CHIROPRACTORS COUNCIL
Inquiry Committee

DISCIPLINARY INQUIRY

Dates of hearing: 22 February 2013 (Day 1), 22 March 2013 (Day 2), 3 September 2013 (Day 3), 9 September 2013 (Day 4), 31 October 2013 (Day 5), 10 January 2014 (Day 6), 23 January 2014 (Day 7).

Respondent: Dr YEUNG Kwok Keung (Registration No. CC000027)

1. The Respondent, Dr YEUNG Kwok Keung, is charged with the following charges:-

"You, being a registered chiropractor, in or about August 2010, had disregarded your professional responsibility towards Mr X ("the complainant"), when he was under your care, in that -

(a) you provided inappropriate chiropractic treatment to the complainant on 30 August 2010 ("the treatment") after which he felt numbness and weakness in his lower limbs;

(b) you had failed to give the complainant proper explanation of his neck conditions and/or appropriate advice on the effect and associated risks of the recommended treatment before providing the treatment to him;

(c) you failed to take appropriate or necessary follow-up action in the best interest of the complainant immediately after the treatment on 30 August 2010 when he indicated severe numbness in his lower limbs to you;

and in relation to the facts alleged, either individually or cumulatively, you have been guilty of misconduct in a professional respect."

Facts of the case

2. The Complainant first consulted the Respondent on 4 July 2008. He complained of severe neck pain and back pain with numbness of the 4th and 5th fingers of both hands. Neck flexion increased severe neck pain and finger numbness. He also complained of pricking pain in the dorsum of both hands and stomach problems. He could not perform delicate finger movements including typing and grabbing.

3. The Respondent arranged for an X-ray to be taken. According to the Respondent, the X-ray showed that the Complainant had reverse curve in his cervical region, degeneration joint disease at C3 to C5, degeneration joint disease at L3 to L5, and narrowing of intervertebral foramen at L4/L5 and L5/S1. After examination, the Respondent made the diagnosis of cervical, thoracic and lumbar subluxation.

4. From 4 July 2008 to 8 January 2010, the Respondent provided to the Complainant 38 sessions of "regular chiropractic treatment". Such treatment included the following manipulations/adjustments:-

   (a) manipulation of the neck towards the left and right in sitting position;

   (b) low back manipulation in side posture;

   (c) anterior thoracic manipulation in supine posture;

   (d) low back flexion-distraction treatment by an automatic flexion-distraction table.

5. After more than 7 months, the Complainant consulted the Respondent again on 20 August 2010 because of wry neck (i.e. torticollis). The Respondent recorded in the clinical record "*Neck and shoulder tight*". After examination, he made the same diagnosis of cervical, thoracic and lumbar subluxation. He performed chiropractic adjustments on the complainant's C1, T1 and sacrum. According to the complainant, the treatment included all the 4 manipulations/adjustments described in paragraph 4 above, similar to those that he had been receiving in the previous 38 sessions.

6. According to the Complainant, a few days after 20 August 2010, he went on a trip to Macau. During and after the trip, he had numbness of his toes and could not walk steadily due to incoordination of his legs.

7. The Complainant consulted the Respondent again on 30 August 2010. After examination, the Respondent found not much difference in the Complainant's condition, and gave the Complainant cervical, thoracic and lumbar treatment "as usual". The last stage of the treatment was the automatic flexion-distraction table, when the Respondent had left the treatment room.

8. There was some dispute as to the Complainant's reaction to the treatment on 30 August 2010. The Complainant said that during the flexion-distraction treatment he felt pain and screamed out, but the Respondent and the clinic assistant said that they did not hear such screaming. However, both agreed that after the treatment the Complainant complained of numbness of the lower limbs, and the Respondent told him that it was a normal reaction and told him to take a rest in the waiting area before leaving the clinic.

9. According to the Complainant, since the treatment on 30 August 2010, his numbness was getting worse. He could only walk slowly, and felt that he could fall down easily when walking downstairs.

10. On 1 September 2010, the Complainant called the Respondent's clinic and complained that his lower limb numbness did not subside. When the Respondent called him back and asked about the details of the numbness, the Complainant said that it was very numb. The Respondent asked him to go back on 3 September 2010 for a further examination.

11. The Complainant did not return on 3 September 2010. Eventually arrangement was made for him to return on 14 September 2010. On 14 September 2010, the Respondent again examined him, and then performed cervical, thoracic and lumbar chiropractic treatment.

12. On 27 September 2010, the Complainant had a sudden onset of lower limb weakness and could not walk. He was admitted to the Accident and Emergency Department of a public hospital. MRI on 28 September 2010 showed cervical disc prolapse causing spinal cord compression at C4/C5 and C5/C6, and compression was more marked at C5/C6 with cord oedema.

13. On 6 October 2010, MRI taken in another hospital showed developmentally small caliber cervical spinal canal, disc protrusion with cord indentation though no compression at C4/C5, and disc protrusion leading to severe compression at C5/C6 associated with focal cystic

myelomalacia. On 8 October 2010, he underwent emergency operation for anterior spinal fusion of cervical spine in that hospital.

Findings of Inquiry Committee

14. The basis for any chiropractic treatment is the clinical condition of the patient, as the treatment must be directed towards and suitable for the patient's condition. All chiropractic treatment must be based on a proper diagnosis of the patient's clinical condition. Making a proper diagnosis is an essential part of any chiropractic treatment. It is an important part of treatment. The chiropractor should start with a working diagnosis, and then monitor the patient's response to treatment and development to determine whether any differential diagnosis has to be considered.

15. Therefore a chiropractor must take appropriate steps to arrive at a proper diagnosis in order to determine the appropriate treatment. These steps include history taking, clinical examination, and further diagnostic investigations where necessary. In this respect, we wish to point out that clinical examination includes, but is not limited to, orthopaedic and neurological examination depending on the case.

16. As is emphasised in Part III of the Code of Practice, proper clinical diagnosis is important for distinguishing between those conditions which can be treated by chiropractors and those that cannot. The Respondent agrees that there are conditions which chiropractors should be wary of and a proper diagnosis is necessary for understanding whether the chiropractor should or should not be treating the patient's condition.

17. The diagnosis must be properly recorded in the patient's clinical record, so that it can be used for monitoring the patient's progress through the various stages of treatment. This is important as treatment can be prolonged sometimes for many months or years, and particularly where the chiropractor has many other patients thus making it difficult and unreliable to depend merely on memory.

18. Although neurological examination is not always necessary, this should be performed if indicated by the patient's condition. Depending on the outcome of the neurological examination, further diagnostic investigations including imaging such as MRI may be required to ascertain the patient's condition.

19. Numbness of fingers which increases on flexion of neck indicates the possibility of neurological impairment. Neurological examination should be performed to ascertain whether there is any neurological impairment, and if so, the extent of it. If the finger numbness is bilateral, it is a stronger indication of neurological impairment (in particular spinal cord compression), and neurological examination is required. This is important as a patient with spinal cord compression is a risk factor in, and can be a relative contraindication for, chiropractic treatment. The chiropractic treatment may aggravate the condition and, in some cases, may lead to potentially serious consequences.

20. We recognise that there are different schools of thought in chiropractic, each school using different treatment techniques. However, the different schools relate to the approach of treatment, but for all schools the treatment must start from proper assessment of the patients' conditions for making the diagnoses. In respect of patients with the symptom of bilateral finger numbness, neurological examination is required irrespective of the chiropractic school.

21. In July 2008, the Complainant had a history of bilateral numbness of the 4^{th} and 5^{th} fingers, which increased on flexion of neck. He could not perform delicate finger movements such as typing and grabbing. These were possible signs of spinal cord compression, and required neurological examination to be performed. However, the Respondent did not do any neurological examination.

22. According to the Respondent, except the initial period in his 17 years of chiropractic practice, he never did any neurological examination. As neurological examination involves quick and simple tests, there is no reason for a chiropractor not to do it for patients with possible signs of neurological impairment. The inference we draw is that he was not paying proper regard to the significance of neurological symptoms to the diagnosis and therefore the treatment required.

23. When the Complainant came back on 20 August 2010 with further complaints, the Respondent should have conducted thorough examinations to ascertain whether the previous diagnosis still applied.

24. On 30 August 2010 when the Complainant returned to see the Respondent, there was a dispute as to whether the Complainant told the Respondent that he had incoordination of the legs and whether he presented with unsteady gait. We have to decide whether we accept the Complainant's or the Respondent's evidence.

25. For reasons detailed below, we reject the Respondent's evidence and accept the Complainant's evidence.

26. The Respondent's clinical record was grossly inadequate throughout all consultations. There was no record whatsoever of the diagnosis. As for the treatment provided in each session, there were only the notations "*C1*", "*T*", "*L*" and "*S*" representing different regions of the spine. There was no record whatsoever of the progress of the Complainant's conditions. Given the very large number of patients the Respondent was treating every day (averaging 20 to 30 each morning, and 20 to 30 each afternoon), we do not accept that he could have remembered each patient's diagnoses and progress without any documentary record. We do not accept that he could have remembered the details of the many consultations he had with the Complainant. In the circumstances, his evidence is based on unreliable memory or speculation which we cannot accept.

27. We accept the Complainant's evidence. His evidence about the pre-treatment lower limbs numbness and weakness is corroborated by the undisputed fact that he had numbness immediately after the treatment. Therefore, we accept that he had lower limbs numbness and unsteady gait before the treatment, and there was no reason that he did not make the complaint when consulting the Respondent. As to the minor inconsistencies between his oral evidence and the documentary records, these were due to memory inaccuracy and did not affect the reliability of his evidence.

28. When the Complainant presented on 30 August 2010 with gait disturbance and complained of leg numbness which suggested further worsening of his condition, there was all the more reason that the Respondent should have done neurological examination to find out whether there was any neurological impairment. It was alarming that the Respondent did not perform the proper investigation, even when the Respondent had presented with further symptoms and deterioration of his conditions.

29. We find that on 30 August 2010 the Respondent did not pay proper attention to the Complainant's symptoms, and was giving only routine treatment to him as if his condition remained the same throughout, even after a long absence of 7 months from January to August 2010. The same treatment was given on each consultation. He ignored the Complainant's subjective complaints and objective signs, and did not perform relevant examinations to verify the Complainant's condition.

30. Neurological examination was required to be performed on 30 August 2010. Even the Respondent's expert agreed that it was necessary to perform neurological examination for a patient with the same symptoms as the Respondent on 30 August 2010.

31. The Complainant had leg numbness after treatment on 30 August 2010. Leg numbness after treatment called for further examination, such as checking his gait in walking, and asking further questions to ascertain the cause of the numbness. However, the Respondent obviously did not recognise the significance of this. He told the Complainant that it was a normal reaction, and simply asked the Complainant to take a rest.

Charge (a)

32. The Legal Officer clarified in an early stage of the inquiry that Charge (a) did not allege that the Complainant's condition of lower limbs numbness and weakness was caused by the treatment on 30 August 2010. We accept that the phrase "*after which he felt numbness and weakness in his lower limbs*" in Charge (a) only described the Complainant's condition after treatment on 30 August 2010.

33. We have found that on 30 August 2010 the Respondent did not pay proper attention to the Complainant's symptoms. He failed to perform adequate examination. In doing so, he had failed his professional duty to take the proper steps to diagnose the Complainant's condition as the basis for his treatment. This is conduct below the standard expected amongst registered chiropractors. As diagnosis is an essential part of treatment, the treatment was inappropriate.

34. In the circumstances, we find the Respondent guilty of Charge (a).

Charge (b)

35. We then turn to Charge (b).

36. Charge (b) is about failure to give proper explanation and advice before providing treatment on 30 August 2010.

37. Given that on 30 August 2010 the Respondent did not perform the proper examination to diagnose the Complainant's neck condition, he could not have provided a proper explanation about the Complainant's

neck condition. In fact, according to the Respondent, he only told the Complainant that it was cervical, thoracic and lumbar subluxation.

38. Furthermore, the Respondent did not advise the Complainant about the effect and associated risks of the treatment which were particularly significant in the context of cervical disc prolapse. In fact, he could not have given such advice, as he was not even aware of the underlying condition of the neck.

39. A chiropractor has the professional duty to ascertain the patient's condition and the risks of a particular treatment, and to advise the patient of any such risks so that the patient can make an informed decision on the proposed treatment. Simply telling the patient what he will do, without a proper explanation of the risks, is not sufficient for this purpose, as the patient will not know the implications of such treatment to his health and safety.

40. The Respondent's conduct in this respect has fallen below the standard expected amongst registered chiropractors. We find the Respondent guilty of Charge (b).

Charge (c)

41. As to Charge (c), it is about the failure to take appropriate follow-up action after the treatment on 30 August 2010.

42. Both the Respondent and the clinic assistant admitted that the Complainant had numbness of the legs after the treatment on 30 August 2010. The Complainant's evidence was that he told the clinic assistant that he had severe numbness in his legs. This was the first time in all his 38 consultations that the Complainant had leg numbness after treatment and required assistance. The clinic assistant, although saying that the Complainant did not appear to be in distress, offered to call a taxi for him to take him home.

43. We accept that the Complainant indicated that he had severe numbness of his legs. Numbness after treatment is alarming, in particular given the Complainant's history of bilateral numbness of fingers. The Respondent should have performed further investigation to ascertain the cause of the numbness, in order to find out whether there were underlying conditions which would require immediate management. The Respondent failed to do so.

44. The Respondent's conduct in this respect has fallen below the standard expected amongst registered chiropractors. We find him guilty of Charge (c).

Sentencing

45. The Respondent has a clear record. Other than this, there is no mitigation of weight.

46. We bear in mind that the purpose of a disciplinary order is not to punish the Respondent, but to protect the public from persons who are unfit to practise chiropractic and to maintain public confidence in the profession by upholding the reputation of the profession.

47. Chiropractors must act prudently in diagnosing a patient's condition in order to determine the appropriate treatment, and to find out whether the patient has conditions which warrant special precautions or referral to other healthcare professionals. As we have said before, failing to do so may lead to potentially serious consequences for the patient.

48. Having regard to the gravity of the case, we consider that removal from the register for a period of 4 months is appropriate.

49. We further consider whether the removal order can be suspended. Having regard to all the circumstances, we are of the view that the Respondent can be given the opportunity to continue with his practice subject to conditions.

50. In the circumstances, we make the following orders:-

(a) The Respondent's name be removed from the register for a period of 4 months.

(b) The removal order be suspended for a period of 18 months, subject to compliance with the following conditions:-

(i) the Respondent shall not commit any further disciplinary offence within the suspension period;

(ii) the Respondent shall satisfactorily complete continuing professional development (CPD) course(s) on neurology, to the equivalent of 12

CPD points within 6 months from the date of service of this order upon the Respondent, such course(s) to be approved by the Council in advance;

(iii) the Respondent shall provide documentary evidence of satisfactory completion of the CPD course(s) approved by the Council within 1 month after expiry of the 6-month period for completing those course(s).

51. If the Respondent fails to comply with the above conditions, the removal order is liable to be activated, in part or in full.

52. We have noticed that the Respondent's record-keeping is unsatisfactory. We have not dealt with this in sentencing, as it is not the subject matter of the charges. Nevertheless, we advise the Respondent to take active measures to improve his record-keeping in his future practice.

53. We further advise the Respondent to treasure the opportunity we have given him to continue with his practice, and to make diligent efforts to comply with the conditions. He should start to find the CPD course(s) and submit the proposed course(s) to the Council for approval at the earliest opportunity, as delay in doing so may render himself unable to complete the course(s) within the 6-month period. He has to bear in mind that the Council will need to have reasonable time to consider the proposed course(s).