

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 CHANG Shao (張劭醫生)(Reg. No.: M04039)

Date of hearing: 25 September 2017 (Monday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS (Chairman)  
Dr IP Wing-yuk  
Dr LAU Chor-chiu, GMSM MH JP  
Ms LAU Wai-yee, Monita  
Mr WONG Hin-wing  
Prof. KWONG Yok-lam

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Dr David KAN of Messrs. Howse  
Williams Bowers

Government Counsel representing the Secretary: Ms Carmen SIU

1. The charge against the Defendant, Dr CHANG Shao, is :

“That in or about December 2011 to February 2012, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”) in that he failed to properly and adequately identify and/or treat the cervical spine injuries at C1/2 levels of the Patient arising from the diving accident in swimming pool occurred on 6 December 2011.

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 Defendant was at all material times a registered medical practitioner. His name has been included in the General Register from 14 August 1980 to present. His name has been included in the Specialist Register under the Specialty of Orthopaedics & Traumatology since 4 March 1998.
3. The Defendant admits the factual particulars of the disciplinary charge against him.
4. According to the Patient, he dived head first on a shallow pool in the Philippines. Initially, he had temporary loss of consciousness. He had also temporary loss of sensation and motor weakness over his body below the level of his head. He was later admitted to hospitals where CT scan of brain, X-rays and MRI of cervical spine were taken. There was however no specific mention of C1/2 level in any of the medical records obtained from the Philippines.
5. After his return to Hong Kong on 8 December 2011, the Patient was admitted to Queen Elizabeth Hospital. He was treated conservatively and discharged home on 10 December 2011.
6. There is no dispute that the Patient first consulted the Defendant at St Teresa's Hospital on 11 December 2011. According to the Patient, he told the Defendant how he injured himself in the Philippines. He also gave the Defendant the x-rays, CT scan, MRI films and reports issued by hospitals in the Philippines for the Defendant's reference.
7. According to the Defendant, he performed a physical examination and found no neurological deficit. Then he arranged for monitoring with a neuro-observation chart but again no change in the Patient's neurological status was detected. However, in order to exclude spinal instability, the Defendant further arranged for an x-ray in flexion and extension views of the Patient's cervical spine on 13 December 2011.
8. There is no dispute that the x-ray report subsequently issued by one Dr YIP of the X-Ray & Ultrasound Department of St Teresa's Hospital on 14 December 2011 at 18:30 hours revealed the following:-

“XRAY CERVICAL SPINE (Flexion and extension views)

...

C1-C2 interval measures upto 8 mm suggesting C1-C2 subluxation.

IMPRESSION:

There is evidence of C1-C2 subluxation.

...”

9. The Defendant could no longer recall whether he had the opportunity of reviewing the x-ray report before discharging the Patient from St Teresa’s Hospital. However that may be, the Defendant admits that it was his responsibility to press for the radiologist’s findings. He also accepts full responsibility for not identifying the subluxation at C1/2 level and hence the failure to treat the subluxation in good time.
10. The Patient disagreed. According to the Patient, the Defendant looked at the x-ray films and report when he made his ward round in the evening of 14 December 2011.
11. However that may be, the Patient was subsequently discharged home on 15 December 2011. Upon discharge from St Teresa’s Hospital, the Patient was referred to further physiotherapy.
12. And yet, the pain persisted. Eventually, the Patient consulted another orthopaedic specialist, one Dr WONG, on 16 February 2012, who told him after reviewing the x-rays that there was subluxation at C1/2 level of his cervical spine. The Patient was advised to undergo another MRI examination of his cervical spine at St Teresa’s Hospital, which further revealed impingement of the spinal cord at C1/2 level. On 23 February 2012, Dr WONG explained the MRI report to the Patient and advised him to undergo surgical treatment as soon as possible.
13. Realizing that Dr WONG’s diagnosis was markedly different from that of the Defendant, the Patient visited the Defendant’s clinic later the same day. After studying the x-rays and MRI report, the Defendant agreed with the diagnosis of Dr WONG and apologized to the Patient for having overlooked the subluxation at C1/2 level of the cervical spine.
14. The Patient later underwent 3 operations for treatment of the subluxation at C1/2 level of the cervical spine at private hospitals.

15. By a letter dated 13 September 2012, the Patient lodged the present complaint against the Defendant.

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

16. We bear in mind that the burden of proof is always on the Legal Officer 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.
17. There is no doubt that the allegation made against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine the disciplinary charge against the Defendant carefully.

### **Findings of the Medical Council**

18. The Defendant admits the factual particulars of the disciplinary charge against him but it still remains for us to decide whether the Defendant was guilty of professional misconduct.
19. Although there was no mention of injury at C1/2 level of the cervical spine in any of the medical reports relating to the Patient's previous hospital admissions, the x-ray report issued by Dr YIP clearly stated there was evidence of subluxation at C1/2 level.
20. We find it implausible that the Defendant would proceed to discharge the Patient on the following day if he had, according to the Patient, looked at the x-ray films and report in the evening of 14 December 2011. It is not entirely clear to us whether the Defendant had looked at the x-ray films but we find it more probable than not on the evidence before us that the Defendant did not look at the x-ray report before discharging the Patient home.

21. However that may be, the Defendant arranged for the x-ray in flexion and extension views with the intention to rule out spinal instability. In our view, the Defendant ought to review the x-ray films and report before discharging the Patient home. Moreover, when the Patient complained of persistent pain, the Defendant ought to review the x-ray films and report before advising him to continue with physiotherapy.
22. But then again, we agree with Dr TSE, the Secretary's expert, that the Defendant's subsequent recommendation for the Patient to undergo physiotherapy was related to his failure to make the proper diagnosis. Fortunately for the Patient, the delay in diagnosis and physiotherapy that he received did not cause further neurological deficits.
23. In our view, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find him guilty of professional misconduct as charged.

### **Sentencing**

24. The Defendant has a clear disciplinary record.
25. In line with published policy, we shall give him credit for his frank admission and cooperation throughout this inquiry.
26. We bear in mind that the 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 the high standards and good reputation of the profession.
27. We are particularly concerned about the Defendant's repeated failures to review the x-ray report which indicated that the Patient had suffered injury to his cervical spine with potential serious outcomes.
28. However, we accept that the Defendant had shown sufficient insight into his failings. Indeed, he admitted his mistake to the Patient at the first available opportunity. Given his genuine remorsefulness, we believe that the chance of his committing the same or similar disciplinary offence would be low.

29. Having considered the nature and gravity of the disciplinary charge in this case and what we have heard and read in mitigation, we order that the Defendant's name be removed from the General Register for a period of 1 month. We further order that the operation of the removal order be suspended for 24 months.

**Remark**

30. The Defendant's name 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. LAU Wan-yee, Joseph, SBS  
Chairman,  
The Medical Council of Hong Kong