

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr KWOK Yam Tat Jeremy (郭任達醫生) (Reg. No: M01464)

Date of hearing: 30 April 2019 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr CHENG Chi-man
Prof. CHU Kent-man
Mr CHAN Wing-kai
Mr NG Ting-shan

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Warren SETO of
Messrs. Mayer Brown

Senior Government Counsel representing the Secretary: Ms Carmen POON

The Defendant is not present.

1. The charges against the Defendant, Dr KWOK Yam Tat Jeremy, are:

“That, on or about 18 January 2015, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] [REDACTED] (“the Patient”), in that:

- (a) he prescribed sulphonamide medication to the Patient when he knew or ought to have known that the Patient was allergic to sulphonamide;
- (b) he failed to ensure that the name of the medication was labelled in four dispensed medicines; and

- (c) he failed to ensure that the date of dispensing was labelled in nine dispensed medicines.

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 Defendant was at all material times a registered medical practitioner. His name has been included in the General Register from 7 October 1969 to present.
3. The Defendant admits the factual particulars of the disciplinary charges against him.
4. Briefly stated, the Patient consulted the Defendant at his clinic in Kwai Chung on 18 January 2015 for eye discomfort. The Defendant made a diagnosis of conjunctivitis and prescribed the Patient with, amongst other medicines, Septrin capsules.
5. There is no dispute that the Patient had consulted the Defendant before and her allergy to sulphonamide was made known to him during the first consultation.
6. Septrin is trade name for an antibiotic, which contains sulfamethoxazole which belongs to the group of sulphonamide, and it should not be given to any patient who is allergic to sulphonamide.
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 Septrin. She immediately called the Defendant and was told to stop the medications and to go back to his clinic for follow-up in the next morning.
8. The Defendant accepted in his submission to the Preliminary Investigation Committee dated 19 December 2016 that “he inadvertently prescribed Septrin to the Patient for her conjunctivitis when he knew that the Patient was allergic to Septrin”. According to the Defendant, he frankly admitted his mistake when the Patient returned to see him on 19 January 2015. From 19 to 21 January 2015, he saw the Patient every day and treated her allergy

with oral Telfast, local application of betamethasone and gentamicin cream; and intramuscular injections of dexamethasone. He also replaced his prescription of Septrin with Augmentin to treat the Patient's conjunctivitis. Although her allergic rash had not subsided, the Patient did not return to see the Defendant after 21 January 2015.

9. Thereafter, the Patient lodged her 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 allegations against the Defendant here are serious ones. 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 each of the disciplinary charges against him separately and carefully.

Findings of the Inquiry Panel

12. The Defendant admits the factual particulars of the disciplinary charges 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. In our view, the Defendant ought to have known that the Patient was allergic to sulphonamide. Nonetheless, the Defendant still prescribed her with Septrin, which should not be taken by patients who are allergic to sulphonamide.
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 Septrin to the Patient, whom the Defendant ought to have known was allergic to sulphonamide, 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 Septrin.
17. For these reasons, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of disciplinary charge (a).
18. Turning to disciplinary charges (b) and (c), there is no dispute that the medicines involved were prescribed by the Defendant and dispensed to the Patient on different occasions from 18 to 21 January 2015.
19. Registered medical practitioners in Hong Kong are in a unique position in that they can prescribe and dispense medicines to patients. As a registered medical practitioner who dispensed medicines to his patient, the Defendant had the personal responsibility to ensure all dispensed medicines are properly labelled.
20. It is clearly stated in paragraph 9.4 of the Code of Professional Conduct (2009 edition) (the "Code") that:-

"All medications dispensed to patients directly or indirectly by a doctor should be properly and separately labelled with all the following information:-

...

(c) *date of dispensing;*

(d) *name of medicine, which can be either:-*

(i) *the name of the medicine as it is registered with the Pharmacy and Poisons Board of Hong Kong and shown in the Compendium of Pharmaceutical Products published by the Department of Health; or*

(ii) *the generic, chemical or pharmacological name of the medicine.*

..."

21. The Medical Council has repeatedly emphasized in previous cases the importance of proper labelling of name of medicine. Doctors who provide subsequent treatment to the same patient need to know the name and dosage of medicine previously taken by the patient when formulating their treatment plans. This will also avoid over dosage and adverse effect of drug-drug interaction.
22. In our view, proper labelling of medicine is an important requirement in the practice of medical practitioners in Hong Kong. Failure to properly label the medicines may have serious consequences, particularly in emergency situations.
23. Moreover, patients need to be able to tell from the label on the medicine the dosage to be administered and the method of administration.
24. In this case, there is no dispute that 4 of medicine bags dispensed to the Patient did not bear the names of the medicines. Whilst we accept that the names of some of the prescribed medicines were printed on the individual packaging or container but there was a real risk that the Patient might confuse the dosage for one medicine with another after removing them from the medicine bags.
25. There is also no dispute that none of the 9 medicine bags in this case bore the date of dispensation. In our view, the date of issue of the medicines is important because the Patient might otherwise be confused as to whether they were left over from her previous consultation with the Defendant. This may result in her treatment plan being upset.
26. For these reasons, we find the Defendant's conduct to have fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of professional misconduct in respect of disciplinary charges (b) and (c).

Sentencing

27. The Defendant has a clear disciplinary record.
28. In line with published policy, we shall give him credit for his frank admission and full cooperation throughout this inquiry.

29. 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.
30. There is no evidence before us of concealment of the nature of the prescribed medicines. We accept that disciplinary charges (b) and (c) in this case are in respect of poor labelling rather than deliberate non-labelling.
31. 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.
32. In this connection, we are told in mitigation that the Defendant has since the incident adopted a computer system in guarding against prescription of known allergy drug and ensuring compliance with the Good Dispensing Practice Manual and the relevant provisions in the Code. However, we wish to remind the Defendant that he should always verify and update the drug allergy record in the computer with the patient before making prescription. In addition, all medicines ready to be dispensed to the patient should be double checked and verified against the drug allergy record in the computer.
33. Taking into consideration the nature and gravity of this case and what we have heard and read in mitigation, we shall make a global order in respect of disciplinary charges (a), (b) and (c) 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