

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

ORDER MADE BY THE INQUIRY PANEL OF  
THE MEDICAL COUNCIL OF HONG KONG

DR CHAN WAI IP (REGISTRATION NO.: M06470)

It is hereby notified that after due inquiry held on 1 March 2022 in accordance with section 21 of the Medical Registration Ordinance, Chapter 161 of the Laws of Hong Kong, the Inquiry Panel of the Medical Council of Hong Kong found Dr CHAN Wai Ip (Registration No.: M06470) guilty of the following charge:—

*'That in or about May to October 2018, he, being a registered medical practitioner, issued sick leave certificates to a patient ('the Patient') for a continuous period from 17 May 2018 to 16 January 2019 without reasonable and/or proper justifications.*

*In relation to the facts alleged, he has been guilty of misconduct in a professional respect.'*

Dr CHAN's name has been included in the General Register from 30 April 1987 to the present. His name has been included in the Specialist Register under the Speciality of Paediatrics from 7 July 1999 to 1 July 2009.

Briefly stated, the Secretary of the Medical Council received a complaint from one Ms CHAN of QBE General Insurance Limited alleging Dr CHAN of malpractice in connection with the issue of sick leave certificates to the Patient.

In response to the complaint, Dr CHAN told the Preliminary Investigation Committee ('PIC') of the Medical Council in his letter dated 14 November 2020 that:—

*'[The Patient] was a waitress and she first attended my clinic on 16 May 2018 because of accident on 3rd February 2017 due to deep cut in the 5th finger in the right hand because of broken porcelain at work and was admitted to Kwong Wah Hospital and had 8 stitches wound closure under local anesthetics. No x-ray was performed at that time. According to her history she had second operation performed 6 months later on 19th July 2017 under local anesthetics to remove residual F.B. and granuloma on the right 5th finger. The tourniquet had been applied for 1 hour and when the tourniquet was removed she experienced right shoulder pain and there were bruises and hematoma in the shoulder area. The stitches were removed after 14 days but she complained of pins and needle in the right arm and cannot grasp object properly. She had been followed up by the orthopaedic OPD and she had regular physiotherapy and occupational therapy which finished on 6th April 2018...*

*At the consultation her right arm could not [reach] to the top of head and there was muscle wasting on the posterior part of shoulder muscle. The scar in the right 5th finger was healed but she could not grasp fully in the hand.*

*I had explained to her the weakness in the shoulder could be due to nerve compressive damage during the second operation. I had offered to refer her to neurology specialist and MRI, X-ray of the right shoulder which she declined and I respected her decision. I had explained to her that she needed regular arm exercise at home to prevent muscle contracture and the process of nerve regeneration might take long time to heal.*

*I have prescribed muscle relaxant Diazepam 2mg tds, Bromelain 100 mg tds, Ponstan 500 mg tds and Analgesic balm to apply locally for pain relief as required.*

*I also prescribed multivitamin tablets daily to take for 1 month to facilitate nerve growth and advised that she needed shoulder and arm exercise at home regularly. Her condition at that time was not safe to resume duty as a waitress...*

*A diagnosis of injury to the 5th right finger and right shoulder was given.*

*She had been attended my clinic for progress of her condition and she was unable to return to work...*

*... As for sick leave, it is our professional duty to grant patient sick leave for them to make proper recovery. As she was waiting the legal proceedings of employee compensation claims, she was advised by her lawyer that her sick leave could not be disconnected while waiting the proceeding which could take months or years. She had not been completely recovered to resume duty and that was why she came to my clinic for medications and sick leave certificates. She was entitled to see*

*other doctor but she found I am a caring doctor and easy to communicate and that was why she paid regular visits. Over the 6 months period her condition had improved slowly.*

*I have been running this clinic as General Practitioner in the local area for years. I did my medical training in UK and I had A/E and orthopaedic experience in UK...'*

Copies of Dr CHAN's hand written consultation records for the period from 16 May 2018 to 16 December 2018 were placed before the Inquiry Panel for consideration.

The Legal Officer did not call any factual witness in this inquiry and relied solely upon the evidence of the Secretary's expert witness, Dr LUNG, a specialist in orthopaedic surgery.

It was evident to the Inquiry Panel from reading the subject sick leave certificates that the Patient was stated to be *'suffering from injury to (right) hand and (right) shoulder due to accident'*.

The Inquiry Panel agreed with Dr LUNG, the Secretary's expert that there was nothing in Dr CHAN's PIC submission and his consultation notes to support the statement that the Patient's right shoulder problem was *'due to accident'*. On this ground, the Inquiry Panel was satisfied on the evidence that the subject sick leaves were issued to the Patient for a continuous period from 17 May 2018 to 16 January 2019 without reasonable and proper justifications.

Further or alternatively, once the Patient had refused to take Dr CHAN's advice for neurological referral and X-ray and MRI investigation, it would not be in the best interest to the Patient for Dr CHAN to issue her with further sick leaves after the second consultation on 15 June 2018. It was particularly true because the Patient did not show significant progress after the first month of treatment by medications. Viewed from this perspective, issuance of sick leave certificates for a continuous period after 15 June 2018 was without reasonable and/or proper justifications.

For the above reasons, the Inquiry Panel was satisfied on the evidence that the issuance of the subject sick leave certificates to the Patient for a continuous period from 17 May 2018 to 16 January 2019 was without reasonable and/or proper justifications. Accordingly, Dr CHAN was found guilty of the disciplinary charge against him.

Dr CHAN had 2 previous disciplinary records.

Dr CHAN was found guilty after due inquiry on 11 November 2020 for issuing to his patient an attendance record for insurance claim and his name was ordered to be removed from the General Register for a period of 1 month with suspension for 12 months. Dr CHAN was found guilty of professional misconduct because he allowed his patient to sign on a consultation voucher or attendance record for the day following the consultation in order to facilitate the latter in making her insurance claim.

Dr CHAN was also found guilty after due inquiry on 4 June 2021 in respect of his criminal conviction for the offence of *'selling drug not of the quality demanded by the purchaser'*, which is an offence punishable with imprisonment, *'contrary to sections 52(1) and 150 of the Public Health and Municipal Services Ordinance, Chapter 132 of the Laws of Hong Kong.'*

The Inquiry Panel was particularly concerned about the manner in which Dr CHAN issued certificates and similar documents to his patients and needed to ensure that Dr CHAN would not commit the same or similar breach in the future.

Taking into consideration the nature and gravity of the disciplinary charge, the Inquiry Panel ordered that Dr CHAN's name be removed from the General Register for a period of 3 months. The Inquiry Panel further ordered that the operation of the removal order be suspended for 36 months.

The orders are published in the *Gazette* in accordance with section 21(5) of the Medical Registration Ordinance. The full decision of the Inquiry Panel of the Medical Council is published in the official website of the Medical Council of Hong Kong (<http://www.mchk.org.hk>).

LAU Wan-ye, Joseph Chairman, *The Medical Council of Hong Kong*