

Inquiry Committee of the Chiropractors Council  
Respondent: Dr. CHAN Wan-ho, Vincent

Date of hearing: 2 November 2007

1. The Respondent, Dr. CHAN Wan-ho, Vincent, is charged as follows:-

"That he, being a registered chiropractor, had disregarded his professional responsibilities towards his patient, Mr X, in that on or about 18 March 2004, failed to obtain proper consent from Mr. X before he rendered treatment on him. In relation to the fact alleged, he has been guilty of misconduct in a professional respect."

2. In early 2004, the patient had problem with his neck and consulted a chiropractor ("first chiropractor"). He saw the first chiropractor for 4 times, each time receiving chiropractic treatment from him. On the first time, the first chiropractor arranged for X-ray to be taken. After seeing the X-ray, he told the patient that there was not much problem with the neck but manipulated the patient's neck quickly for one or two times. The first chiropractor also detected a problem with his low back and rendered treatment to his low back.
3. After the first consultation, the patient did not experience any further problem with his neck. In other words, the neck problem was completely cured. However, he experienced stomach discomfort after treatment to his low back. The back problem continued after treatment on three further consultations. At the suggestion of a colleague, the patient went to the Respondent on 18 March 2004 for a second opinion.
4. According to the patient, he told the Respondent about his previous consultation with the first chiropractor and that he was coming for a second opinion. The Respondent then told the patient to go into the treatment room and lie down on a bed. Without informing the patient, the Respondent suddenly manipulated the patient's neck twice with a rotating movement, during which the patient heard a loud "click" and called out in pain. After the patient sat up, he asked the Respondent why he manipulated his neck. He could not remember whether the Respondent gave any answer. After the patient went home, he felt pain in his neck and had a headache.

5. On 22 March 2004, the patient went back to see the Respondent, accompanied by his wife. He told the Respondent his condition after the last treatment, and asked the Respondent whether there was any problem if he refrained from neck manipulation. The Respondent told him that the neck would recover naturally even without further manipulation. He then performed treatment to other parts of the patient's body but not the neck.
6. The patient continued to experience pain in his neck, and had to seek treatment from an orthopaedic surgeon and underwent physiotherapy.
7. The Respondent's version is that the patient did not say that he was consulting him for a second opinion only. He had explained to the patient what he was going to do at each step of the treatment. Although he did not ask the patient whether he agreed to the treatment, he inferred from the fact that the patient did not object that he consented to the treatment described. According to his medical records, neck manipulation was performed on the patient on both the first and second visits.
8. We bear in mind that we are not dealing with the propriety of the treatment rendered by the Respondent. We note that the patient did not make any complaint until July 2005. We accept his evidence that he did not wish to go through the trouble, and only decided to make a complaint when he experienced prolonged adverse effect of the neck manipulation. We also note that the complainant had unsuccessfully demanded for compensation from the Respondent after making the complaint. However, we do not find that this affected the credibility of the patient's evidence.
9. Having assessed the totality of the evidence, we find the patient an honest and reliable witness. We accept his evidence. Although there are some minor discrepancies between the patient's evidence and his wife's evidence, we find that these are immaterial having regard to the fact that the matter took place over three years ago.
10. We then turn to the Respondent's evidence. According to him, he did not remember what happened during the consultations other than what was recorded in the medical records. He described what he would generally do in consultations with patients. In his oral evidence, he denied that the patient was seeking a second opinion from him, as it was not in the medical records. However, this is

contradictory to his written representation to the Preliminary Investigation Committee in which he said that the patient having consulted the first chiropractor '*experienced stomach pain/discomfort on the second night and therefore wanted a second opinion*'.

11. We find the matters recorded in the medical records illogical and inherently inconsistent. In relation to the second visit, it was recorded that the patient's '*cervical spine worsened after the last treatment, 1-2 hours after treatment onset of headache - Friday onset of discomfort, Saturday better*'. This corroborated the patient's evidence that he complained of adverse effect of the neck manipulations. That being the position, the Respondent would not have continued to perform cervical adjustments, nor would the patient have agreed to further cervical adjustments. However, the medical records recorded at least two cervical adjustments on the second visit. In the PIC representations, the Respondent also said that the patient '*did in fact receive two additional cervical adjustments during his second visit to my clinic*'. We find that the medical records were inaccurate and cannot be relied upon.
12. In the circumstances, we reject the evidence of the Respondent.
13. As there is no express consent for the Respondent to perform treatment on the patient, we have to further consider whether there was implied consent for the treatment. Having regard to the fact that the patient told the Respondent that he was seeking a second opinion, and that the Respondent did not inform him that treatment was to be performed, the Respondent could not have inferred from the circumstances that the patient had given implied consent for treatment to be performed.
14. We accept that in usual circumstances when a patient consults a chiropractor, treatment would usually be inferred as part of the purpose of the consultation and no express consent would be required. However, it will be an entirely different situation where the patient expressly indicated that he was seeking the consultation for an opinion. If treatment is proposed in such a situation, the patient must be informed of the proposed treatment and asked whether he agrees to the proposed treatment.
15. We also wish to say that for treatment which involves high risks, there must be explanation of the likely risks and the patient given the opportunity to give

informed consent for the treatment. Cervical adjustment is one of such high risk treatments and clear consent must be obtained before the treatment is performed.

16. We are satisfied that the Respondent did not obtain consent for the treatment, express or implied, before performing the treatment on 18 March 2004. We are satisfied that the Respondent's conduct has fallen below the standard expected amongst registered chiropractors, and constitutes professional misconduct. We find him guilty as charged.

### **Sentencing**

17. The Respondent has a clear record. We are of the view that the Respondent has learned a hard lesson from this case, and it is unlikely that he will re-offend. We also note that since the complaint the Respondent has taken measures to ensure that proper consent is obtained from the patients.
18. Having regard to the gravity of the case and the mitigation advanced, we order that a warning letter be issued to the Respondent.



Dr. Edward LEE  
Chairman, Chiropractors Council