

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

---

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

2<sup>nd</sup> Defendant: Dr CHAN Yip Wang George (陳業宏醫生) (Reg. No.: M13035)

3<sup>rd</sup> Defendant: Dr MAK Tak Wah (麥德華醫生) (Reg. No.: M12472)

5<sup>th</sup> Defendant: Dr TSANG Kwong Man (曾廣文醫生) (Reg. No.: M06021)

Date of hearing: 10 June 2020 (Wednesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel  
(Chairperson of the Inquiry Panel)  
Dr HO Hung-kwong, Duncan  
Dr HAU Kai-ching  
Mrs BIRCH LEE Suk-yee, Sandra, GBS, JP  
Mr YUEN Hon-lam, Joseph

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants: Ms Alison Scott of  
Messrs. Howse Williams

Defence Counsel representing the 5<sup>th</sup> Defendants: Ms Ann LUI as instructed by  
Messrs. Kennedys

Government Counsel representing the Secretary: Miss Joycelyn HO

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. The charges against the 2<sup>nd</sup> Defendant, Dr CHAN Yip Wang George are:

*“That in or about 2016, he, being a registered medical practitioner, disregarded his professional responsibility to his patients, in that he:*

- (a) signed on one use of restrainers form in residential care homes for elderly (“Use of Restrainers Form”) without proper assessment records made;*
- (b) signed on one medical examination form for residents in residential care homes for elderly (“Medical Examination Form for Residents”) without proper assessment records made;*
- (c) signed on one medical examination form for staff in residential care homes for elderly (“Medical Examination Form for Staff”) without proper assessment records made; and/or*
- (d) failed to take adequate steps to ensure information in the Use of Restrainers Form, Medical Examination Form for Residents and Medical Examination Form for Staff were properly filled in.*

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

3. The charges against the 3<sup>rd</sup> Defendant Dr MAK Tak Wah are:

*“That in or about 2016, he, being a registered medical practitioner, disregarded his professional responsibility to his patients, in that he:*

- (a) signed on four use of restrainers forms in residential care homes for elderly (“Four Use of Restrainers Forms”) without proper assessment records made;*
- (b) signed on three medical examination forms for residents in residential care homes for elderly (“Three Medical Examination Forms for Residents”) without proper assessment records made;*
- (c) signed on one medical examination form for staff in residential care homes for elderly (“Medical Examination Form for Staff”) without proper assessment records made; and/or*
- (d) failed to take adequate steps to ensure information in the Four Use of Restrainers Forms, Three Medical Examination Forms for Residents and the Medical Examination Form for Staff were properly filled in.*

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. The charges against the 5<sup>th</sup> Defendant Dr TSANG Kwong Man are:

*“That in or about 2016, he, being a registered medical practitioner, disregarded his professional responsibility to his patients, in that he:*

*(a) signed on two use of restrainers forms in residential care homes for elderly (“Two Use of Restrainers Forms”) without proper assessment records made; and/or*

*(b) failed to take adequate steps to ensure information in the Two Use of Restrainers Forms were properly filled in.*

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Facts of the case**

7. [REDACTED]

8. The name of the 2<sup>nd</sup> Defendant has been included in the General Register from 3 July 2001 to present. His name had never been included in the Specialist Register.

9. The name of the 3<sup>rd</sup> Defendant has been included in the General Register from 3 August 1999 to present. His name had never been included in the Specialist Register.

10. [REDACTED]

11. The name of the 5<sup>th</sup> Defendant was at all material times and still is included in the General Register. His name had never been included in the Specialist Register.

12. [REDACTED]

13. By a memo from the Director of Social Welfare (“the Director”) of 17 June 2016, the Director reported to this Council suspected mal-practices of the 1<sup>st</sup> to 6<sup>th</sup> Defendants.

14. According to the Director, restrainers will be used by residential care homes for the elderly (“RCHEs”) to limit residents’ movement so as to minimize harm to self and/or other residents if necessary. As set out in the Code of Practice for Residential Care Homes (Elderly Persons) (“Code for RCHEs”), restrainers shall only be used in RCHEs with prior written consent obtained from a registered medical practitioner, the resident and/or his/her guardian/guarantor/family members/relatives. RCHEs are required to use the standardized assessment record cum consent form enclosed in the Code for RCHEs (“Use of Restrainers Form”). The Licensing Office of Residential Care Homes (“Licensing Office”) for the Elderly conducted inspections to RCHEs from time to time to check their compliance to the Code for RCHEs. The inspectors of the Licensing Office had found:

(a) [REDACTED]

- (b) one Use of Restrainers Form signed by the 2<sup>nd</sup> Defendant without proper assessment records made;
- (c) four Use of Restrainers Forms signed by the 3<sup>rd</sup> Defendant without proper assessment records made;
- (d) [REDACTED]
- (e) two Use of Restrainers Forms signed by the 5<sup>th</sup> Defendant without proper assessment records made; and
- (f) [REDACTED]

15. In addition, the inspectors of the Licensing Office had found:

- (a) one medical examination form for residents in RCHE (“Medical Examination Form for Residents”) signed by the 2<sup>nd</sup> Defendant without proper assessment records made;
- (b) one medical examination form for staff in RCHE (“Medical Examination Form for Staff”) signed by the 2<sup>nd</sup> Defendant without proper assessment records made;
- (c) three Medical Examination Forms for Residents signed by the 3<sup>rd</sup> Defendant without proper assessment records made;
- (d) one Medical Examination Form for Staff signed by the 3<sup>rd</sup> Defendant without proper assessment records made; and
- (e) [REDACTED]

16. According to the Director, the signing by the [REDACTED] Defendants in their respective Use of Restrainers Forms, Medical Examination Forms for Residents and/or Medical Examination Forms for Staff without proper assessment records made pose the risk of the forms being used by RCHEs abusively without arranging the residents or staff to undergo medical assessment, which may hamper the welfare of the residents.

17. [REDACTED]

18. The [REDACTED] Defendants do not contest the respective charges against them and admitted to the facts of their respective charges.

**Burden and Standard of Proof**

19. We bear in mind that the burden of proof is always on the Legal Officer and the Defendants do not have to prove their 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.
20. There is no doubt that the allegations against each of the Defendants 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 each of them carefully.

**Findings of the Inquiry Panel**

21. According to paragraph 1.1.3 of the Code of Professional Conduct of this Council (Revised in January 2016), it is stated that “all doctors have the responsibility to maintain systematic, true, adequate, clear and contemporaneous medical records.”
22. In our view, the Use of Restrainers Forms, the Medical Examination Forms for Residents and the Medical Examination Forms for Staff are formatted medical reports, and no doubt they have to be contemporaneous.
23. Further, improper restrainer use can cause morbidity and mortality.

[REDACTED]

24. [REDACTED]  
[REDACTED]

25. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

26. [REDACTED]

27. [REDACTED]

28. [REDACTED]

*2<sup>nd</sup> Defendant (Dr CHAN Yip Wang George (陳業宏醫生))*

29. The four charges against the 2<sup>nd</sup> Defendant are in relation to one Use of Restrainers Form, one Medical Examination Form for Residents, and one Medical Examination Form for Staff (at 松柏安老院).

30. The Use of Restrainers Form was basically a blank form which bore the signatures and name chops of the 2<sup>nd</sup> Defendant confirming the use of restrainers. No assessment record was filled in. There was not even the name of the patient.

31. The Medical Examination Form for Residents did not show any patient's name, but at all the boxes under heading "Part II -- History of Major Illness" had been checked "No". The boxes under heading "Part IV – Functional Assessment" had all been checked. This form was signed by the 2<sup>nd</sup> Defendant with his name chops affixed thereon.

32. The Medical Examination Form for Staff did not show any name of staff. Under heading "physical examination", it was put down "NAD" (no abnormality detected). All the boxes under heading "Others" on previous/present illness of staff had been checked "No", and was checked "yes" on the box which asked if the staff was suitable to work in the RCHE. At the bottom of the form, it bore the signature and name chop of the 2<sup>nd</sup> Defendant. This form was undated.

33. We are satisfied that the facts in Charges (a) to (d) have been proved and each amounts to misconduct in a professional respect. We find the 2<sup>nd</sup> Defendant guilty of Charges (a) to (d).



*3<sup>rd</sup> Defendant (Dr MAK Tak Wah (麥德華醫生))*

34. The four charges against the 3<sup>rd</sup> Defendant are in relation to four Use of Restrainers Forms (at Telford Home For the Elderly, Ray of Sun Nursing Home Limited, Longevity (Comprehensive Healthcare) For the Senior, and 愛群理療護理院有限公司) three Medical Examination Forms for Residents, and one Medical Examination Form for Staff.
35. The four Use of Restrainers Forms were in relation to four different RCHEs. Each of the said four forms had nothing filled in. They only bore the signatures and name chops of the 3<sup>rd</sup> Defendant. All of them were undated.
36. The three Medical Examination Forms for Residents were in relation to three different RCHEs. All of them except with some remarks under their respective “Part III – Physical Examination” were filled out, nothing in the rest of the forms were filled out. Not even the names of the patients were filled in. All the forms bore the signatures and name chops of the 3<sup>rd</sup> Defendant. All the forms were undated.
37. The Medical Examination Form for Staff did not have any name of the staff. Except with some remarks made in the middle, the rest were left blank. This form bore the signature and name chop of the 3<sup>rd</sup> Defendant. This form was undated.
38. We are satisfied that the facts in Charges (a) to (d) have been proved and each amounts to misconduct in a professional respect. We find the 3<sup>rd</sup> Defendant guilty of Charges (a) to (d).

[REDACTED]

39. [REDACTED]  
[REDACTED].

40. [REDACTED]  
[REDACTED]  
[REDACTED]

41. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

42.

[REDACTED]

43.

[REDACTED]

44.

[REDACTED]

*5<sup>th</sup> Defendant (Dr TSANG Kwong Man (曾廣文醫生))*

45. The two charges against the 5<sup>th</sup> Defendant are in relation to two Use of Restrainers Forms (at Kwong On Home of the Aged and 健安長者之家).

46. The 5<sup>th</sup> Defendant said that his usual practice was to carry out physical and psychological assessment of the patients at RCHEs, and discussed with superintendents at RCHEs possible alternatives to restrainers before signing on the Use of Restrainers Forms.

47. We have looked at the two Use of Restrainers Forms sent by the Director to the Council. They concern two different RCHEs. They are basically two blank forms, with no patient's names and no assessment at all. All parts were left blank. Both forms were undated. Both forms bore the signatures and name chops of the 5<sup>th</sup> Defendant confirming his approval to use restrainers.

48. Despite what the 5<sup>th</sup> Defendant said of his usual practice, clearly he was not following his alleged usual practice when pre-signing on the two Use of Restrainers Forms in question.

49. In respect of the Charge (a), the 5<sup>th</sup> Defendant admitted that he had not made a "sufficient record" of his assessments in both elderly cases.

50. In respect of Charge (b), the 5<sup>th</sup> Defendant admitted that he has to take full responsibility for failing to take adequate steps to ensure the information in the two Use of Restrainers Forms were adequately filled in.

51. We are satisfied that the facts of Charges (a) and (b) have been proved and each amounts to misconduct in a professional respect. We find the 5<sup>th</sup> Defendant guilty of Charges (a) and (b).

[Redacted]

52. [Redacted]  
[Redacted]  
[Redacted].

53. [Redacted]  
[Redacted]  
[Redacted]  
[Redacted].

54. [Redacted]  
[Redacted]  
[Redacted].

55. [Redacted]  
[Redacted]  
[Redacted].

**Sentencing**

[Redacted]

56. [Redacted]  
[Redacted]  
[Redacted].

57. [Redacted]  
[Redacted].

58. [Redacted]  
[Redacted]  
[Redacted].

59. [Redacted]

60. [Redacted]  
[Redacted]  
[Redacted]  
[Redacted].

*2<sup>nd</sup> Defendant (Dr CHAN Yip Wang George (陳業宏醫生))*

61. In the 2<sup>nd</sup> Defendant's case, it concerns a number of forms.
62. The 2<sup>nd</sup> Defendant has a clear disciplinary record. In accordance with our established policy, we shall give the 2<sup>nd</sup> Defendant credit for his frank admission and cooperation before us today.
63. The 2<sup>nd</sup> Defendant said that he has taken remedial steps and has obtained confirmation from the RCHEs which he attended that they shall not keep any signed blank form.
64. The 2<sup>nd</sup> Defendant is remorseful and he apologized for his mistakes.
65. However, as mentioned above, the Medical Examination Form for Staff did not have the name of any staff. Under heading "physical examination", it was put down "NAD (no abnormality detected). All the boxes under the heading "Others" on previous/present illness of staff had been checked "No", and was checked "yes" on the box which asked if the staff was suitable to work in the RCHE. It is obvious that the record was made without any examination.
66. Having considered the nature and gravity of the disciplinary charges and what we have read and heard in mitigation, we make a global order in respect of charges (a) to (d) that the 2<sup>nd</sup> Defendant be removed from the General Register for a period of 1 month. We further order that the removal order be suspended for 6 months.

*3<sup>rd</sup> Defendant (Dr MAK Tak Wah (麥德華醫生))*

67. In the 3<sup>rd</sup> Defendant's case, it concerns a number of forms.
68. The 3<sup>rd</sup> Defendant has a clear disciplinary record. In accordance with our established policy, we shall give the 3<sup>rd</sup> Defendant credit for his frank admission and cooperation before us today.
69. The 3<sup>rd</sup> Defendant said that he has taken remedial steps and has obtained confirmation from the RCHEs which he attended that they shall not keep any signed blank form.
70. The 3<sup>rd</sup> Defendant is remorseful and he apologized for his mistakes.

71. However, in all the Medical Examination Forms for Residents and the Medical Examination Form for Staff, there was no name of any patient, yet they all contain record of examination. It is obvious that the record was made without any examination.

72. Having considered the nature and gravity of the disciplinary charges and what we have read and heard in mitigation, we make a global order in respect of charges (a) to (d) that the 3<sup>rd</sup> Defendant be removed from the General Register for a period of 1 month. We further order that the removal order be suspended for a period of 6 months.

[REDACTED]

73. [REDACTED]

74. [REDACTED]

75. [REDACTED]

76. [REDACTED]

77.

[REDACTED]

*5<sup>th</sup> Defendant (Dr TSANG Kwong Man (曾廣文醫生))*

78. In accordance with our established policy, we shall give the 5<sup>th</sup> Defendant credit for his frank admission and cooperation before us today.

79. The 5<sup>th</sup> Defendant apologized for his failing to make/maintain adequate assessment record in relation to the two Use of Restrainers Forms and his failure to ensure that the said forms were adequately filled in.

80. The 5<sup>th</sup> Defendant also told us that since the incident he had learnt to be extra vigilant and to devote more time and attention to making sure the assessment records were completed so as to ensure there were adequate documentation. He also said he used to be the visiting doctor of 30 RCHEs which he visited twice per month, and after reviewing his practice since the complaint, he had reduced his visit to RCHEs to only 15, and all of which he visited twice per week and increasing the time of visit each time. These would ensure that he had more time and opportunity to communicate with staff and residents and to ensure that the assessment records for use of restraints were all completed and up to standard.

81. However, the 5<sup>th</sup> Defendant has three disciplinary records back in 1987, 2000 and 2003 respectively. The first disciplinary record relates to his failing to exercise effective personal supervision and retain personal responsibility for the treatment of patients. The second disciplinary record relates to the issue of untrue or misleading sick leave certificate to a patient without giving bona fide consultation and treatment to him on the date of the said certificate. The third disciplinary record relates to the conviction of conspiracy to falsify accounts and attempted fraud. We accept that the previous disciplinary offences were committed long time ago. However, the disciplinary offences from the second and third disciplinary records and the present disciplinary offences are of similar nature. The previous disciplinary sanctions against the 5<sup>th</sup> Defendant did not seem to have much effect.

82. Having considered the nature and gravity of the disciplinary charges and what we have read and heard in mitigation, we make a global order in respect of charges (a) and (b) that the name of the 5<sup>th</sup> Defendant be removed from the General Register for the period of 1 month.

83. Given his repeated disciplinary offences, we do not consider suspension in this case.

[REDACTED]

84. [REDACTED]  
[REDACTED]  
[REDACTED].

85. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

86. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

**Remarks**

87. In respect of the Use of Restrainers Forms in this case, there are so many doctors involved. In our view, this may be due to the lack of resources of RCHEs. If there were sufficient resources to ensure frequent attendance of doctors to RCHEs to assess the patients before deciding on the use of restrainers, that would have avoided the improper practice by some doctors in signing on blank forms. In any event, this is not a matter for this panel. We wish that the relevant authority could look seriously in this matter.

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