

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR YUEN FU LAM (REGISTRATION NO.: M13568)

It is hereby notified that after due inquiry held on 20 and 21 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 (“Inquiry Panel”) found Dr YUEN Fu Lam (Registration No.: M13568) guilty of the following disciplinary charge:—

‘That on or about 30 July 2015, he, being a registered medical practitioner, without proper care and/or assessment, issued a medical certificate in respect of Madam XXX (“the Patient”), which certified that the Patient was mentally fit for making judgement of her own finance.

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

2. The name of Dr YUEN Fu Lam had been included in the General Register from 2 July 2002 to the present and his name had been included in the Specialist Register under the Specialty of Family Medicine since 2 March 2011.

3. Briefly stated, the Secretary of the Medical Council (the ‘Council’) received a complaint from one of the Patient’s daughters (the ‘Complainant’) alleging Dr YUEN of professional misconduct when certifying on 30 July 2015 the Patient’s ability to manage her financial affairs.

4. The material parts of the medical certificate issued by Dr YUEN read as follows:—

‘... Re: XXX... Female / 86Y

This is to certify that Madam XXX attended our clinic today.

She got heart disease, and claimed no history of cognitive or psychiatric dysfunction.

She understood the reason of attendance here, for financial management authorization, involving the transfer of property ownership, and the follow up plan of finance by herself and her son afterwards, and fully know that she could not get back the money after the legal procedure.

She is orientated to time, place and person, and the cognitive assessment was matching her educational level.

Impression: She is mentally fit for making judgment of her own finance...’

5. In support of her complaint, the Complainant also provided the Council with a copy of the medical report prepared by one Dr KWOK, Associate Consultant, Department of Psychiatry of the Pamela Youde Nethersole Eastern Hospital (“PYNEH”) on the Patient dated 14 December 2016. The material parts of that medical report read as follows:—

‘...Re: XXX..., Female,... DOB: 1929

Madam XXX was born in China. She reported no family history of mental illness. She attended primary school for a few years. She came to Hong Kong at young age. She was married at her 20’s with son and daughters. Her husband passed away years ago. She reported no illicit drug abuse. She lived with a daughter and maid.

Madam XXX was first assessed by consultation liaison psychiatrist on 10/4/2014 for memory decline for 1 year. No depressive symptoms, no abnormal perceptions were reported. CT brain performed in 2/2014 showed periventricular hypodensities. Mini-mental state examination in 1/2014 showed score 12/30. She was diagnosed to have Alzheimer’s disease. She was treated with Aricept. She was referred to psychogeriatric clinic of day hospital for training in 7/2014. When last seen with daughter at psychiatric clinic of this hospital on 4th November 2016. She reported stable mood and fair memory...

In summary, Madam XXX was suffering from Alzheimer’s disease with treatment of medications from our department since 10/4/2014. Further psychiatric treatment is required...’

6. In response to the allegation of the Complainant, Dr YUEN first submitted to the Preliminary Investigation Committee (“PIC”) of the Council on 20 December 2018 *inter alia* that:—

‘...’

6. *Madam XXX (“the patient”) only attended my clinic once. On 30-7-2015, she attended my clinic, together with her son and a staff from law firm.*
 7. *According to her son, the patient had no history of cognitive disorder, or psychiatric illness or dementia. The purpose of this consultation was for documentation of ability for legal procedure of name transfer of property, with aid of legal firm.*
 8. *The patient reported that she had heart disease. She claimed no history of cognitive or psychiatric dysfunction.*
 9. *I had no knowledge about the patient’s psychiatric history at the Psychiatry Department of... PYNEH... I did not have access to the patient’s medical record at the Hospital Authority.*
 10. *Upon my assessment, the patient was oriented to time, place and person. She understood the reason of attendance here, which was for financial management authorization, involving transfer of property ownership, and the follow up plan of finance by herself and her son afterwards. She fully knew that she could not get back the money after the legal procedure.*
 11. *She gave her rationale that she was old, the remaining money being no use to her, and that her life would be supported by her son.*
 12. *I conducted Mini Mental State Examination (MMSE), an instrument for cognitive function assessment. It yielded a score of 18 out of 30 (uneducated at all).*
 13. *In the medical certificate, I commented that she is mentally fit for making judgement on her own finance...*
 14. *I only met this patient, and her son and the staff of the law firm in this clinical encounter at my clinic on 30-7-2015. I did not know the patient, any of her relatives, or any financial or legal agency concerned, before this consultation on 30-7-2015. I did not see this patient again after 30-7-2015.*
 15. *In 2017, I received letters from LAU & CHAN Solicitors which was acting on behalf of patient’s daughter, and H.Y. LEUNG & Co., Solicitors which was acting on behalf of GAIN HERO FINANCE LIMITED. Despite their request, I did not release the patient’s clinical information to these 2 parties, because I did not have the patient’s consent...*
7. In his witness statement dated 14 March 2023, Dr YUEN supplemented *inter alia* that:—

‘41. *In a letter dated 24th February 2017, Messrs Lau & Chan wrote to me to state that they were acting in a civil claim for the Patient on the instructions of her daughter. According to the heading of the letter, a company called Gain Hero Finance Limited had sued the Patient and [the Complainant’s brother] in a civil action...*

42. *Messrs Lau & Chan asked me to provide them with the basis of my opinion for the medical certificate which I had issued to the Patient on 30th July 2015 with supporting evidence, and also a copy of my medical notes and records for the consultation on that day. They wrote to me again on 26th April 2017, restating their request...*

8. According to the Complainant, the civil action brought by Gain Hero Finance Limited was for an order for sale of a residential property jointly owned by the Patient and her brother. Dr YUEN’s solicitor also told the Inquiry Panel that the order for sale was sought on the basis of a default judgment of \$1,400,000 plus interest owed by the Patient and the Complainant’s brother under a Loan Agreement made with Gain Hero Finance Limited on 30 July 2015.

9. After the close of the Secretary’s case, Dr YUEN admitted through his solicitor the factual particulars of the amended disciplinary charge against him.

10. The Inquiry Panel emphasized at the outset that MMSE was only a screening test for cognitive function which was however not definitive. The validity of the results of the MMSE depended on the circumstances under which it was administered, the patient’s rapport with the interviewing healthcare professionals, the age and education background of the patient & etc.

11. Hence, one had to approach the results of the MMSE with caution, which were not conclusive as to the mental capacity of the subject patient at the material time. This was particularly true when the score was within a low range of 18-20/30.

12. In this connection, the Inquiry Panel's attention was drawn by Dr CHUNG, the Secretary's expert witness and a specialist in psychiatry, to the local study by Professor Helen CHIU and her colleagues that *'The optimal cutoff points were 18 or below for illiterate subjects, 20 or below for those with 1 to 2 years of schooling, and 22 or below for those with more than 2 years of schooling.'* Dr CHUNG also told the Inquiry Panel which was accepted that patients with the score of 18/30 in MMSE have an 80% probability of suffering from dementia.

13. And the Inquiry Panel also agreed with Dr TSOI, the Secretary's expert witness and a specialist in Family Medicine, that *'The score of MMSE alone cannot confirm presence of satisfactory capacity or lacking of it.'*

14. The Inquiry Panel also agreed with Dr CHUNG that although *'Madam XXX denied having any illness affecting her memory... a reasonable doctor should know that the [medical] history from Madam XXX would be unreliable because her memory was impaired as suggested by the low score in the memory test' during the MMSE; and 'A reasonable doctor should also know that such memory impairment cannot be explained by "uneducated at all".'*

15. And the Inquiry Panel agreed with Dr TSOI that *'This [was] the first ever consultation by the patient to Dr Yuen... Dr Yuen should not rush into signing a certificate before full and proper medical information was obtained.'*

16. Worse still, as Dr CHUNG rightly pointed out, Dr YUEN had *'not obtained information about [the Patient's] contemporaneous financial situation and her ability in managing her finance.'*

17. The Inquiry Panel agreed with Dr CHUNG that the particular poor results relating to subtraction and recent memory coupled with the borderline score of 18/30 in MMSE called for further medical and social information from the Patient and/or her family before Dr YUEN would be in a position to certify that she was mentally fit for making judgment of her own finance.

18. For those reasons, the Inquiry Panel was firmly of the view that Dr YUEN had issued the said medical certificate in respect of the Patient's mental fitness for making judgment of her own finance without proper care and assessment. In the view of the Inquiry Panel, Dr YUEN's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, the Inquiry Panel found Dr YUEN guilty of misconduct in a professional respect as charged.

19. The Inquiry Panel found the lack of proper care and assessment in this case quite appalling given Dr YUEN's claim about his training and experience in mental capacity assessments. The Inquiry Panel needed to ensure that Dr YUEN would not commit the same or similar breach in the future.

20. Having considered the nature and gravity of the disciplinary charge and what was heard and read in mitigation, the Inquiry Panel ordered that Dr YUEN's name be removed from the General Register for a period of 6 months and the operation of the removal order be suspended for a period of 24 months.

21. 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*