

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR CHAN YIU FAI (REGISTRATION NO.: M12120)

It is hereby notified that after due inquiry held on 22 September 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 Yiu Fai (Registration No.: M12120) guilty of the following charges:—

*“That in or about December 2021, he, being a registered medical practitioner, disregarded his professional responsibilities to his patient(s), in that he:—*

- (a) signed on 30 undated assessment and consent forms (“the Forms”), without proper assessment records made thereon, each for applying the use of physical restraints in residential care home(s) on the resident named therein; and*
- (b) failed to take any or adequate step(s) to ensure the information in the Forms were properly filled in for each of the named resident, prior to signing the Forms in (a) above.*

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

2. Briefly stated, the Secretary of the Medical Council (“Council”) was informed by the Social Welfare Department (“SWD”) vide a letter dated 17 January 2022 that during inspection of a residential care home for the elderly of name 嘉誠護老院, 30 blank consent forms for the use of physical restraint (the “30 Forms”) were signed by Dr CHAN without any details of his assessment records.

3. Copies of the 30 Forms together with extracts from the Code of Practice for Residential Care Homes (Elderly Persons) (January 2020 revised edition) (“the Code for RCHEs”) issued by SWD were placed by the Legal Officer for the Secretary before the Inquiry Panel for consideration.

4. It was evident to the Inquiry Panel from reading the extracts from the Code of RCHEs that assessments of the conditions of individual residents in respect of whom use of restraints were needed would be made by nurses/health workers/allied health professionals in the RCHEs.

5. However, in view of the Inquiry Panel, all registered medical practitioners ought to have taken into account the results of assessment before indicating in the Assessment and Consent Form(s) their agreement or disagreement to the proposed use of restrainers. For these reasons, the signing on the Assessment and Consent Form(s) without proper assessment records being made was prohibited.

6. By signing on the 30 Forms without proper assessment records made therein, Dr CHAN had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, Dr CHAN was found guilty of misconduct in a professional respect as per disciplinary charge (a).

7. It is clearly stated in section 26 of the Code of Professional Conduct (2016 edition) that:—

*“26.1 Doctors are required to issue ... certificates for a variety of purposes ... on the basis that the truth of the contents can be accepted without question. Doctors are expected to exercise care in issuing certificates and similar documents ...*

*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 signing of blank certificates is prohibited by the Council.”*

8. It was incumbent in view of the Inquiry Panel upon all registered medical practitioners to take adequate steps to ensure information in Assessment and Consent Forms were properly filled in before signing the same.

9. In failing to take adequate steps to ensure information in the 30 Forms were properly filled in before signing the same, Dr CHAN had by his conduct fallen below the standards expected of

registered medical practitioners in Hong Kong. Accordingly, he was found guilty of misconduct in a professional respect as per disciplinary charge (b).

10. Taking into consideration the nature and gravity of the case against Dr CHAN and what the Inquiry Panel had read and heard in mitigation, the Inquiry Panel made a global order in respect of disciplinary charges (a) and (b) that the name of Dr CHAN be removed from the General Register for a period of 1 month, and that the operation of the Order be suspended for a period of 6 months, subject to the condition that Dr CHAN shall complete continuing medical courses in medical ethics to be pre-approved by the Chairman of the Medical Council within the suspension period equivalent to 3 CME points and he shall submit evidence of certification of the CME points by a CME Accreditor approved by the Council within one month after the expiry of the suspension period.

11. The orders are published in the *Gazette* in accordance with section 21(5) of the Medical Registration Ordinance. 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*