

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr CHAN Kwok Ching (陳國禎醫生) (Reg. No.: M06804)

Date of hearing: 20 October 2020 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr SHEA Tat-ming, Paul
Dr LAU Ho-lim
Mr CHAN Wing-kai
Mr WOO King-hang

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr LUK King Wang as instructed
by Messrs. MA TANG & CO

Senior Government Counsel (Ag.) representing the Secretary: Miss Camille SHEK

1. The charge against the Defendant, Dr CHAN Kwok Ching, is:

“That on or about 2 May 2017, he, being a registered medical practitioner, disregarded his professional responsibility to his patient (“the Patient”), in that he prescribed Augmentin to the Patient when he knew or ought to have known that the Patient was allergic to penicillin.

In relation to the facts alleged, 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 3 March 1988 to present. His name has never been included in the Specialist Register.
3. The Defendant admits the factual particulars of the disciplinary charge against him.
4. Briefly stated, on 2 May 2017, the Patient was brought by her mother (“the Complainant”) to consult the Defendant for sore throat, running nose and cough. During the consultation, the Defendant prescribed various medicines including Augmentin to the Patient.
5. Augmentin, which contains amoxicillin, is an antibiotic belonging to the penicillin group and they should not be given to any patient who is allergic to penicillin.
6. It is not disputed that the Defendant was told by the Complainant during the consultation that the Patient had developed allergic reactions after taking penicillin in the past.
7. According to the Complainant, whose evidence is unchallenged by the Defendant, the Patient developed rashes after taking the medicines prescribed by the Defendant, including Augmentin. Accompanied by the Complainant, the Patient attended the Accident & Emergency Department (“AED”) of the Cheung Chau Hospital for treatment in the morning of 3 May 2017. The Complainant also brought along with her all the drugs prescribed by the Defendant and showed them to the AED medical officer. The AED medical officer then told the Complainant that Augmentin contained penicillin.
8. It is also the unchallenged evidence of the Complainant that she phoned the Defendant on 4 May 2017 enquiring whether the Patient’s allergy was caused by the penicillin contained in Augmentin. However, the Defendant disagreed.
9. Subsequently, the Complainant lodged this complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

10. 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.
11. 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

12. 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.
13. It is not disputed that the Defendant was told by the Complainant during the consultation that the Patient was allergic to penicillin. Nonetheless, the Defendant still prescribed her with Augmentin, which should not be taken by patients who are allergic to penicillin.
14. 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.
15. Allergic reaction to drug is not necessarily dose-dependent, and can be triggered by even a small dose. Previous exposure without incident does not mean it is completely clear. Drug allergy can happen at any time. Moreover, allergic reaction to drug can be very serious and potentially life-threatening.
16. Prescription of Augmentin to the Patient, whom the Defendant ought to have known was allergic to penicillin, was inappropriate and unsafe.

17. For these reasons, the Defendant's conduct had in our view fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect.
18. Although not a charge that the Defendant is facing, we find his medical record had poor legibility and lack of essential details like chief complaint, medical history and physical findings. All doctors have in our view the responsibility to maintain systematic, true, adequate, clear and contemporaneous medical records. We would strongly remind the Defendant to improve on his medical record keeping.

Sentencing

19. The Defendant has a clear disciplinary record.
20. In line with our published policy, we shall give him credit in sentencing for his frank admission and full cooperation throughout this inquiry.
21. 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.
22. We accept that the Defendant has learnt his lesson. However, we need to ensure that he would not commit the same or similar misconduct in the future.
23. We are particularly concerned that when being asked by the Complainant, the Defendant disagreed that the Patient's allergy was caused by the penicillin contained in Augmentin.
24. The Defendant submitted through his solicitors to the Preliminary Investigation Committee of the Medical Council by letter dated 21 February 2019 that he committed the mistake "*[d]ue to the high number of patients and the high time pressure caused thereby*".
25. However that may be, the real point in our view is that the Defendant ought to allow sufficient time for each and every patient during the consultation.

26. Taking into consideration the nature and gravity of this case and what we have heard 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 a period of 12 months on condition that the Defendant shall complete courses, to be pre-approved by the Council Chairman and to the equivalent of 10 CME points, on safe prescription of drugs and medical record keeping during the suspension period.

Dr CHOI Kin, Gabriel
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong