

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR YIP MAN HING KEVIN (REGISTRATION NO.: M08526)

It is hereby notified that after due inquiry held on 25 May 2022 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 YIP Man Hing Kevin (Registration No.: M08526) guilty of the following disciplinary charges:—

‘That he, being a registered medical practitioner:—

- (a) was found guilty of two charges of professional misconduct under section 53(1)(d) of the Medical Registration Act (Chapter 174) of the Statutes of the Republic of Singapore on or about 18 March 2020 by the Singapore Medical Council Disciplinary Tribunal; and
- (b) has been guilty of misconduct in a professional respect in that he failed to report to the Medical Council that he has been the subject of adverse findings in disciplinary proceedings by other professional regulatory bodies mentioned in (a) above within 28 days from the adverse disciplinary finding, contrary to section 29.1 of the ‘Code of Professional Conduct for the Guidance of Registered Medical Practitioners’ published by the Medical Council of Hong Kong in January 2016.

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

Dr YIP’s name was at all material times and still is included in the General Register. His name has been included in the Specialist Register under the Specialty of Orthopaedics and Traumatology since 2 May 2002.

Briefly stated, by an email dated 27 April 2020, the Singapore Medical Council (‘SMC’) informed the Medical Council (the ‘Council’) that Dr YIP was convicted at a disciplinary inquiry held on 18 March 2020 of 2 charges of professional misconduct and was ordered, amongst others, by the Singapore Medical Council Disciplinary Tribunal (‘SMCDT’) to be suspended from medical practice for a period of 8 months.

Enclosed with the email from SMC was a copy of the Grounds of Decision of SMCDT handed down on 19 March 2020 in which it was mentioned that:—

*‘1 Dr Yip Man Hing Kevin (‘Dr Yip’) faced a total of five charges of professional misconduct under section 53(1)(d) of the Medical Registration Act (Chapter 174) (‘MRA’), pursuant to two amended Notices of Inquiry:—*

*(a) The first amended Notice of Inquiry dated 4 February 2020 (‘1st NOI’) arose out of a complaint by one Mr P1 (the ‘Patient’) dated 21 November 2013. The two charges (the ‘1st Charge’ and ‘2nd Charge’) of the 1st NOI relate to insufficient medical leave being provided to the Patient.*

*(b) The second amended Notice of Inquiry dated 4 February 2020 (‘2nd NOI’) arose out of a complaint by the Singapore Medical Council (‘SMC’) dated 24 July 2013. The three charges of the 2nd NOI each relate to insufficient medical leave being provided to Mr P2, Mr P3, and Mr P4 respectively.*

...

*3 Dr Yip elected to plead guilty to the 1st and 2nd Charge in the 1st NOI, and agreed to the remaining three charges in the 2nd NOI being taken into consideration for the purposes of sentencing (‘TIC Charges’).*

...

*5 The 1st Charge concerned Dr Yip’s conduct in giving insufficient medical leave to the Patient in relation to the Patient’s right middle finger injury...*

*6 The 2nd Charge concerned Dr Yip’s conduct in giving insufficient medical leave to the Patient in relation to the Patient’s left shoulder injury...*

7 The relevant paragraphs of the agreed statement of facts relating to the charges are as follows:

...

1. Dr Yip Man Hing Kevin ('Dr Yip') is a registered medical practitioner. He was practising as an orthopaedic surgeon at Singapore Sports and Orthopaedic Clinic... ('the Clinic') at the material time.

...

### III. Facts pertaining to the 1st Charge of the 1st NOI

5. The Patient, a Singapore citizen, was working as a driver at Company A at the material time. The Patient presented at the Clinic on 10 April 2012 with an injury to his right middle finger. On clinical examination, this was found to be a distal phalangeal tuft fracture with subungual hematoma of the right middle finger.

6. Dr Yip treated the Patient with a splint and intravenous antibiotics, oral antibiotics, pain relief and anti-inflammatory medication, and subsequently scheduled him for a review on 13 April 2012. Dr Yip also issued a medical certificate ('MC') for the Patient for two days from 10 April 2012 to 11 April 2012, and certified that the Patient fit for light duties for two days from 12 April 2012 to 13 April 2012. The Patient was absent from work from 10 April 2012 to 13 April 2012.

7. Treatment of a tuft fracture requires the distal interphalangeal joint to be immobilized for at least 2 weeks. Given the Patient's occupation as a driver and his condition as presented on 10 April 2012, medical leave of at least 2 weeks' duration should have been given to the Patient, and Dr Yip should not have certified the Patient fit for light duties from 12 April 2012 to 13 April 2012.

8. On 13 April 2012, Dr Yip reviewed the Patient. Following this review, Dr Yip provided the Patient with medical leave for 13 April 2012, and certified the Patient to be fit for light duties for 14 days from 14 April 2012 to 27 April 2012 with the remark 'Restrict use of Rt Upper Limb'. The Patient returned to work for the period from 14 April 2012 to 26 April 2012, save for 19 April 2012.

9. Treatment of a tuft fracture requires the distal interphalangeal joint to be immobilized for at least 2 weeks. Given the Patient's occupation as a driver and his condition as presented on 13 April 2012, medical leave of at least 2 weeks' duration should have been given to the Patient, and Dr Yip should not have certified the Patient fit for light duties from 14 April 2012 to 27 April 2012.

10. By virtue of the foregoing, Dr Yip is guilty of professional misconduct under section 53(1)(d) of the Medical Registration Act (Chapter 174) in that his aforesaid conduct amounts to such serious negligence that it objectively portrays an abuse of the privileges which accompany registration as a medical practitioner.

### IV. Facts pertaining to the 2nd Charge of the 1st NOI

11. On 8 July 2012, the Patient sustained a left shoulder injury after trying to grab hold of the back of a lorry while at work. He presented at the Clinic three days later, on 11 July 2012.

12. The Patient was documented to have a reduction in shoulder movements due to pain. No physical examination for tenderness or instability was recorded, but an x-ray was ordered. The x-ray showed no body abnormality and no rotator cuff calcification.

13. Dr Yip treated the Patient with anti-inflammatory medication and analgesia, together with muscle relaxant medication. Dr Yip then certified the Patient to be fit for light duties from 11 July 2012 to 17 July 2012.

14. On 14 July 2012, Dr Yip reviewed the Patient, and subsequently referred him for physiotherapy at Clinic B. The Patient underwent a total of 4 sessions of physiotherapy there from 24 July 2012 to 6 August 2012. The physiotherapist recommended further investigation of the Patient.

15. On 17 July 2012, either Dr Yip or a locum doctor under his charge and supervision reviewed the Patient, after which the Patient was certified fit for light duties from 18 July 2012 to 24 July 2012.

16. On 24 July 2012, either Dr Yip or a locum doctor under his charge and supervision reviewed the Patient, after which the Patient was certified fit for light duties from 25 July 2012 to 7 August 2012, with the remark 'Restrict Strenuous Activities'.

17. Although the Patient's next review was scheduled to be on 7 August 2012, the Patient presented himself to Dr Yip one day earlier on 6 August 2012. That day, the Patient underwent an MRI for his left shoulder. Again, Dr Yip certified the Patient fit for light duties, this time for 21 days from 8 August 2012 to 28 August 2012 with the remark 'Restrict Strenuous Activities'.

18. The MRI results dated 6 August 2012 revealed the following:—

- a. A medial dislocation of the biceps tendon out of the bicipital groove;
- b. A likely partial tear of the subscapularis tendon, coraco-humeral and superior glenohumeral ligaments; and
- c. Tendinopathy of the supraspinatus tendon.

19. On 10 August 2012, Dr Yip reviewed the Patient's MRI results with him. Dr Yip proceeded to schedule the Patient for arthroscopic surgery on 16 August 2012.

20. On 16 August 2012, the Patient underwent shoulder arthroscopic surgery (the 'Procedure'). The Patient had to be administered general anaesthesia for the Procedure. During the Procedure, the Patient was found to have a small degenerative labial tear which was subsequently debrided (i.e. cleaned up). As his biceps tendon and subscapularis tendon were found to be intact, as was his rotator cuff on bursoscopy, no other procedures were required.

21. One day after the Procedure, on 17 August 2012, the Patient was discharged. He was not prescribed any hospitalisation leave or MC. Instead, the Patient was certified to be fit for light duties from 8 August 2012 to 28 August 2012.

22. Dr Yip conducted a post-operation review on 22 August 2012. After that, either Dr Yip or a locum doctor reviewed the Patient again on 29 August 2012. The Patient was then certified to be fit for light duties for 15 days from 29 August 2012 to 12 September 2012, with the remark 'Restrict Strenuous Activities'. Dr Yip subsequently reviewed the Patient again on 12 September 2012.

23. The Patient was absent from work for the entire period from 16 August 2012 to 12 September 2012.

24. Given that the Patient worked as a driver and had just undergone a procedure that required general anaesthesia and needed extensive rehabilitation to mobilise his shoulder to regain motion after the Procedure, he should have been given medical leave of at least 4 weeks' duration upon his discharge on 17 August 2012, or at the reviews on 22 August 2012, 29 August 2012, or 12 September 2012. Dr Yip should not have certified the Patient fit for light duties on those occasions.

25. By virtue of the foregoing, Dr Yip is guilty of professional misconduct under section 53(1)(d) of the Medical Registration Act (Chapter 174) in that his aforesaid conduct amounts to such serious negligence that it objectively portrays an abuse of the privileges which accompany registration as a medical practitioner.'

Whilst section 21(1)(b) of the Medical Registration Ordinance (Chapter 161) was silent on the matter, the Council has always adopted the view that the legal provision could relate to professional misconduct committed outside Hong Kong. Indeed, the Code of Professional Conduct (2016 edition) (the 'Code') also provided that:—

*'28.1 Adverse findings on a registered medical practitioner in disciplinary proceedings by other professional regulatory bodies in or outside Hong Kong may likewise invoke the Council's disciplinary procedure.'*

The Inquiry Panel appreciated that the meaning of 'professional misconduct' under section 53(1)(d) of the Singaporean Medical Registration Act might not be the same as under Hong Kong laws. But then again, the Inquiry Panel's task in the present case was to have regard to all the evidence which was adduced before the Panel, including but not limited to the aforesaid findings of SMCDD, and to ask itself whether or not the Inquiry Panel was satisfied to the requisite standard of proof that Dr YIP had been guilty of professional misconduct as charged [see: *In re A Solicitor* [1993] QB 69 at 80F-G].

In deciding the weight to be attached to the aforesaid findings of SMCDT, the Inquiry Panel bore in mind that (a) evidence relating to the disciplinary charges before SMCDT was admitted by way of an agreed statement of facts; and (b) there was no appeal from the decision of SMCDT [see: *In re A Solicitor* [1993] QB 69 at 80G-H].

It was clearly stated in the Code that:—

*'26.2 A sick leave certificate can only be issued after proper medical consultation of the patient by the doctor...'*

*26.3 Any doctor who in his professional capacity gives any certificate or similar document containing statements which are untrue, misleading or otherwise improper renders himself liable to disciplinary proceedings...'*

The Inquiry Panel agreed with SMCDT that given the respective medical conditions of the Patients and their pre-accident occupations, it was inappropriate for Dr YIP to certify them fit for light duties. In particular, statements in the medical certificates to the effect that the subject patient of the 2nd NOI would be fit for light duties, even with the remark '*Restrict Strenuous Activities*', were misleading and improper. This was aggravated by, as SMCDT said, the fact that Dr YIP '*had failed to provide sufficient medical leave on more than one occasion for each charge*'.

For these reasons, the Inquiry Panel was satisfied on the evidence before the Panel that Dr YIP had by his conduct in the present case fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, the Inquiry Panel found Dr YIP guilty of misconduct in a professional respect as per disciplinary charge (a).

Dr YIP admitted before the Inquiry Panel and apologized for his oversight in not reporting to the Council within 28 days that he was found guilty by SMCDT on 18 March 2020 of 2 charges of professional misconduct.

However, in his submission to the Preliminary Investigation Committee ('PIC') by email dated 27 February 2021, Dr YIP explained that '*the Singaporean Medical Council had informed the Chairman of the HK Medical Council... about the judgment in a letter dated 27 April 2020... The letter stated that SMC will inform Hong Kong Medical Council and I therefore assumed that it was not necessary for me to inform the HK Medical Council about the judgment.*'

When being asked by the Inquiry Panel, Dr YIP acknowledged that the email from SMC was never copied to him. But then again, the real point was that it was the personal duty of Dr YIP to inform the Council of the same.

Moreover, by the time when SMC wrote to the Council on 27 April 2020, more than 28 days had elapsed since Dr YIP was found guilty by SMCDT on 18 March 2020 of 2 charges of professional misconduct. It followed in the Inquiry Panel's view that Dr YIP could not pray in aid the letter from SMC to exonerate his breach of duty to report under section 29.1 of the Code.

The Inquiry Panel was satisfied on the evidence before the Panel that Dr YIP had by his conduct in the present case fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, the Inquiry Panel found Dr YIP guilty of misconduct in a professional respect as per disciplinary charge (b).

Dr YIP had a clear disciplinary record.

Having regard to the nature and gravity of the present case, the Inquiry Panel ordered that:—

- (1) Dr YIP's name be removed from the General Register for a period of 3 months in respect of disciplinary charge (a);
- (2) the said removal order be suspended for a period of 12 months; and
- (3) a warning letter be issued to Dr YIP in respect of disciplinary charge (b).

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*