

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr NIP Mun Wing (聶敏榮醫生) (Registration No: M04292)

Date of hearing: 15 October 2014

1. The amended charges against the Defendant, Dr NIP Mun Wing, are:

“That he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (transliteration of “[REDACTED]”) (“the Patient”) in that on diver dates from 2008 to 2010 (both inclusive):

- (a) he prescribed steroid injections to the Patient without advising her on the nature and side-effects of the said injections; and
- (b) he prescribed steroid injections to the Patient for such a prolonged period without proper justifications.

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 a registered medical practitioner and his name has been included in the General Register from 1 August 1981 to present.
- 3. There is no dispute that the Patient first consulted the Defendant at his clinic on 23 November 1998 for rash on her face. From 23 November 1998 to 31

January 2008, the Patient attended the Defendant's clinic intermittently many times.

4. According to the Defendant's patient records ("the Patient Records"), Diprosan (a steroid) injection 1 ml was first prescribed to the Patient on 4 February 2008 when she attended his clinic and complained of a severe itchy "drug reaction like" rash on her face for 2 days.
5. But according to the Patient's complaint letter to the Medical Council, the Defendant first gave her an injection (which she later found out to be a steroid) on 31 October 2008 when she attended his clinic and complained of red pimples on her face. The Patient also claimed that the Defendant had never explained to her the nature and possible side effects of that injection.
6. There is no dispute that the Defendant further prescribed Diprosan injections 1 ml to the Patient on the following occasions when she attended his clinic again for consultation:-
 - 12 March 2009
 - 14 April 2009
 - 7 September 2009
 - 24 September 2009
 - 26 November 2009
 - 23 December 2009
 - 19 January 2010
 - 10 February 2010
7. According to the Patient, she first asked the Defendant about the nature and possible side-effects of the injection being prescribed to her during the consultation on 26 November 2009 but the Defendant merely assured her that so long as the dosage of steroid was appropriate there would not be any problem.
8. In his written representation to the PIC, the Defendant claimed that he vaguely remembered part of the conversations during the consultation on 26

November 2009. He agreed that the Patient had asked him whether the injection being prescribed to her would be a steroid and she also asked him about the side effects of steroid injections. According to the Defendant, he remembered he told the Patient that despite steroids having a bad reputation of many side effects, if used in a low dosage and not being used long term, his dosage of steroid injections would have low side effects and certainly the potential benefits would outweigh the potential side effects in her situation.

9. According to the Patient, she first noticed severe puffiness of her face on 18 February 2010. She also claimed that her menstruation period was delayed and she had increased facial hair. After studying the possible side-effects of steroids in the internet and consulting 2 dermatologists, she decided to lodge a complaint with the Medical Council against the Defendant.

Burden and Standard of Proof

10. 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.
11. 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

12. There is no dispute that the Patient had consulted the Defendant for the skin problem on her face for some 10 years prior to 4 February 2008. Apparently, the Patient was satisfied with the treatment offered by the Defendant. Otherwise, she would not keep coming back to consult the Defendant.
13. It is the unchallenged evidence of the Patient that the Defendant did not explain to her the nature and possible side effects of the steroid injection when it was first prescribed to her. Obviously, the Patient's recollection of the first date of giving steroid injection to her could not be right in view of what was written in the Patient Records. We find as a fact that the first date of giving steroid injection to the Patient was on 4 February 2008.
14. It is also the unchallenged evidence of the Patient that when being asked about the possible side effects of steroid injections on 26 November 2009, the Defendant merely assured her that there was nothing to worry.
15. It is clearly stated in paragraph 9.6 of the Code of Professional Conduct that where a drug is commonly known to have serious side effects, the doctor has the responsibility to properly explain the side effects to the patient before prescribing the drug. By failing to advise the Patient properly of the nature and side effects of the steroid injections, the Defendant was clearly in breach of his professional responsibility.
16. We therefore find the Defendant guilty of amended charge (a).
17. As to amended charge (b), we recognize that the Defendant had the benefit of examining the rash on the Patient's face and it is impossible for us to tell from the Patient's medical records alone how severe the itchy rash on her face would be. In this connection, we must bear in mind that the Patient had consulted the Defendant for the skin problem on her face for some 10 years prior to 4 February 2008 when the Defendant used for the first time in the

Patient Records the word “severe” to describe the rash on the Patient’s face.

18. Although the Legal Officer’s expert, Dr LAI, was skeptical about the Defendant’s diagnosis of “Food Allergy”, we are unable to say that this diagnosis was contrary to the Defendant’s clinical findings and must be wrong.
19. However, we fully accept Dr LAI’s evidence that even if systemic steroid was indicated, short acting regime such as 3 to 5 days course of oral steroid was preferable to long acting ones to avoid the possible side effects of long term steroid therapy. We also agree with Dr LAI that repeated steroid injections of 3 to 4 weeks interval was equivalent to continuous administration regime which would invariably lead to unwanted side effects.
20. In the result, we are satisfied on the evidence that the Defendant’s prescription of steroid injections to the Patient on diver dates from 2008 to 2010 (both inclusive) was without proper justifications. And we therefore find the Defendant guilty of amended charge (b).

Sentencing

21. The Defendant has a clear record.
22. In accordance with our policy, we shall give the Defendant 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.
23. 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.

24. It is undoubtedly the responsibility of any doctor who prescribes a drug which is commonly known to have serious side effects to properly explain the nature and side effects to the patients before prescribing the drug. This would ensure that the patient can make an informed decision as to whether to accept the drug.
25. The potential serious side effects of long term use of systemic steroid are well known, particularly after the Severe Acute Respiratory Syndrome (SARS) epidemic in 2003. The Medical Council has in many previous cases warned that it is professional misconduct to prescribe steroid without informing the Patient the nature of the drug and explaining properly the possible side effects to the Patient.
26. We are particularly concerned that when being asked by the Patient about the side effects of the steroid injections on 26 November 2009, the Defendant merely assured her that there was nothing to worry. In our view, even if the Defendant genuinely believed at that time that the side effects of steroid injections would be low, he must nevertheless explain the side effects properly to the Patient so that she could make an informed decision as to whether to accept the drug.
27. But then again, we accept that the Defendant did not intend to mislead the Patient by giving her a false sense of comfort.
28. Having considered the nature and gravity of this case and what we have heard and read in mitigation, we order that:-
 - (1) in respect of amended charge (a), the Defendant's name be removed from the General Register for 2 months;
 - (2) in respect of amended charge (b), the Defendant's name be removed from the General Register for 2 months; and
 - (3) the two removal orders shall run concurrently.

Remarks

29. Whilst it is for the Medical Council to consider the Defendant's application for restoration as and when it is made, we recommend that the Medical Council should consider requiring cogent evidence from the Defendant to show that he has satisfactorily completed training on appropriate skin allergy treatment to the equivalent of 10 CME points.

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