香 港 醫 務 委 員 會
The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

1st Defendant: Dr LAM Chi Kwan (林治崑醫生) (Reg. No: M12539)

2nd Defendant: Dr CHAN Siu Kim (陳小劍醫生) (Reg. No.: M13432)

Date of hearing: 23 September 2021 (Thursday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP (Chairperson of the Inquiry Panel)
Dr LUNG David Christopher
Prof. LAU Yu-lung
Ms HUI Mei-sheung, Tennessy, MH, JP
Mr YUEN Hon-lam, Joseph

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the 1st and 2nd Defendants : Dr Bernard MURPHY of Messrs. Howse Williams

Senior Government Counsel representing the Secretary : Miss Vienne LUK

1. The charges against the 1st Defendant Dr LAM Chi Kwan are:

"That, in or about January 2017, he, being a registered medical practitioner, disregarded his professional responsibility to his patient ("the Patient"), deceased, in that he,

(i) failed to prescribe anti-hepatitis B prophylaxis to the Patient when the Patient was treated with high dose steroid for IgA nephropathy and he knew or ought to have known that the Patient was a hepatitis B carrier; and

(ii) failed to observe that the Patient was a hepatitis B carrier despite the Patient's hepatitis B sero-positive status was documented in the medical record(s) of United Christian Hospital.

In relation to the facts alleged, either singularly or cumulatively, he has been guilty of misconduct in a professional respect."

2. The charges against the 2nd Defendant Dr CHAN Siu Kim are:

"That, in or about February 2017, he, being a registered medical practitioner, disregarded his professional responsibility to his patient ("the Patient"), deceased, in that he,

(i) failed to prescribe anti-hepatitis B prophylaxis to the Patient when the Patient was treated with high dose steroid for IgA nephropathy and he knew or ought to have known that the Patient was a hepatitis B carrier; and

(ii) failed to observe that the Patient was a hepatitis B carrier despite the Patient's hepatitis B sero-positive status was documented in the medical record(s) of United Christian Hospital.

In relation to the facts alleged, either singularly or cumulatively, he has been guilty of misconduct in a professional respect."

Facts of the case

3. The name of the 1st Defendant Dr LAM Chi Kwan has been included in the General Register from 20 January 2000 to the present. His name has also been included in the Specialist Register under the specialty of Internal Medicine since 2 July 2008.

4. The name of the 2nd Defendant Dr CHAN Siu Kim has been included in the General Register from 2 July 2002 to the present. His name has also been included in the Specialist Register under the specialty of Nephrology since 3 March 2010.

5. The 1st and 2nd Defendants admitted the factual particulars of the respective disciplinary charge (i) against them.

6. Briefly stated, on 4 July 2016, the Patient attended the Accident & Emergency Department of United Christian Hospital (UCH) to seek medical attention for, amongst others, her headache and high blood pressure.

7. There is no dispute that the Patient was a known hepatitis B carrier since 3 June 2008. According to the medical records obtained from UCH, her medical history of being Hepatitis B surface antigen positive ("HBsAg+ve") was clearly documented in the Allergy / Alert Information of the Patient under the column of "Alert".

8. After her admission to the Medical Ward, the Patient was seen by doctor(s) of the Renal Team of UCH. She was found to have impaired kidney function and heavy proteinuria. In order to establish the cause of her kidney problems, arrangement was made for her to undergo a kidney biopsy at UCH on 1 August 2016.

9. The kidney biopsy performed on the Patient on 1 August 2016 then showed that she had IgA nephropathy.

10. After she was discharged home on 2 August 2016, the Patient continued to attend at the Outpatient Renal Clinic of UCH ("Renal Clinic") for follow up.

11. On 29 August 2016, the Patient attended the Renal Clinic for follow up and was first seen by the 1st Defendant. According to the medical records obtained from UCH, the 1st Defendant put down, amongst others, in the consultation notes that the Patient had "*GPH* (good past health) *except HBsAg+ve*".

12. According to the 1st Defendant, he explained to the Patient that she was suffering from hypertension and IgA nephropathy, in addition to her renal impairment and significant proteinuria. His management plan was to treat the Patient's IgA nephropathy with angiotensin converting enzyme inhibitor ("ACEI") first; and to consider a course of steroid if the response to ACEI treatment was poor.

13. Apart from prescribing the Patient with Lisinopril (2.5 mg daily for 8 weeks) Prazosin HCL tablets (1 mg twice a day for 8 weeks for her hypertension), the 1st Defendant also arranged for an early follow up appointment for the Patient at the Renal Clinic in 4 weeks' time. In addition, arrangement was made for the Patient to undergo renal function tests to be done 2 weeks before the next follow up appointment.

14. On 22 October 2016, the Patient returned to the Renal Clinic for follow up and was seen by one Dr TAM, a colleague of the 1st and 2nd Defendants, who prescribed her with the same medications until the next follow up appointment.

15. On 11 November 2016, the Patient returned to the Renal Clinic for follow up and was seen by one Dr TANG, also a colleague of the 1st and 2nd Defendants, who increased the prescription of Lisinopril to 20 mg daily, and took her off the Prazosin HCL tablets.

16. The Patient had blood and urine tests on 3 January 2017. The creatinine clearance reading of 56 confirmed that her renal function was impaired. The proteinuria had increased to 5.18 g/day.

17. On 20 January 2017, the Patient attended the Renal Clinic and was seen by the 1st Defendant. There is no dispute that the 1st Defendant put down, amongst others, in the consultation notes that the Patient was of "*GPH*" (good past health) "*except HBsAg+ve*".

18. According to the 1st Defendant, given her poor response to ACEI treatment, he advised the Patient to commence a 6-month course of steroid. After explaining to her the "*Pros and cons of 6 month steroid*", the Patient "*Agreed for Prednisolone*" treatment. He then prescribed the Patient with Lisinopril (20 mg/day for 4 weeks) and Prednisolone (40 mg/day for 4 weeks). Famotidine (20 mg twice a day for 4 weeks) and Calcichew D3 (1 tablet daily for 4 weeks) were prescribed to the Patient in anticipation of gastric ulcers and osteoporosis, which might arise from the long-term steroid treatment. He also arranged for an early follow up appointment for the Patient at the Renal Clinic in 4 weeks' time. In addition, arrangement was made for her to undergo renal function tests before the next follow up appointment.

19. On 17 February 2017, the Patient returned to the Renal Clinic for follow up and was seen by the 2nd Defendant. This was the only occasion in which the2nd Defendant saw the Patient. There is also no dispute that the 2nd Defendant put down, amongst others, in the consultation notes that the Patient was of "*GPH except HBsAg+ve*".

20. According to the 2nd Defendant, he noted from reading the results of laboratory tests that the Patient's proteinuria had improved slightly to 4.0 g/day. He therefore decided to tail down the Patient's Prednisolone dosage by 5 mg every 2 weeks, but he did not advise the Patient on the use of prophylactic antivirals. He also started Zocor treatment (20 mg nocte for 9 weeks) for her dyslipidaemia; and repeated the prescriptions of Lisinporil, Famotidine and Calcichew. In addition, arrangement was made for her to undergo laboratory tests for monitoring, amongst others, her liver and renal functions before the next follow up appointment scheduled for 21 April 2017.

21. The Patient never saw the 1st and 2nd Defendants at the Renal Clinic again.

22. Meanwhile, the Patient was admitted to the UCH on 1 April 2017 because of jaundice and generalized unwellness. After admission, the Patient was found to have markedly deranged liver function and was diagnosed as having acute hepatitis B flare with severe hepatic decompensation. Her liver function continued to deteriorate and she was transferred to Queen Mary Hospital for consideration of liver transplantation on 5 April 2017. Subsequently, the Patient passed away on 26 August 2017.

23. The Patient's daughter later lodged this complaint with the Medical Council.

Burden and Standard of Proof

24. We bear in mind that the burden of proof is always on the Legal Officer and the Defendants do not have to prove their 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.

25. There is no doubt that the allegations against the Defendants here are serious ones. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. Therefore, we need to look at all the evidence and to consider and determine the respective disciplinary charges against the 1st and 2nd Defendants separately and carefully.

Findings of the Inquiry Panel

1st Defendant (Dr LAM Chi Kwan) (林治崑醫生)

26. At the beginning of this inquiry, the Legal Officer informed us that the Secretary is not going to adduce any evidence against the 1st Defendant in relation to disciplinary charge (ii). Since the burden of proof is always on the Secretary, we must find the 1st Defendant not guilty of disciplinary charge (ii) against him.

27. The 1st Defendant accepted that he failed to prescribe anti-hepatitis B prophylaxis to the Patient when the Patient was treated with high dose steroid for IgA nephropathy; and he knew that the Patient was a hepatitis B carrier.

28. The 1st Defendant also indicated through his solicitor to us that he is not going to contest these proceedings. It remains however for us to consider and determine on the evidence whether the 1st Defendant has by his conduct in this case fallen below the standards expected of registered medical practitioners in Hong Kong.

29. We agree with the unchallenged opinion of the Secretary's expert witness, Dr LUI, that:

"*… Reactivation of hepatitis B is a well-recognized complication of immunosuppressive treatment (including steroids) in patients who are HBsAg positive…*

… Manifestations of reactivation of hepatitis B can range from asymptomatic increase in the HBV DNA levels, increased aminotransferase levels, with or without clinical signs and symptoms of hepatitis to fulminant liver failure and even mortality. HBsAg positive patients treated with high dose Prednisolone (>20 mg day) for 4 weeks or more are considered to have high risk of hepatitis B reactivation…

… Pre-emptive use of anti-hepatitis B medications such as entecavir and tenofovir can significantly reduce the risk of hepatitis B reactivation and its related hepatitis flare.

…

… The Patient had IgA nephropathy with impaired kidney function and heavy proteinuria at presentation. Dr Lam's decision to give the Patient a trial of steroid treatment on 20 January 2017 was reasonable…

… However, as the Patient was a known hepatitis B carrier, when she was given high dose prednisone of 40 mg daily to treat her IgA nephropathy, she should also have been given anti-hepatitis B prophylaxis.

… The fact that Dr Lam had omitted the prescription of anti-hepatitis B prophylaxis for the Patient when she was being treated with high dose prednisolone had probably led to the development of hepatitis B flare two and a half months after the initiation of steroid treatment."

30. The 1st Defendant initially submitted through his solicitors to the Preliminary Investigation Committee ("PIC") of the Medical Council by letter dated 17 September 2020 that:

"*… he would explain to patients that it is possible for prophylactic antivirals to be prescribed as a Self-financed Item (SFI) drug and he would explain the cost that the patient had to pay. In this case, Dr. Lam believes that he would have discussed the prescription of prophylactic antiviral drugs as SFI drug with the Patient…*"

31. We do not accept this conjecture. The 1st Defendant merely put down "*Pros and cons of 6 month steroid explained*" in the consultation notes for 20 January 2017. There was no mention of discussion with the Patient about "*prescription of prophylactic antiviral drugs as SFI drug*" at all. There was nothing in our view to prevent the 1st Defendant from putting down in the consultation notes, for example, that "*prescription of prophylactic antiviral drugs as SFI drug but declined by the Patient*". Moreover, we would expect him to put down in the consultation notes of 20 January 2017 a reminder for himself or his colleague(s) at the Renal Clinic to revisit the issue of "*prescription of prophylactic antiviral drugs as SFI drug*" with the Patient at the next follow up appointment.

32. Indeed, the 1st Defendant acknowledged in his PIC submission dated 17 September 2020 that:

> "*… Dr Lam… accepts he did not prescribe antivirals to the Patient. Had the Patient refused antivirals, Dr Lam would have documented this in the Patient's records. Dr Lam therefore believes the fact he did not prescribe antivirals to the Patient was due to an error on his part...*"

33. In failing to prescribe anti-hepatitis B prophylaxis to the Patient when she was treated with high dose steroid for IgA nephropathy, the 1st Defendant has in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the 1st Defendant guilty of disciplinary charge (i) against him.

2nd Defendant (Dr CHAN Siu Kim) (陳小劍醫生)

34. At the beginning of this inquiry, the Legal Officer informed us that the Secretary is not going to adduce any evidence against the 2nd Defendant in relation to disciplinary charge (ii). Since the burden of proof is always on the Secretary, we must find the 2nd Defendant not guilty of disciplinary charge (ii) against him.

35. The 2nd Defendant accepted that he failed to prescribe anti-hepatitis B prophylaxis to the Patient when she was treated with high dose steroid for IgA nephropathy; and he knew that the Patient was a hepatitis B carrier. The 2nd Defendant also accepted that during the consultation on 17 February 2017, he should have revisited the issue on the use of prophylactic antivirals, when tailing down the Prednisolone dosage.

36. We agree with the unchallenged opinion of Dr LUI that:

> "*…When the Patient attended follow up in UCH on 17 February 2017, Dr Chan's decision to tail down the dosage of the prednisolone was appropriate…*
>
> *… Although Dr Chan noted that the Patient was a hepatitis B carrier, he did not clarify the reason why the Patient had not been prescribed anti-hepatitis B prophylaxis while receiving high dose steroid treatment…*

... If Dr Chan had prescribed anti-hepatitis B prophylaxis for the Patient during the Clinic follow up on 17 February 2017, the Patient's risk of developing hepatitis B reactivation could have been reduced."

37. Through his solicitors, the 2nd Defendant initially told the PIC by letter dated 17 September 2020 that he misunderstood from reading the words "*Pros and cons of 6 month steroid explained*" that the Patient had been advised on the need for prescription of prophylactic antivirals during the consultation on 20 January 2017 but she refused.

38. However that may be, the real point in our view is that the 2nd Defendant ought to have clarified with the Patient why no prescription was made for anti-hepatitis B prophylaxis during the consultation on 17 January 2017, and, if need be, further verified with the 1st Defendant.

39. In failing to prescribe anti-hepatitis B prophylaxis to the Patient when she was treated with high dose steroid for IgA nephropathy, the 2nd Defendant has in our view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the 2nd Defendant guilty of disciplinary charge (i) against him.

Sentencing

40. We were told in mitigation that the 1st and 2nd Defendants had since this incident taken steps to improve the clinic management system by recommending to UCH for setting up an alert system for known hepatitis B carriers who are to be prescribed prolonged high dose steroid. The 1st and 2nd Defendants also instigated a new clinic protocol for adoption by UCH which required all doctors to document clearly in the consultation notes wherever a hepatitis B positive patient refuses antivirals when commencing steroids. In addition to teaching new residents and house-officers on issues in relation to prescription of immunosuppressants (including steroids), the 1st and 2nd Defendants had been working with pharmacists at UCH to produce patient education material to advise patients regarding the side effects of prolonged treatment with steroids and the importance of commencing antivirals.

1st Defendant (Dr LAM Chi Kwan) (林治崑醫生))

41. The 1st Defendant has a clear disciplinary record.

42. In line with our published policy, we shall give the 1st Defendant credit in sentencing for his admission and not contesting these proceedings before us today.

43. We bear in mind that the primary purpose of a disciplinary order is not to punish the 1st Defendant but to protect the public from persons who are unfit to practise medicine; and to maintain the public confidence in the medical profession by upholding its high standards and good reputation.

44. We are particularly concerned that the 1st Defendant put the Patient, who he knew was a hepatitis B carrier, on high dose steroid treatment for a period of 6 months without prescribing anti-hepatitis B prophylaxis so as to reduce the

known risk of hepatitis reactivation and potential development of hepatic failure.

45. We appreciate that the 1st Defendant has tremendous support from his colleagues and patients.

46. We also accept that the 1st Defendant has learnt his lesson. However, the best clinical management system and/or protocol requires the vigilance of those who put them into practice. We need to ensure that the 1st Defendant will not commit the same or similar breach in the future.

47. Taking into consideration the nature and gravity of the disciplinary charge for which the 1st Defendant was found guilty and what we have read and heard in mitigation, we order that the 1st Defendant's name be removed from the General Register for a period of 5 months. We further order that the operation of the removal order be suspended for 36 months.

2nd Defendant (Dr CHAN Siu Kim) (陳小劍醫生)

48. The 2nd Defendant has a clear disciplinary record.

49. In line with our published policy, we shall give the 2nd Defendant credit in sentencing for his admission and not contesting these proceedings before us today.

50. We bear in mind that the primary purpose of a disciplinary order is not to punish the 2nd Defendant but to protect the public from persons who are unfit to practise medicine; and to maintain the public confidence in the medical profession by upholding its high standards and good reputation.

51. We appreciate that the 2nd Defendant has tremendous support from his colleagues and patients.

52. We appreciate that the 2nd Defendant only saw the Patient on one occasion and his culpability was less than the 1st Defendant. We also accept that the 2nd Defendant has learnt his lesson. However, we need to ensure that the 2nd Defendant will not commit the same or similar breach in the future.

53. Taking into consideration the nature and gravity of the disciplinary charge for which the 2nd Defendant was found guilty and what we have read and heard in mitigation, we order that the 2nd Defendant's name be removed from the General Register for a period of 3 months. We further order that the operation of the removal order be suspended for 18 months.

Remarks

1st Defendant (Dr LAM Chi Kwan) (林治崑醫生)

54. The 1st Defendant's name is included in the Specialist Register under the Specialty of Internal Medicine. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

2nd Defendant (Dr CHAN Siu Kim) (陳小劍醫生)

55. The 2nd Defendant's name is included in the Specialist Register under the Specialty of Nephrology. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

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