G.N. 3173

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR CHAN MALCOLM (REGISTRATION NO.: M01377)

It is hereby notified that after due inquiry held on 24 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 CHAN Malcolm (Registration No.: M01377) guilty of the following charge:—

> *'That, he, being a registered medical practitioner, disregarded his professional responsibility to his patient … ("the Patient"), in that he failed to excise the lipoma located near the Patient's right arm ("the Lipoma") in the operation performed on 18 January 2018.*
>
> *In relation to the facts alleged, he has been guilty of misconduct in a professional respect.'*

2. The name of Dr CHAN Malcolm had been included in the General Register from 20 June 1969 to the present and his name had been included in the Specialist Register under the Specialty of General Surgery since 6 May 1998.

3. The Patient attended Dr CHAN's clinic for the first time on 6 January 2018. She was referred to Dr CHAN by a General Practitioner, Dr KONG Ping Fai ('Dr Kong'). According to Dr Kong's referral letter dated 3 January 2018, the Patient developed a mass in her right upper arm which was likely to be a lipoma.

4. On 6 January 2018, Dr CHAN found a lipoma of approximately 6 x 7 cm in size in the Patient's right upper arm below deltoid ('the Lipoma').

5. On the same day, with the Patient's consent, Dr CHAN arranged for the Patient to undergo surgical excision of the Lipoma on 18 January 2018 ('the Operation').

6. The Operation was performed by Dr CHAN on the Patient at St. Teresa's Hospital ('Hospital') on 18 January 2018 under general anaesthesia. The Patient was in supine position and a pad was placed under her right shoulder for easier access. After skin preparation and towelling, Dr CHAN located a lumpy area in the deltoid by palpation. Dr CHAN then made a vertical incision of about 5 cm long in the Patient's right upper arm and explored the subcutaneous plane and the intra-muscular plane. Dr CHAN did not find the Lipoma. Instead, Dr CHAN removed some fatty subcutaneous tissues approximately 7–8 cm wide and submitted the same for further histopathological investigation.

7. Dr CHAN saw the Patient in the ward in the morning of 19 January 2018. The Patient was discharged from the Hospital on the same day.

8. According to the histopathology report dated 19 January 2018, macroscopic examination of the specimen submitted by Dr CHAN revealed that it was a piece of yellowish fatty tissue of approximately 4 x 2 x 0.5 cm in size, with cut surface showing mildly congested yellowish tissue without any abnormal whitish area identified. Microscopic examination showed mature adipose tissue traversed by some fibrous tissue. No lipoblast, atypical stromal cell or malignancy was found.

9. The Patient returned to Dr CHAN's clinic for a post-operative follow-up consultation on 26 January 2018, on which occasion her wound stitches were removed.

10. The Patient attended Dr CHAN's clinic again on 3 February 2018. She told Dr CHAN that the Lipoma was still there and requested for a further examination, upon which Dr CHAN agreed with the Patient that the Lipoma was still there and apologized to her for not having removed the Lipoma during the Operation. Dr CHAN offered to re-operate on the Patient free of charge if necessary.

11. By a statutory declaration made on 11 January 2019, the Patient lodged a complaint against Dr CHAN to the Medical Council.

12. In his medical report dated 22 November 2018, Dr CHAN said that on 6 January 2018 when he examined the Patient, he found a flattish nodular lipomatous patch of approximately 6 x 7 cm in size in the deltoid area. The mass was only bulging slightly and its boundaries were ill-defined. Dr CHAN said he noted the mass appeared to be different from typical lipomas, which should

stand out as a lump with lobulations. Dr CHAN further said that on the day of the Operation, the reason he put the Patient under general anaesthesia was because he believed infiltration of anaesthetics under local anaesthesia might further obscure the boundaries of the lipomatous mass. After skin preparation and towelling, he found the lipomatous mass was even less recognizable. The Inquiry Panel had no doubt that Dr CHAN all along prior to the Operation knew that the boundaries of the Lipoma were ill-defined.

13. According to Dr CHAN's expert report dated 6 December 2018, failure to remove a lipoma at an operation was rare. Failure to find and remove a lipoma only happened when the features of a lipoma were not obvious and when they become even less so when the patient was put on the operating table. In the context of the Patient, Dr CHAN's expert listed a number of reasons for failure to locate the Lipoma i.e. (i) ill-defined border of the Lipoma; (ii) the Lipoma was flat contoured; (iii) the location of the Lipoma was at the deltoid region, which on account of the underlying muscles and long bone, had a very convex shape, so that a slight increase of convexity from the Lipoma might not be easily noticeable; (iv) lack of comparison, as the opposite side was covered; and (v) distortion by positioning, as the body shape, and by extension the contour of the Lipoma, changed when the Patient lied down, and there was further distortion when a pad was placed under the shoulder to bring the operation site away from the operation table.

14. According to the Secretary's expert report dated 26 April 2020, '[t]here are many ways to accurately locate a lipoma for excision before and during an operation in order to minimize risk of missing it. Their application depends on the obviousness of the mass. i) Physical examination with palpation to locate the mass for excision is a standard practice, when the mass is obvious. ii) Mark the position of the mass on the skin with marker pen before the operation can help to prevent disorientation during the operation. iii) Double confirm the location of the mass by asking the patient to locate the mass he/she is referring to, and mark the position on the skin with a marker pen before the operation, is a common practice to minimize risk of disorientation during the operation. iv) When the mass is not obvious by palpation, imaging with Ultrasonogram before and during the operation can help to locate the mass. v) When the mass is deep, advance imaging e.g. Magnetic Resonance Imaging (MRI) can accurately locate the mass and show the anatomical details of the operative field… Excision of a lipoma in the arm is a very standard operation that all qualified surgeons should be capable of doing it. There are many ways to locate the lipoma accurately as described above. If such precautions are taken appropriately before and during the operation, the risk of missing the lipoma in an operation would be minimal. Surgeons performing the operation should be able to apply the above measures as necessary to locate the lipoma for excision.'

15. The Secretary's expert further said in his Supplementary Expert Report dated 12 September 2022 that 'it is the surgeon's sole responsibility to assess the location of the mass to be excised, double confirm with the patient for the site of the mass if the mass is palpable by the patient, and decide on the surgical incision. All these should be done before anaesthesia when the patient is still awake …'

16. Given that the Lipoma was ill-defined, flat-contoured, its location was at the deltoid region, and there might be distortion by positioning as the Patient was lying down and a pad was placed under her right shoulder, Dr CHAN should have carried out one or more of the other measures as suggested by the Secretary's expert to confirm the location of the Lipoma. However, pre-operatively, Dr CHAN did not personally mark the exact position of the Lipoma on the Patient's skin with a marker pen, or cross check with the Patient the exact location of the Lipoma. No ultrasound or imaging was performed to confirm the exact location of the Lipoma. Dr CHAN agreed that it was suboptimal that he attempted to excise the Lipoma without marking, cross-checking with the Patient and assisting with imaging beforehand, and ended up missing the Lipoma during the Operation.

17. Dr CHAN told the Inquiry Panel during the inquiry that he did not even palpate before anaesthesia was given to the Patient. What Dr CHAN did was simply performing examination by palpation after anaesthesia, which was clearly not sufficient in that case.

18. In the view of the Inquiry Panel, Dr CHAN'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.

19. Having considered the serious nature and gravity of disciplinary charge and what was heard and read in mitigation, the Inquiry Panel ordered that Dr CHAN be reprimanded.

20. 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-Yee, Joseph *Chairman, The Medical Council of Hong Kong*