

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr KWOK Tsz Yeung (郭子揚醫生) (Reg. No.: M16169)

Date of hearing: 25 October 2021 (Monday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Prof. CHOW Yat-ngok, York, GBS, MBE
Dr MOK Chun-keung, Francis
Mr MUI Cheuk-nang, Kenny
Ms CHOW Anna M W

Legal Adviser: Mr Stanley NG

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

Government Counsel representing the Secretary: Mr WONG Chin-yui

1. The charge against the Defendant, Dr KWOK Tsz Yeung, is:

“That on 22 May 2019, he, being a registered medical practitioner, disregarded his professional responsibility to his patient (“the Patient”), in that he prescribed ‘Etoricoxib’ to the Patient in the circumstances where he should have ensured having known about the Patient’s allergy to ‘Arcoxia’.

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 2 July 2010 to the present. His name has also been included in the Specialist Register under the specialty of Orthopaedics & Traumatology since 7 June 2017.

3. On 22 May 2019, the Patient consulted the Defendant at his clinic for the first time. Upon registration, the Patient wrote “Arcoxia 120mg / Hyoscine Butylbromide BP 10mg” in the space for drug allergy history on the patient registration form which she submitted to the clinic for registration purpose.
4. After examining the Patient, the Defendant prescribed the Patient with, among other medications, Etoricoxib tablets.
5. On 23 May 2019, the Patient developed lip swelling after taking the medications prescribed by the Defendant. The Patient rang up the clinic about her swelling but was told not to go back for management. The Patient was admitted to the Accident & Emergency Departments of Tin Shui Wai Hospital and Pok Oi Hospital respectively. The Patient was diagnosed with drug allergy.
6. By a statutory declaration dated 13 May 2020, the Patient lodged a complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

7. 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.
8. 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

9. 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 has been guilty of misconduct in a professional respect.
10. Prior to consultation, the Patient had made known in the patient registration form, which was provided by the Defendant’s own clinic, that she had allergy to Arcoxia. Arcoxia is the trade name for Etoricoxib. Nonetheless, the Defendant still prescribed her with Etoricoxib tablets, which should not be taken by patients who are allergic to Arcoxia.

11. Patients are entitled to, and they often do, rely on the vigilance of doctors who should exercise reasonable care in avoiding prescription of drug to which they have a known allergy. 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.
12. Prescription of Etoricoxib tablets to the Patient, whom the Defendant ought to have known was allergic to, or was susceptible to adverse reaction, was clearly inappropriate and unsafe.
13. 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

14. The Defendant has a clear disciplinary record.
15. In line with published policy, we shall give credit to the Defendant in sentencing for his frank admission and full cooperation throughout these disciplinary proceedings.
16. 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.
17. At the inquiry, the Legal Officer submitted the entire Secretary's bundle as evidence. The Defence Solicitor never challenged any evidence as presented in the Secretary's bundle. We will therefore not accept anything from mitigation which is inconsistent with the evidence from the Secretary's bundle. We are not convinced by the mitigation that the Defendant's clinic assistant had mistakenly written down "Augmentin" in the space for allergy in the registration form. We are also concerned that when the Patient rang up the clinic, she was only told not to come back for management.
18. Having considered the serious nature and gravity of the disciplinary charge for which the Defendant was found guilty and what we have heard and read in mitigation, we order that the Defendant be removed from the General Register for a period of 2 months. 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 during the suspension period.

Remark

19. The Defendant's name is included in the Specialist Register under the Specialty of Orthopaedics and Traumatology. We shall leave it to the Education and Accreditation Committee to decide on whether anything may need to be done to his specialist registration.

Prof. TANG Wai-king, Grace, SBS, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong