香 港 醫 務 委 員 會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr CHAN Chun Wing (陳振榮醫生) (Reg. No.: M10591)

Dates of hearing: 20 September 2021 (Monday)

Present at the hearing

Council Members/Assessors:	Prof. LAU Wan-yee, Joseph, SBS (Chairperson of the Inquiry Panel) Dr YEUNG Hip-wo, Victor Dr LAU Ho-lim Mr LAM Chi-yau Ms CHENG Hoi-yue, Vivian
Legal Adviser:	Mr Edward SHUM
Defence Solicitor representing the Defendant:	Dr Bernard MURPHY of Messrs. Howse Williams
Legal Officer representing the Secretary:	Ms Abigail WONG of counsel as instructed by Department of Justice

1. The charges against the Defendant, Dr CHAN Chun Wing, are:

> *"That in about March 2014, he, being a registered medical practitioner, disregarded his professional responsibility to his patient ("the Patient"), in that he:*
>
> *(a) failed to timely investigate the cardiac conditions of the Patient; and*

(b) failed to ensure that appropriate follow-up action was taken on the cardiac conditions of the Patient in respect of abnormal findings in the Patient's chest X-ray report of markedly enlarged heart.

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 30 April 1996 to the present. His name has been included in the Specialist Register under the specialty of Paediatrics since 2 June 2004.

3. The Defendant admitted the factual particulars of the disciplinary charges against him.

4. Briefly stated, accompanied by his mother, the Patient first consulted the Defendant at the outpatient clinic of St. Paul's Hospital ("SPH") on 26 March 2014 for investigation of chest deformity. The Patient was then 20 months old, having been born on 27 July 2012. During the consultation, the Patient's mother provided the Defendant with a letter of referral from one Dr CHAN, a general medical practitioner whom the Patient had earlier consulted. The material parts of that referral letter read as follows:-

"*Date: 23 Mar 2014*
Dear Dr. Paediatrician
Name:
...
The above-named patient is suffering from chest deformity with non-closed frontanelle (Anterior)
Please kindly see and give your expert management"

5. According to the medical records obtained from SPH, the Defendant wrote down, amongst others, after conducting physical examination in the Outpatient Progress Sheet that the Patient had enlarged AP diameter of the chest; pigeon chest (pectus carinatum); and his chest was clear upon auscultation. The Defendant also arranged for the Patient to undergo diagnostic investigations including chest X-ray, blood tests for calcium, ionized calcium, chloride and alkaline phosphatase.

6. The Patient was discharged home after the consultation. According to the Outpatient Discharge Notes obtained from SPH, the Patient's condition on discharge was said to be "*stable*"; and there was a tick against the box "*No*" under the column of "*Follow up*".

7. According to the Patient's father (the "Complainant"), whose evidence in this respect was unchallenged by the Defendant, he phoned SPH about one week after the consultation asking for the results of said diagnostic investigations and was told that "*they would be informed to come back for follow-up if abnormalities were detected.*"

8. Unbeknown to the Complainant at that time, results of the said diagnostic investigations were actually available on 26 March 2014. Although results of the Patient's blood tests were reported to be normal, gross abnormalities were revealed in the Patient's chest X-ray. However, the Patient's parents were not informed of the same. Nor were they contacted to attend any follow-up, whether by the Defendant or at all.

9. In his report on the Patient's chest X-ray dated 26 March 2014, one Dr LEE, a specialist in radiology at the Diagnostic and Interventional Radiology Department of SPH, observed that:

> "***XR Chest Supine of 26.03.2014:***
>
> *Heart size is markedly enlarged with left heart occupying most of left hemithorax.*
> *Lower trachea is slightly deviated to right side without luminal narrowing.*
> *No enlarged hilar shadow is seen.*
> *No consolidation is seen.*
> *Mild blunting of left costophrenic angle is noted which may represent a small pleural effusion.*
> *Right costophrenic angle is clear.*
> *Rib cage is unremarkable.*
>
> *<u>Impression:</u>*
> *1. Cardiomegaly.*
> *2. Lower tracheal deviation to right side.*
> *3. Probable small left pleural effusion.*"

10. The Defendant had signed on the said chest X-ray report but did not date his signature.

11. In the evening of 25 April 2014, the Patient's mother found the Patient to have swollen feet. The Patient was taken to the Accident and Emergency Department of Pamela Youde Nethersole Eastern Hospital ("PYNEH") later on the same day. Soon after admission to PYNEH, the Patient was transferred to the Intensive Care Unit due to his critical condition.

12. According to medical records obtained from PYNEH, the preliminary diagnosis was cardiomegaly with heart failure. Echocardiography showed dilated cardiomyopathy and the Patient was treated with anti-failure medications. The Patient showed some improvement after treatment and was discharged home on 6 May 2014. Referral was made for the Patient to be followed up at Cardiology Day Centre of Queen Mary Hospital ("QMH").

13. On 7 May 2014, the Patient was admitted to the High Dependency Unit of QMH soon after visiting the Cardiology Day Centre. The Patient was discharged home on 14 May 2014. The Patient was readmitted to QMH on 19 May 2014 for planned cardiac catheterization with myocardial biopsy on the following day. However, the Patient soon developed complications after readmission to QMH and his cardiac function remained poor. The Patient subsequently sustained post-hypoxic brain injury resulting in evolving motor disorder, oromotor dysfuction and cortical visual impairment. Eventually, the Patient succumbed to the sequel of dilated cardiomyopathy on 13 May 2015.

14. Meanwhile, the Complainant lodged this complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

15. 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.

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

Findings of the Inquiry Panel

17. Although the Defendant admitted the factual particulars of the disciplinary charges against him and indicated through his solicitor that he is not going to contest these proceedings, it remains for us to consider and determine on the evidence whether he has by his conduct in this case fallen below the standards expected of registered medical practitioners in Hong Kong.

18. We agree with the Secretary's expert witness, Dr LI, that:

> "*…This is definitely a case with dilated cardiomyopathy with severe heart failure. The child presented… with chest deformity which was due to the markedly enlarged heart…*
>
> *…Dr Chan could pick up the chest deformity with the clinical diagnosis of pigeon chest which may be due to underlying lung pathology or skeletal abnormality such as rickets. Dr Chan did order the investigations to rule out bone or lung disease with Chest X-ray and blood test. However I could not find any note that document cardiac examination in the clinic notes. If careful cardiac examination was performed, the enlarged heart with displaced cardiac apex might be detected. However the most significant incident was missing the very abnormal findings in the Chest X-ray report without any intervention. With the X-ray finding of markedly enlarged heart, this is one form of medical emergency that the child should be immediately admitted into hospital for investigations and management…*"

19. In failing to timely investigate the cardiac condition of the Patient especially when the results of the Patient's chest X-ray indicated that his heart was markedly enlarged, the Defendant had in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of disciplinary charge (a).

20. The Defendant told the Preliminary Investigation Committee of the Medical Council that after reviewing the said chest X-ray report, he verbally instructed the health care assistant of SPH to contact the Patient's parents to bring the Patient back for follow-up. However, we noted from reading the letter from Department of Health to the Complainant dated 7 July 2014 that "*…no record was found in the investigation which shows that the doctor had instructed the nurse to contact the patient for a follow-up consultation…*"

21. But then again, the real point in our view is that, as Dr LI said:

> "*…the follow-up action should be according to the severity of the abnormality, gross abnormality with potential life-threatening outcome should be managed urgently. For a patient with Chest X-ray showing 'heart size markedly enlarged', this is one form of serious medical condition for early medical attention and intervention. Though the child appeared clinically well, there is chance of rapid deterioration of the cardiac condition and early medical attention should be arranged within 1-2 days. The family should be informed about the abnormal finding and the severity of the suspected condition, and also explained the need for early medical attention, preferably by the attending doctor. Dr Chan claimed that he had instructed the [health care assistant] to arrange for follow-up for the patient at SPH, but it is important for the in-charge clinician to proactively follow-up a case with serious condition. Chest X-ray with markedly enlarged heart is a significant medical finding that alert clinicians of the need for early medical attention…*
>
> *…Based on the suboptimal management of a very abnormal radiological report, Dr Chan did not provide appropriate and proper care to the patient that led to delay of diagnosis and management of the cardiac condition.*"

22. And in failing to ensure that appropriate follow-up action was taken on the cardiac conditions of the Patient in respect of abnormal findings in the said chest X-ray report of markedly enlarged heart, the Defendant had in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of disciplinary charge (b).

Sentencing

23. The Defendant has a clear disciplinary record.

24. In line with our published policy, we shall give the Defendant credit in sentencing for his admission and not contesting these proceedings before us today.

25. 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.

26. The Defendant accepted that he had reviewed the said chest X-ray report. As a specialist in paediatrics, the Defendant ought to know that cardiac conditions of young children like the Patient could deteriorate rapidly. This was aggravated by the fact that no arrangement was made for the Patient to be followed up after the consultation on 26 March 2014.

27. The Patient's chest X-ray clearly revealed in our view a potentially life threatening condition requiring urgent management. Indeed, the Defendant also accepted that as clinician-in-charge he should have made sure that the findings of the chest X-ray were communicated to the Patient's parents and that the Patient's case was followed up so that cardiac examination, ECG, echocardiology and referral to a paediatric cardiologist could be arranged.

28. But then again, we agree with Dr LI that:-

> "*…The patient had markedly cardiomegaly which was a life-threatening condition, and may be associated with sudden death…*
>
> *…Early diagnosis or medical treatment cannot alter the natural course of illness, i.e. early pick up of the cardiac condition could not alter the final outcome.*"

29. We are told in mitigation that the Defendant has since the incident the practice of keeping a "Record of Report Follow Up" for individual patients so as to ensure that all follow up actions have been timely carried out.

30. In our view, the best practice requires the vigilance of those who put it into practice. We need to make sure that the Defendant will not commit the same or similar breach in the future.

31. Taking into consideration the nature and gravity of the disciplinary charges for which the Defendant was found guilty and what we have read and heard in mitigation, we order that the Defendant's name be removed from the General Register for a period of 3 months. We further order that the operation of the removal order be suspended for 36 months.

Remark

32. The 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 his specialist registration.

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