香 港 醫 務 委 員 會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LEE Siu Lung Joseph (李小龍醫生) (Reg. No.: M05427)

Date of hearing: 28 September 2021 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr CHAN Tin-sang, Augustine
Prof. LEUNG Kai-shun, Christopher
Mr MUI Cheuk-nang, Kenny
Mr WONG Ka-kin, Andy

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Mr Chris HOWSE of
Messrs. Howse Williams

Senior Government Counsel representing the Secretary: Miss Sanyi SHUM

1. The charges against the Defendant, Dr LEE Siu Lung Joseph, are:

"That in or about April to June 2016, he, being a registered medical practitioner, disregarded his professional responsibility to his patient ("the Patient") in that:

(a) he administered an excessive amount of Triamcinolone Acetonide mixture to the Patient;

(b) he failed to explain or adequately explain to the Patient and/or the Patient's parents on the nature and/or the possible side effects of the steroid injected; and/or

(c) he failed to obtain informed consent of the Patient and/or the Patient's parents in respect of the injection of steroid.

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

Facts of the case

2. The Defendant's name was at all material times and still is included in the General Register. His name was included in the Specialist Register under the specialty of General Surgery from 4 March 1998 to 6 January 2004.

3. On 23 April 2016, the Patient, then a 9 years old girl, sustained an abrasion of her left knee after a fall on the street.

4. On 25 April 2016, the Patient's mother, the complainant in this case ("the Complainant"), brought the Patient to see the Defendant. Chlorhexidine and Bruderma Cream for 7 days were prescribed to the Patient.

5. On 11 June 2016, the Complainant took the Patient to the Defendant. The Defendant noted that the Patient had developed a keloid scar on her knee of about 1 cm long. The Defendant administered the first injection of steroid with local anaesthetic (5mg Triamcinolone in 0.12 mL + Lignocaine 2% 0.5mL) into the left knee keloid scar at its dermis. The Defendant also prescribed steroid cream called Dermovate (Clobetasol Propionate 0.05%) to apply over the scar for the next 3 days.

6. On 23 June 2016, the Complainant and the Patient returned to see the Defendant. The keloid scar had shown some improvement with flattening of keloid. The Defendant administered the second injection of steroid with local anaesthetic (5mg Triamcinolone in 0.12 mL + Lignocaine 2% 1mL) into the keloid scar. No steroid cream was prescribed to the Patient.

7. On 29 July 2016, the Patient, accompanied by her father, returned to see the Defendant. The Defendant noticed small veins in the skin near the knee cap. There was no depigmentation of skin. No further injection of steroid was given. No medicine or cream was prescribed.

8. On 14 September 2016, the Complainant brought the Patient to see Dr LEUNG, a dermatologist. According to the Complainant, Dr LEUNG had no idea of what was the injection given by the Defendant and he asked the Complainant to request a medical certificate from the Defendant.

9. The Defendant provided her a medical certificate dated 24 October 2016 ("the Medical Certificate"). The Medical Certificate recorded that Kenacort 20 mg and 1 ml 2% Lignocaine were injected on 11 June 2016 and 23 June 2016. The Defendant discovered that what he had written in the Medical Certificate of the dosage was incorrect. A new medical certificate was given to the Complainant.

10. On 27 October 2016, the Patient, accompanied by her parents, saw the Defendant. The Defendant noted skin hypopigmentation (vitiligo) around the left knee. There was no abscess or cellulitis. The presence of an added granuloma on the knee about 0.5 cm in size was noted. There was no more keloid. The Defendant said that the main concern of the parents during this consultation was in relation to the granuloma. The Defendant therefore wrote a referral letter to Dr LI, a dermatologist, requesting his advice and further management regarding the granuloma and the hypopigmentation.

11. The Defendant said that on 28 October 2016, he made a phone call to the Complainant to invite the Patient back to the clinic for a follow-up appointment on 29 October 2016 for an ultrasound of the Patient's knee in assessing its superficial structures, including the granuloma. They did not return for the follow-up consultation.

12. On 1 November 2016, the Complainant said she showed the image of the Medical Certificate, which she took on her phone, to Dr LEUNG. According to the Complainant, Dr LEUNG said everything was normal after reading the Medical Certificate.

13. Within the subsequent few months, the Complainant observed another scar developed over the Patient's left knee, which was easily grazed. The Complainant then brought the Patient to see the Defendant again.

14. On 23 March 2017, the Defendant performed ultrasound investigation of the Patient and claimed to find two foreign-body granulomas. The Patient's left knee scar had improved with no pain. The patch of hypopigmentation persisted. The Defendant advised a further referral of the Patient to see Dr LI.

15. On 24 March 2017, the Complainant said she brought the Patient and the ultrasound report to see Dr LI. According to the Complainant, Dr LI said he did not know how to read the ultrasound image and he could only tell her that the injection given by the Defendant was corticosteroid. Dr LI further told the Complainant that corticosteroid injection might lead to the Patient's skin conditions including skin thinning and these changes were permanent.

16. On 21 April 2017, the Patient returned to see the Defendant with symptoms of sore throat, fever and rhinitis. In a discussion about the Patient's left knee skin hypopigmentation, the Defendant was informed that the Patient had been seen by Dr LI but no treatment had been given. The Defendant advised referral to plastic surgeon, Dr HO for advice regarding treatment of the granulomas and the skin hypopigmentation. The Defendant gave the Complainant a referral letter dated 21 April 2017 to see Dr HO. After this consultation, the Patient did not see the Defendant again for her left knee condition. The Patient did continue to see the Defendant as her general practitioner for other matters. The last consultation was on 21 March 2018.

17. Later, the Complainant brought the Patient to see Dr HO. According to the Complainant, Dr HO said the Patient's skin changes were permanent. The Complainant said she asked Dr HO whether the skin changes were due to the excessive dose of corticosteroid given by the Defendant. The Complainant said Dr HO, after reading the referral letter dated 21 April 2017 from the Defendant, said everything was normal. The Complainant said she then showed Dr HO the image of the Medical Certificate which recorded a different drug dosage of the steroid and she said Dr HO made no further comment. The Complainant then asked Dr HO to write her a medical report. Dr HO gave the Complainant a medical report of the Patient dated 28 April 2017.

18. The Complainant lodged a complaint with the Medical Council against the Defendant by her complaint letter dated 6 February 2018.

Burden and Standard of Proof

19. 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.

20. There is no doubt that each of the allegations made against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. 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

Charge (a)

21. 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.

22. According to the Secretary's expert, Dr LUK, Specialist in Dermatology, despite that the amounts of Triamcinolone acetonide ("TA") injected by the Defendant were within the limit recommended in the literature for avoiding SYSTEMIC side effect, the issue remains whether excessive intralesional TA was administered causing the local adverse effect developed in the Patient. Generally, for intralesional TA injection, 0.1 – 0.2mL per square centimeter is given and can be repeated every 4 – 8 weeks. The concentration of TA may vary between 40 to 2.5 mg/mL depending on the types of lesion treated.

23. From the computer records of the Defendant, "Kenacort 5 mg (0.12 mL of Stacort-A) + 0.5 mL 2% Lignocaine" was injected on 11 June 2016, and "Kenacort 5 mg (0.12 mL of Stacort-A) + 1 mL 2% Lignocaine" was injected on 23 June 2016. In other words, 0.62 mL and 1.12 mL of mixture of Kenacort and Lignocaine were injected within 13 days. Kenacort and Stacort-A are trade

names of TA.

24. The effective concentrations of the Triamcinolone injected were 8.1mg/mL (5 mg Triamcinolone / 0.62mL) and 4.5 mg/mL (5 mg of Triamcinolone /1.12mL) on 11 June 2016 and 23 June 2016 respectively. The volumes administered i.e. 0.62mL and 1.12mL exceeded the usual dose of 0.1-0.2mL per square centimeter for a 1 cm keloid scar at least by three times. In addition, the second injection was performed in less than two weeks (13 days) which was much shorter than the recommended interval of 4 – 8 weeks.

25. For intralesional corticosteroid injections, several precautions are necessary, namely the strength of the preparation, the quantity injected, the skin condition being treated, and the area of the body. According to Dr LUK, in the Patient's case, there are several precautions that needed to be taken:

(i) The Patient's skin had just healed from a recent abrasion, hence was more prone to steroid induced atrophy. Concomitant intralesional and topical super potent topical corticosteroid cream (Dermovate cream in this case) should be avoided.

(ii) The knee is an area with relatively loose skin texture allowing for joint movement and is easier for spill-over corticosteroid to diffuse to the surrounding normal skin. A minimal volume of corticosteroid should be injected so as to reduce the risk of adverse effect over an extensive area outside the confine of the keloid.

(iii) As TA has a longer duration of action (compared with betamethasone or prednisolone) and the adverse effect of injected steroid may not be clinically apparent within a short period of time. A longer interval of injection schedule should be adopted (e.g. at least 3 to 4 weeks interval) so as to allow the clinician to have a better idea of the adverse local effect of previous injection.

26. We agree with the expert opinion of Dr LUK. We find that the Defendant had administered excessive volumes of TA mixture to the Patient at too soon an interval. In fact, the Defendant himself accepted that the volume of TA mixture administered was excessive and he said he would modify his practice.

27. We are satisfied that the Defendant's conduct as such had fallen below the standard expected of registered medical practitioners in Hong Kong. We find the Defendant guilty of Charge (a).

Charge (b)

28. We gratefully adopt the following test for assessing witness credibility (set out by Chung J in *Hua Tyan Development Ltd v Zurich Insurance Co. Ltd* [2012] 4 HKLRD 827 at 835-6:

> *"The assessment of a witness credibility and/or reliability is a task frequently undertaken by the court in litigation (in fact, very often an essential task). I consider the following to be the appropriate test to adopt:*
>
> *"There are two objective tests for assessing a witness's credibility regarding a matter to which he has testified:*
>
> *(a) whether that part of his testimony is inherently plausible or implausible;*
>
> *(b) whether that part of his testimony is, in a material way, contradicted by other evidence which is undisputed or indisputable (an example often given of such evidence is contemporaneous documents).*
>
> *Further, where it is shown that a witness has been discredited over one or more matters to which he has testified (using the above tests), this fact is relevant to the assessment of his overall credibility. Likewise, regard may be had to a witness's motive for deliberately not giving truthful testimony. For example, telling the truth may prejudice his interest, or a just determination of the litigation may affect his interest."*

29. The Defendant told us that on 11 June 2016, he noted that the Patient had developed a keloid scar on her knee of about 1 cm long. The Complainant expressed worry about the Patient's keloid. The Defendant said before he administered the first injection in the Patient's knee, he had explained to the Complainant that it was steroid that he was going to inject, which was to reduce the scar deformity. The Complainant gave evidence at the inquiry. During cross-examination, when asked whether the Defendant had mentioned to her that steroid would be injected before the injection, the Complainant repeated a

number of times that she could not remember if the Defendant had mentioned steroid. In re-examination, the Complainant said that she could not remember if the Defendant had mentioned to her steroid on both occasions on 11 and 23 June 2016. This is odd because in her complaint letter, the Complainant clearly wrote that the Defendant had not told her of the injection drug, as opposed to what she now said at the inquiry that she did not remember. The Complainant wrote the following: *"…Subsequently we returned to Dr LEE Siu Lung's clinic to have a discussion with him as he had failed to advise us of the injection drug…*". What the Complainant told us at the inquiry clearly contradicted to what she wrote in her complaint letter. Further, the Complainant was asked if she had asked the Defendant what type of injection would be given. The Complainant again said she did not recall. In our view, this is unreasonable. Since the whole purpose of the Complainant seeing the Defendant on 11 June 2016 was to bring along the Hiruscar cream she bought and asked the Defendant if the cream could be used to flatten the scar, she must be very concerned about the well-being of the Patient. What injection to be used must be of her concern. We do not believe she could not recall now if she had asked the Defendant what injection would be given.

30. The Defendant told us that on 11 June 2016, before he administered the first steroid injection, he had advised the Complainant of the local side effects which included skin atrophy, developing thread like red lines on the skin (telangiectasia) and loss of pigmentation of the skin (vitiligo). He said he had also explained that in rare cases, if multiple injections were given, too much steroids could have side effects on the other parts of the body which could cause weight gain and fatty tissue deposits like round "moon" face, and between the shoulders as "buffalo hump"; stretch marks on body, thinning and fragile skin that bruises easily; slow wound and healing, plus acne development. However, he said he had told the Complainant that usually only 1 or 2 injections would be necessary for a small keloid scar and therefore the risk of these side effects on other parts of the body would be very unlikely.

31. The Defendant also told us that on 23 June 2016 when the Patient returned, the keloid scar had shown some improvement with flattening of keloid, but the Complainant was still unhappy with the prominence of the scar. The Defendant then advised a second steroid injection. He further said that this second injection was likely to be the last injection of steroid. He also once again advised about the local side effects of steroid injection which included skin atrophy, infection risk (though small), developing thread like red lines on the

skin (telangiectasia) and loss of skin pigmentation (vitiligo).

32. What the Defendant told us that he had advised the Complainant of the side effects of the injections was supported by his medical record. The Defendant produced two types of medical record, one hand-written and one type-written.

33. In the handwritten record, at the entry for 11 June 2016, it was written:

" ... F.U. 25-6-16 patient's parent consent (VERBAL) & S/E explained."

34. At entry for 23 June 2016, it was written:

"S.E. Explained Verbal Consent Obtained."

35. In the type-written record, which purports to be generated from computer, for 11 June 2016, it was written under Symptoms:

"keloid scar left knee about 1 cm since last injury, patient's parent worried about keloid with pain and scarring. Likely steroid side effects explained to patient's parent, including skin atrophy, telangiectasiae and vitiligo and risks accepted and verbal consent obtained; injection of kenacort 5 mg (0.12 ml of stacort-A) + lignocaine 0.5 ml 2% LA stat. Also might require further injections if scar is not improved later."

36. For 23 June 2016, it was written under Symptoms:

"kenacort 5mg (0.12 ml of stacort-A) + lignocaine 1 ml 2% LA stat with keloid flattening since last injection, steroid side effects explained to patient's parent that there might be skin atrophy, infection risk (though small), telangiectasiae and skin colour lightening. Verbal consent obtained from patient's parent. Likely this is last shot of steroid and no more injections are required."

37. The Defendant explained to us that the above-mentioned hand-written and type-written medical records were contemporaneous and he had never tampered with them.

38. At the inquiry, the Legal Officer put to the Defendant that his record was not contemporaneous and that he had made amendments to them only after he was

made aware of the Complainant's complaint against him. Notwithstanding what was put by the Legal Officer, the Defendant's evidence was unshaken in this respect. The Legal Officer had adduced no independent evidence at all to bring home her suggestion that the records were not contemporaneous and had been tampered with.

39. Still further, the Secretary's case on the first charge rests on truth of what was written as the dosage given by the Defendant in the type-written records. The Legal Officer has offered no reason why on one hand, for charge (a), she could rely on the type-written record, whilst on the other hand, for charges (b) and (c), she would challenge them as to their contemporaneity and propriety.

40. In our view, the Legal Officer fails to challenge that the medical records, both hand-written and type-written, were not contemporaneous and had been tampered with. We accept these records are contemporaneous and the contents are truthful.

41. For what we said above about the unreasonableness of the Complainant's evidence, and our finding that the Defendant's medical records, both hand-written and type-written, are contemporaneous and their contents are truthful, we take the view that the Defendant had verbally explained to the Complainant and/or the Patient of the nature and/or the possible local side effects of the steroid injected, both on 11 and 23 June 2016.

42. Both the Secretary's and the Defendant's experts agreed that the Defendant had adequately explained to the Complainant and/or the Patient about the local side effects of the steroid injection. In our view, in light of the small dosage of steroid injection administered to the Patient, the long-term or systemic side effect was practically nil. There was no need to mention the long-term or systemic side effect to the Complainant and/or the Patient.

43. In the circumstances, we acquit the Defendant of Charge (b).

Charge (c)

44. Section 2.4 of the Code of Professional Conduct (Revised in January 2016) provides:

"Oral consent is acceptable for minor invasive procedures…"

45. The Secretary's expert accepts that intralesional steroid injection in the present case is considered a minor invasive procedure, and verbal consent is sufficient. In fact, the Legal Officer also told us in her closing submission that for this case verbal consent would be sufficient.

46. We have already founded under Charge (b) above that the Defendant had adequately verbally explained to the Complainant and/or the Patient about the nature and/or possible local side effects of the steroid injection. We are also told by the Defendant that the Complainant understood what he advised her and consented to the steroid injections on both 11 and 23 June 2016.

47. We are therefore satisfied that informed consent had been obtained.

48. We therefore acquit the Defendant of Charge (c).

Sentencing

49. The Defendant has a clear disciplinary record.

50. 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.

51. For Charge (a), in line with published policy, we shall give credit to the Defendant for his frank admission and full cooperation throughout these disciplinary proceedings.

52. We accept that the Defendant had kept up to date through his CME activities.

53. The Defendant told us that he had already modified his practice. We accept that the risk of re-offending is low.

54. Taking into consideration the nature and gravity of the Defendant's case and what we have heard and read in mitigation, we order that the Defendant be reprimanded.

Remarks

55. We take this opportunity to give the Defendant a word of advice. His type-written record on dosage recorded both names of "Kenacort and Stacort-A", which are both trade names and would cause confusion to those reading his medical record.

56. Further, the Defendant should through this case in future have a more thorough understanding of the difference between dosage and volume when prescribing drugs to prevent complication.

Dr CHOI Kin, Gabriel
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong