

香港醫務委員會  
**The Medical Council of Hong Kong**

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr MUI Kin Chau (梅健周醫生) (Reg. No. ML00170)

Date of hearing: 12 December 2014

1. The amended charges against the Defendant, Dr MUI Kin Chau, are:

“That in or around February 2008 to January 2009, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] [REDACTED] (“the Patient”) [also known as [REDACTED] [REDACTED] and [REDACTED] [REDACTED]], deceased, in that, he:-

- (a) improperly or inappropriately diagnosed the Patient as having pneumonia;
- (b) prescribed Dexamethasone and/or Diclofenac, and/or prolonged courses of Dexamethasone and/or Diclofenac, to the Patient without proper justification;
- (c) failed to inform the Patient of the fact that Dexamethasone contained steroid;
- (d) failed to properly and adequately advise the Patient of the possible side effects of Dexamethasone (which contained steroid) and Diclofenac to the Patient before prescribing and dispensing the medication to the Patient;
- (e) failed to properly label the medication dispensed to the Patient in that the name of Dexamethasone written on the drug label(s) did not tally with the medication; and
- (f) failed to keep proper medical records of the Patient.

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

### **Facts of the case**

2. The Defendant was at all material times between February 2008 and January 2009 and still is a general medical practitioner with limited registration in Hong Kong.
3. The Patient (now deceased) was a patient of the Defendant from 1 August 1980 to 24 January 2009.
4. There is no dispute that the Defendant repeatedly prescribed Dexamethasone and Diclofenac to the Patient during the period from February 2008 to January 2009 and the Defendant frankly admitted that prescription of such medications to the Patient was without proper justification.
5. The Defendant also admitted that he failed to properly and adequately advise the Patient of the possible side effects of Dexamethasone (which contained steroid) and Diclofenac before prescribing and dispensing the medications to the Patient.
6. Moreover, the medicine bag for Dexamethasone dispensed to the Patient on 24 January 2009 was incorrectly labelled as “Antihistamine”.
7. The Defendant further admitted that he failed to keep proper medical records of the Patient in or around February 2008 to January 2009.

### **Burden and Standard of Proof**

8. We bear in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his innocence. We also bear in mind that the standard of proof for disciplinary proceedings is the preponderance of probability. However, the more serious the act or omission alleged, the more inherently improbable must it be regarded. Therefore, the more inherently improbable it is regarded, the more compelling the evidence is required to prove it on the balance of probabilities.

9. There is no doubt that the allegation made against the Defendant here is very serious. It is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine each of the charges against him separately.

### **Findings of Council**

10. At the beginning of the inquiry, the Legal Officer indicated that the Secretary would offer no evidence against the Defendant in respect of the amended charges (a) and (c) and the same are therefore dismissed.
11. The Defendant frankly admitted the factual allegations against him in relation to the amended charges (b), (d), (e) and (f). But then again, we still need to consider whether his conduct has fallen short of the standards reasonably expected amongst registered medical practitioners in Hong Kong.
12. A doctor may prescribe medicine to a patient only after proper consultation and only if drug treatment is appropriate.
13. It is certainly inappropriate to prescribe Dexamethasone to the Patient without proper justification. Worse still, the Defendant repeatedly prescribed the same drug to the Patient for 28 times when there was no indication that he had ever reviewed the clinical situation or alerted himself of possible side effects on the Patient.
14. We also find the Defendant's repeated prescriptions of Diclofenac for 16 times to the Patient without paying adequate attention to possible adverse effects on his renal function unacceptable. His impropriety was particularly acute because the dosage (i.e. 50mg four times a day) would be considered high for someone like the Patient, who was of the advance age of 75.
15. In our view, the Defendant's conduct had fallen short of the standards reasonably expected amongst registered medical practitioners in Hong Kong. We therefore find the Defendant guilty of the amended charge (b).
16. The Defendant frankly admitted that he failed to properly and adequately advise the Patient of the possible side effects of Dexamethasone (which

contained steroid) and Diclofenac before prescribing and dispensing the medications to the Patient.

17. In our view, where a drug is commonly known to have serious side effects, a doctor has the responsibility to properly explain the possible side effects to his patient before prescribing the drug. Dexamethasone (which contains steroid) certainly falls within this category of drug. So is Diclofenac when being prescribed for a lengthy duration to a patient of such an advanced age as the Patient and whose renal function may be impaired as a result.
18. We are particularly concerned with the Defendant's indiscriminate and repeated prescriptions of steroid to the Patient. Even if steroid is indicated and there are no viable alternatives, the prescribing doctor must closely monitor his patient's medical condition. In our view, the Defendant's conduct had deprived the Patient of his right to be informed of the risks involved in taking the medicine and hence his right to make an informed choice as to whether to accept the treatment.
19. We therefore also find the Defendant guilty of the amended charge (d).
20. The Defendant frankly accepted that the medicine bag for Dexamethasone dispensed to the Patient on 24 January 2009 was incorrectly labelled as "Antihistamine".
21. Medical practitioners in Hong Kong are in a unique position that they can both prescribe and dispense medicine to their patients. Accordingly, a doctor who dispenses medicine to his patient has the personal responsibility to ensure that the drug is properly labelled before it is handed over to his patient.
22. We also find the Defendant guilty of the amended charge (e).
23. The Defendant frankly admitted his failure to keep proper medical records of the Patient.
24. It is stated in the Code (paragraph 1.1.2 of the 2000 issue & paragraph 1.1.3 of the 2009 issue) that all doctors have the responsibility to maintain systematic, true, adequate, clear and contemporaneous medical records.

25. Therefore, we find the Defendant guilty of the amended charge (f).

### **Sentencing**

26. The Defendant has a clear record.

27. In accordance with our policy, we shall give him credit in sentencing for admitting the factual allegations in respect of the amended charges and for his full cooperation in the preliminary investigation stage and before us today.

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

29. Having considered the nature and gravity of the disciplinary offences committed by the Defendant (as set forth in our findings above) and what we heard and read in mitigation, we order that:-

- (1) in respect of the amended charge (b), the Defendant's name be removed from the General Register for 3 months;
- (2) in respect of the amended charge (d), the Defendant's name be removed from the General Register for 1 month;
- (3) in respect of the amended charge (e), the Defendant's name be removed from the General Register for 1 month;
- (4) the removal orders for the amended charges (b), (d) and (e) to run concurrently and be suspended from operation for 24 months; and
- (5) in respect of the amended charge (f), the Defendant be reprimanded.

Prof. Felice LIEH-MAK, GBS CBE JP  
Temporary Chairman, Medical Council