

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LAU Tung Wah (劉東華醫生) (Reg. No.: M08988)

Date of hearing: 2 August 2019 (Friday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr LEUNG Chi-chiu
Dr CHIU Shing-ping, James
Mr HUNG Hin-ching, Joseph
Mr KAN Pak-him, Christopher

Legal Adviser: Mr Edward SHUM

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

Senior Government Counsel representing the Secretary: Miss Vienne LUK

1. The charge against the Defendant, Dr LAU Tung Wah, is:

“That on or about 7 December 2014, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”) in that he prescribed Augmentin and/or NEO A C Cap to the Patient when he knew or ought to have known that the Patient was allergic to Augmentin or penicillin group.

In relation to the facts alleged, he has been guilty of misconduct in a professional respect.”

Facts of the case

2. The Defendant's name has been included in the General Register from 26 March 1993 to present. His name had never been included in the Specialist Register.
3. The Defendant admits the factual particulars of the disciplinary charge against him.
4. Briefly stated, the Patient consulted the Defendant on 7 December 2014 for follow-up treatment of her left ankle dorsum allergic dermatitis with secondary bacterial infection resulting in cellulitis. During the consultation, the Defendant prescribed various drugs including Augmentin and NEO A C Cap to the Patient.
5. It is not disputed that the Defendant ought to have been aware that the Patient had a documented history of drug allergy to, amongst others, Augmentin. The Patient's history of drug allergy was documented on the front page of her clinical records by the Defendant's colleague when she visited his clinic on a previous occasion.
6. Augmentin, which contains amoxicillin, is an antibiotic belonging to the penicillin group. NEO A C Cap, which contains ampicillin and cloxacillin, is also an antibiotic belonging to the penicillin group.
7. According to the Patient, whose evidence is unchallenged by the Defendant, she developed allergic reactions after taking the drugs prescribed by the Defendant, including Augmentin and NEO A C Cap.
8. The Patient subsequently attended the Accident & Emergency Department of the Prince of Wales Hospital ("PWH") for treatment. She was diagnosed with, amongst others, drug allergy and was later transferred to the Orthopaedics Ward for further management.
9. According to the Discharge Summary obtained from PWH, upon admission to the Orthopaedics Ward, multiple maculopapular rashes were found over the anterior and posterior trunks, both arms and face of the Patient. She was hospitalized for 4 days during which she was treated with, amongst others, anti-allergy drugs.

10. Thereafter, the Patient lodged this complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

11. 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.
12. 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

13. 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 is guilty of misconduct in a professional respect.
14. It is not disputed that the Defendant ought to have known that the Patient was allergic to Augmentin. Nonetheless, he still prescribed her with Augmentin and NEO A C Cap, which should not be taken by patients who are allergic to drugs belonging to the penicillin group.
15. 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.
16. 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.

17. Prescription of Augmentin and NEO A C Cap to the Patient, whom the Defendant ought to have known was allergic to Augmentin, 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 Augmentin and NEO A C Cap.
18. 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 misconduct in a professional respect.

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 since the incident taken a number of remedial measures. Whenever he is informed of a drug allergy history, the Defendant would immediately document the same in the patient's clinical records. 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 drugs 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 a period of 12 months.

Prof. LAU Wan-ye, Joseph, SBS
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong