

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR CHAN RAYMOND TSZ TONG (REGISTRATION NO.: M09073)

It is hereby notified that after due inquiry held on 8 March 2023 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 Raymond Tsz Tong (Registration No.: M09073) guilty of the following disciplinary charges:—

“That in or about April to August 2009, he, being a registered medical practitioner, disregarded his professional responsibility to his patient (“the Patient”), in that he:—

- (a) failed to consider other possible diagnosis or differential diagnosis before commencing neoadjuvant chemotherapy on the Patient;*
- (b) failed to conduct adequate investigation and/or examination to ascertain the nature of the Patient’s tumour before commencing neoadjuvant chemotherapy on the Patient; and*
- (c) carried out unnecessary neoadjuvant chemotherapy on the Patient.*

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

Dr CHAN’s name has been included in the General Register from 12 July 1993 to the present. His name has been included in the Specialist Register under the Specialty of Clinical Oncology since 7 July 2004.

On 19 April 2009, the Patient attended the Accident and Emergency Department of Pamela Youde Nethersole Eastern Hospital (“PYNEH”) because of per-rectal bleeding. Per-rectal examination revealed a suspicious mass with contact bleeding.

On 20 April 2009, a rectum biopsy was done for the Patient at PYNEH. It was stated in the diagnosis of the pathology report dated 22 April 2009 that there was no evidence of malignancy.

On 23 April 2009, Dr CHAN first saw the Patient. Examination performed by Dr CHAN revealed a tumour mass with the lower border at 4 to 5 cm from the anal verge. Dr CHAN arranged a CT scan of the abdomen.

On 24 April 2009, the CT scan of the abdomen as arranged by Dr CHAN was performed at Hong Kong Sanatorium & Hospital (“HKSH”). It was stated in the CT report “IMPRESSION: 1. Rectal tumour with local infiltration and possible involvement of uterus. Regional nodal metastasis cannot be excluded ...”.

On 27 April 2009, a second rectum biopsy was done for the Patient at PYNEH. It was stated in the pathology report dated 28 April 2009 that “... There is no acute cryptitis, crypt abscess, granuloma, dysplasia or malignancy. Advise repeat biopsy if clinically suspicious.”

On 28 April 2009, Dr CHAN saw the Patient again with a referral letter from PYNEH dated 27 April 2009. It was stated therein that “*Colonoscopy done on 27/4/09: scope to caecum, non-obstructing tumor at 5 cm from anal verge, multiple biopsy taken and result pending...Imp: CA rectum (await histological confirmation)*”. According to the medical notes of Dr CHAN, it was stated at the entry made on 28 April 2009 that “*Book planning, 3D [3 dimensional] CRT [conformal radiotherapy]*” and “*to arrange appointment QMH (for Bx)*”.

On 29 April 2009, Dr CHAN saw the Patient again for radiation planning at HKSH.

On 5 May 2009, the Patient started undergoing neoadjuvant chemoradiotherapy at HKSH.

On 13 May 2009, Dr CHAN wrote a referral letter to Queen Mary Hospital (“QMH”) to inform QMH of the period of chemoradiotherapy and suggested the time to repeat imaging and definitive surgery.

On 27 May 2009, the Patient was seen at QMH upon the referral of Dr CHAN. A third rectum biopsy was done for the Patient at QMH. It was stated in the diagnosis of the pathology report that there was no malignancy.

On 9 June 2009, the Patient completed the neoadjuvant chemoradiotherapy.

On 11 June 2009, a fourth rectum biopsy was done for the Patient at QMH. It was stated in the diagnosis of the pathology report that there was no malignancy.

On 11 August 2009, a laparoscopic low anterior resection with hysterectomy with bilateral salpingo-oophorectomy was performed on the Patient at QMH. The pathology showed endometriosis without malignancy.

On 24 April 2014, the patient's ex-husband lodged a complaint with the Medical Council against Dr CHAN.

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

The Inquiry Panel gratefully adopted the following observations in *Jackson & Powell on Professional Liability* (9th ed.) at [983-984]:—

“Bolam test continues to apply In relation to the roles of diagnosis ... the standard of care of skill and care required of a medical practitioner continues to be governed by the Bolam test. They are roles falling within the expertise of members of the medical professions...”

Standard of skill and care determined by reference to the specialisation of the defendant A practitioner who specializes in any particular area of medicine must be judged by the standard of skill and care of that speciality.”

According to the Secretary's expert, the presenting clinical picture of the Patient was typical of an adenocarcinoma of rectum. However, the first pathology report of PYNEH dated 22 April 2009 stated "...show pieces of rectal mucosa with no significant pathology. There is no dysplasia and no malignancy...". The second pathology report of PYNEH dated 28 April 2009 showed "... no acute cryptitis, crypt abscess, granuloma, dysplasia or malignancy...". Therefore, it was the opinion of the Secretary's expert that "The two biopsy results in PYNEH should have raised sufficient suspicion that this is not an usual case of adenocarcinoma of rectum ... This makes the chance of having invasive adenocarcinoma arising from mucosa of rectum ... exceedingly low". "There are a number of tumour types other than an adenocarcinoma of rectum that can give a similar clinical picture". "... Dr Chan still did not appear to have thought of possibilities other than adenocarcinoma of rectum".

Dr CHAN wrote in his medical report dated 15 July 2010 that "... The issue of uncertainty regarding the diagnosis did not cross my mind then as the CT was confirmatory and consistent with her clinical presentation." In Dr CHAN's submission to the Preliminary Investigation Committee dated 5 December 2017, Dr CHAN said that rectal cancer was his only working diagnosis. In his statement dated 30 November 2017, Dr CHAN said "I, therefore, firmly believed that the Patient had rectal cancer notwithstanding the negative result of the biopsy performed on 20 April 2009", and "... there was no uncertainty on my part regarding the diagnosis in view of the clinical and CT findings...".

The Inquiry Panel agreed with the Secretary's expert that "It is common sense that while CT can confirm the presence of a tumour, it can never confirm that the tumour is adenocarcinoma but not other tumour type".

The Inquiry Panel accepted the opinion of the Secretary's expert that Dr CHAN should have considered other possible diagnoses or differential diagnoses. However, Dr CHAN had failed to do so, jumped to the diagnosis of adenocarcinoma of rectum and commenced neoadjuvant chemoradiotherapy on the Patient without a positive histological diagnosis.

In the Inquiry Panel's view, Dr CHAN's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong and therefore found him guilty of misconduct in a professional respect under charge (a).

Although Dr CHAN wrote in his medical record saying "to arrange appointment QMH (for Bx)", there was no further specific action on his part that could be seen.

The Inquiry Panel accepted the opinion of the Secretary's expert that "... in view of the repeated negative biopsies showing no cancer cells at all, and to pay extra precautions and take additional measures to avoid misdiagnosis and unnecessary anticancer treatment" and "... He did not refer the patient to private sector for deeper biopsies eg image guided biopsy ...".

The Inquiry Panel was satisfied that Dr CHAN had failed to conduct adequate investigation and/or examination to ascertain the nature of the Patient's tumour before commencing neoadjuvant chemotherapy on the Patient.

In the Inquiry Panel's view, Dr CHAN's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong and therefore found him guilty of misconduct in a professional respect under charge (b).

As the diagnosis of adenocarcinoma of rectum was not ascertained, carrying out neoadjuvant chemoradiotherapy on the Patient was unnecessary.

In the Inquiry Panel's view, Dr CHAN's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong and therefore found him guilty of misconduct in a professional respect under charge (c).

Dr CHAN had a clear disciplinary record.

In the Inquiry Panel's view, neoadjuvant chemoradiotherapy was a kind of invasive treatment, the consequence of which could not be ignored. This modality of treatment should not be given lightly without a positive histological diagnosis.

Having considered the serious nature and gravity of the disciplinary charges for which Dr CHAN was found guilty and what the Inquiry Panel had heard and read in mitigation, the Inquiry Panel made a global order that Dr CHAN be removed from the General Register for a period of 6 months. The Inquiry Panel further ordered that the said removal order be suspended for a period of 18 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 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*