

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR CHAN TSZ KIU STEWART (REGISTRATION NO.: M16411)

It is hereby notified that after due inquiry held on 17 April 2023 and 9 March 2024 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 Tsz Kiu Stewart (Registration No.: M16411) guilty of the following re-amended disciplinary charges:

“That, in or about October to November 2017, he, being a registered medical practitioner, without reasonable justification:

- (a) placed clandestine video-recording devices in a changing room in Kwong Wah Hospital (“the Hospital”); and/or
- (b) recorded individual(s) in a changing room of the Hospital, in which any individual can reasonably be expected to be changing clothes; and/or
- (c) possessed videos taken in a changing room in the Hospital by way of clandestine video-recording devices.

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

Briefly stated, the Medical Council (“the Council”) received a letter from the Hong Kong Police on 10 August 2021 complaining Dr CHAN of “*placing a video-recording device into the staff changing room in Kwong Wah Hospital*”.

According to the Police, “*a surgeon of Kwong Wah Hospital stumbled upon a folder in a desktop computer... inside a staff room specifically for surgeons. In the folder, there were seven videos of female colleagues getting changed in a staff changing room in Kwong Wah Hospital... IT Technician of Kwong Wah Hospital checked the [said] computer and found that the videos were likely to belong to Mr CHAN. Upon further investigation, Mr CHAN was arrested on 27 November 2017 and he admitted committing clandestine filming out of stress... three victims were involved. After seek[ing] legal advice, there is insufficient*

evidence to lay charge against Mr CHAN. However, it was recommended that this incident should be reported to the Medical Council of Hong Kong for possible disciplinary actions.”

The Police subsequently provided the Secretary of the Council with three digital versatile discs (“DVDs”) which included the video-recording of the cautioned interview of Dr CHAN on 27 November 2017. Copies of the same with immaterial video clips redacted were placed by the Legal Officer before the Inquiry Panel for its consideration. Two of the three DVDs contained video clips stored in two Secure Digital High Capacity (“SDHC”) cards seized by the Police from Dr CHAN’s locker in the Hospital and video clips retrieved from the said desktop computer.

For the purpose of the conduct of this inquiry, the Secretary and Dr CHAN had agreed amongst others that: -

- (1) During a video-recorded interview on 27th November 2017, Dr CHAN admitted under Police caution, *inter alia*, that he: -
 - (a) purchased three clandestine video-recording devices online in or around August/September 2017;
 - (b) placed two of the video-recording devices in a changing room in the Hospital in or around October/November 2017;
 - (c) recorded two female individuals who were changing clothes in the said changing room in or around October/November 2017 by way of the two video-recording devices;
 - (d) transferred some of the videos taken in the said changing Room from the two video-recording devices to a computer in the Hospital; and
 - (e) stored the two video-recording devices in a locker in the Hospital in or around early November 2017;
- (2) In or around November/December 2017, the Police retrieved the videos from: -
 - (a) a Kingston Micro SDHC Card (32 GB) contained in one of the two video-recording devices seized from Dr CHAN’s locker in the Hospital;

- (b) a SanDisk Micro SDHC Card (64 GB) contained in the other video-recording device seized from Dr CHAN's locker in the Hospital; and
- (c) the said desktop computer.

Dr CHAN admitted the factual particulars of the re-amended disciplinary charges against him.

Irrespective of Dr CHAN's motive or purpose, there was no doubt in the Inquiry Panel's minds that clandestine video-recording of individuals, particularly female colleagues at the Hospital, whilst they were getting changed in a staff changing room was scandalous and despicable.

There was also no doubt in the Inquiry Panel's minds that what Dr CHAN had done in the present case was premeditated. Indeed, Dr CHAN was captured in the video clips to have entered the said changing room several times, apparently to check whether the video-recording devices were functioning.

By placing without reasonable justification clandestine video-recording devices in a changing room in the Hospital, Dr CHAN had in the Inquiry Panel's view by his conduct in the present case fallen below the standard expected of registered medical practitioners in Hong Kong. Accordingly, the Inquiry Panel found Dr CHAN guilty of misconduct in a professional respect as per the re-amended disciplinary charge (a).

It was evident to the Inquiry Panel from viewing the video clips that the said changing room was frequented by Dr CHAN's female colleagues at the Hospital, who wished to change their clothes before or after work.

It was also evident to the Inquiry Panel from viewing the video clips that the female victims, who were captured whilst changing clothes in the said changing room, were unaware of the video-recording devices despite they were shown in the video clips to be at a close distance to the video camera on a number of occasions. Indeed, two of the female victims told the Police after the arrest of Dr CHAN that they had no knowledge of the clandestine video-recording being taken of them in the said changing room. It was also mentioned in their police witness statements that they did not consent to the same.

Be that as it may, by recording without reasonable justification individual(s) in a changing room of the Hospital, in which any individual could reasonably be expected to be

changing clothes, Dr CHAN had again in the Inquiry Panel's view by his conduct fallen below the standard expected of registered medical practitioners in Hong Kong. Accordingly, the Inquiry Panel also found him guilty of misconduct in a professional respect as per the re-amended disciplinary charge (b).

Leaving aside the purpose or motive behind Dr CHAN's misconduct, be it for gratification of his deviant desire or otherwise, the Inquiry Panel was firmly of the view that by possessing without reasonable justification videos taken of female victims in a changing room in the Hospital by way of clandestine video-recording devices, Dr CHAN had in the Inquiry Panel's view by his conduct fallen below the standard expected of registered medical practitioners in Hong Kong. Accordingly, the Inquiry Panel also found Dr CHAN guilty of misconduct in a professional respect as per the re-amended disciplinary charge (c).

Dr CHAN had a clear disciplinary record.

Before sentencing Dr CHAN, the Inquiry Panel exercised its power under section 33(1)(b) of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (the "Regulation") and directed this inquiry be adjourned and the case of Dr CHAN be referred to the Health Committee of the Council for determining whether his fitness to practise was impaired.

On referring the case of Dr CHAN to the Health Committee, the Inquiry Panel also directed pursuant to section 33(2) of the Regulation the Secretary to invite, by a notice in writing, Dr CHAN to submit at his own costs to medical examination by one or more examiner(s) acceptable to the Health Committee; and to agree to those examiner(s) furnishing the medical report(s) on his fitness to practise to the Health Committee for consideration.

On 8 June 2023, Dr CHAN was interviewed by Dr May LAM, a specialist in psychiatry and a medical examiner acceptable to the Health Committee, and her subsequent medical report on Dr CHAN dated 20 June 2023 was placed before the Health Committee at its hearing held on 22 November 2023.

By a letter dated 27 December 2023 from the Chairman of the Health Committee, the Inquiry Panel was informed that the Health Committee had found at its hearing held on 22 November 2023 that Dr CHAN was physically and mentally fit to practise medicine, surgery or midwifery.

In its decision on Dr CHAN's fitness to practise, the Health Committee noted with

agreement the opinion of Dr CHAN's treating psychiatrist, Dr LEUNG, that: -

“26. Good response to drug treatment, strong family support, effective clinical psychological therapy and addiction rehabilitation program have brought [Dr CHAN] back to normal family and social life in the past four years. The chance of recidivism is considered low.”

In his latest medical report dated 10 November 2023, Dr LEUNG supplemented that:-

“8. In conclusion, the overall prognosis of the mental condition of [Dr CHAN] is good. Subject to the conclusion of the inquiry by the Medical Council, it is planned that he will be weaned off his anti-depressant medication (Venlafaxine) and the maintenance phase of his psychiatric treatment is expected to be terminated one year after the outcome of the inquiry to ensure there is no relapse arising therefrom.

9. Even if [Dr CHAN] suffers from recurrence of his mental condition, which is unlikely, by reason of his good insight and self-discipline, [Dr CHAN] will likely seek psychiatric treatment such that it is highly improbable that he will re-offend in the future.”

In the Inquiry Panel's view, there was a need, both for the protection of the public as well as the best interest of Dr CHAN, to monitor him for a period of time of his ability to cope with the underlying stresses.

Taking into consideration the nature and gravity of the present case and what the Inquiry Panel had heard and read in mitigation, the Inquiry Panel ordered that Dr CHAN's name be removed from the General Register for a period of 4 months and the operation of the removal order be suspended for a period of 18 months subject to the condition of examination by Dr May LAM or such other psychiatrist to be nominated by the Council at least 2 times at 6 months interval during the suspension period;

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 is published in the official website of the Medical Council of Hong Kong (<http://www.mchk.org.hk>).

TANG Wai-king, Grace Chairman, The Medical Council of Hong Kong