

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr HUNG Hing Yan Brian (孔慶仁醫生) (Reg. No.: M12478)

Date of hearing: 18 June 2019 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. Felice LIEH-MAK, GBS, CBE, JP
(Chairperson of the Inquiry Panel)
Dr LAM Tzit-yuen, David
Dr YAM Kwong-yui
Prof. WONG Yung-hou, MH
Mr KAN Pak-him, Christopher

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Ms Phyllis CHIU of
Messrs. Mayer Brown

Government Counsel representing the Secretary: Mr Felix LEE

1. The amended charge against the Defendant, Dr HUNG Hing Yan Brian, is:

“That on or about 27 October 2014, he, being a registered medical practitioner, disregarded his professional responsibility to his patient (“the Patient”) in that he prescribed Curam, which contained Amoxycillin, 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 Defendant was at all material times a registered medical practitioner. His name has been included in the General Register from 3 August 1999 to present and his name has never been included in the Specialist Register.
3. On 27 October 2014, the Patient consulted the Defendant at his clinic for sore throat. During the consultation, the Defendant prescribed various drugs including Curam 1g twice daily to the Patient.
4. There is no dispute that the Patient told the Defendant during the consultation on 27 October 2014 that she was allergic to 青霉素, the Chinese name of penicillin.
5. In his submission to the Preliminary Investigation Committee, the Defendant also accepted that he overlooked the Patient's history of allergy to penicillin when he prescribed Curam to her.
6. Curam is the trade name for an antibiotic belonging to the penicillin group and it should not be prescribed to a patient who is known to be allergic to penicillin.
7. According to the Patient, whose evidence is unchallenged by the Defendant, she developed allergic reactions after taking the medicines prescribed by the Defendant, including Curam.
8. According to the A&E Attendance Record kept by the Tuen Mun Hospital, when the Patient was seen by the A&E medical officer at around 03:00 hours on 30 October 2014, there were itchy rashes over her hands, feet and abdomen. The provisional diagnosis was drug allergy to penicillin. The Patient was treated with anti-allergy medicines before discharge from hospital at around 04:30 hours on the same day.
9. The Patient subsequently 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 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.
11. 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 him carefully.

Findings of the Inquiry Panel

12. The Defendant admits the factual particulars of the amended 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. The Defendant ought to have known that the Patient was allergic to penicillin. Nonetheless, the Defendant still prescribed her with Curam, 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 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.
16. Prescription of Curam to the Patient, whom the Defendant ought to have known was allergic to penicillin, 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 Curam.

17. We are particularly concerned that the Defendant paid no heed to what the Patient had told him minutes ago about her allergic reactions to 青霉素 and proceeded to prescribe her with Curam.
18. 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

19. The Defendant has a clear disciplinary record.
20. In line with published policy, we shall give him credit for his frank admission and full cooperation throughout this inquiry.
21. 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.
22. 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.
23. In this connection, we are told in mitigation that the Defendant has repeatedly reminded himself of the importance of checking drug allergy history. Whenever he is informed of a drug allergy history, the Defendant would immediately document the same on the front cover of the patient's clinical records using a red pen next to the chop "ALLERGY". The Defendant would ask his patient, whether old or new, every time about his or her drug allergy history and verify by cross-checking the patient's answer with the clinical records before making prescription. Moreover, his clinic assistant would check the prescriptions against the patient's drug allergy history and then pass the medicines onto the Defendant for a final check before dispensation.
24. 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.

Remark

25. Although this does not form the disciplinary charge against the Defendant, we would advise the Defendant to identify his patient properly by putting down the full name of the patient on all medicine bags before dispensation.

Prof. Felice LIEH-MAK, GBS, CBE, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong