

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LAM Kam Toa (林金滔醫生) (Reg. No.: M02854)

Date of hearing: 14 October 2025 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr HO Hung-kwong, Duncan
Prof. LAW Sheung-wai
Mrs BIRCH LEE Suk-yee, Sandra, GBS, JP
Mr CHOW Tat-hei

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Mr Michael CHAO of
Messrs. Johnson Stokes & Master

Legal Officer representing the Secretary: Miss Christy TSO, Government Counsel

The Defendant is not present.

The Charges

1. The amended charges against the Defendant, Dr LAM Kam Toa, are:

“The particulars of the complaint are that on divers dates between June and December 2019, he, being a registered medical practitioner:

- (a) *disregarded his professional responsibility to his patient,*
[REDACTED] *(“Patient A”), in that he issued the following sick*

leave certificates to Patient A without reasonable, sufficient and/or proper justification –

- (i) Certificate dated 24 July 2019 for the period from 24 July 2019 to 13 August 2019;*
- (ii) Certificate dated 14 August 2019 for the period from 14 August 2019 to 10 September 2019; and/or*
- (iii) Certificate dated 11 September 2019 for the period from 11 September 2019 to 1 October 2019;*

(b) disregarded his professional responsibility to his patient, [REDACTED] (“Patient B”), in that he issued the following sick leave certificates to Patient B without reasonable, sufficient and/or proper justification –

- (i) Certificate dated 11 September 2019 for the period from 12 September 2019 to 24 September 2019;*
- (ii) Certificate dated 25 September 2019 for the period from 25 September 2019 to 15 October 2019;*
- (iii) Certificate dated 16 October 2019 for the period from 16 October 2019 to 5 November 2019;*
- (iv) Certificate dated 6 November 2019 for the period from 6 November 2019 to 26 November 2019; and/or*
- (v) Certificate dated 27 November 2019 for the period from 27 November 2019 to 17 December 2019;*

(c) disregarded his professional responsibility to his patient, [REDACTED] (“Patient C”), in that he issued the following sick leave certificates to Patient C without reasonable, sufficient and/or proper justification –

- (i) Certificate dated 24 July 2019 for the period from 24 July 2019 to 13 August 2019;*
- (ii) Certificate dated 14 August 2019 for the period from 14 August 2019 to 3 September 2019;*
- (iii) Certificate dated 4 September 2019 for the period from 4 September 2019 to 24 September 2019;*
- (iv) Certificate dated 25 September 2019 for the period from 25 September 2019 to 18 October 2019;*

- (v) Certificate dated 19 October 2019 for the period from 19 October 2019 to 5 November 2019;
- (vi) Certificate dated 6 November 2019 for the period from 6 November 2019 to 26 November 2019; and/or
- (vii) Certificate dated 27 November 2019 for the period from 27 November 2019 to 17 December 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 22 October 1976 to the present. His name has been included in the Specialist Register under the specialty of Paediatrics since 4 March 1998.
3. Patient A was involved in a traffic accident on 16 June 2019 and experienced a sprained neck and right shoulder pain. Patient A attended Accident & Emergency Department (“A&E”) of Alice Ho Miu Ling Nethersole Hospital (“AHMLNH”) on the same day. X-ray done at AHMLMH showed no bony fracture. A sick leave certificate of 3 days from 16 June 2019 to 18 June 2019 was granted by AHMLMH to Patient A.
4. Patient A later consulted the Defendant from 19 June 2019 to 11 September 2019. The following is a table of summary of all sick leaves granted by the Defendant to Patient A:

Date of consultation	Sick leave period	Days of sick leave granted
19/6/2019	19/6/2019 – 2/7/2019	14 days
3/7/2019	3/7/2019 – 23/7/2019	21 days
24/7/2019	24/7/2019 – 13/8/2019	21 days
14/8/2019	14/8/2019 – 10/9/2019	28 days
11/9/2019	11/9/2019 – 1/10/2019	21 days
Total number of days of sick leave granted: 105 days		

5. Patient B was involved in a traffic accident on 16 June 2019 and experienced a neck sprain and back sprain. Patient B attended A&E of AHMLNH on the same day. X-ray done at AHMLMH showed no bony fracture. A sick leave

certificate of 4 days from 16 June 2019 to 19 June 2019 was granted by AHMLMH to Patient B.

6. Patient B later consulted the Defendant on 19 June 2019 and from 11 September 2019 to 27 November 2019. The following is a table of summary of all sick leaves granted by the Defendant to Patient B:

Date of consultation	Sick leave period	Days of sick leave granted
19/6/2019	19/6/2019 – 2/7/2019	14 days
11/9/2019	12/9/2019 – 24/9/2019	13 days
25/9/2019	25/9/2019 – 15/10/2019	21 days
16/10/2019	16/10/2019 – 5/11/2019	21 days
6/11/2019	6/11/2019 – 26/11/2019	21 days
27/11/2019	27/11/2019 – 17/12/2019	21 days
Total number of days of sick leave granted: 111 days		

7. Patient C was involved in a traffic accident on 16 June 2019 and experienced a neck sprain. Patient C attended A&E of AHMLNH on the same day. X-ray done at AHMLMH showed no bony fracture. A sick leave certificate of 4 days from 16 June 2019 to 19 June 2019 was granted by AHMLMH to Patient C.

8. Patient C later consulted the Defendant from 19 June 2019 to 27 November 2019. The following is a table of summary of all sick leaves granted by the Defendant to Patient C:

Date of consultation	Sick leave period	Days of sick leave granted
19/6/2019	19/6/2019 – 2/7/2019	14 days
3/7/2019	3/7/2019 – 23/7/2019	21 days
24/7/2019	24/7/2019 – 13/8/2019	21 days
14/8/2019	14/8/2019 – 3/9/2019	21 days
4/9/2019	4/9/2019 – 24/9/2019	21 days
25/9/2019	25/9/2019 – 18/10/2019	24 days
19/10/2019	19/10/2019 – 5/11/2019	18 days
6/11/2019	6/11/2019 – 26/11/2019	21 days
27/11/2019	27/11/2019 – 17/12/2019	21 days
Total number of days of sick leave granted: 182 days		

9. By a statutory declaration made on 20 July 2022, Miss Wong Wing Shun on behalf of QBE Hong Kong & Shanghai Insurance Ltd. lodged a complaint with the Medical Council (“the Council”) against the Defendant for unreasonably issuing sick leave certificates to Patient A, Patient B and Patient C (collectively “the Patients”).

Burden and Standard of Proof

10. 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.
11. There is no doubt that each of the allegations made against the Defendant here is serious. 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 him separately and carefully.

Findings of the Inquiry Panel

12. The Defendant admits the factual particulars of the amended disciplinary charges against him but it remains for us to consider and determine on the evidence whether he is guilty of misconduct in a professional respect.
13. It is clearly stated in paragraph 26 of the Code of Professional Conduct (the “Code”) (2016 edition) that:

“26.1 *Doctors are required to issue reports and certificates for a variety of purposes (e.g. insurance claim forms, payment receipts, medical reports, vaccination certificates, sick leave certificates) on the basis that the truth of the contents can be accepted without question...*

26.2 *A sick leave certificate can only be issued after proper medical consultation of the patient by the doctor...*

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...*"

14. According to Dr CHAN Yin Hang, the Secretary's expert, the majority of patients experiencing musculoskeletal pain following an injury can typically return to work within 6 to 8 weeks. However, about 10% of patients may encounter sub-acute or chronic pain after an injury. For such patients, primary care physicians should refer them to allied health professionals or orthopedic specialists for assessments and management, depending on the severity of their conditions.
15. In the present case, the sick leave duration granted by the Defendant to each of the Patients was longer than the typical 6 to 8 weeks expected for similar injuries. In our view, the Defendant ought to have reasonable, sufficient and/or proper justification for issuing such extended sick leaves to the Patients.
16. However, there was no medical record at all providing for detailed descriptions of the questions asked by the Defendant from the Patients during history taking, such as their job nature; what physical examinations and assessments were performed on the Patients at all the consultations; whether the Defendant had considered referring the Patients to allied health professionals or orthopaedic specialists, or if the Patients were already receiving treatment from such professionals; and how the Patients' alleged pain at each consultation would respectively affect their abilities to work, thus justifying the periods of sick leaves to be granted to them. All that the Defendant did was merely stating in the sick leave certificates the illness suffered by the Patients and the sick leaves. There was clearly no reasonable, sufficient and/or proper justification for the sick leaves granted to the Patients as referred to in all the charges. In fact, the Defendant accepts in hindsight that he should not have issued sick leave certificates to the Patients which exceeded the typical 6 to 8 weeks. The Defendant also accepts that he should have insisted on referring the Patients to consult a Specialist in Orthopaedics and Traumatology, rather than continued to give pain relief and sick leaves.
17. In our view, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect as charged under the amended

charges (a), (b) and (c).

Sentencing

18. The Defendant has one previous disciplinary record back in 2010 relating to dispensing of medication with incorrect instructions on the medicine bag. The previous disciplinary offence was committed a long time ago and was of a different nature from the offences committed in the present case.
19. In line with our published policy, we shall give credit to the Defendant for his frank admission and full cooperation throughout these disciplinary proceedings.
20. 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.
21. We have considered the Defendant's contribution to the profession and the community, and the reference and appreciation letters as submitted.
22. We must stress that the offences committed by the Defendant were serious. There were three patients involved. Public interest was undermined by issuing sick leave certificates without reasonable, sufficient and/or proper justification.
23. The Defendant told us that he has changed his practice since the incidents. He will not grant further sick leave to patients and will refer them to a Specialist in Orthopaedics & Traumatology if there is no improvement in pain after 6 to 8 weeks, counting from the date of the accident. In view of the change in practice, we agree that the chance of re-offending is low.
24. Taking into consideration the nature and gravity of the Defendant's case and what we have heard in mitigation, we make a global order in respect of the amended charges (a), (b) and (c) that the name of the Defendant be removed from the General Register for a period of 3 months. We further order that the removal order be suspended for a period of 24 months.

Remark

25. The name of the Defendant is included in the Specialist Register under the Specialty of Paediatrics. 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