

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

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

1<sup>st</sup> Defendant: Dr HO Kwong Chi Andrew (何廣志醫生) (Reg. No.: M05383)  
2<sup>nd</sup> Defendant: Dr LEUNG Kam Fai Thomas (梁鑫暉醫生) (Reg. No.: M13230)  
3<sup>rd</sup> Defendant: Dr LO Chun Wai (勞振威醫生) (Reg. No.: M01906)  
4<sup>th</sup> Defendant: Dr MAK Tak Wah (麥德華醫生) (Reg. No.: M12472)  
5<sup>th</sup> Defendant: Dr NG Mei Sin (吳美仙醫生) (Reg. No.: M05658)  
6<sup>th</sup> Defendant: Dr SO Cheung Fai (蘇祥輝醫生) (Reg. No.: M05632)  
Date of hearing: 7 September 2021 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel  
(Chairperson of the Inquiry Panel)  
Dr CHAN Tin-sang, Augustine  
Dr MOK Chun-keung, Francis  
Mr MUI Cheuk-nang, Kenny  
Mr HUI Man-kit, Patrick

Legal Adviser: Mr Edward SHUM

All the Defendants except the 6<sup>th</sup> Defendant are present.

Defence Counsel representing the 1<sup>st</sup> Defendant: Mr Eddie NG instructed by  
Messrs. Victor Yeung & Co.

Defence Solicitor representing the 2<sup>nd</sup>, 4<sup>th</sup> & 6<sup>th</sup> Defendants: Ms Alison SCOTT of  
Messrs. Howse Williams

The 3<sup>rd</sup> Defendant is not legally represented.

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

Senior Government Counsel representing the Secretary: Miss Vienne LUK

1. The charges against the 1<sup>st</sup> Defendant, Dr HO Kwong Chi Andrew, are:

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

- (a) *signed on two consent forms for the use of physical restrainer in residential care homes for the elderly (“Two Use of Restrainer Forms”) without proper assessment records made; and/or*
- (b) *failed to take adequate steps to ensure information in the Two Use of Restrainer Forms were properly filled in before signing the same.*

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

2. The charges against the 2<sup>nd</sup> Defendant, Dr LEUNG Kam Fai Thomas, are:

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

- (a) *signed on five consent forms for the use of physical restrainer in residential care homes for the elderly (“Five Use of Restrainer Forms”) without proper assessment records made; and/or*
- (b) *failed to take adequate steps to ensure information in the Five Use of Restrainer Forms were properly filled in before signing the same.*

*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 LO Chun Wai, are:

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

- (a) *signed on three consent forms for the use of physical restrainer in residential care homes for the elderly (“Three Use of Restrainer Forms”) without proper assessment records made; and/or*

(b) *failed to take adequate steps to ensure information in the Three Use of Restrainer Forms were properly filled in before signing the same.*

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

4. The charges against the 4<sup>th</sup> Defendant, Dr MAK Tak Wah, are:

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

(a) *signed on one medical examination form for residents in residential care homes for the elderly (“Medical Examination Form”) without proper assessment records made; and/or*

(b) *failed to take adequate steps to ensure information in the Medical Examination Form was properly filled in before signing the same.*

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

5. The charges against the 5<sup>th</sup> Defendant, Dr NG Mei Sin, are:

*“That in or about 2016, she, being a registered medical practitioner, disregarded her professional responsibility to her patient(s), in that she:*

(a) *signed on five consent forms for the use of physical restrainer in residential care homes for the elderly (“Five Use of Restrainer Forms”) without proper assessment records made; and/or*

(b) *failed to take adequate steps to ensure information in the Five Use of Restrainer Forms were properly filled in before signing the same.*

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

6. The charges against the 6<sup>th</sup> Defendant, Dr SO Cheung Fai, are:

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

*(a) signed on one consent form for the use of physical restrainer in residential care homes for the elderly (“Use of Restrainer Form”) without proper assessment records made; and/or*

*(b) failed to take adequate steps to ensure information in the Use of Restrainer Form was properly filled in before signing the same.*

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

#### **Facts of the case**

7. The name of the 1<sup>st</sup> Defendant was at all material times and still is included in the General Register. His name has never been included in the Specialist Register.

8. The name of the 2<sup>nd</sup> 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.

9. The name of the 3<sup>rd</sup> Defendant has been included in the General Register from 14 March 1972 to the present. His name has been included in the Specialist Register under the Specialty of Psychiatry since 4 March 1998.

10. The name of the 4<sup>th</sup> Defendant has been included in the General Register from 3 August 1999 to the present. His name has never been included in the Specialist Register.

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

12. The name of the 6<sup>th</sup> Defendant has been included in the General Register from 8 March 1985 to the present. His name has never been included in the Specialist Register.
13. Briefly stated, the Secretary of the Council (the “Secretary”) was informed by Social Welfare Department (“SWD”) vide its memo dated 15 February 2017 that the following irregularities were noted during inspections of residential care homes for the elderly (“RCHes”), namely, that:-
  - (a) blank consent forms for the Use of Physical Restraints (“Consent Forms”) were signed by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup> and 6<sup>th</sup> Defendants without any assessment record being made; and
  - (b) a blank medical examination form (“Medical Examination Form”) was signed by the 4<sup>th</sup> Defendant.
14. Upon the request of the Secretary, copies of the said blank forms, which were seized by the inspectors of the Licensing Office of RCHes, were provided by SWD under the cover of its letter to the Secretary dated 5 June 2020.
15. In addition to copies of the said blank forms, the Legal Officer also placed before us today extracts from the Code of Practice for Residential Care Homes (Elderly Persons) (March 2013 revised edition) (the “Code for RCHes”) issued by SWD for our consideration.

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

16. 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.
17. 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 the respective disciplinary charges against each of them separately and carefully.

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

18. It is evident to us from reading the “*Notes on Correct Use of Restraints*” extracted from the Code for RCHEs that assessments of the conditions of individual residents in respect of whom use of restraints are needed would be made by nurses or health workers in the RCHEs.

19. However, all registered medical practitioners ought to have taken into account the results of assessment before indicating on the Consent Form(s) their agreement or disagreement to the proposed use of restrainers. For this reason, the signing of Consent Form(s) without proper assessment records being made thereon is in our view prohibited.

20. It is clearly stated in section 26 of the Code of Professional Conduct (2016 edition) (the “Code”) that:-

“26.1 *Doctors are required to issue... certificates... on the basis that the truth of the contents can be accepted without question. Doctors are expected to exercise care in issuing certificates and similar documents...*

...

26.3 *Any doctor who in his professional capacity gives any certificate or similar document containing statements which are untrue, misleading or otherwise improper renders himself liable to disciplinary proceedings. The signing of blank certificates is prohibited by the Council.”*

21. In this connection, it is in our view incumbent upon all registered medical practitioners to take adequate steps to ensure information in the Consent Form(s) and/or Medical Examination Form was properly filled in before signing the same.

*1<sup>st</sup> Defendant (Dr HO Kwong Chi Andrew (何廣志醫生))*

22. The 1<sup>st</sup> Defendant admitted the factual particulars of the disciplinary charges (a) and (b) against him.

23. It is evident to us from reading the 2 subject Consent Forms that each of them bore the signature and chop of the 1<sup>st</sup> Defendant. Moreover, essential information had been missing from the 2 subject Consent Forms. First, they were undated. Second, they were without proper assessment records being made. Third, names of residents being assessed were missing.

24. In his submission to the Preliminary Investigation Committee (“PIC”) of the Council dated 5 November 2020, the 1<sup>st</sup> Defendant sought to explain that:-

*“...when I face with the challenge (the dire predicament of residents of this kind of RCHE), I give urgent care as a humanitarian duty. When an elderly resident is newly admitted or returns to RCHE from Accident and Emergency Department of a hospital after an accidental injury, if a restrainer is urgently needed to protect the resident..., and the family member already signs the Use of Restrainer Form with full information, there is a time gap before the restrainer can be used because the medical doctor like myself is only asked to attend the RCHE ward round once a month (prior mutual agreement). Very rarely can the restrainer be instituted on the same day. It is during this time gap that injury can occur. As the elderly residents in this kind of low standard RCHEs usually do not or could not afford to call in a medical doctor whenever the latter is needed for medical attention, and there is no arrangement by the public sector to provide a medical doctor to go into the RCHE to assess and sign the “use of restrainer” Form on the same day as the family member. Tragedy can happen and has occurred... after I stop issuing the pre-signed use of restrainer form, in respect of this present and similar complaint. I did not volunteer to provide pre-signed “Use of Restrainer” form because this is unorthodox practice, but only at urgent request by the RCHE management in order to abolish this time gap and protect the residents from injury which can be serious and life threatening...”*

25. We do not accept the 1<sup>st</sup> Defendant’s explanation that they were pre-signed for use by specific residents. Unlike what the 1<sup>st</sup> Defendant had mentioned in his PIC submission, the 2 subject Consent Forms were blank.

26. By signing on the 2 subject Consent Forms without proper assessment records being made thereon, the 1<sup>st</sup> Defendant had in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the 1<sup>st</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (a).

27. Also, in failing to take adequate steps to ensure that the 2 subject Consent Forms were properly filled in with the said essential information before signing the same, the Defendant had in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we also find the 1<sup>st</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (b).

*2<sup>nd</sup> Defendant (Dr LEUNG Kam Fai Thomas (梁鑫暉醫生))*

28. The 2<sup>nd</sup> Defendant admitted the factual particulars of the disciplinary charges (a) and (b) against him.
29. In his PIC submission, the 2<sup>nd</sup> Defendant apologized for what had happened and sought to explain that:-

*“On 14 October 2016... routine assessment of four elderly residents (Lam [REDACTED] ..., Li [REDACTED] ..., Lee [REDACTED] ... and Man [REDACTED] ...) was carried out, in order to assess whether these residents’ conditions require them to be put on physical restraints.*

*...*

*The form (Pre-Application Assessment Record and Consent for Applying Restraints) was prepared and Part 1 and Part 2 of the form were filled up by health worker, and then the information provided were checked by me.*

*Part 3 of the form (Doctor’s comment) was then filled up and signed by me at the same time.*

*...*

*On 26 October 2016..., I was informed by health worker that the forms completed on 14 October 2016 were lost, and it was necessary to complete the form again...*

*As the conditions of these four residents have not changed since the previous visit on 14 October 2016, it was agreed by me and health worker that these new forms should be filled up with the same information / contents as on 14 October 2016...*

*However, I was summoned by nurse from my clinic to attend an urgent medical case and it was just not sufficient time for the form to be filled... And I had decided to fill in Part 3 of the form first and Part 1 and Part 2 of the form to be filled up by health worker afterwards...”*



30. Through his solicitors' letter dated 27 November 2020, the 2<sup>nd</sup> Defendant further submitted that:-

*“At the request of the health worker at the Home, Dr. Leung signed a further form with no patient name as the health worker was concerned she may make a mistake in completing Part I and Part II of the forms. Dr. Leung agreed but only on the understanding that once the four forms were completed correctly, this one would be destroyed. Unfortunately, that did not occur...”*

31. However that may be, there is no dispute that essential information had been missing from the 5 subject Consent Forms. First, they were undated. Second, they were without proper assessment records being made thereon. Third, the names and sexes of the residents being assessed were missing from 2 out of the 5 subject Consent Forms.

32. There was however a tick in the box indicating agreement to the use of restraint in Part 3 under the heading of “Doctor’s Comment” in 4 out of 5 of the Consent Forms.

33. By signing on the 5 subject Consent Forms without proper assessment records being made thereon, the 2<sup>nd</sup> Defendant had in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the 2<sup>nd</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (a).

34. Also, in failing to take adequate steps to ensure that the 5 subject Consent Forms were properly filled in with the said essential information before signing the same, the Defendant had also in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we also find the 2<sup>nd</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (b).

*3<sup>rd</sup> Defendant (Dr LO Chun Wai (勞振威醫生))*

35. In his submission to the PIC dated 20 October 2020, the 3<sup>rd</sup> Defendant sought to explain that:-

*“Because of the ingrained poor reputation of old age homes, some relatives are at a dilemma when making the decision to send his/her beloved elderlies to old age home. He/ she cannot take care of the patient at home, and yet they have the fear and guilt feeling that their beloved ones might be maltreated. So when physical restrain is suggested, they might overreact and become angry and paranoid.*

*I vaguely recalled such a case when one day (probably in 2016) an old age home staff told me that a newly admitted case was taken home by his son when he found restrainer was applied to the client, before I was able to see the elderly. When I tried to contact the staff a few days ago, they claimed to have no recollection of the case and the case file has been discarded after a period of two years. So no clinical records could be traced for inspection.”*

36. It is however evident to us from reading the 3 subject Consent Forms that each of them bore the signature and chop of the 3<sup>rd</sup> Defendant. Moreover, essential information had been missing from the 3 subject Consent Forms. First, they were undated. Second, they were without proper assessment records being made. Third, names of the residents being assessed were missing.
37. When being cross-examined by the Legal Officer, the 3<sup>rd</sup> Defendant accepted that he had no specific residents in mind when he signed the 3 blank Consent Forms. He sought to explain that he had delegated the decision to apply restrainers on nursing staff of the relevant RCHE whom he trusted.
38. We disagree. In our view, the real point is that without proper assessment records being made and no specific residents in mind, there was no way to ensure that restraints would not be misused.
39. By signing on the 3 subject Consent Forms without proper assessment records being made thereon, the 3<sup>rd</sup> Defendant had in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the 3<sup>rd</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (a).
40. Also, in failing to take adequate steps to ensure that the 3 subject Consent Forms were properly filled in with the said essential information before signing the same, the Defendant had also in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong.

Accordingly, we also find the 3<sup>rd</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (b).

4<sup>th</sup> Defendant (Dr MAK Tak Wah (麥德華醫生))

41. The 4<sup>th</sup> Defendant admitted the factual particulars of the disciplinary charges (a) and (b) against him.

42. Through his solicitor's letter dated 5 September 2018, the 4<sup>th</sup> Defendant apologized to the PIC for what had happened and sought to explain that:-

*“...Dr. Mak believed that he may have been asked to sign more forms than were required as nurses at the Homes were concerned that the SWD required residents to have a signed restraint form and medical assessment form in place on the day of a resident's admission or when an inspection by the SWD was anticipated...”*

*Dr. Mak accepted he should have checked in each case that the number of form signed by him tallied with the number of residents or staff members he examined...”*

43. It is evident to us from reading the subject Medical Examination Form that it bore the signature and chop of the 4<sup>th</sup> Defendant. Moreover, essential information had been missing from the subject Medical Examination Form. First, it was undated. Second, the name of the resident being medically examined was missing. Third, save for certain remarks (some of which were illegible) in Part III-Physical Examination, the rest of the subject Medical Examination Form was left blank.

44. By signing on the subject Medical Examination Form without proper assessment records being made thereon, the 4<sup>th</sup> Defendant had in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the 4<sup>th</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (a).

45. And in failing to take adequate steps to ensure that the subject Medical Examination Form was properly filled in with the said essential information before signing the same, the Defendant had also in our view by his conduct fallen below the standards expected of registered medical practitioners in

Hong Kong. Accordingly, we also find the 4<sup>th</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (b).

*5<sup>th</sup> Defendant (Dr NG Mei Sin (吳美仙醫生))*

46. The 5<sup>th</sup> Defendant admitted the factual particulars of the disciplinary charges (a) and (b) against her.
47. It is evident to us from reading the 5 subject Consent Forms that each of them bore the signature and chop of the 5<sup>th</sup> Defendant. Moreover, essential information had been missing from the 5 subject Consent Forms. First, they were undated. Second, they were without proper assessment records being made. Third, names of the residents being assessed were missing.
48. There was however a tick in the box indicating agreement to the use of restraints in Part 3 under the heading of “Doctor’s Comment” in all the 5 subject Consent Forms. Also, the 5 subject Consent Forms bore the stamp of the relevant RCHE.
49. By signing on the 5 subject Consent Forms without proper assessment records being made, the 5<sup>th</sup> Defendant had in our view by her conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the 5<sup>th</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (a).
50. Also, in failing to take adequate steps to ensure that the 5 subject Consent Forms were properly filled in with the said essential information before signing the same, the Defendant had also in our view by her conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we also find the 5<sup>th</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (b).

*6<sup>th</sup> Defendant (Dr SO Cheung Fai (蘇祥輝醫生))*

51. The 6<sup>th</sup> Defendant admitted through his solicitor the factual particulars of the disciplinary charges (a) and (b) against him.
52. It is evident to us from reading the subject Consent Form that it bore the signature of the 6<sup>th</sup> Defendant. Moreover, essential information had been

missing from the Consent Form. First, it was undated. Second, it was without proper assessment records being made. Third, name of the resident being assessed was missing.

53. By signing on the subject Consent Form without proper assessment records being made thereon, the 6<sup>th</sup> Defendant had in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the 6<sup>th</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (a).
54. Also, in failing to take adequate steps to ensure that the subject Consent Form was filled in with the said essential information before signing the same, the Defendant had in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we also find the 6<sup>th</sup> Defendant guilty of misconduct in a professional respect as per disciplinary charge (b).

### **Sentencing**

55. We bear in mind that the primary purpose of a disciplinary order is not to punish the Defendants 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.

*1<sup>st</sup> Defendant (Dr HO Kwong Chi Andrew (何廣志醫生))*

56. In line with our published policy, we shall give the 1<sup>st</sup> Defendant credit in sentencing for his frank admission and not contesting the issue of professional misconduct.
57. The 1<sup>st</sup> Defendant has a previous disciplinary record. He was found guilty of professional misconduct after due inquiry on 10 June 2020 of the following disciplinary charges and was given a warning letter:-

*“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”) without proper assessment records made; and/or*
- (c) *failed to take adequate steps to ensure information in the Use of Restrainers Form and Medical Examination Form were properly filled in.”*

58. In our view, the signing of the subject blank Consent Forms by the 1<sup>st</sup> Defendant in the present case was not isolated incidents.

59. We are particularly concerned that in his latest PIC submission dated 5 November 2020, the 1<sup>st</sup> Defendant was still trying to put up the excuse that he pre-signed the subject Consent Forms for specific residents out of good heart.

60. Apparently, the 1<sup>st</sup> Defendant still failed to realize the seriousness of his misconduct. We need to ensure that the 1<sup>st</sup> Defendant will not commit the same or similar misconduct in the future.

61. Taking into consideration the nature and gravity of the proven case against the 1<sup>st</sup> Defendant and what we have read and heard in mitigation, we shall make a global order in respect of disciplinary charges (a) and (b) that the name of the 1<sup>st</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.

*2<sup>nd</sup> Defendant (Dr LEUNG Kam Fai Thomas (梁鑫暉醫生))*

62. The 2<sup>nd</sup> Defendant has a clear disciplinary record.

63. In line with our published policy, we shall give the 2<sup>nd</sup> Defendant credit in sentencing for his frank admission and not contesting the issue of professional misconduct.

64. We accept the 2<sup>nd</sup> Defendant’s explanation of how the signed blank Consent Forms came about. We also accept that this was an isolated incident.

65. Taking into consideration the nature and gravity of the proven case against the 2<sup>nd</sup> Defendant and what we have read and heard in mitigation, we shall make a global order in respect of disciplinary charges (a) and (b) that a warning letter be issued to the 2<sup>nd</sup> Defendant. We further order that the order shall be published in the Gazette.

*3<sup>rd</sup> Defendant (Dr LO Chun Wai (勞振威醫生))*

66. The 3<sup>rd</sup> Defendant has a disciplinary record back in 2017. The disciplinary record relates to his criminal conviction for failure to comply with the statutory requirements to keep proper Dangerous Drugs Registers. We acknowledge that the present case is of a different nature.

67. We are however particularly concerned that the 3<sup>rd</sup> Defendant still maintained in his latest PIC submission dated 20 October 2020 that:-

*“To sum up, I have tried to put patient welfare and safety on a higher priority. The delegation of power was given not without hesitation or consideration and it appeared necessary at a time of limited resources and funding...”*

68. The real point in our view is that by signing the 3 subject Consent Forms in blank, the 3<sup>rd</sup> Defendant could not even recall to whom the 3 subject Consent Forms related and let alone ensuring that the welfare and safety of the residents under restraint would be safeguarded.

69. Apparently, the 3<sup>rd</sup> Defendant still failed to realize the seriousness of his misconduct. We need to make sure that the 3<sup>rd</sup> Defendant will not commit the same or similar misconduct in the future.

70. Taking into consideration the nature and gravity of the proven case against the 3<sup>rd</sup> Defendant and what we have heard in mitigation, we shall make a global order in respect of disciplinary charges (a) and (b) that the name of 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 24 months.

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

71. In line with our published policy, we shall give the 4<sup>th</sup> Defendant credit in sentencing for his frank admission and not contesting the issue of professional misconduct.

72. The 4<sup>th</sup> Defendant has a previous disciplinary record. He was found guilty after due inquiry on 10 June 2020 of professional misconduct in relation to the following charges for which a global order was made to remove his name from the General Register for a period of 1 month; and the operation of the removal order be suspended for a period of 6 months:-

*“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 form in residential care homes for elderly (“Four Use of Restrainers Form”) 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 Form, Three Medical Examination Forms for Residents and the Medical Examination Form for Staff were properly filled in.”*

73. We accept that the 4<sup>th</sup> Defendant did not commit the misconduct in the present case during the suspension period. But then again, the signing of the subject blank form by the 4<sup>th</sup> Defendant in the present case was in our view not an isolated incident.

74. We need to ensure that the 4<sup>th</sup> Defendant will not commit the same or similar misconduct in the future.



75. Taking into consideration the nature and gravity of the proven case against the 4<sup>th</sup> Defendant and what we have read and heard in mitigation, we shall make a global order in respect of disciplinary charges (a) and (b) that the name of the 4<sup>th</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.

*5<sup>th</sup> Defendant (Dr NG Mei Sin (吳美仙醫生))*

76. In line with our published policy, we shall give the 5<sup>th</sup> Defendant credit in sentencing for her frank admission and not contesting the issue of professional misconduct.

77. The 5<sup>th</sup> Defendant has three disciplinary records back in 1994, 1995 and 1996 respectively. The first and second disciplinary records related to convictions for failing to keep proper dangerous drug registers. The third disciplinary record related to the issue and/or caused to issue and/ or caused to be issued a sick leave certificate to her patient containing statements which were untrue, misleading or improper.

78. We acknowledge that these disciplinary offences happened long time ago and only one of them was of a similar nature to the misconduct in the present case.

79. However, we need to ensure that the 5<sup>th</sup> Defendant will not commit further misconduct in the future.

80. Taking into consideration the nature and gravity of the proven case against the 5<sup>th</sup> Defendant and what we have read and heard in mitigation, we shall make a global order in respect of disciplinary charges (a) and (b) that the name of the 5<sup>th</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 12 months.

*6<sup>th</sup> Defendant (Dr SO Cheung Fai (蘇祥輝醫生))*

81. In line with our published policy, we shall give the 6<sup>th</sup> Defendant credit in sentencing for his frank admission and not contesting the issue of professional misconduct.

82. The 6<sup>th</sup> Defendant has a disciplinary record back in 1991. The disciplinary offences related to the issue of 4 medical certificates to a patient which contained statements that were untrue, misleading or improper.
83. We acknowledge that these disciplinary offences happened long time ago albeit they were of a similar nature to the misconduct in the present case.
84. However, we need to ensure that the 6<sup>th</sup> Defendant will not commit further misconduct in the future.
85. Taking into consideration the nature and gravity of the proven case against the 6<sup>th</sup> Defendant and what we have read and heard in mitigation, we shall make a global order in respect of disciplinary charges (a) and (b) that the name of the 6<sup>th</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.

**Remark**

86. The name of the 3<sup>rd</sup> Defendant is included in the Specialist Register under the Specialty of Psychiatry. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

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