

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

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr TSOI Man Kin Kenneth (蔡文健醫生) (Reg. No.: M13265)

Date of hearing: 10 June 2025 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel  
(Chairperson of the Inquiry Panel)  
Dr HO Pak-leung, JP  
Dr LEE Hung-fai  
Miss LAU Queenie Fiona, SC  
Mr TSANG Kin-ping

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Ms Maureen LIU of  
Messrs. Howse Williams

Legal Officer representing the Secretary: Miss Christy TSO, Government Counsel

**The Charge**

1. The charge against the Defendant, Dr TSOI Man Kin Kenneth, is:

*“That on or about 25 May 2023, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”) in that he failed to prescribe suitable medicines such as coughing syrup or antibiotics or any other medicine(s) which was/were suitable to address the Patient’s symptoms of sore throat and cough as necessary and appropriate*

*when the Patient refused to pay an extra fee for the uncovered medicine(s) on top of the insurance covered fees.*

*In relation to the facts alleged, 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 3 July 2001 to the present. His name has never been included in the Specialist Register.
3. Briefly stated, the Patient consulted the Defendant on 25 May 2023 for sore throat and cough. The Defendant was one of the panel doctors of the medical insurer for the Patient’s employer. After consultation, the Patient was dispensed with Famotidine and Ponstan for 3 days. But when the Patient requested cough medicine and antibiotics, she was told by the Defendant through his clinic assistant that these medicines would not be covered by her medical insurance and she needed to pay an additional sum.
4. The Patient did not pay the additional sum and left the Defendant’s clinic.
5. The Patient later lodged this complaint against the Defendant with the Secretary of the Medical Council (the “Council”).
6. In response to the Patient’s complaint, the Defendant submitted to the Preliminary Investigation Committee (“PIC”) of the Council by his solicitors’ letter dated 11 September 2024 that he “*admits the facts of the allegation*”, which now forms the factual particulars of the disciplinary charge against him; and “*will provide full assistance to the PIC in the investigation process*”.

### **Burden and Standard of Proof**

7. 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.

8. There is no doubt that the allegation against the Defendant here is a serious one. 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 the disciplinary charge against him carefully.

### **Findings of the Inquiry Panel**

9. The Defendant admits the factual particulars of the disciplinary charge against him and indicates through his solicitors that he will not contest the issue of professional misconduct. It remains however for us to consider and determine on all the evidence whether he has by his conduct in this case fallen below the standards expected of registered medical practitioners in Hong Kong.
10. A doctor has the primary responsibility to provide proper medical care to his patients. When providing medical care, a doctor shall always act in the patients' best interest.
11. We do not have the benefit of sight of the Defendant's consultation notes. We wish to make it clear that cough medicine and antibiotics are not usually required in cases of sore throat and cough. The real point is that the Defendant admits that such medicines were necessary and appropriate for addressing the symptoms of sore throat and cough of the Patient in this case.
12. If the Patient's medical insurance was insufficient to cover the costs of certain suitable medicines, the Defendant ought to have given her an option such as giving her a prescription letter to purchase the uncovered medicines from an outside pharmacy.
13. In failing to prescribe suitable medicines such as coughing syrup or antibiotics or any other medicine(s) which was/were suitable to address the Patient's symptoms of sore throat and cough as necessary and appropriate when the Patient refused to pay an extra fee for the uncovered medicine(s) on top of the insurance covered fees, the Defendant had in our view by his conduct in

this case fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as charged.

### **Sentencing**

14. The Defendant has one previous disciplinary record for inappropriate treatment of an asthma patient; and improper and inadequate medical record keeping back in December 2013 to November 2014. On 1 September 2020, his name was ordered after due inquiry to be removed from the General Register for a period of 2 months and the operation of the removal order was suspended for a period of 12 months. In addition, a warning letter was issued to him in respect of his improper and inadequate medical record keeping.
15. We accept that the Defendant's previous professional misconduct related to an incident which happened more than 10 years ago and the present incident happened after the suspended removal order had lapsed at the end of August 2021. However, like the present case, the Defendant's previous disciplinary record also relates to his failure to prescribe his patient with appropriate and necessary medicines.
16. 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.
17. In line with our published policy, we shall give the Defendant credit in sentencing for his admission and cooperation throughout these disciplinary proceedings.
18. We are told in mitigation that the Defendant had reflected on what he did in this case and implemented the following remedial steps to ensure that a similar incident will not happen again: -
  - (1) if the patient has any questions and/or concerns after his consultations, he would see the patient again promptly to address the questions and/or concerns;

- (2) if the issue is the extra fee the patient needs to pay for certain medications, he would explain again the reasons for his prescriptions and discuss with the patient the alternative options available if he/she does not wish to pay the extra fee e.g. prescribing alternative medications or issuing a prescription for the patient to obtain the medications from a pharmacy; and
- (3) he now double-checks with each patient at each consultation whether he/she can accept paying an extra fee if needed, and inform him/her promptly if he believes that an extra fee will likely be required for his/her medications.

19. Taking into consideration the nature and gravity of the disciplinary charge for which we have found the Defendant guilty and what we have read and heard in mitigation, we order that the name of the Defendant be removed from the General Register for a period of 4 months. We further order that the operation of the removal order be suspended for a period of 18 months of active practice, subject to the condition that the Defendant shall complete during the suspension period satisfactory peer audit by a Practice Monitor to be appointed by the Council with the following terms:

- (a) the Practice Monitor shall conduct random audit of the Defendant's practice with particular regard to prescription and management of patients;
- (b) the peer audit should be conducted without prior notice to the Defendant;
- (c) the peer audit should be conducted at least once every 6 months during the suspension period;
- (d) during the peer audit, the Practice Monitor should be given unrestricted access to all parts of the Defendant's clinic(s) and the relevant records which in the Practice Monitor's opinion is necessary for proper discharge of his duty;

- (e) the Practice Monitor shall report directly to the Chairman of the Council the finding of his peer-audit at 6-monthly intervals. Where any defects are detected, such defects should be reported to the Chairman of the Council as soon as practicable;
- (f) in the event that the Defendant does not engage in active practice at any time in Hong Kong during the suspension period, unless otherwise ordered by the Council, the peer audit shall automatically extend until the completion of the 18-month suspension period of active practice; and
- (g) in case of change of Practice Monitor at any time before the end of the 18-month suspension period, unless otherwise ordered by the Council, the peer audit shall automatically extend until another Practice Monitor is appointed to complete the remaining period of peer audit.

Dr CHOI Kin, Gabriel  
Chairperson of the Inquiry Panel  
The Medical Council of Hong Kong