香 港 醫 務 委 員 會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LEUNG Ngan Chiu (梁雁超醫生) (Reg. No.: M09261)

Date of hearing: 9 November 2021 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr IP Wing-yuk
Dr QUE Tak-lun
Prof. WONG Yung-hou, MH
Mr HUI Man-kit, Patrick

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Dr David KAN of
Messrs. Howse Williams

Senior Government Counsel (Acting) representing the Secretary: Miss Liesl LAI

1. The charges against the Defendant, Dr LEUNG Ngan Chiu, are:

"That on or about 16 June 2016, he, being a registered medical practitioner, disregarded his professional responsibility to his patient ("the Patient"), in that:

(a) he failed to initiate appropriate follow-up actions in light of the abnormal chest X-ray finding; and/or

(b) he failed to properly identify appropriate follow-up actions in the A&E notes for the Patient.

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 8 November 1993 to the present. His name has never been included in the Specialist Register.

3. Briefly stated, the Secretary of the Medical Council received on 29 November 2017 a complaint against a doctor at the Accident & Emergency Department ("AED") of Pok Oi Hospital ("POH") for alleged misconduct in respect of treatment of the Patient on 16 June 2016.

4. Subsequent enquiry by the Secretary with POH revealed that the Patient visited AED of POH on 16 June 2016 and was attended by the Defendant, who was then a medical officer of AED of POH.

5. According to the medical records obtained from the Hospital Authority, the Patient attended Yuen Long Jockey Club Health Centre ("YLJCHC") on 16 June 2016 because of chest wall pain for one week. Electrocardiogram was done and showed sinus rhythm with rate of 100/min. Slight ST elevation was noted at lead I and II. He was then referred to AED for assessment.

6. The material part of the referral letter issued by one Dr LAU, the medical officer of YLJCHC reads as follows:-

"*To: Department of Accident & Emergency*

Dear Consultant-in-charge,
...
Reason for referral: central chest pain and abn (abnormal) ECG
Special consideration: For investigation / procedure
Reason for priority: Alarming symptom / sign / investigation result
...

c/o (complained of) chest wall pain x (for) a wk (week)
pain ↑ (increased) with movements or deep inspirations, esp (especially) when lying on chest on bed, not exertional chest pain
lasting initially for a fw (few) secs (seconds), now persists for a few days
some SOB (shortness of breath) if walking fast
…
ECG (Electrocardiogram): SR (sinus rhythm) rate 100, sl (slight) ST elevation at I,II
ref aed
kindly assess"

7. According to the AED attendance record obtained from POH, the Patient attended AED of POH at 19:31 hours on 16 June 2016 and noted to be "*Ref (referred) by GOPC (General Outpatient Clinic)*". At triage station, the Patient was ambulatory with blood pressure of 124/87mmHg and pulse of 109/min. His body temperature was 37.8°C. His respiratory rate was 13/min and oxygen saturation was 100% on room air. Electrocardiogram was done at 19:50 hours and showed sinus rhythm with rate of 98/min with no ST elevation.

8. There is no dispute that the Patient was later seen by the Defendant. According to the AED attendance record obtained from POH, the Patient was noticed to have cough with running nose and pain over sternal region. The Defendant then ordered blood test and chest X-ray for the Patient. Chest X-ray was done at 20:18 hours and the Defendant put down "*? Rt (right) hilar mass*" in the AED attendance record. The Patient was then arranged to be observed at the Observation Room of AED. After reviewing his blood test results, the Defendant prescribed the Patient with one dose of 30 mg intramuscular ketorolac before discharging him home with a provisional diagnosis of costochondritis.

9. There is also no dispute that despite the abnormal chest X-ray finding, the Defendant did not initiate any follow-up actions before discharging the Patient home; nor had the Defendant properly identified appropriate follow-up actions in the AED notes for the Patient.

10. On 28 September 2016, the Patient attended AED of POH again because of left shoulder pain for one week following his fall from bed. X-ray of left shoulder was taken and revealed multiple opacities at left lung. The Patient was

admitted to the Medical Ward of POH with a provisional diagnosis of abnormal lung shadows.

11. Subsequent investigations then revealed that the Patient was suffering from malignant germ cell tumour with metastasis. Chemotherapy was started but the Patient's condition was complicated by pathological fracture of L2 causing cauda equina syndrome. L2 decompression by laminectomy was performed on 25 November 2016. Owing to metastasis to C5, laminectomy for C4 to C6 was also performed on 12 December 2016.

12. Despite series of chemotherapy, there was no significant improvement and the Patient presented with right hemiparesis on 8 February 2017. Computed tomogram of brain then confirmed left parietal brain metastasis with haemorrhage. Eventually, the Patient succumbed to his illness on 16 February 2017.

Burden and Standard of Proof

13. 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.

14. 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

15. The Defendant admitted the factual particulars of the disciplinary charges against him and indicated through his solicitor that he would not be contesting these disciplinary proceedings.

16. It remains for us to consider and determine on the evidence before us whether the Defendant had by his conduct during the incident fallen below the standards expected of registered medical practitioners in Hong Kong.

17. It is the unchallenged evidence of the Secretary's expert witness, Dr SIU, that it was evident from viewing the chest X-ray taken on 16 June 2016 that there was a mass in the hilum of Patient's right lung. In putting down "*? Rt (right) hilar mass*" in the AED attendance record, the Defendant was no doubt mindful of this abnormality shown in the Patient's chest X-ray.

18. And yet, nothing further was done by the Defendant to confirm the presence of the right hilar mass and let alone to determine its nature.

19. We agree with Dr SIU, the Secretary's expert witness in emergency medicine, that:-

> "*…Even the finding was not confirmed and was just suspected, appropriate follow up action should be arranged. A second opinion could be obtained from senior staff in the department, or the film could be sent to Department of Radiology for formal reporting. [The Patient] could also be referred to Specialist out-patient clinic for further assessment. However, none of these actions were identified in the A&E note and it unavoidably led to the delay in the diagnosis…*
>
> *As Chest X-ray could not reveal the full picture of the extent of the tumour, I could not make any comment on whether the outcome of [the Patient] would be altered if the diagnosis could be made on 16/6/201(6)…*"

20. We appreciate that the Defendant's name was never included in the specialist register under the specialty of emergency medicine. But then again, the real point is that any registered medical practitioner standing in the position of the Defendant at the material time and exercising reasonable skill and care ought in our view to have initiated appropriate follow-up actions in the light of the abnormal chest X-ray finding.

21. In failing to initiate appropriate follow-up actions in light of the abnormal chest X-ray finding, the Defendant had in our view by his conduct during the incident

fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of professional misconduct as per disciplinary charge (a).

22. There is no dispute that the Defendant had failed to properly identify appropriate follow-up actions in the AED notes for the Patient before discharging him home. Indeed, nothing was mentioned in the AED notes about follow-up actions at all.

23. However that may be, in failing to properly identify appropriate follow-up actions in the A&E notes for the Patient, the Defendant had in our view by his conduct during the incident fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we also find the Defendant guilty of professional misconduct as per disciplinary charge (b).

Sentencing

24. The Defendant has a clear disciplinary record.

25. 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.

26. We are particularly concerned that the Patient was discharged home without any follow up actions by the Defendant after an abnormality in his chest X-ray was found.

27. We accept that the Defendant had an unblemished record serving the public for more than 20 years prior to the incident; and we appreciate that the Defendant had tremendous support from his colleagues at POH.

28. We are told in mitigation that the Defendant had since the incident taken a number of courses on chest X-ray interpretation; and we appreciate the Defendant's insight into his shortcomings.

29. We acknowledge that this was an isolated incident. We accept that the Defendant has learnt his lesson and he is truly remorseful. However, we need to ensure that he will not commit the same or similar breach in the future.

30. Taking into consideration the nature and gravity of the disciplinary charges for which we find the Defendant guilty and what we have heard and read in mitigation, we shall make a global order in respect of disciplinary charges (a) and (b) that the Defendant's name be removed from the General Register for a period of 1 month. We further order that the operation of the removal order be suspended for a period of 12 months.

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