

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr CHAN Yip Wang George (陳業宏醫生) (Reg. No.: M13035)

Date of hearing: 14 July 2021 (Wednesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr LUNG David Christopher
Dr CHOW Wing-sun
Mr HUNG Hin-ching, Joseph
Mr YANG Kwong-fai

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Ms Ann LUI instructed by
Messrs. Kennedys

Senior Government Counsel (Acting) representing the Secretary: Mr Louie CHAN

1. The charge against the Defendant, Dr CHAN Yip Wang George, is:

“That in or about October to November 2018, he, being a registered medical practitioner, failed to exercise adequate care in issuing 11 Medical Examination Form for Staff (“the Forms”), in that the names and personal details of the persons being examined were not recorded on the Forms.

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 3 July 2001 to the present. His name has never been included in the Specialist Register.
3. Briefly stated, the Secretary of the Medical Council received on 11 March 2019 a letter dated 7 March 2019 from the Social Welfare Department (“SWD”) complaining the Defendant of suspected mal-practice.
4. According to the complaint letter, it was found by SWD inspector of the Licensing Office of Residential Care Homes for the Elderly (“RCHE”) during an inspection of a RCHE that 11 pieces of medical examination forms (“the 11 Forms”) were filled with the assessment results and signed by the Defendant. However, the names of persons being assessed were missing from the 11 Forms. Enclosed with the complaint letter were copies of the 11 Forms (8 of which were dated 30 October 2018 and 3 of which were dated 30 November 2018). Copies of the same are placed by the Legal Officer before us today for our consideration.
5. It is not disputed that the Defendant first carried out physical examination on each of the staff members of the RCHE concerned before filling out the 11 Forms.
6. In response to the complaint, the Defendant submitted through his solicitors by letter to the Preliminary Investigation Committee (“PIC”) dated 24 June 2019 that he examined a total of 11 staff members of the RCHE concerned for the purpose of ensuring that they were fit for their employment there. In doing so, he was well aware of his responsibility under the Code of Practice for RCHE issued by SWD that “[a]ll staff of a [Residential Care Home] must receive a pre-employment medical examination conducted by a registered medical practitioner to certify that they are able to meet the requirements and perform the duties of the job.” The Defendant also produced copies of two attendance records (with the full names and Hong Kong Identity Card numbers of the attendees) obtained from the RCHE concerned to confirm that he had indeed examined the 11 staff members.

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 that the factual particulars of the disciplinary charge against him and indicates through his solicitor that he is not going to contest the issue of professional misconduct. However, it remains for us to consider and determine on the evidence before us whether his conduct has fallen below the standards expected of registered medical practitioners in Hong Kong.
10. 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 reports and certificates for a variety of purposes...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.

...”

11. We acknowledge that the 11 Forms in the present case were not blank forms. In each of the 11 Forms, “NAD” (no abnormality detected) was put down under heading of “體格檢查專案及狀況”. All the boxes under the heading “其他” in respect of previous/present illness(es) of the person being examined had been checked “No”. The remaining box under the heading “其他” which asked if the person being examined was suitable to work in the RCHE concerned had been checked “yes”. At the bottom of the form, it bore a date and the signature and name chop of the Defendant but not his full name.
12. However, essential information on the name and Hong Kong Identity Card number of the person being examined had been missing from each of the 11 Forms.
13. By leaving blank these essential information, the Defendant clearly failed in our view to take proper care in issuing the 11 Forms.
14. For these reasons, the Defendant has by his conduct 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

15. In line with our published policy, we shall give the Defendant credit in sentencing for his frank admission and not contesting the issue of professional misconduct.
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. The Defendant has a previous disciplinary record. The Defendant was found guilty on 10 June 2020 of professional misconduct in relation to the following disciplinary 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 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 reasonable 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.”*

18. We acknowledge that the misconduct in the present case was not committed within the suspension period of 6 months; and we shall not activate the suspended removal order.
19. We noted however from reading the Inquiry Panel’s Judgment in the previous case that the inquiry into the Defendant also originated from a complaint by SWD. We are further told by the Legal Officer that the Defendant was first informed of the receipt of the complaint in the previous case on 5 July 2017.
20. We are particularly concerned that the irregularities found in the 11 Forms in the present case mirrored substantially what had happened to the medical examination form(s) for staff member(s) of RCHE in the previous case. One notable difference is that the 11 Forms in this case were dated. Apparently, the present case was not isolated incidents.

21. In our view, if the Defendant had sufficient insight into his failings after he was complained by SWD in 2016, he ought to have taken appropriate remedial measures right after he was informed of the receipt of complaint by SWD on 5 July 2017 to ensure that no essential information would be missing in the 11 Forms in the present case.
22. It is essential in our view to maintain amongst members of the public a well-founded confidence that the truth of any medical reports or certificates can be accepted without question.
23. We are told in mitigation that the Defendant has since the index events created his own centralised records of any examinee who he assesses to confirm whether they are fit for employment at elderly homes. Samples of such centralised records for 6 elderly homes together with the accompanying examination forms filled out by the Defendant were produced for our consideration in mitigation.
24. The Defendant's attitude towards the issue of medical reports and certificates in the present case reflects in our view his lack of insight into the seriousness of his misconduct. We need to ensure that the Defendant will not commit the same or similar breach in future.
25. Taking into consideration the nature and gravity of the present case and what we have heard and read in mitigation, we order that the name of the Defendant be removed from the General Register for a period of 3 months.
26. We have seriously considered whether to suspend the removal order. However, for the reasons mentioned above, we do not find it appropriate to do so in the circumstances of the present case.

Prof. LAU Wan-ye, Joseph, SBS
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong