

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

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr LAM Tak Hon (林德漢醫生) (Reg. No.: M07329)

Date of hearing: 12 November 2020 (Thursday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP  
(Chairperson of the Inquiry Panel)  
Dr LAM Tzit-yuen, David  
Dr HAU Kai-ching  
Ms HUI Mei-sheung, Tennessy, MH, JP  
Mr LAI Kwan-ho, Raymond

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Mr Eddie NG as instructed  
by Messrs. Kennedys

Senior Government Counsel representing the Secretary: Miss Carmen POON

1. The charge against the Defendant, Dr LAM Tak Hon, is:

*“That on or about 19 July 2017, he, being a registered medical practitioner, disregarded his professional responsibility to his patient, A, (“the Patient”), in that he failed to ensure the proper labelling of the dispensed medication(s) to the Patient.*

*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 27 June 1989 to the present. His name had never been included in the Specialist Register.

3. Briefly stated, on 19 July 2017, accompanied by her mother (“the Complainant”), the Patient, who was then 10 years old, consulted the Defendant at his clinic complaining of cough, running nose, sore throat and headache for 3 days.
4. There is no dispute that the Defendant prescribed to the Patient the following medicines during the consultation:
  - (i) Panadol 300mg 3 times a day
  - (ii) Piriton 2mg 3 times a day
  - (iii) Ampicillin 250mg 3 times a day
  - (iv) Mixture [of] Ammonium Chloride Co 5ml 3 times a day
5. There is also no dispute that the prescribed medicines were subsequently dispensed to the Patient through the Defendant’s clinic assistant. However, 3 of the dispensed medicines were not labelled with the method of administration. Moreover, the bottle of mixture of Ammonium Chloride Co 5ml was not labelled with the name and the method of administration of the medicine.
6. The Patient returned home and took the dispensed medicines. However, her medical condition did not improve. Accompanied by the Complainant, the Patient consulted another doctor on 21 July 2017 and was told that one of the medicines she took was an antibiotic.
7. The Complainant subsequently lodged this complaint against the Defendant with the Medical Council.

### **Burden and Standard of Proof**

8. 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.
9. 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 the Defendant carefully.

## **Findings of the Inquiry Panel**

10. 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.
11. When being asked by us, the Legal Officer confirmed that the Secretary's case against the Defendant relates only to his failure to ensure that (1) the method of administration was labelled in 3 of the dispensed medicines and (2) the name and the method of administration were labelled in another dispensed medicine.
12. 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 the Patient, the Defendant had the personal responsibility to ensure all dispensed medicines were probably labelled.
13. It is clearly stated in section 9.4 of the Code of Professional Conduct ("the Code") (2016 edition) that:

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

  - (a) *name of prescribing doctor or proper means of identifying him;*
  - (b) *full name of the patient...;*
  - (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;*
  - (e) *method of administration;*
  - (f) *dosage to be administered;*
  - (g) *strength and/or concentration of the medicine where applicable; and*
  - (h) *precautions where applicable."*
14. Proper labelling of medicines is an important requirement in the practice of registered medical practitioners in Hong Kong. Other doctors who provide subsequent treatment to the same patient need to know the names and dosages of medicines previously taken by the patient when formulating their treatment plans. This will also avoid over dosage and adverse effect of drug-drug interaction. And failure to properly label the medicines may have serious consequences, particularly in emergency situations.

15. In our view, by failing to ensure that all prescribed medicines were properly labelled with the necessary information before allowing them to be dispensed to the Patient, the Defendant had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of professional misconduct as charged.
16. Although it is not part of the Secretary's case, we need to remind the Defendant that all dispensed medicines should be properly and separately labelled with all the information specified in section 9.4 of the Code including their strength and/or concentration, if applicable.

### **Sentencing**

17. The Defendant has one previous disciplinary record back in 1989 relating to his conviction with an offence punishable by imprisonment, namely, carrying on the management of an unregistered medical clinic contrary to section 14(a) of the Medical Clinics Ordinance, Chapter 343, Laws of Hong Kong. We accept that his previous disciplinary offence is of a different nature.
18. In line with our published policy, we shall give the Defendant credit in sentencing for his frank admission and full cooperation throughout these disciplinary proceedings.
19. 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.
20. There is no evidence before us of concealment of the nature of the prescribed medicines. We accept that the disciplinary charge in this case is in respect of poor labelling rather than deliberate non-labelling.
21. We are told in mitigation that this incident happened when the Defendant's regular clinic assistant was on leave and the Defendant was deeply apologetic for his failure to check the labels before the medicines were dispensed by the temporary clinic assistant to the Patient.
22. We appreciate that the Defendant was a compassionate doctor and had diligently served the local community in the Hong Kong Island East for 30 years after passing the Licensing Examination.

23. We are further told in mitigation that the Defendant has already retired from medical practice. And we accept that the Defendant has learnt his lesson and we believe that the chance of his committing the same or similar breach in the future is low.
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 be reprimanded.

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