

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Chiu Chung (Reg. No.: M05696)

Date of hearing: 29 September 2023 (Friday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel (Chairperson of the Inquiry Panel)
Dr MARCET Marcus Mitchell
Dr NG Kwok-keung
Ms HUI Mei-sheung, Tennessy, MH, JP
Mr LAW Yu-wing

Legal Adviser: Mr Stanley NG

Legal Officer representing the Secretary: Miss Cherie FONG
Senior Government Counsel (Ag)

The Defendant is not present and he is not legally represented.

1. The charges against the Defendant, Dr WONG Chiu Chung, are:

“That he, being a registered medical practitioner, disregarded his professional responsibility to his patient(s), in that:

- (a) in or about December 2018 to February 2020, he made Health Care Voucher (“HCV”) claim(s) for prescribing medications and/or supplements to Mr WONG (“1st Voucher Recipient”) without providing in person consultation to the 1st Voucher Recipient;
- (b) in or about January 2020 to February 2020, he made HCV claim(s) for prescribing medications and/or supplements to Mr YAN (“2nd Voucher Recipient”) without providing in person consultation to the 2nd Voucher Recipient; and/or

- (c) in or about February 2020 to March 2020, he made HCV claim(s) for prescribing medications and/or supplements to Mr LEE (“3rd Voucher Recipient”) without providing in person consultation to the 3rd Voucher Recipient.

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 19 March 1985 to the present. His name has never been included in the Specialist Register.
3. The Government’s Health Care Voucher Scheme (“HCVS”) provides health care vouchers annually to elders aged 65 or above to subsidize their use of primary care services in the private sector. Health care professionals who are registered in Hong Kong, including medical practitioners, are eligible to enroll in the HCVS as service providers. The Defendant was an enrolled healthcare service provider (“EHCP”) under the HCVS.
4. By a letter from the Department of Health (“DH”) to the Medical Council (“Council”) dated 4 February 2021, DH informed the Council that during the investigation of a case by its Health Care Voucher Division (“HCVD”), it was revealed that the Defendant might have committed professional misconduct by prescribing medicines to patient(s) without consultation. Attached to the letter were (i) DH’s investigation findings of the case dated February 2021 (“Investigation Findings”), and (ii) written declarations provided by the Defendant to HCVD dated 22 April 2020, 5 June 2020, 11 December 2020, 23 December 2020 (respectively, “1st Declaration”, “2nd Declaration”, “3rd Declaration”, and “4th Declaration”).
5. DH also believed that this might be a case of fraud, and reported the case to the police on 4 February 2021 for further investigation. By a letter from DH to the Secretariat of the Council dated 13 June 2022, DH informed the Council that police investigation had been completed. The police concluded that there was insufficient evidence to support any criminal charge.
6. The Notice of Inquiry dated 29 May 2023 was satisfactorily served on the Defendant. By his letter to the Secretary to the Council dated 6 September 2023, the Defendant told the Council, *inter alia*, that he was unable to attend today’s inquiry due to his medical condition. By another letter addressed to both the Secretariat and the Preliminary Investigation Committee (“PIC”) of the Council dated 8 September 2023, the Defendant informed the Council, *inter alia*, that he

was unable to attend today's inquiry due to old age, knee pain (osteoarthritis) and he had difficulty in walking. By a letter from the Secretary to the Council to the Defendant dated 15 September 2023, the Defendant is reminded, *inter alia*, that if he is not present or legally represented at today's inquiry, provided that section 23(2) of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation, Cap. 161E, Laws of Hong Kong is satisfied, the inquiry may be proceeded with in his absence.

7. The Defendant is absent at today's inquiry and he is unrepresented. We are satisfied that the Defendant has sufficient notice of today's inquiry and it is his own choice of not appearing in person or instructing lawyers to attend on his behalf. We do not see any prejudice will be caused to the Defendant if we hear and decide upon the disciplinary charges in his absence. Accordingly, we will proceed with today's inquiry in the absence of the Defendant.
8. The Defendant had signed on a Statement of Agreed Facts dated 20 September 2023 admitting to all the disciplinary charges.

Burden and Standard of Proof

9. 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.
10. There is no doubt that the allegations against the Defendant here are serious. 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 charges against him carefully.

Findings of the Inquiry Panel

11. According to the Investigation Findings, the Defendant had made the following three voucher claims in respect of a voucher recipient of name "Wong" without seeing Wong or knowing his physical condition, as follows:
 - (i) a voucher claim made on 28 December 2018 (transaction no. TV18C28-5144075-0) in the amount of \$1,500 in which medicines (i.e. six bottles of omega 3 and four bottles of supra glucosamine) were provided;

- (ii) a voucher claim made on 18 June 2019 (transaction no. TV19618-2693973-1) in the amount of \$660 in which medicines (i.e. 6-month amlodipine) were provided; and
- (iii) a voucher claim made on 15 February 2020 (transaction no. TV20215-746495-4) in the amount of \$1,750 in which medicines (i.e. 1-month amlodipine and 1-month gliclazide) were provided.

(collectively “Wong’s 3 Voucher Claims”)

12. Amongst Wong’s 3 Voucher Claims, the voucher claim made on 15 February 2020 was made after Wong had passed away on 11 February 2020.
13. In his 1st Declaration¹, the Defendant admitted that in respect of Wong’s 3 Voucher Claims, Wong had neither visited his clinic for consultation in person nor received in person healthcare services provided by him. The Defendant declared that a total of two persons claiming to be Wong’s daughter or daughter-in-law, instead of Wong himself, visited his practice for all three voucher claims. On each of the three occasions, Wong’s daughter or daughter-in-law claimed that Wong was suffering from hypertension, diabetes and “old CVA” (i.e. cerebrovascular accident); staying at an elderly home; and unable to walk and therefore unable to come to the Defendant’s practice. They presented Wong’s HKID card and labeled drug pockets to the Defendant, and requested for medicines to treat Wong’s illness. Per requests by Wong’s daughter or daughter-in-law, the Defendant prescribed medicines for Wong on all three occasions.
14. In his 2nd Declaration, the Defendant further stated that in respect of Wong’s 3 Voucher Claims, he had not in person met Wong’s daughter or daughter-in-law. In all three occasions, Wong’s daughter or daughter-in-law were received by the counter staff only.
15. Going back to the Defendant’s 1st Declaration, it is noted that the Defendant further admitted that other than Wong, he had also made four other voucher claims for two other voucher recipients, namely Mr Yan (“Yan”) and Mr Lee (“Lee”), who had not received his healthcare services in person.
16. The two voucher claims as declared by the Defendant to be made for Yan are as follows:
 - (i) a claim in the amount of \$300 (transaction no. TV20110-208630-8) made on 10 January 2020 in which medicines/products (i.e. two bottles of vitamin) were provided; and

¹ and as clarified in his 4th Declaration

- (ii) a claim in the amount of \$150 (transaction no. TV20203-598956-8) made on 3 February 2020 in which medicine/product (i.e. one bottle of calcium) was provided.

(collectively “Yan’s 2 Voucher Claims”)

17. The two voucher claims as declared by the Defendant to be made for Lee are as follows:

- (i) a claim in the amount of \$250 (transaction no. TV20228-885853-0) made on 28 February 2020 in which medicines/products (i.e. Dulcolax and multiple vitamin for constipation) were provided; and

- (ii) a claim in the amount of \$260 (transaction no. TV20313-1045859-8) made on 13 March 2020 in which medicines/products (i.e. 10 small boxes of gentrisone cream and two bottles of M.E.S. cough syrup for itchy skin and coughing) were provided.

(collectively “Lee’s 2 Voucher Claims”).

18. In his 2nd Declaration, the Defendant declared that Yan resided in an elderly home and sometimes suffered from coughing and haematuria whereas Lee was on wheelchair and suffering from hypertension and benign prostate hyperplasia. The Defendant said that only the wives of Yan and Lee respectively visited his clinic on all the aforementioned occasions, but not Yan and Lee themselves.

19. In addition to the two letters, mentioned at paragraph 6 above, sent by the Defendant to the Secretary/Secretariat/PIC of the Council, the Defendant had sent to the Secretary/Secretariat/PIC three more letters, two of which are dated 7 January 2023, and one dated 27 June 2023. In all five letters, the Defendant expressly admitted that he had committed professional misconduct by prescribing medicines to persons without seeing the patients.

20. According to the rules and requirements under HCVS, vouchers can only be used for the treatments provided by EHCPs in their professional capacity to meet the healthcare needs of voucher recipients after consultation. Vouchers should not be used by voucher recipients only to purchase products and cannot be used to pay for those healthcare services received or medication obtained through voucher recipient’s family member or his/her proxy.

21. The Defendant admitted that he had prescribed medicines to Wong, Yan and Lee without seeing them in person. No doubt he was in breach or violation of the rules and requirements under HCVS. Having said that, albeit there was breach or violation of the rules and requirements under HCVS, such breach or violation *per se* was by so means sufficient to constitute professional misconduct.

22. It is stated in paragraph 9.1 of the Code of Professional Conduct (the “Code”) (2016 edition) that:

“A doctor may prescribe medicine to a patient only after proper consultation and only if drug treatment is appropriate...”

23. In respect of charge (a), Wong was never the Defendant’s patient. At all material times, the Defendant had never seen Wong or even Wong’s daughter or daughter-in-law, and provided medicines over the counter. Without seeing Wong in person, the Defendant simply would not know if the drug and the dosage prescribed were appropriate. A doctor should not simply rely on what a patient’s relative or representative said over the counter is the illness of the patient, and without more, prescribe medicines for the patient right away. A doctor has the responsibility to diagnose if such alleged illness is the case, and only if so, to prescribe appropriate medicines. In our view, the Defendant’s conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect as per disciplinary charge (a).
24. In respect of charges (b) and (c), both Yan and Lee were previous patients of the Defendant. The Defendant had provided some medical history about Yan and Lee. However, the Legal Officer representing the Secretary has provided no medical record in respect of Yan and Lee. We do not know when was the last time each of Yan and Lee had consulted the Defendant. We cannot therefore be sure if the medications so prescribed to Yan and Lee at the material times were after proper consultations. Due to insufficient evidence, we will acquit the Defendant of disciplinary charges (b) and (c).

Sentencing

25. The Defendant has a clear disciplinary record.
26. In line with our published policy, we shall give the Defendant credit in sentencing for his admission to disciplinary charge (a) and not contesting the issue of professional misconduct.
27. 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.
28. The offence of which the Defendant is convicted is very serious. He had never even seen Wong and prescribed potent medicines without assessing Wong’s blood pressure and sugar level. What is worse is that on 15 February 2020, he

prescribed medicines to Wong who had already passed away on 11 February 2020. We are very concerned with such kind of practice, in that the Defendant prescribed medicines for Wong, who was never his patient, and had even passed away. In order to protect the public from such totally unacceptable practice and uphold the professionalism of the medical profession, we consider that a more serious penalty should be imposed.

29. Taking into consideration the very serious nature and gravity of the Defendant's case and what we have heard and read from the Defendant's letters as mitigation, we order that in respect of disciplinary charge (a), the Defendant's name be removed from the General Register for a period of 1 month. Given the seriousness of this case, we do not consider that a suspension of our order is appropriate.

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