

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

1st Defendant : Dr YEUNG [REDACTED] (楊[REDACTED]醫生) [REDACTED]
2nd Defendant : Dr KO Yang Yang Lillian (高楊揚醫生) (Reg. No. M01625)

Dates of hearing: 24 November 2014 (Day 1), 27 November 2014 (Day 2),
1 September 2015 (Day 3), 3 September 2015 (Day 4),
9 September 2015 (Day 5), 8 November 2015 (Day 6),
8 December 2015 (Day 7), 16 January 2016 (Day 8) and
24 January 2016 (Day 9)

Present at the hearing

Council Members/Assessors: Prof. Felice LIEH-MAK GBS CBE JP (Temporary Chairman)
Miss CHAU Man Ki Mabel MH
Dr CHEUNG Tak Hong
Dr HUNG Se Fong BBS
Prof. TAN Choon Beng Kathryn
Dr TUNG Yuk Stewart JP

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Alfred FUNG instructed by Messrs.
Mayer Brown JSM

Senior Government Counsel representing the Secretary: Mr Mark CHAN

1. The charges alleged against the 1st Defendant, Dr YEUNG [REDACTED], are:-
“That he, being a registered medical practitioner, disregarded his professional responsibility to his patient X (“the patient”), a minor, in that:
 - (a) on or about 29 July 2005, 2 August 2005 and 8 August 2005, he diagnosed the patient with “multiple allergies syndrome” and/or “multiple allergies” without proper basis;

- (b) on or about 1 September 2005, he diagnosed the patient with “multiple allergies” without proper basis;
- (c) from 29 July 2005 to 1 September 2005, he diagnosed heavy metal toxicity without proper basis and referred the patient to Dr. KO YANG Yang Lillian;
- (d) he prescribed treatment such as magnetic field therapy/pulsed magnetic therapy to his patient on 2 August 2005 and 8 August 2005 without proper justification.

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

2. The charges against the 2nd Defendant, Dr KO YANG Yang Lillian, are :-

“That on or about 2 September 2005 she, being a registered medical practitioner, disregarded her professional responsibility to her patient X (“the patient”), a minor, in that:

- (a) she inappropriately diagnosed the patient with “heavy metal toxicity” on the basis of hair analysis result and without other specific clinical features;
- (b) she inappropriately prescribed heavy metal detoxification programme to the patient without proper justification.

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

Facts of the Case

3. There is no dispute that Patient X was brought by his parents to consult the 1st Defendant (“Dr YEUNG”) on 29 July 2005 for the specific purpose of diagnosing whether he had been affected by heavy metal toxicity. Patient X was then 13 years of age.

4. According to his mother (“Madam A”), Patient X appeared to exhibit learning, behavioural and developmental problems as reported by numerous complaints from authorities at all levels of schools. The situation was accentuated at secondary school with threat of expulsion by the school, allegedly for disruptive behaviour. There had been two separate reports by educational psychologists after their assessment on Patient X. However, neither of these reports could provide a conclusive answer on what had happened to Patient X. Through her own research in the internet, Madam A came to believe that Patient X might suffer from a spectrum of disorders due to heavy metal toxicity.
5. According to Dr YEUNG, Patient X’s parents told him that other doctors had suspected that Patient X was suffering from Attention Deficit Hyperactivity Disorder (“ADHD”) and he lacked concentration and had learning difficulties at school. Patient X’s parents also told him that Patient X suffered from itchy nose with sneezing and watery nasal discharge; occasional itchy, reddened and watery eyes; itchy skin rashes over flexural areas of elbows and knees; significant tiredness; on and off diarrhoea; gas and bad breath.
6. According to Dr YEUNG, physical examination of Patient X during the first consultation then revealed that he was very tired-looking. He was rubbing his nose and eyes constantly; and he had to breathe through his mouth because of nasal congestion. Moreover, he had conjunctival congestion and watery eyes; and he was unable to sit still and appeared to lose concentration easily. Patient X also told Dr YEUNG that he had difficulties in reading the blackboard at school.
7. When being cross-examined, Madam A accepted that Patient X had on and off diarrhoea and a runny nose most of the time. Madam A also accepted that she had probably told Dr YEUNG that Patient X had various types of allergies; and she admitted that Patient X had certain traits similar to autism before the first consultation with Dr YEUNG.
8. Dr YEUNG did not deny that he had made the diagnosis of multiple allergies syndrome. His diagnosis was actually written in his official receipt, which was given to Madam A after the first consultation. According to Madam A,

Dr YEUNG did not elaborate on how or why he arrived at the diagnosis of multiple allergies syndrome. Nor did Dr YEUNG explain why he referred Patient X to consult the 2nd Defendant in this case (“Dr KO”). Despite her request for a letter to be issued of his diagnosis of multiple allergies syndrome so that she could present it to the school, Dr YEUNG refused and he told Madam A that Dr KO would be the one to issue the letter. Apart from prescribing to Patient X various drugs and supplements, Dr YEUNG also gave Madam A during the first consultation a referral letter to see Dr KO. In it, the words “ADD[,] multiple allergies, visual problem” were handwritten in the column of “Diagnosis”.

9. Furthermore, at the request of Madam A, hair sample was taken from Patient X and it was subsequently sent by Dr YEUNG to a local laboratory by the name of Giant Laboratory for analysis of heavy metals. According to Dr YEUNG, he had explained to Patient X’s parents that the hair sample heavy metal analysis was only a screening test and any unusual finding would need to be confirmed by subsequent tests.
10. It is not disputed that Patient X consulted Dr YEUNG again on 2 August 2005. There is however conflicting evidence on why Patient X returned to see Dr YEUNG again. According to Dr YEUNG, he had advised Patient X’s parents during the first consultation that he was not a specialist in the field of autism or ADHD and would refer Patient X to consult Dr KO, whom he regarded as a very experienced paediatrician suitable to take care of Patient X. But meanwhile he could continue to provide treatment for Patient X’s symptoms while they were waiting for an appointment with Dr KO; and Patient X’s parents agreed to this plan of management.
11. When being cross-examined, Madam A categorically denied that Dr YEUNG had advised her of his plan of management of Patient X during the first consultation. According to Madam A, she brought Patient X to see Dr YEUNG again solely because Dr YEUNG had instructed her to go back on 2 August 2005. Madam A was adamant that Patient X’s condition had no improvement at all after taking the medications prescribed by Dr YEUNG in the first consultation.

12. However, according to Dr YEUNG's clinical notes for the second consultation, Patient X had become more alert and there was significant reduction in allergic symptoms, tiredness and mouth breathing. According to Dr YEUNG, he suggested to Madam A that Patient X should have a magnetic pulse treatment after hearing that he had a stiff neck and/or shoulder. However, Madam A denied having told Dr YEUNG during the second consultation that Patient X had a stiff neck and shoulder. Madam A maintained that she never told Dr YEUNG that Patient X was suffering from stiff neck and back. According to Madam A, she trusted Dr YEUNG and followed his instruction to let Patient X undergo the magnetic pulse treatment because Dr YEUNG told her that Patient X was looking really ill.
13. But then again, there is no dispute that the diagnosis of multiple allergies syndrome was written in Dr YEUNG's official receipt, which was given to Madam A after the second consultation.
14. Then on 8 August 2005, Madam A brought Patient X to see Dr YEUNG for a third time. According to Dr YEUNG's clinical notes, Patient X complained of cough, sore throat and flu symptoms. Again, the diagnosis of multiple allergies syndrome was written in Dr YEUNG's official receipt, which was given to Madam A after the third consultation. However, when being asked the reason why she brought Patient X to see Dr YEUNG again on 8 August 2005, Madam A told us that she was instructed by Dr YEUNG to return and she had no choice but to follow his instruction because there were hardly any specialists listed in the directory of the International Board of Clinical Metal Toxicology ("IBCMT") other than Dr YEUNG.
15. But then again, there is no dispute that Patient X was given magnetic pulse treatment during the third consultation although there is conflicting evidence on why he was given such treatment.
16. Patient X last consulted Dr YEUNG on 1 September 2005. On this occasion, the diagnosis of multiple allergies was written in Dr YEUNG's official receipt, which was given to Madam A after the consultation. There is however conflicting evidence on whether Dr YEUNG had actually confirmed to Madam A that Patient X was suffering from heavy metal toxicity.

17. It is not disputed that Dr YEUNG had told Madam A during the fourth consultation that the laboratory test results of Patient X's hair sample showed that "levels of certain toxic metals, notably mercury and lead, were elevated". According to Dr YEUNG, he merely explained to Madam A the hair test results issued by the American laboratory, Doctor Data Inc., which showed levels of certain toxic metals, notably mercury and lead, were elevated. He reassured Madam A that "toxic metals might not be the cause, or the only cause of Patient X's symptoms as there might be other possible causes and that further tests would be required".
18. However, according to Madam A, Dr YEUNG showed her a one-page charted report from Doctor Data Inc. which confirmed the diagnosis of heavy metal toxicity. With the findings of the report, Dr YEUNG highlighted to her how seriously some of the individual elements were; and then he reverted back to persuading her to consult Dr KO. Reluctantly, she agreed to accept the appointment to see Dr KO on the following day.
19. Then on 2 September 2005, Madam A brought Patient X to see Dr KO and she was asked to complete a Child Developmental History Questionnaire about Patient X. According to Dr KO, when she saw Patient X, she also performed physical examinations to check his visual perception, balance and coordination.
20. There is conflicting evidence on whether Dr KO had actually confirmed with Madam A that Patient X was suffering from heavy metal toxicity. According to Dr KO, she only made a preliminary clinical diagnosis. It is however not disputed that the diagnosis of heavy metal toxicity was written in Dr KO's official receipt, which was given to Madam A after the consultation.
21. Moreover, upon the request of Madam A, Dr KO issued a letter to her on 6 September 2005. In it, Dr KO mentioned that Patient X "was assessed... and found to have Heavy Metal Toxicity, resulting in visuo-perceptual-motor dysfunction and learning disability... A program of Heavy Metal Detoxification and visuo-perceptual-motor training has just been started to

improve his developmental problems. This is expected to continue for about one year...”.

22. There is no dispute that Patient X did not return to see Dr KO after 2 September 2005.
23. Meanwhile, according to Madam A, she received the full report of 9 pages from Doctor Data Inc. some time on or about 14 September 2005. Madam A then realized that there was a note of caution on page 1 stating that “The contents this report are not intended to be diagnostic...” Feeling dissatisfied with the consultations for failing to attain an indisputable diagnosis and shockingly high fee charged by Dr KO, Madam A referred the case to the Consumer Council for investigation. Thereafter, Madam A also lodged a complaint with the Medical Council against Dr YEUNG and Dr KO.

Burden and Standard of Proof

24. We bear in mind that the burden of proof is always on the Legal Officer and Dr YEUNG and Dr KO do not have to prove their 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.
25. There is no doubt that each of the allegations made against the Defendants here is a serious one. 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 separately.

Findings of Council

26. In respect of charges (a) and (b) against Dr YEUNG, there is no dispute that he had made at the material times the diagnoses of “multiple allergies

syndrome” and/or “multiple allergies”. The only issue is whether there was proper basis for such diagnoses.

27. We agree with Dr WU, the defence medical expert, that “it is generally accepted that allergy is a diagnosis made on clinical grounds, especially in a general practice setting”. We also agree with Dr WU that the term “syndrome” referred to a collection of signs and symptoms. Although the use of the term “multiple allergies” or “multiple allergies syndrome” might not be precise, they were descriptions of illnesses which a lay person could understand. In any event, the real question here is whether such diagnoses were based on Patient X’s clinical history and physical examination findings by Dr YEUNG.
28. In this connection, we note from reading Dr YEUNG’s clinical notes for the first to third consultations that he actually used the word “allergy”. We need to bear in mind that unlike Dr YEUNG, we did not have the benefit of seeing Patient X in person at the material times. But then again, Madam A also accepted under cross-examination that she had probably told Dr YEUNG during the first consultation that Patient X had various types of allergies. Since the signs and symptoms of allergies involving multiple organ systems were present, we agree with Dr WU that the diagnoses of “multiple allergies” and/or “multiple allergies syndrome” were justifiable in the circumstances of this case.
29. Accordingly, we find Dr YEUNG not guilty of charges (a) and (b).
30. Turning to charge (c) against Dr YEUNG, defence counsel argued that the decision to refer Patient X to see Dr KO had already been made before the hair test report was available. In our view, this argument ignores the indisputable fact that after explaining the hair test report to Madam A on 1 September 2005, Dr YEUNG proceeded to call Dr KO to book an early appointment for Patient X to see her on the following day. In our view, the real issue to be determined is whether Dr YEUNG had ever made a diagnosis of “heavy metal toxicity”.
31. There is nothing in the evidence to suggest that Dr YEUNG had made a diagnosis of “heavy metal toxicity” at any time during the first to third

consultations. And it is not entirely clear to us whether Dr YEUNG had actually made a diagnosis of “heavy metal toxicity” during the fourth consultation. In this connection, Madam A told us in paragraph 10 of her witness statement (which she adopted as part of her evidence in chief) that “Dr Yeung showed me a one-page charted report which confirmed the diagnosis of heavy metal toxicity.” In paragraph 14 of the same witness statement, Madam A further mentioned that Dr YEUNG and Dr KO had met to discuss Patient X’s case over lunch on 1 September 2005 and when she brought Patient A to see Dr KO on the following day, Dr KO told her that she “wholeheartedly agreed with the heavy metal toxicology diagnosis.”

32. Dr YEUNG’s evidence on the other hand was that he had never made a diagnosis of “heavy metal toxicity” at any time during the 4 consultations with Patient X; and “heavy metal toxicity” was never stated as a diagnosis in any of his official receipts or referral letter to see Dr KO. Our attention was drawn to Dr YEUNG’s clinical notes for the fourth consultation in which he wrote down “Reassured toxic metals might not be the only cause”. From this, the Legal Officer argued that “heavy metal toxicity” should at least be one of the diagnoses made by Dr YEUNG on 1 September 2005.
33. However, defence counsel drew our attention to Madam A’s complaint letter to the Medical Council dated 31 August 2006. In it, Madam A mentioned that “On the 29th July 2005, we consulted Dr [REDACTED] Yeung with the specific purpose of diagnosing whether our son... had been affected by heavy metal toxicity... We made a final visit to Dr Yeung on the 1st September 2005 to obtain the heavy metal toxicity report, which showed there was a confirmed diagnosis.” Nowhere in this letter had Madam A ever mentioned that Dr YEUNG made the diagnosis of “heavy metal toxicity”.
34. It is not entirely clear to us whether Madam A had interpreted Dr YEUNG’s explanation on the laboratory test results as a confirmed diagnosis of heavy metal toxicity. Or as Dr YEUNG said, he merely tried to reassure Madam A that despite the laboratory test results, heavy metal toxicity might only be one of the possible causes of Patient X’s problems. We need to bear in mind that the burden of proof is always on the Legal Officer. Since we are unable to find on the balance of probabilities that Dr YEUNG had at any

time told Madam A that his diagnosis was “heavy metal toxicity”, we also find him not guilty of charge (c).

35. Dr YEUNG admitted that he prescribed magnetic field therapy to Patient X on 2 and 6 August 2005 for relief of muscle tension and fatigue in his shoulders and back. At the heart of charge (d) against Dr YEUNG lies therefore the question whether Patient X actually had these symptoms. Initially, Madam A insisted that she never told Dr YEUNG that Patient X was suffering from stiff neck and back. However, when being cross-examined, Madam A admitted that it was only after giving Patient X magnetic field therapy that she mentioned to Dr YEUNG about stiffness in Patient X’s neck and knee.
36. In our view, being an orthopaedic specialist, Dr YEUNG should be able to find out from physical examination whether Patient X was suffering from muscle tension and fatigue in his shoulders and back even without Madam A telling him. However, unless Dr YEUNG had actually noticed these symptoms, there was no reason why he would suddenly bring the topic up with Madam A. We therefore accept Dr YEUNG’s evidence that Patient X was suffering from muscle tension and fatigue in his shoulders and back. Actually, we find it inexplicable why Madam A might agree to let Patient X undergo the magnetic field therapy again on 6 August 2005 if these symptoms did not exist. However, since we do not have the benefit of seeing Patient X at the material times, we shall defer to Dr YEUNG’s clinical judgment whether magnetic field therapy would be appropriate in the circumstances.
37. Accordingly, we also find Dr YEUNG not guilty of charge (d).
38. Turning to charge (a) against Dr KO. Defence counsel contended that Dr KO could not be faulted for belonging to “a minority group of doctors who have special interest, training and experience in advising and/or treating patients with chronic heavy metal overload or toxicity.” Dr KO also told us that she was following the IBCMT protocol. We need to emphasize that we are not endorsing the IBCMT protocol. We fully appreciate that the burden of proof is always on the Legal Officer and Dr KO needs not prove her

innocence. However, the fact remains that there was nothing in the evidence as to what was the IBCMT protocol.

39. Initially, Dr KO sought to convince us that “heavy metal toxicity” was her clinical suspicion and not a conclusive diagnosis. According to Dr KO, in order to confirm the diagnosis, she would have ordered further tests and investigations. But since Patient X never returned to see her, she was unable to carry out the confirmatory tests. And yet, it was clearly stated in Dr KO’s letter dated 6 September 2005 that Patient X was “... found to have Heavy Metal Toxicity... A program of Heavy Metal Detoxification... has just been started to improve his developmental problems. This is expected to continue for about one year.” This flatly contradicts Dr KO’s evidence that “heavy metal toxicity” was only her clinical suspicion and not a conclusive diagnosis. Had it been otherwise, Dr KO would not expect the detoxification program to continue for about one year.
40. We do not accept Dr KO’s explanation that “heavy metal toxicity” was her clinical suspicion. Dr KO clearly wrote in her clinical notes of the consultation with Patient X that her diagnosis was “heavy metal toxicity”. The same diagnosis was actually repeated in her official receipt, which was issued and signed by her after the consultation.
41. It was clearly stated in the 2004 Position Paper issued by the Hong Kong College of Paediatricians (“the Position Paper”) that “The use of hair analysis for the screening of lead or mercury toxicity is controversial and is not recommended for routine clinical practice.” In her PIC submission, Dr KO also told the Council that her “plan was then to correlate these clinical features with gold standard laboratory tests, namely blood and urine provocation tests, before deciding upon the final management plan.”
42. In the course of her oral evidence in chief, Dr KO tried to rely on the textbook by Harrison’s Principles of Internal Medicine and told us that hair sample test alone would be sufficient and confirmatory tests was not necessary before embarking on treatment. When being asked by the Legal Officer whether confirmatory tests like blood or provocative urine test was required for Patient X’s case, Dr KO then told us that she arrived at the

diagnosis of heavy metal toxicity on the basis of the results of the hair sample test and her clinical assessment of Patient X.

43. In the course of her evidence in chief, Dr KO mentioned a host of clinical signs and symptoms that she found in Patient X to justify the diagnosis of “heavy metal toxicity”. In particular, Dr KO told us that Patient X had “many neurological signs, including tremor, incoordination, clumsiness, and he had visual problem that was causing all his learning disability; and he has immunological disturbance... [and] so many allergies and frequent infections...” And yet, none of these clinical signs and symptoms was specific to and let alone diagnostic of “heavy metal toxicity”.
44. Dr KO was constrained to accept that none of the medical literature before us had established a causal relationship between heavy metal toxicity (or overload) with behavioural problems and learning difficulties in children.
45. Defence counsel argued that “tremor” was specific to “chronic mercury poisoning but not [to] autism”. The problem with this argument is that while patients suffering from “heavy metal toxicity” might have tremor, it does not mean that any patient with “tremor” is suffering from “heavy metal toxicity”. Since the clinical signs and symptoms mentioned by Dr KO were neither specific to nor diagnostic of “heavy metal toxicity”, Dr KO ought to have adhered to her alleged “plan... to correlate these clinical features with gold standard laboratory tests, namely blood and urine provocation tests, before deciding upon the final management plan.” In our view, Dr KO’s conduct had fallen below the standards reasonably expected of registered medical practitioners in Hong Kong. Accordingly, we find Dr KO guilty of charge (a).
46. It is again undeniable from reading Dr KO’s letter dated 6 September 2005 that she had prescribed a programme of “Heavy Metal Detoxification” to Patient X. Dr KO explained to us that detoxification in this context meant firstly, “the termination of source so there will not be any further damage... And, secondly, a change of lifestyle... And, thirdly, the dietary control.” However, we are not concerned with whether the detoxification was a form of conservative treatment or not. In our view, the real issue here is whether

the “Heavy Metal Detoxification” was inappropriately prescribed without proper justification.

47. Given our finding in respect of charge (a) against Dr KO, we have no hesitation in finding that she inappropriately prescribed heavy metal detoxification to Patient X without proper justification. Again, Dr KO’s conduct had fallen below the standards reasonably expected of registered medical practitioners in Hong Kong. We therefore also find Dr KO guilty of charge (b).

Sentencing

48. The 2nd Defendant has a clear disciplinary record.
49. We do not doubt her bona fides in making the diagnosis of “heavy metal toxicity”. The fact remains that she inappropriately diagnosed the patient with “heavy metal toxicity” on the basis of hair analysis result and without other specific clinical features. Moreover, she inappropriately prescribed heavy metal detoxification programme to Patient X without proper justification. However, we accept that there was nothing in the evidence which indicated that the nutrients and substances given to Patient X so far had caused him any harm.
50. Taking into account the whole circumstances of this case and what we have read and heard in mitigation, we order that the 2nd Defendant be reprimanded in respect of charges (a) and (b).

Other remarks

51. The 2nd Defendant’s name is included in the Specialist Register under the specialty of Paediatrics. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of her specialist registration.

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