

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr KWAN Ka Hong (關家康醫生) (Reg. No.: M02495)

Date of hearing: 29 December 2023 (Friday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr YEUNG Hip-wo, Victor
Dr LI Wilson
Ms LI Siu-hung
Mr MO Pak-kuen

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Mr Warren SE-TO of
Messrs. Mayer Brown

Government Counsel representing the Secretary: Mr Louis POON

1. The charges against the Defendant, Dr KWAN Ka Hong, are:

“That on or about 27 April 2019, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] [REDACTED] (“the Patient”), in that he:

- (a) when encountering the Patient with abdominal pain, failed to properly obtain detailed medical history of the Patient; and/or*
- (b) failed to conduct and/or record proper examination of the Patient’s body temperature and/or related symptoms.*

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 name of the Defendant has been included in the General Register from 11 June 1975 to the present. His name has never been included in the Specialist Register.
3. The Patient consulted a Dr WONG at Quality HealthCare Medical Centre in Metro City Plaza 1, Tseung Kwan O (“the Clinic”) on 18 April 2019. The Patient had a marginal fever of 37.6°C and gave a history of vomiting once and constipation for 2 days. Abdominal examination revealed no mass, tenderness, guarding or rebound tenderness. There was no tenderness at the McBurney’s point. Dr WONG’s provisional diagnosis was gastroenteritis with hard stool blocking and making the Patient unable to pass stool. Antibiotic (Doxycycline), Buscopan, Senna and Panadol were given.
4. After finishing 4 days regimen, the symptoms of the Patient improved. There was still some persistent distended pain. On 27 April 2019, the Patient attended the Clinic again, and this time the case doctor was the Defendant. At this consultation, the Defendant reviewed the Patient’s medical history as documented by Dr WONG on 18 April 2019. The Defendant pressed the Patient’s abdomen in sitting posture as the physical examination, and his abdominal finding was soft abdomen with central tenderness. The Defendant’s provisional diagnosis was irritable bowel, and prescribed the Patient with Strocain, Dimethicone and Domperidone.
5. The Patient developed fever on 28 April 2019 and his abdominal pain also increased. He attended the Accident and Emergency Department of Tseung Kwan O Hospital (“TKOH”) and was admitted to TKOH on the same day. After some investigations, the doctors at TKOH confirmed that the cause of his abdominal pain was due to ruptured appendicitis complicated with peritonitis. Emergency operation was performed. The Patient was hospitalized for 20 days and discharged on 17 May 2019.
6. The Patient subsequently lodged this complaint against the Defendant with the Medical Council.

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 allegations against the Defendant here are serious ones. 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 charges against him separately and carefully.

Findings of the Inquiry Panel

9. The Defendant admits the factual particulars of the disciplinary charges against him but it remains for us to consider and determine on the evidence whether the Defendant has been guilty of misconduct in a professional respect.
10. We agree with the Secretary's expert that the classic symptoms of appendicitis are right lower quadrant abdominal pain, anorexia, fever, nausea and vomiting. When the Patient consulted Dr WONG at the Clinic on 18 April 2019, he had marginal fever of 37.6°C and gave a history of vomiting once and constipation for 2 days. The Patient went back to the Clinic on 27 April 2019 because he still had persistent distended pain. What the Defendant should have done was to counter check these symptoms with the Patient, including whether the Patient still had symptoms of fever, vomiting and constipation between 18 April 2019 and 27 April 2019, and to document them in the form of medical history in his clinical notes. However, the Defendant had failed to do so. The Defendant simply presumed that the symptoms documented by Dr WONG 9 days ago had subsided as no further symptoms were actively mentioned by the Patient. Furthermore, the chief complaint of the Patient as recorded by the Defendant on 27 April 2019 was abdominal pain after eating pork. However, the important details related to abdominal pain including nature, location, radiation, severity, time of onset, duration, progress, time relationship with the claimed pork eating were all missing.

11. Clearly, the Defendant had failed to properly obtain detailed medical history of the Patient. The Defendant had in our view fallen below the standards expected of medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (a).

12. According to the Patient, at the consultation on 27 April 2019, the Defendant pressed on the Patient's abdomen in sitting posture as the physical examination. In the statement of the Defendant dated 28 November 2022 ("Statement"), at paragraph 7 thereof, the Defendant wrote "... On abdominal examination, the Patient's abdomen was soft with tenderness at the central region. There was no tenderness at the right lower quadrant, no guarding, no rebound tenderness, and no acute abdominal sign noted. The Patient's general condition was good. My clinical impression was the Patient likely had irritable bowel and it was unlikely that the Patient had an urgent surgical condition." There is no dispute that the Defendant had not conducted the abdominal examination of the Patient in supine position. We agree with the Secretary's expert that a proper abdominal examination with the mentioned details by the Defendant is difficult to perform in order to elicit the related signs in a sitting posture. We must emphasize that for a proper examination of the abdomen, it is important that the patient is lying flat, not sitting upright. This relaxes the abdominal muscles and facilitates abdominal palpation. When a patient is sitting upright in a chair, it is difficult to perform palpation with tightened abdominal muscles in order to elicit the related signs. Performing abdominal examination on the Patient in a sitting posture by the Defendant was in our view improper. Furthermore, checking the temperature of the Patient was important, as fever was one of the classic symptoms or signs of appendicitis. Given what the Defendant said in his Statement that his differential diagnosis was appendicitis, if that was truly the case, then all the more he should have measured the temperature of the Patient. However, the Defendant had not measured the temperature of the Patient at all.

13. The Defendant had in our view fallen below the standards expected of medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (b).

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. The Defendant told us that he is remorseful. He admits that he should have taken active steps on history taking and conducting abdominal examination in a supine position. He said he has reflected on his clinical practice in this respect.
18. Save for submitting that the Defendant is remorseful and that he has reflected on his practice, there is no concrete evidence submitted to us of any remedial steps taken. We are not satisfied that the risk of re-offending is low.
19. Taking into consideration the nature and gravity of the disciplinary charges of which the Defendant was found guilty, and what we have read and heard in mitigation, we make a global order in respect of both charges (a) and (b) that the name of the Defendant be removed from the General Register for a period of one month. We further order that the said removal order be suspended for a period of 12 months subject to the condition that the Defendant shall complete within 12 months courses relating to abdominal and/or pelvic conditions to the equivalent of 10 CME points, and such courses have to be pre-approved by the Chairman of the Medical Council.

Prof. LAU Wan-ye, Joseph, SBS
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong