

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 WONG Che Tung (黃治東醫生) (Reg. No.: M14341)

Date of hearing: 12 January 2022 (Wednesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS  
(Chairperson of the Inquiry Panel)  
Dr CHAN Tin-sang, Augustine  
Dr BEH Swan-lip  
Mrs BIRCH LEE Suk-yee, Sandra, GBS, JP  
Ms HO Yuk-wai, Joan

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Dr Bernard MURPHY of  
Messrs. Howse Williams

Senior Government Counsel representing the Secretary: Miss Sanyi SHUM

The Defendant is not present.

1. The charges against the Defendant, Dr WONG Che Tung, are:

*“That in or about April 2019, he, being a registered medical practitioner, disregarded his professional responsibility to his patient (“the Patient”), in that he:*

- (a) *failed to make a diagnosis of digital nerve injury of the Patient's left thumb;*
- (b) *failed to inform the Patient of the possibility of digital nerve injury of his left thumb;*
- (c) *failed to provide treatment option(s) to the Patient for the digital nerve injury of his left thumb; and/or*
- (d) *failed to mention the possible diagnosis of digital nerve injury of the Patient's left thumb in the referral letter dated 23 April 2019.*

*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 2 July 2004 to the present. His name has never been included in the Specialist Register.
3. Briefly stated, the Patient consulted the Defendant on 13 April 2019 after sustaining a cut injury to his left thumb at work in a construction site earlier in the afternoon.
4. Through his solicitor, the Defendant indicates that he is not going to challenge the contents of the statutory declaration made by the Patient on 13 December 2019.
5. According to the Patient, the Defendant took a look at the wound and asked him how he injured his left thumb. He told the Defendant that he cut his left thumb hard with a sharp cutter. He further enquired if his tendon or nerve had been injured but the Defendant merely replied that it was normal to have pain over the wound. The Defendant then ordered his nurse to dress the wound and gave him tetanus vaccination. The Defendant also ordered x-ray of his hand. He was discharged with medication for pain relief; and a follow-up appointment was scheduled on 15 April 2019.

6. On 15 April 2019, the Patient returned to see the Defendant. According to the Patient, the Defendant took a look at the wound and told him that the wound was recovering well. Then he enquired if there was any injury to his tendon or nerve but the Defendant replied that there was none.
7. On 17 April 2019, the Patient returned to see the Defendant. According to the Patient, the Defendant took a look at the wound and told him that the wound was not recovering quick enough. The Defendant also told him to take antibiotics for 5 days.
8. On 23 April 2019, the Patient returned to see the Defendant. According to the Patient, the Defendant took a look at the wound and told him that the wound had recovered well and there was no need for further follow-up. When he told the Defendant that his left thumb was still painful and very numb, the Defendant replied that he could give him a referral letter to consult an orthopaedic specialist. The material parts of this letter read as follows:-

*“Clinical Information*

*Left thumb injury by cutter*

...

*c/o [complained of]: left thumb numbness*

*Please kindly assess his condition and provide expert management*

...”

9. According to the Patient, owing to the increase in pain and numbness over his left thumb, he attended the Accident & Emergency Department (“AED”) of the United Christian Hospital (“UCH”) on 25 April 2019. The attending AED doctor told him that the nerve to his left thumb was severed and required surgical repair as soon as possible. Or else, the injury to the nerve would become permanent. But since the wound had already healed up and this was not a case of emergency, he had to be referred to the Orthopaedics & Traumatology Department of UCH for further management.
10. According to the Patient, on 27 April 2019, he consulted a private orthopaedic surgeon, one Dr POON, who subsequently noted in his referral letter that the Patient *“has complete loss of sensation of the thumb on the radial side suggesting probably a complete tear of the digital nerve.”*

11. There is no dispute that the Patient eventually underwent a surgery on his left thumb by another private surgeon, one Dr LEE, at the Baptist Hospital (“BH”) later in the day on 27 April 2019. According to the medical records obtained from BH, the intra-operative finding by Dr LEE was “*partial tear of digital nerve under the wound with scar formation*”. The injured digital nerve was repaired and the Patient was referred to UCH for further management after discharge from BH on 28 April 2019.
12. Meanwhile, the Patient lodged this complaint against the Defendant with the Medical Council.

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

13. 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.
14. There is no doubt that each of the allegations 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 each of the disciplinary charges against him separately and carefully.

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

15. The Defendant admits the factual particulars of the disciplinary charges against him. However, it remains for us to consider and determine on the evidence before us whether the Defendant had been guilty of misconduct in a professional respect.

16. There is no dispute that the Patient sustained a cut injury to the digital nerve of his left thumb but the Defendant never made this diagnosis in any of the 4 consultations with the Patient. It is also the unchallenged evidence of the Patient that no physical examination on the sensation of his left thumb had been done before the wound was dressed on each occasion.
17. In failing to make a diagnosis of digital nerve injury of the Patient's left thumb, the Defendant had in our view 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 per disciplinary charge (a).
18. Knowing that the Patient cut his left thumb hard with a sharp cutter, the Defendant ought in our view to be on the alert if there was any injury to the digital nerve. When being asked by the Patient again on 15 April 2019 if there was any injury to his tendon or nerve, the Defendant replied that there was none.
19. When the Patient presented with persistent pain and numbness during the follow-up consultation on 23 April 2019, the Defendant merely gave him a referral letter to see an orthopaedic specialist. And yet, the Defendant never informed the Patient of the possibility of digital nerve injury of his left thumb.
20. In failing to inform the Patient of the possibility of digital nerve injury of his left thumb, the Defendant had in our view 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 per disciplinary charge (b).
21. In our view, any tear in the digital nerve causing significant loss of sensation should be promptly repaired. Or else, the damage to the digital nerve would become permanent. We agree with the Secretary's expert witness, Dr YUEN, that the Defendant ought to have discussed with the Patient about the treatment option of surgical repair of the digital nerve of his left thumb.
22. In failing to provide treatment option(s) to the Patient for the digital nerve injury of his left thumb, the Defendant had by his conduct in our view 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 per disciplinary charge (c).

23. There is no dispute that the Defendant never mentioned the possible diagnosis of digital nerve injury of the Patient's left thumb in the referral letter dated 23 April 2019. It is also the unchallenged evidence of the Patient that the Defendant wrote out the referral letter after advising him that the wound had recovered well and there was no need for further follow-up. It was the Patient's self alert that he sought consultation with orthopaedic specialist(s) promptly.
24. But then again, we accept that the Defendant had already mentioned in the referral letter clinical information on the Patient's cut injury to his left thumb and complaint of left thumb numbness. Whilst it is good practice to write down the suspected diagnosis in the referral letter, we are unable to agree with the Legal Officer that mere failure to mention the possible diagnosis of digital nerve injury would amount to professional misconduct. Accordingly, we find the Defendant not guilty of misconduct in a professional respect as per disciplinary charge (d).

### **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 and not contesting the disciplinary charges against him.
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. We are particularly concerned that the Defendant never conducted physical examination on the sensation of the Patient's left thumb during the 4 consultations.
29. In this connection, we noted from reading the mitigation bundle that the Defendant was a surgical trainee for 3 years. In our view, the Defendant ought to be able to understand the role of physical examination in the management of the cut injury to the Patient's left thumb.

30. Taking into consideration the nature and gravity of the disciplinary charges for which we find the Defendant guilty and what we have heard and read in mitigation, we shall make a global order in respect of disciplinary charges (a) to (c) that:-

- (1) the name of the Defendant be removed from the General Register for a period of 4 months; and
- (2) the said removal order be suspended for a period of 24 months, subject to the condition that the Defendant shall complete within 12 months CME courses relating to basic clinical skills and trauma management to the equivalent of 10 CME points and such courses have to be pre-approved by the Chairman of the Medical Council.

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