

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LEE Chee Yuen (Reg. No.: M06783)

Date of hearing: 30 August 2021 (Monday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Dr LEE Wai-hung, Danny
Prof. CHU Kent-man
Mr CHAN Wing-kai
Ms CHUI Hoi-yee, Heidi

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Mr Ricky WU of Messrs. Kennedys

Government Counsel representing the Secretary: Miss Ally SHUM

1. The amended charges against the Defendant, Dr LEE Chee Yuen, are:

“That in about November 2017, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] [REDACTED] (“the Patient”), in that he:

- (a) dispensed carbetan tab to the Patient without properly labelling it with the Patient’s name and date of dispensing;*
- (b) dispensed ambron tab to the Patient without properly labelling it with the Patient’s name and date of dispensing; and*

(c) dispensed two other medications to the Patient without properly labelling them with the Patient's name, date of dispensing and the respective names of the medications.

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 name of the Defendant has been included in the General Register from 20 February 1988 to the present. His name has never been included in the Specialist Register.
3. On 14 November 2017, the Patient consulted the Defendant at his clinic complaining of cough, runny nose, sputum, shortness of breath and loss of appetite.
4. The Defendant in his letter to the Preliminary Investigation Committee ("PIC") of the Medical Council dated 19 February 2021 said that he prescribed to the Patient the following medicines on a 2-day course during the consultation:
 - (i) cocillana (cough syrup) for cough, 10ml four times a day;
 - (ii) carbetan for cough, 1 tab four times a day;
 - (iii) ambron for sputum, 30mg four times a day;
 - (iv) dexmin for runny nose, 1 tab four times a day;
 - (v) appetin for appetite stimulation, 2mg four times a day; and
 - (vi) theodur for shortness of breath, 100mg two times a day
5. On 16 November 2017, the Patient returned for follow-up consultation with the Defendant. The Defendant prescribed a further 2-day course of the same medicines with same dosages to the Patient.
6. By a statutory declaration dated 18 July 2018, the Patient's relative lodged a complaint with the Medical Council against the Defendant for improper labelling of the medicine bags provided to the Patient during the consultations in November 2017.

7. Enclosed in the statutory declaration were photographs of four medicine bags of the Defendant, which showed that:
- (i) the full name of the Patient and the date of dispensing were not labelled in the medicine bag with the sticker label stating “carbetan tab”;
 - (ii) the full name of the Patient and the date of dispensing were not labelled in the medicine bag with the sticker label stating “ambron tab”; and
 - (iii) the full name of the Patient, the date of dispensing, and the names of the medication were not labelled in two medicine bags.

Burden and Standard of Proof

8. 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.
9. There is no doubt that each of the allegations 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 each of the disciplinary charges against him separately and carefully.

Findings of the Inquiry Panel

10. 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 has been guilty of misconduct in a professional respect.
11. 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.

12. 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) ...

(b) *full name of the patient, except where the full name is unusually long (in which case the family name and such part of the given name or initials sufficient to identify the patient should be written);*

(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;

...

(h) ...”

13. In this case, there is no dispute that all the four dispensed medicine bags provided as evidence by the Patient did not bear the name of the Patient and the date of dispensing. In two of the said medicine bags, they even did not have the name of the medicines.

14. In his submission to the PIC dated 19 February 2021, the Defendant admitted that the omission of the Patient’s name and the date of dispensing on the four medicine bags was an oversight on his part. The Defendant explained that he prescribed to the Patient the medications dexmin and appetin in their original packaging which already had their drug names printed on them, and therefore inadvertently he did not add their names again on the medicine bags.

15. The Medical Council has repeatedly emphasized in previous cases the importance of proper labelling of medicine. Doctors who provide subsequent care to any patient need to confirm the name of the patient, the treatment he/she has received, including name of the medicine, dosage and date of dispensing.

This will avoid over dosage and adverse side effects of drug-drug interaction. Failure to properly label the medications may result in serious consequences.

16. In our view, by failing to ensure that all prescribed medicines were properly labelled with the necessary information, namely the full name of the Patient, the date of dispensing and the name of the medicines, 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 in respect of charges (a), (b) and (c).

Sentencing

17. The Defendant has a previous disciplinary record. The Defendant was found guilty on 19 January 2021 of failure to ensure that the full name of the patient, the date of dispensing and the names of medications were labelled in the dispensed medicines. The misconduct committed in the previous case and in the present case are similar in nature. The misconduct in the present case was committed earlier than the misconduct in the previous case happened in 2018.
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. We are told that a number of remedial measures have been taken by the Defendant as soon as he was notified of the complaint in the present case. The Defendant will double-check and ensure all medications dispensed to patients are correctly labeled with the full name of the patient, the date of dispensing and the name of the medication regardless of whether the medication is contained in their original packaging which states the medicine name. The Defendant also has a checklist of information required for the labelling of dispensed medicines and will make sure his clinic staff double-checks all the information is present on the medicine bags before they are passed to him for further checking.

21. 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 all charges (a), (b) and (c) that the Defendant be reprimanded.

Remarks

22. We are deeply concerned about the dispensing practice of the Defendant. We take this opportunity to remind all medical practitioners to follow strictly section 9 of the Code regarding prescription and labelling of dispensed medicines.

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