

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR FUNG CHI PUN WILSON (REGISTRATION NO.: M11849)

It is hereby notified that after due inquiry held on 15 November 2021 and 30 November 2021 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 FUNG Chi Pun Wilson (Registration No.: M11849) guilty of the following disciplinary charge:—

‘The particulars of the complaint are that in or about September and October 2017, he, being a registered medical practitioner, made Health Care Voucher claims for referrals of 226 elderly persons to receive laboratory tests without (i) providing any prior medical consultation and/or (ii) meeting the elderly persons in person.

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

Dr FUNG’s name has been included in the General Register from 6 July 1998 to the present. His name has never been included in the Specialist Register.

The Government’s Health Care Voucher Scheme (‘HCVS’) provides health care vouchers annually to elders aged 65 or above to subsidize their use of primary care services in the private sector. Health care professionals who are registered in Hong Kong, including medical practitioners, are eligible to enroll in the HCVS as service providers. Dr FUNG was an enrolled healthcare service provider (‘EHCP’) under the HCVS.

During investigation of a case involving a Medical Laboratory Technologist under C L Medical Group Limited (焯朗醫療集團有限公司) by the Health Care Voucher Unit (‘HCVU’) of the Department of Health (‘DH’), information revealed that Dr FUNG might have made health care voucher claims for providing written referrals to elderly persons, who were members of an association known as Hong Kong Safety Service Association Limited (‘HKSSA’), to receive laboratory tests without providing prior medical consultation or having met the elderly persons.

HCVU therefore conducted a separate investigation on the voucher claims made by Dr FUNG under the HCVS. During the investigation, Dr FUNG had submitted two declarations to HCVU. Dr FUNG admitted in the declaration dated 15 July 2018 that he had not provided any consultation service to the voucher recipients (‘VRs’) in person for 199 voucher claims. Dr FUNG admitted in the declaration dated 29 October 2018 that he had not provided consultation services to VRs in person for another 27 voucher claims.

From HCVU’s investigations, Dr FUNG was found to have breached the Health Care Voucher Scheme Definitions, and Terms and Conditions of Agreement (‘the Agreement’) by making a total of 226 voucher claims without providing services in person to the elderly persons. Dr FUNG was disqualified from the HCVS on 25 April 2019, and the payment for the concerned 226 claims (\$22,600) was recovered by HCVU from Dr FUNG on 6 May 2019.

By a letter dated 26 April 2019, DH lodged a complaint against Dr FUNG to the Medical Council.

Although Dr FUNG admitted the factual particulars of the disciplinary charge against him and did not dispute that the facts amounted to professional misconduct, it remained for the Inquiry Panel to consider and determine on the evidence whether he has been guilty of misconduct in a professional respect.

Pursuant to Clause 37 of the Agreement, the EHCPs were required to comply with all directions given by the Government. Non-compliance with the directions given by the Government under the Agreement or in relation to the HCVS might be treated as breach of Clause 37 of the Agreement.

According to the bilingual version of Proper Practices under the Elderly Health Care Voucher Scheme issued by HCVU to the EHCPs in October 2016 (‘2016 Proper Practices’), the EHCPs were reminded of the following:—

‘You should verify the VR’s identity by checking against the particulars in their Hong Kong Identity Cards (HKICs) or Certificates of Exemption and ensure that they are the one holding the identity documents.’

‘For every voucher claim, VRs should bring along their identity document and physically attend the practices of EHCP to receive healthcare services.’

‘你必須核對醫療券使用者的香港身份證或豁免證書的個人資料，確認他們是身份證明文件的持有人。’

‘在每一次申領醫療券時，醫療券使用者必須攜同其身份證明文件，親身到醫療服務提供者的執業地點接受醫療服務’

[Emphasis in underline added by HCVU in both English and Chinese versions of the 2016 Proper Practices.]

According to the Secretary, among the concerned 226 claims, 17 claims were related to the 2016 Proper Practices.

According to the bilingual version of Proper Practices under the Health Care Voucher Scheme issued by HCVU to the EHCPs in September 2017 (‘2017 Proper Practices’), the EHCPs were reminded of the following:—

‘For every voucher claim, VRs should physically attend the practice of the EHCP and produce their Hong Kong Identity Cards (‘HKICs’) or Certificates of Exemption (‘CoEs’) issued by the Immigration Department in order to receive healthcare services... You should verify the VR’s identity by checking against the particulars in their HKICs or CoEs and ensure that they are the one holding the identity documents.’

‘在每一次申領醫療券時，醫療券使用者必須親身到醫療服務提供者的執業地點，出示其香港身份證或由入境事務處簽發的《豁免登記證明書》才可接受醫療服務……你必須核對醫療券使用者的香港身份證或《豁免登記證明書》上的個人資料，確認他們是身份證明文件的持有人。’

[Emphasis in underline added by HCVU in both English and Chinese versions of the 2017 Proper Practices.]

According to the Secretary, among the 226 claims, 209 claims were related to the 2017 Proper Practices.

Dr FUNG admitted that he had not provided consultation service to all the 226 VRs in person. No doubt he was not in compliance with the requisite directions under the 2016 and 2017 Proper Practices and thus violated the Agreement with the Government. Having said that, albeit there was violation or breach of the agreement with the Government, the Inquiry Panel agreed with the Legal Officer that such breach or violation *per se* was by no means sufficient to constitute professional misconduct.

The Legal Officer submitted that Dr FUNG knowingly breached the Agreement and thus amounted to abuse of the system and trust. The Inquiry Panel must say that there was no direct evidence that Dr FUNG had intentionally breached the Agreement. The Inquiry Panel did not agree that the Legal Officer could meet a case that Dr FUNG had abused the system and trust.

In his submission to the Preliminary Investigation Committee (‘PIC’) dated 5 November 2020, Dr FUNG explained the key steps that were taken in referring elderly patients for laboratory tests under the health check scheme set up by HKSSA (‘the Scheme’). Dr FUNG said that he was involved *via* the practice entitled Doctor Now Limited in the Scheme. Elderly patients who were members of HKSSA would first inform a representative from HKSSA that they would like to undergo the basic health screening organized by HKSSA. The HKSSA representative would inform the patients of the scope of the screening, the blood and urine tests to be performed and the instructions the patients had to follow. Upon being notified by HKSSA, Dr FUNG would review the patient’s medical history, which had been obtained by HKSSA from the member. Dr FUNG would consider if there were any contraindications for the laboratory tests. If appropriate, he would prepare a referral letter to the laboratory so that the relevant tests could be arranged. In regard to the member’s samples, which normally consisted of urine and blood, the HKSSA representative, who would either be a nurse or a phlebotomist, would obtain at the member’s home. If the member wished to use his/her health care vouchers to settle the relevant fees, he/she would be asked to sign two consent forms, one for the purposes of confirming their agreement to

use their vouchers to settle Dr FUNG's fees, and the other to settle the laboratory fees. The samples would then be sent to the laboratory together with Dr FUNG's referral letter. After the results became available, they would be analysed by Dr FUNG. Further medical information would be sought from the patient and family as necessary. The results would be explained to the patients and family members, with recommendations and follow-up actions if appropriate.

It was stated in paragraph 17.1 of the Code of Professional Conduct (the 'Code') (2016 edition) that:—

'A doctor may refer a patient for diagnostic ... services to ... any other provider of health care services permitted by law to furnish such services, if in his clinical judgment this may benefit the patient...'

According to what Dr FUNG told the Inquiry Panel in his PIC submission, the Inquiry Panel simply did not see there was any opportunity at all for him to confirm with the elderly patients if it was really their wish to undergo the blood and/or urine tests and what they would wish to find out from the tests. Dr FUNG would also not know if what the HKSSA representatives told the elderly patients about the screening tests were correct or if anything important was missing. All that Dr FUNG did after HKSSA referred an elderly patient to him was reviewing the medical history of the patient, and if there was no contraindication, then referring the patient for the laboratory tests. In the Inquiry Panel's view, this was totally unacceptable. By simply reviewing the medical history, there was no opportunity at all to verify from the patients if the medical history was accurate, not to mention there was no opportunity to find out if there had been any updates on the medical conditions. With all these information missing, the Inquiry Panel was not satisfied that Dr FUNG's referral of the 226 VRs for laboratory tests were in the patients' best interests and benefits.

In the Inquiry Panel's view, Dr FUNG's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. The Inquiry Panel therefore found him guilty of misconduct in a professional respect as charged.

Dr FUNG had a clear disciplinary record.

Taking into consideration the nature and gravity of Dr FUNG's case and what the Inquiry Panel had heard and read in mitigation, the Inquiry Panel ordered that Dr FUNG's name be removed from the General Register for a period of 1 month. The Inquiry Panel further ordered that the removal order be suspended for a period of 6 months.

The order is 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*