

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

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr CHAN Siu Chung (陳兆聰醫生)(Reg. No.: M12624)

Date of hearing: 20 March 2018 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS (Chairman)  
Dr LAI Kit-lim, Cindy, JP  
Dr LAM Tzit-yuen  
Dr LO Chi-yuen, Albert  
Mr YU Kwok-kuen, Harry  
Dr YAN Wing-wa

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Woody CHANG of Messrs. Mayer  
Brown JSM

Senior Government Counsel representing the Secretary: Miss Carmen POON

1. The charge against the Defendant, Dr CHAN Siu Chung, is :

“That, on or about 28 February 2013, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”), a then seventeen-month old infant, in that he prescribed Zinnat to the Patient when he knew or ought to have known that the Patient was allergic to Zinnat.

In relation to the fact alleged, 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. His name has been included in the General Register from 8 July 2000 to present.
3. Briefly stated, the Patient was brought by his mother (the “Complainant”) to see the Defendant on 28 February 2013. The Patient was about 17 months old, having been born on 26 September 2011. After examining the Patient, the Defendant prescribed the Patient with, amongst other medications, Zinnat 125mg (2 times a day).
4. There is no dispute that the Patient had consulted the Defendant on and off since 21 February 2012. According to the Defendant, the Patient developed allergic reactions after taking Zinnat prescribed by a locum doctor in his clinic on 28 April 2012. When the Defendant found this out on 30 April 2012, the words “Zinnat allergy” in red were put down on the patient card of X and the Complainant was reminded to bring it along at all times when she brought the Patient for medical consultation.
5. Zinnat is an antibiotic which contains Cefuroxime and it should not be given to any patient who is allergic to Cefuroxime.
6. According to the Complainant, the Patient’s medical condition did not improve after taking the medications prescribed by the Defendant. On 1 March 2013, the Complainant tried to contact the Defendant by phone but the Defendant was on leave. The Complainant then brought the Patient to see one Dr FONG, a specialist in paediatrics, later in the day.
7. According to Dr FONG’s medical report on his consultation with the Patient:

“[X] was seen by me on 1<sup>st</sup> March 2013. Below is a report of the consultation.

[X] was found to have fever since 27<sup>th</sup> February 2013. The highest temperature was 38.9 deg C. He did not have cough, runny nose, vomiting or diarrhea. Appetite was reported to be good. He was still playful. Other family members were asymptomatic. He was seen by another doctor who gave syrup terbutaline mixed with cocillana syrup, ibuprofen suspension, paracetamol suspension and Zinnat suspension. Although the parents reported that [X] had history of developing skin

rash during a course of oral Zinnat he did not have skin rash after 2 days of the treatment this time.

...

Examination on the day of consultation found markedly congested throat. His tonsils were slightly enlarged (grade 2), inflamed and with small white dots. Oral ulcers were not seen. He was not toxic and there was no skin rash. Both tympani were partially seen but were not inflamed. Hepatosplenomegaly was not detected.

Diagnosis is acute tonsillitis. It was believed that the child did have a bacterial infection of the tonsils, but Zinnat was not helping..."

8. According to the Complainant, she did not give the Patient any of the medications prescribed by Dr FONG because she was worried about their effects on the Patient. Meanwhile, the Patient developed generalized rashes over his body later in the evening of 1 March 2013.
9. On 2 March 2013, the Complainant tried to contact the Defendant by phone and his clinic assistant asked her to bring the Patient to see the Defendant. The Patient was brought by his grandmother to see the Defendant later in the morning. It is not entirely clear from the evidence whether the Patient's grandmother had mentioned to the Defendant about the Patient's allergic reactions to Zinnat. There is however no dispute that the Defendant reassured the Patient's grandmother that the Patient had Roseola Infantum and prescribed him with some other medications. But then again, the Defendant also put down on the Patient's consultation record the words "Zinnat Allergy? 3/2013" in red.
10. Worried about the Patient's skin rashes and swelling, the Complainant brought the Patient to the Accident & Emergency Department of Tuen Mun Hospital ("TMH") for treatment in early hours of 3 March 2013. The Patient was later admitted to the Paediatrics Ward for 3 days. One of the principal diagnoses was "Drug induced skin allergy (Urticarial reaction to Cefuroxime)". During his stay at TMH, the Patient's generalized rashes were treated with medications.
11. By a letter dated 19 April 2013, the Complainant lodged this complaint against the Defendant with the Medical Council.

### **Burden and Standard of Proof**

12. 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.
13. There is no doubt that the allegation made against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine the disciplinary charge against the Defendant carefully.

### **Findings of the Medical Council**

14. The Defendant admits the factual particulars of the disciplinary charge against him but it remains for us to determine on the evidence whether he is guilty of misconduct in a professional respect.
15. The Defendant ought to be aware that the Patient had a history of allergic reactions to Zinnat. And yet, the Defendant still prescribed the Patient with Zinnat. Apparently, the Defendant did not take note of the history of Zinnat allergy documented in the earlier consultation records when he prescribed the Patient with Zinnat on 28 February 2013.
16. Patients are entitled to, and they often do, rely on doctors to exercise reasonable care and competence in avoiding prescription of drug to which they have a known allergy.
17. Allergic reaction to drug is not dose-dependent, and can be triggered by even a small dose. Moreover, allergic reaction to drug can be very serious and potentially life-threatening.
18. Prescription of Zinnat to the Patient, whom the Defendant ought to know was allergic to Zinnat, was inappropriate and unsafe. Unlike the Defendant, we do not

have the benefit of seeing the Patient and we shall not comment on the correctness of his decision to prescribe antibiotics for the Patient. But then again, the real point is that if prescription of antibiotics was required, the Defendant ought to have taken adequate note of the Patient's history of allergy and refrained from prescribing any antibiotics containing Cefuroxime.

19. In our view, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of professional misconduct as charged.

### **Sentencing**

20. The Defendant has a clear disciplinary record.
21. In line with published policy, we shall give him credit for his frank admission and full cooperation throughout this inquiry.
22. 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 its high standards and good reputation.
23. This was a classic case of lack of prudence. In this incident, the Defendant failed to take note of the Patient's history of allergic reactions to Zinnat.
24. We accept that the Defendant had learnt his lesson. But we need to ensure that he would not commit the same or similar misconduct in the future.
25. In this connection, we are told in mitigation that the Defendant had since the incident taken additional precautionary measures to avoid similar mishap from happening again. In addition to documenting in red the history of drug allergy on the patient's card, a red chop bearing the word "DRUG ALLERGY" would be stamped on the top of every page of the consultation record for any patient who has a history of drug allergy. Also, the name of the drug to which the patient is allergic would be noted. Furthermore, the Defendant had since the incident attended a course on clinical audit by the Hong Kong College of Family Physicians.

26. Taking into consideration the nature and gravity of the disciplinary charge and what we have heard and read in mitigation, we order that the Defendant's name be removed from the General Register for a period of 1 month. We further order that the removal order be suspended for 12 months, subject to the condition that the Defendant shall complete during the suspension period satisfactory peer audit by a Practice Monitor to be appointed by the Council with the following terms:
- (a) the Practice Monitor shall conduct random audit of the Defendant's practice with particular regard to the prescription and dispensation of drugs;
  - (b) the peer audit should be conducted without prior notice to the Defendant;
  - (c) the peer audit should be conducted at least once every 6 months during the suspension period;
  - (d) during the peer audit, the Practice Monitor should be given unrestricted access to all parts of the Defendant's clinic and the relevant records which in the Practice Monitor's opinion is necessary for proper discharge of his duty;
  - (e) the Practice Monitor shall report directly to the Chairman of the Council the finding of his peer audit. Where any defects are detected, such defects should be reported to the Chairman of the Council as soon as practicable;
  - (f) in the event that the Defendant does not engage in active practice at any time during the suspension period, unless otherwise ordered by the Council, the peer audit shall automatically extend until the completion of 12-month suspension period; and
  - (g) in case of change of Practice Monitor at any time before the end of the 12-month suspension period, unless otherwise ordered by the Council, the peer audit shall automatically extend until another Practice Monitor is appointed to complete the remaining period of peer audit.

**Remark**

27. The way in which the Defendant had kept his consultation record for the Patient leaves much to be desired. Although it does not affect in any way our decision to order the removal of the Defendant's name from the General Register, we wish to remind the Defendant that all doctors have the responsibility to maintain systematic and clear medical records.

Prof. LAU Wan-yee, Joseph, SBS  
Chairman,  
The Medical Council of Hong Kong