

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LWIN Moe/ CHU Kee Leong (朱基良醫生) (Reg. No.: M01998)

Date of hearing: 31 March 2025 (Monday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Dr SO Yui-chi
Dr FUNG Kam-shing, Tony
Mr WONG Hin-wing, Simon, MH, JP
Ms LAU Sze-wan, Serena, MH, JP

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Mr Michael CHAO of
Messrs. Johnson Stokes & Master

Senior Government Counsel representing the Secretary: Mr Brian LEU

The Defendant is not present.

1. The charge against the Defendant, Dr LWIN Moe/ CHU Kee Leong, is:

“That on or about 8 August 2022, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (‘the Patient’), in that he wrongly dispensed ‘Ephedrine Nasal Drops 1%’ to the Patient and/or failed to properly supervise the dispensing of the prescribed medicine to 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 name of the Defendant has been included in the General Register from 16 August 1972 to the present. His name has never been included in the Specialist Register.
3. On 8 August 2022, the Patient consulted the Defendant for stomach upset and ringing in the ears. The Defendant's diagnosis of the Patient was gastroesophageal reflux disease and ear wax. The Defendant informed the Patient that he would prescribe her with stomach medications and ear drops for ear wax removal.
4. Later that day, the Patient discovered that instead of ear drops, the Defendant had wrongly dispensed Ephedrine Nasal Drops 1% to her. The Patient called the Defendant's clinic and informed the clinic assistant of the dispensing error. Upon the request of the clinic assistant, the Patient returned to the Defendant's clinic to swap the Ephedrine nasal drops with Waxzol ear drops.
5. By a statutory declaration made on 16 November 2022, the Patient lodged a complaint to the Medical Council against the Defendant. Enclosed in the statutory declaration is a photograph of the label of a medicine bag ("the Label").

Burden and Standard of Proof

6. 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.
7. 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

8. The Defendant admitted his mistake in dispensing to the Patient Ephedrine Nasal Drops 1% when in fact his prescription should be Waxzol ear drops for ear wax removal.
9. Clearly, the Defendant had dispensed the wrong medication to the Patient. The Label shows that the medication dispensed was “Ephedrine Nasal Drops 1%”. It has the words “滴鼻” and the method of using the nasal drops written on it.
10. It is stipulated in the Code of Professional Conduct (2016 edition) (“Code”) that:

“9.2 A doctor who dispenses medicine to patients has the personal responsibility to ensure that the drugs are dispensed strictly in accordance with the prescription and are properly labelled before they are handed over to the patients. The doctor should establish suitable procedures for ensuring that drugs are properly labelled and dispensed. Doctors are advised to observe the provisions of Good Dispensing Practice Manual issued by the Hong Kong Medical Association.”
11. We are satisfied on the evidence before us that the Defendant has by his conduct in the present case fallen below the standards expected amongst registered medical practitioners in Hong Kong and we find him guilty of professional misconduct as charged.

Sentencing

12. The Defendant has a clear disciplinary record.
13. In line with our published policy, we shall give credit to the Defendant for his frank admission and full cooperation throughout these disciplinary proceedings.
14. 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.

15. We must emphasize the importance of drug dispensing at paragraph 9.2 of the Code. Given the privilege of dispensing, registered medical practitioners must shoulder the responsibility through adherence to Good Dispensing Practice Manual. Whether harm or no harm done to patients, dispensing the wrong medication is always serious.
16. We have considered the Defendant's CME record and the reference letters as submitted.
17. We are told in mitigation that at the material time the Defendant had, and still has, in place a checking system, in that any medication prescribed by him would be collected by a clinic assistant and shown to him for checking. He would then pass the medication to another clinic assistant, who would conduct a final check before dispensing the same to the patient. It was unfortunate that, out of inadvertence, a dispensing error still occurred despite the checking system in place at the clinic.
18. To prevent a similar incident from happening again, the Defendant said he has kept reminding his clinic assistants of the importance of safe dispensing, and has instructed his clinic assistants to be more careful. He said he would also exercise extra caution when checking the medications to be dispensed, and he would now put a tick next to the medications written on his clinical records after checking them.
19. We accept that the Defendant has learnt his lesson.
20. Taking into consideration the nature and gravity of this case and what we have heard and read in mitigation, we order that a warning letter be issued to the Defendant, and be published in the Gazette.

Prof. TANG Wai-king, Grace, SBS, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong