

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr CHENG Ming Chun (鄭明俊醫生) (Reg. No.: M12629)

Date of hearing: 17 September 2019 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr Hon Pierre CHAN
Dr FUNG Ho-wang
Mr MUI Cheuk-nang, Kenny
Mr NG Ting-shan

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Mr LAU Ka Kin, Defence Counsel, as
instructed by Messrs. CHEUNG &
YIP, Solicitors & Notaries

Senior Government Counsel representing the Secretary: Miss Vienne LUK

1. The charges against the Defendant, Dr CHENG Ming Chun, are:

First Case (MC 14/012)

“That on or about 29 November 2013, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”), in that he prescribed Synbetamine which contained corticosteroid to the Patient, when he was given to know that the Patient was 5 weeks pregnant, without proper justification and/or clinical indication.

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

Second Case (MC 16/273)

“That in or about June 2016, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”), in that he:

- (a) failed to conduct proper investigation on the Patient who did not have menstruation for two months; and/or
- (b) prescribed a course of Norethisterone to the Patient without proper justification and/or clinical indication.

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 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. His name has never been included in the Specialist Register.
3. The Defendant admits the factual particulars of the disciplinary charge(s) against him in both cases.

First Case (MC 14/012)

4. On 29 November 2013, the Patient consulted the Defendant with symptoms of running nose and headache. During the consultation, the Patient informed the Defendant that she was pregnant for 5 weeks at the time and requested for prescription of drugs that would be safe for her pregnancy.
5. There is no dispute that the Defendant prescribed during the consultation, amongst other drugs, Synbetamine, which contains betamethasone, to the Patient.
6. Betamethasone is a potent corticosteroid and is listed in the US FDA categorization of risk of drug use in pregnancy under Safety Index Category D which states that:

“There is positive evidence of human foetal risk, but the benefits from use in pregnant women may be acceptable despite the risk (e.g. if the drug is needed in a life-threatening situation or for a serious disease for which safer drugs cannot be used or are ineffective).”

7. According to the Patient, she took Synbetamine along with some of the other drugs prescribed by the Defendant after she returned home. Later in the day on 29 November 2013, the Patient looked up the drug information in the MIMS (i.e. Master Index of Medical Specialties) and was extremely shocked to learn that Synbetamine was contraindicated for pregnant women in their first trimester. Anxiety about potential side effects on the foetus continued to haunt her until her baby was born healthy half a year later.
8. Meanwhile, the Patient lodged her complaint against the Defendant with the Medical Council.

Second Case (MC 16/273)

9. On or about 19 June 2016, the Patient complained to the Defendant of feeling nausea and vomiting and did not have menstruation for 2 months. During the consultation, the Patient also told the Defendant that she had 2 pregnancy tests at home but the results were negative.
10. There is no dispute that the Defendant made a diagnosis of secondary amenorrhoea and prescribed a course of Norethisterone to the Patient.
11. In his submission to the Preliminary Investigation Committee, the Defendant also admitted that he *“did not perform a pregnancy test in view of [the Patient’s] emphasis of 2 negative pregnancy tests by herself”*.
12. According to the Patient, she took Norethisterone for about 1 week before consulting another doctor who found out that she was pregnant. She felt worry after she was alluded to the potential risks of Norethisterone to the foetus.
13. The Patient later lodged her complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

14. 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.

15. There is no doubt that each of the allegations 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 charges against him separately and carefully.

Findings of the Inquiry Panel

First Case (MC 14/012)

16. The Defendant frankly admitted that he prescribed Synbetamine to the Patient on 29 November 2013 when he knew that she was pregnant for 5 weeks.
17. We agree with the Secretary's expert, Professor TOMLINSON, whose evidence is unchallenged by the Defendant, that this was not a life-threatening situation. Nor was the Patient suffering from a serious disease for which safer drugs could not be used or were ineffective.
18. In our view, prescription of Synbetamine to the Patient, whom the Defendant well knew was pregnant for 5 weeks, was not only inappropriate but also potentially dangerous to the foetus. Moreover, the anxiety or distress that the Patient developed after realizing that she had taken Synbetamine must not be overlooked.
19. For these reasons, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find the Defendant guilty of misconduct in a professional respect as per the disciplinary charge in the First Case.

Second Case (MC 16/273)

20. The Defendant frankly admitted that he did not perform a pregnancy test for the Patient, who was then 38 years old, before prescribing her with a course of Norethisterone.
21. It is clearly stated in paragraph 9.1 of the Code of Professional Conduct (2016 edition) that:

“A doctor may prescribe medicine to a patient only after proper consultation and only if drug treatment is appropriate.”
22. We agree with the Secretary's expert, Dr TSOI, whose evidence is unchallenged by the Defendant, that pregnancy is the most common cause for missed menstruation period in women of child-bearing age.

23. We also agree with Dr TSOI that clinical diagnosis of secondary amenorrhoea could only be made for a female patient of child-bearing age after proper investigation to rule out the possibility of pregnancy. The Defendant should not solely rely on the Patient's self-reported negative pregnancy tests at home. Apart from looking for other symptoms and signs presumptive of pregnancy e.g. bladder irritability, breast changes and skin pigmentation, the Defendant ought to have ordered a urine test, and in case of doubt further laboratory test(s), for the Patient to rule out the possibility of pregnancy before prescribing her with a course of Norethisterone.
24. There is no dispute that the Patient was pregnant at the time of the consultation. We agree with Dr TSOI that the Patient required no drug treatment at all. It must follow in our view that the Defendant's prescription of Norethisterone was without proper justification and clinical indication.
25. For these reasons, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find the Defendant guilty of misconduct in a professional respect as per the disciplinary charges (a) and (b) in the Second Case.

Sentencing

26. The Defendant has a clear disciplinary record.
27. In accordance with our published policy, we shall give him credit in sentencing for admitting the factual particulars of the disciplinary charges against him and his cooperation throughout these disciplinary proceedings.
28. 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.
29. We accept that there was no evidence that physical harm had been caused to either of the patients.
30. We are particularly concerned in the First Case that despite his assurance to the Patient that the drugs he was going to prescribe would be pregnancy safe, the Defendant still proceeded to prescribe the Patient with Synbetamine. Apparently, the Defendant was unaware at the time that Synbetamine was contraindicated for pregnant women.
31. We accept that the Defendant had learnt his lesson. However, we need to ensure that he would not commit the same or similar misconduct in the future.

32. Taking into account the nature and gravity of these 2 cases and what we have heard and read in the mitigation, we shall make a global order that the name of the Defendant be removed from the General Register for a period of 2 months. We further order that the operation of the removal order be suspended for a period of 18 months, subject to the conditions that the Defendant shall complete during the suspension:
- (1) course(s) on safe prescription of drugs to be approved by the Medical Council to the equivalent of 10 CME points and to be completed within the next 12 months; and
 - (2) satisfactory peer audit by a Practice Monitor to be appointed by the Medical Council with the following terms:
 - (a) the Practice Monitor shall conduct random audit of the Defendant's practice with particular regard to safe prescription 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(s) 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 18-month suspension period; and
 - (g) in case of change of Practice Monitor at any time before the end of the 18-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.

Remarks

33. Although this does not form the disciplinary charges against the Defendant, we would like to take this opportunity to remind the Defendant of his responsibility to maintain adequate and clear medical records on his patients' medical history, physical findings, investigations, treatment and clinical progress.

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