

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr IP Man Wai (Reg. No.: M15185)

Date of hearing: 3 November 2023 (Friday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel (Chairperson of the Inquiry Panel)
Prof. LIANG Hin-suen, Raymond
Dr HSU Yung-chak
Ms LIU Lai-yun, Amanda
Ms Asha Rani SHARMA

Legal Adviser: Mr Stanley NG

Legal Officer representing the Secretary: Mr Edward CHIK
Government Counsel

Defence Counsel representing the Defendant: Ms Peggy PAO as instructed by Messrs.
Kennedys

1. The amended charge against the Defendant, Dr IP Man Wai, was:

“That on or about 9 July 2020, he, being a registered medical practitioner, disregarded his professional responsibility to his patient (“the Patient”), in that he gave a measles, mumps and rubella (MMR) vaccine injection to the Patient instead of a human papillomavirus (HPV) vaccine as intended by the Patient.

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

Facts of the case

2. The name of the Defendant has been included in the General Register from 2 January 2007 to the present. His name has never been included in the Specialist Register.

3. On 7 July 2020, the Patient went to New Town Integrated Medical Centre (Tin Shui Wai), the Defendant's clinic ("the Clinic"), and made an appointment with a nurse there for the injection of HPV vaccine. An appointment for the injection of HPV vaccine was made by the Patient for 9 July 2020 at 11 a.m.
4. On 9 July 2020, the Patient attended the Clinic with a view to receiving an injection of the HPV vaccine. After registration, a clinic assistant on duty handed the Patient a consent form and a questionnaire for consideration and signing. The consent form and questionnaire were in respect of the injection of MMR vaccines (respectively "the Questionnaire" and "the Consent Form") instead. The Patient answered the questions in the Questionnaire and signed on the Consent Form. The Patient was later taken to the consultation room and received an injection of the first dose of MMR vaccine from the Defendant.
5. The Patient left the Clinic after the injection. The Patient returned to the Clinic shortly thereafter to make enquiries as to why she did not have to pay for the vaccine she received. The clinic assistant on duty at the time told her that the MMR vaccine she received was free under a government-subsidized programme. It was at that point that the Patient became aware that she was not administered with the HPV vaccine, but was wrongly administered with the MMR vaccine. The clinic assistant then informed the Defendant that the Patient would like to receive HPV vaccine, rather than MMR vaccine. The Defendant asked the clinic nurse to inform the Patient that she could receive the first dose of HPV vaccine in a month's time.
6. By a statutory declaration dated 15 May 2021, the Patient lodged a complaint with the Medical Council against the Defendant.

Burden and Standard of Proof

7. We bear in mind that the burden of proof is always on the Secretary 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.
8. There is no doubt that the allegation against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. Therefore, we need to look at all the evidence and to consider and determine the disciplinary charge against him carefully.

Findings of the Inquiry Panel

9. The Defendant admits the factual particulars of the disciplinary charge against him but it remains for us to consider and determine on the evidence whether the Defendant had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong.
10. It is stated in paragraph 21 of the Code of Professional Conduct (2016 edition) that:

“21.1 ... the proper employment of nurses, midwives and other persons trained to perform specialized functions relevant to medicine is entirely acceptable provided that the doctor concerned exercises effective personal supervision over any persons so employed and retains personal responsibility for the treatment of the patients.”
11. According to the Defendant’s submission to the Preliminary Investigation Committee dated 8 February 2023, the Defendant accepted that the responsibilities to properly supervise clinic assistants and to ensure patients are fully informed of the type of vaccines they are receiving rest on him. The Defendant accepted that the Patient indicated to his clinic assistant on 7 July 2020 that she intended to get HPV vaccination. However, the Defendant did not provide HPV vaccine to the Patient on 9 July 2020, but administered MMR vaccine instead. The Defendant said that the root cause of the incident was due to a breakdown of communication with his clinic assistant, and he has since the incident implemented measures to ensure, amongst other things, that correct vaccinations will be administered to patients. In other words, we take it that the Defendant accepted that his supervision over his clinic assistants was not effective, resulting in the administering of the wrong vaccine to the Patient.
12. Further, the Patient said in her complaint letter that during the injection process, the Defendant did not reconfirm with her and tell her the name of the vaccine to be injected, the side effects and care tips, and directly proceeded with the injection. In our view, this is unacceptable. Despite that the Consent Form and the Questionnaire was in relation to another type of vaccine, the Defendant still had the personal responsibility to reconfirm with the Patient the correct type of vaccine she would wish to administer, and that she fully understood the potential risks and side-effects, before the injection.
13. For these reasons, we are satisfied on the evidence before us that the Defendant had by his conduct in the present case fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as charged.

Sentencing

14. The Defendant has a clear disciplinary record.
15. In line with our published policy, we shall give the Defendant credit in sentencing for his admission and cooperation throughout these disciplinary proceedings.
16. We bear in mind that the primary 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 its high standards and good reputation.
17. We give credit to the reference letters as submitted and the CME courses attended by the Defendant addressing issues relating to vaccination.
18. The Defendant told us that he is deeply apologetic to the Patient for his oversight in delivering the MMR vaccine and he is determined in not repeating the mistakes. We accept that the Defendant is remorseful.
19. The Defendant told us that he has since the incident taken remedial measures to avoid similar incidents in the future, which includes providing regular training for his nurses and clinic assistants, and implementing a vaccination protocol in the Clinic to ensure, amongst other matters, that the correct types of vaccinations are provided to the patients. With all these remedial measures in place, we are satisfied that the risk of re-offending is low.
20. Taking into consideration the nature and gravity of the disciplinary charge for which we find the Defendant guilty and what we have read and heard in mitigation, we order that a warning letter to be served on the Defendant, and our order shall be published in the Gazette.

Dr CHOI Kin, Gabriel
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong