinary charge (c).
52. In response to the complaint against him, the Defendant initially told the PIC in his Medical Report on the Patient dated 22 November 2019 that:-

“8. *The following points of discussion and explanation were given at the consultation:*

- a. *A detailed explanation of immunotherapy and the drugs concerned (KEYTRUDA (pembrolizumab) and Opdivo) were given. This included the biomedical basis for the treatment. The mechanism was to enhance the body defense system in killing cancer cells. It was stressed that this new cancer treatment method had only a 20% success rate according to results from clinical studies reported in medical journals at that time.*
- b. *The side effects of the drug KEYTRUDA was explained which included minor adverse events, such as nausea, low grade fever and muscle ache. Serious side effects would be related to*

autoimmune attacks on major organs, like the lungs, liver and kidney. Advice was also given on the indicators for stopping the drug.

- c. During the explanation process, I wrote on a piece of paper in Chinese so as to facilitate better understanding and assist in documentation of accurate medical records. This was provided to the patient's relative.*
- d. The derangement of the liver function in the Patient was noted from the test results. The liver enzymes w[ere] about 3 times above the normal level[s]. The areas of derangement in the liver function report were highlighted by me during the consultation. The derangement was due to obstructive jaundice. Explanations were given that the raised levels of liver enzymes would be a contradiction for the usage of immunotherapy according to the recommendation of the drug company and also stated in the drug information sheet provided by the drug company. The patient's relative asked what could be done and I advised that since the cause of the liver function [derangement] was obstruction in the biliary duct, it could be treated by insertion of a stent into the bile duct and the patient's treating doctor and specialist doctor in Mainland China should be consulted to seek further medical advice on this. I stressed that only if the patient's liver function returns to the normal range, then the drug could be used, upon consultation with and advice from the patient's treating doctor and informed consent of the patient.*

- 9. The relative was very eager for the treatment, but I warned that as stated in the consent form the drug had to be used with the advice and agreement of the patient and clinical judgment and decision of his treating doctor in Mainland China, who has full knowledge of his medical condition and prognosis."*

53. There is however nothing in his contemporaneous medical record of the consultation with the Patient's sister on 17 October 2017 about such advice being given.

54. In his Supplemental Medical Report on the Patient dated 4 July 2025, the Defendant further explained to the PIC that:-

"... I gave my phone number to the [Patient's] sister and reminded her that if the Patient's treating doctor in Mainland China had any questions about the use of the Medicine, he could call me to discuss over the phone. The sister expressed her understanding of my explanations and did not raise any questions.

My prescription of the Medicine was made solely with the intention to assist the Patient, given his poor prognosis and the exhaustion of all other treatments, and was only made after the sister's confirmation to use the Medicine only after the Patient's liver function returned to

normal level, and after they had sought advice and agreement from the Patient's treating doctor in Mainland China."

55. We find it unbelievable that the Defendant would have omitted this important point in the Medical Report on the Patient dated 22 November 2019. Moreover, if the assessment and confirmation from the Patient's treating doctor in Chinese Mainland of the suitability of pembrolizumab treatment were so important, we would naturally expect the Defendant to put it down in writing in his prescription form in Chinese and ask the Patient's sister to relay the same to the Patient's treating doctor in Chinese Mainland.
56. Counsel for the Defendant submits that despite the Patient's sister's claim that there was "*effectively no conversation [or] dialogue*" with the Defendant, if we find "*there must have been some conversation [or] dialogue between the two of them, then the only evidence of the conversation [or] dialogue in the consultation room comes from [the Defendant].*" We disagree.
57. We have observed the Patient's sister demeanour whilst she gave evidence. We find the Patient's sister to be a straightforward and unsophisticated witness. We accept her evidence in re-examination that when she told us under cross-examination that the Patient could ride on a bicycle, she was talking about some time ago before she last seen him at his home before departing for Hong Kong.
58. As a tribunal of fact, we are entitled to accept or not accept the testimony of any witness either in full, in part or not at all. In a case like the present that turns on which of the contradictory witnesses a tribunal should believe, a careful examination of their evidence is necessary in evaluating reliability and credibility. It is a quantum leap to say if evidence on one side is uncertain, contradictory evidence from the other side must be believed.
59. Counsel for the Defendant argues that the Patient's sister's "*account is contrary to ... the signed consent form ... and the Defendant's handwritten note... explaining the two types of PD-1 drug*". But the Defendant's handwritten note was very brief and there was no mention of the advice or explanation which he claimed in paragraph 8d of his Medical Report on the Patient dated 22 November 2019. It is also evident to us from reading the second complete paragraph of the consent form that the Patient's sister was asked to read the document before accepting the service of the Defendant's clinic. And we accept the evidence of the Patient's sister that she was asked to sign the consent form before seeing the Defendant.
60. Explanation should be given in clear, simple and consistent language; and in terms which the patient can understand. Even if the Defendant had explained to the Patient's sister with the aid of a handwritten note in such details, which he claimed, the benefits, side effects and/or appropriateness of pembrolizumab treatment for the Patient, we do not believe she could understand the technicalities involved and relay the same to the Patient.

61. We do not accept the Defendant's claim in his Supplemental Medical Report on the Patient dated 4 July 2025 that it was "[a]fter [his] explanations [that] the sister confirmed her understanding of all relevant risks and side effects of the Medicine and signed the consent form to signify her understanding"; and "[i]n light of the sister's understanding of [his] advice, her agreement with the informed risks and side effects of the Medicine, agreement to seek advice from the Patient's treating doctor and agreement to ensure the treating doctor would obtain informed consent of the Patient, [he] prescribed the Medicine to the Patient". In our view, the Defendant is making up his evidence as he goes along.
62. In Hong Kong, registered medical practitioners have the privilege of prescribing and supplying medicines to patients. However, they are authorized by law only to supply medicines to patients for medical treatment under their care.
63. We disagree with Dr FOO that what the Defendant had done in this case was "a second-best option". We appreciate that "consultation via a family member" may sometimes be appropriate, for instance, when a second opinion is being sought. But what happened in this case was totally different.
64. In prescribing pembrolizumab to the Patient without proper consultation with him, the Defendant had in our view by his conduct in this case fallen short of the standards expected of registered medical practitioners in Hong Kong. Accordingly, we also find the Defendant guilty of misconduct in a professional respect as per the amended disciplinary charge (d).
65. It was the Defendant's personal responsibility to ensure that the Patient would be adequately advised on the benefit(s), side effect(s) and appropriateness of taking pembrolizumab.
66. We appreciate that the extent of explanation required of the Defendant should depend on individual circumstances of the Patient and complexity of this case. Be that as it may, explanation on the proposed treatment should always be balanced and sufficient to enable the Patient to make an informed decision.
67. When being cross-examined, Dr FOO accepted that "there was insufficient scientific evidence then for pembrolizumab to be used in [SCLC] since active research was on-going". In our view, the Defendant's alleged explanation to the Patient's sister that "this new cancer treatment method had only a 20% success rate according to results from clinical studies reported in medical journals at that time" was misleading. This would also generate unrealistic expectations on the use of pembrolizumab in the Patient's case.
68. For these reasons, in failing to adequately advise the Patient or his family on the benefit(s), side effect(s) and/or appropriateness of taking pembrolizumab, the Defendant had in our view by his conduct in this case fallen short of the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as per the amended disciplinary charge (e).

69. In response to what is now the amended disciplinary charge (f), the Defendant mentioned in his Supplemental Medical Report on the Patient dated 4 July 2025 that:-

“I kept the following in the Patient’s medical records: (i) medical report prepared by the Patient’s treating doctor in Mainland China dated 10 October 2017; (ii) blood test report of the Patient dated 16 October 2017; (iii) medical records compiled by me on 17 October 2017; (iv) consent form signed by the Patient’s sister on 17 October 2017; and (v) a handwritten explanation sheet about the Medicine prepared by me and provided to the sister on 17 October 2017.”

70. It is essential in our view for adequate medical records to be maintained by a doctor on his patient’s history, physical findings, investigations, treatment and clinical progress. Medical records are kept not only for a doctor’s own use but they are also necessary for continuity of care by other doctors who subsequently treat his patient.
71. In this case, the package insert for pembrolizumab did not provide any recommended dosage for SCLC. Indeed, the Defendant also claimed that he was prescribing pembrolizumab “off-label”. It is impossible to tell from the medical records kept by the Defendant on the Patient why he prescribed 3 vials of pembrolizumab at one time. The rationale behind the Defendant’s treatment plan of one vial per every 3 weeks was missing from the medical records of the Patient.
72. We also agree with Dr TIN that the fact that there was no “face-to-face” interview with the Patient; and details of advice (if they were actually given to the Patient’s sister) during the consultation should all be documented by the Defendant in the medical records of the Patient.
73. In failing to maintain adequate medical record(s) of the Patient, the Defendant had by his conduct in this case fallen short of the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as per the amended disciplinary charge (f).

Sentencing

74. The Defendant has a clear disciplinary record.
75. 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.
76. In his latest witness statement dated 28 May 2026, the Defendant still maintained that *“while the Medicine was not labelled for [SCLC] in October 2017..., there was a reported case of a patient in Mainland China who suffered from extensive-stage [SCLC] but showed complete response to the Medicine...”*

Apparently, the Defendant was ignorant of the withdrawal of pembrolizumab's indication in SCLC in March 2021. This illustrates in our view not only his lack of medical knowledge in the treatment of SCLC but also insufficient insight into his wrongdoings in this case.

77. We are most concerned that the Defendant prescribed pembrolizumab to the Patient without a "*face-to-face*" consultation and let alone conducting any sufficient clinical assessment of his condition and suitability for such treatment. This was an abuse of his privilege as doctor to be allowed to supply medicine for treatment. This is tantamount in our view to selling drug.
78. Taking into consideration the nature and gravity of this case and what we have read and heard in mitigation, we shall make a global order that the name of the Defendant be removed from the General Register for a period of 18 months.
79. We have to consider whether to impose an immediate implementation order under section 21(1)(iva) of the Medical Registration Ordinance ("MRO") in this case.
80. In the course of this inquiry, the Defendant is adamant that what he had done was proper and correct. Unless and until the Defendant fully accepts what he had done is utterly wrong and makes a real effort to make good his shortcomings, we have grave concern about the safety of the public if he is allowed to continue with his medical practice.
81. We therefore further order pursuant to section 21(1)(iva) of the MRO that the above removal order shall take effect upon publication in the Gazette.

Prof. TANG Wai-king, Grace, SBS, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong