

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr TONG Ho (唐浩醫生)(Reg. No.: M13341)

Date of hearing: 12 April 2019 (Friday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr Hon Pierre CHAN
Dr MOK Pik-tim, Francis
Mrs BIRCH LEE Suk-ye, Sandra, GBS, JP
Mr CHAN Hiu-fung, Nicholas, MH

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Miss Ann LUI as instructed by
Messrs. Kennedys

Government Counsel representing the Secretary: Miss Sanyi SHUM

1. The amended charge against the Defendant, Dr TONG Ho, is :

“That on or about 9 September 2013, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”) in that he prescribed Brufen (Ibuprofen) to the Patient when he knew or ought to have known that the Patient was allergic, or was susceptible to adverse reaction(s), to Brufen (Ibuprofen).

In relation to the facts 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 2 January 2002 to present.
3. Briefly stated, the Patient consulted the Defendant at the Health Network Medial Center (“the Medical Center”) on 9 September 2013 complaining of sore throat, cough without sputum and mild running nose. The Defendant made a diagnosis of Upper Respiratory Tract Infection (“URTI”) and prescribed the Patient with, amongst other medicines, Brufen 200 mg 4 times a day for 3 days.
4. There is no dispute that the Patient had visited the Medical Center on and off since March 2011. The Defendant was at all material times a locum doctor working there and the Patient’s allergy to Brufen was made known to him during the consultation on 8 August 2013. Indeed, the Defendant also admitted that he had personally updated the Patient’s allergic history in the computerized medical records accordingly.
5. Brufen, which is trade name for ibuprofen, is a non-steroidal anti-inflammatory drug (“NSAID”) and it should not be given to any patient who is allergic to ibuprofen.
6. According to his submission to the Preliminary Investigation Committee (“PIC”), when the Patient came to see him on 9 September 2013, he noted from reviewing the computerized medical records that the Patient visited the Medical Center on 8 August 2013 presenting with mild symptoms of URTI. He further noted from the clinical notes for the consultation on 8 August 2013 that the medicines that he prescribed to the Patient failed to control the Patient’s illness. This resulted in the Patient returning for a follow-up consultation on 13 August 2013 and was given additional medicines for treatment of his allergic airway problems. And yet, the Patient’s medical conditions did not resolve until the third consultation on 17 August 2013. Therefore, he was minded to review the medicines prescribed for the Patient on these consultations with a view to considering and recommending a better treatment.

7. The Defendant further submitted to the PIC that upon browsing from the computerized medical records for the consultations on 8, 13 and 17 August 2013, he noted that the Patient was given an NSAID, namely, Ponstan. He then went on to browse older prescription records and noted that Brufen was prescribed to the Patient a few times back in 2011 with seemingly better therapeutic results. He therefore decided to prescribe Brufen to the Patient in the hope that this might provide the Patient with better treatment.
8. According to the Patient, whose evidence is unchallenged by the Defendant, he developed allergic reactions after taking the medicines prescribed by the Defendant, including Brufen. He immediately returned to the Medical Center and told the Defendant that he felt unwell with rash and itchiness after taking the prescribed medicines.
9. According to the Defendant's submission to the PIC, when he realized that he had overlooked the allergic history of Brufen, he gave the Patient an injection of Prednisolone and Atarax for relief of his allergic reactions. He also advised the Patient to stay in the Medical Center for observation. However, about 10 to 15 minutes later, the Patient requested the healthcare assistant of the Medical Center to call an ambulance to send him to hospital because he considered that there was no improvement to his medical conditions.
10. According to the A&E Attendance Record kept by the Prince of Wales Hospital, the Patient arrived by ambulance at 22:15 hours on 9 September 2013. He was found to have swelling of tongue and lips, shortness of breath and rash. He later developed hypotension and admitted through the A E Department to the Intensive Care Unit for close monitoring. Eventually, his allergic reactions subsided and he was discharged from the General Ward on 12 September 2013. According to the Discharge Summary, a diagnosis of angioedema (anaphylaxis) was made.
11. Thereafter, the Patient lodged his 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 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

14. The Defendant admits the factual particulars of the disciplinary charge against him but it remains for us to consider and determine on the evidence whether he is guilty of misconduct in a professional respect.
15. The Defendant ought to have known that the Patient was allergic to Brufen. Nonetheless, the Defendant still prescribed him with Brufen, which should not be taken by patients who are allergic to ibuprofen.
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. In a patient with a reported allergy to a particular drug, the risk of having an allergic reaction after taking the same drug again would be high.
18. Prescription of Brufen to the Patient, whom the Defendant ought to have known was allergic to ibuprofen, was inappropriate and unsafe. In our view, if the Defendant had taken adequate note of the Patient's history of allergy, he ought to have considered whether there were safer alternatives than Brufen.
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 misconduct in a professional respect 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. We appreciate that the Defendant is a compassionate and caring doctor. 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.
24. In this connection, we are told in mitigation that the Defendant is now working in a group practice which has adopted a vigilant system in guarding against prescription of known allergy drug. Nonetheless, he would ask the patient every time about his or her drug allergy history and verify by cross-checking with the patient's answer with the medical records before making prescription. In addition to adhering strictly to the group practice's Guidelines on Standard Operating Procedure for Dispensing Service, which requires drug prescription to be entered into the computer and be cross-checked against the patient's drug allergy record, he would personally check all medicines ready to be dispensed. Before the medicines are given to the patient, his or her drug allergy history would be verified again by the clinical assistant against the drug allergy record in the computer.
25. Taking into consideration the nature and gravity of this case 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.

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