

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

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr LI Po Chun (李溥綦醫生) (Reg. No.: M12850)

Date of hearing: 12 August 2020 (Wednesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS  
(Chairperson of the Inquiry Panel)  
Dr LEE Wai-hung, Danny  
Dr NG Kwok-keung  
Mr LAM Chi-yau  
Mr LAI Yat-hin, Adrian

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Ms Phyllis CHIU of  
Messrs. Mayer Brown

Senior Government Counsel representing the Secretary: Miss Carmen POON

1. The charge against the Defendant, Dr LI Po Chun, is:

“That, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”), when he knew or ought to have known that the Patient was allergic to Penicillin, in that he prescribed Augmentin to the Patient on or about 21 December 2015.

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 8 July 2000 to the present. His name has never been included in the Specialist Register.
3. The Patient attended the Defendant on 21 December 2015 with right thigh swelling. The Defendant diagnosed as "subcutaneous inflammation". The Defendant enquired about drug allergy and the Patient's husband, who was present, mentioned she had allergy to "青霉素". The Defendant prescribed, among other medications, Fleming (Augmentin) 1g twice daily for one week.
4. On 23 December 2015, the Patient developed erythematous rash over the whole body. The Patient attended the Defendant and was diagnosed as drug allergy. The Defendant prescribed Zinnat (antibiotic), Zyrtec (antihistamine) and Piriton (antihistamine) to the Patient.
5. On 24 December 2015, after taking the Zinnat twice, the Patient's condition deteriorated and she attended the Defendant in the morning. The Defendant advised the Patient to stop taking the antibiotic. Antihistamine injection was given. The Patient was referred to the Accident and Emergency Department with referral letter from the Defendant.
6. The Patient attended the Accident and Emergency Department of Tuen Mun Hospital on the same day. She developed allergic skin reaction with generalized itchy skin rash. She was admitted to the Emergency Medicine Ward and was given Prednisolone and Synalar cream. Her rash had subsided and she was discharged on 27 December 2015.
7. The itchy rash reappeared over chest, shoulders and face on 29 December 2015. The Patient attended Tuen Mun Hospital on 30 December 2015. She was hospitalized for five days and was discharged on 3 January 2016. The final diagnosis was delayed presentation of previous allergic reaction.
8. The Patient subsequently lodged the complaint via her husband against the Defendant with the Medical Council.

## **Burden and Standard of Proof**

9. 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.

10. 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**

11. The Defendant admitted 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.
12. It is admitted by the Defendant that at the consultation on 21 December 2015, the Patient's husband had mentioned to the Defendant that the Patient had allergy to “青霉素”.
13. The Panel accepts the Secretary's expert who said in his report dated 23 June 2020 that “青霉素” is well-known amongst Hong Kong doctors that it means Penicillin, a term used in China. The common Chinese translation in Hong Kong is “盤尼西林”.
14. Fleming (Augmentin) is an antibiotic consisting of Amoxicillin (Penicillin). It is also admitted by the Defendant that he ought to have known that the Patient was allergic to Penicillin. However, the Defendant prescribed Fleming (Augmentin), which contained Penicillin, to the Patient on 21 December 2015.
15. Patients are entitled to, and they often do, rely on doctors to exercise reasonable care and competence in avoiding prescription of drugs 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 Fleming (Augmentin) to the Patient, whom the Defendant ought to have known was allergic to, or was susceptible to adverse reaction to Augmentin, was inappropriate and unsafe.
18. In our view, 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 as charged.

### **Sentencing**

19. The Defendant has a clear disciplinary record.
20. In line with our published policy, we shall give him credit for his frank admission and full cooperation throughout the inquiry.
21. 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.
22. We are told that the Defendant has since the incident taken additional precautionary measures to avoid similar mishap from happening again. We are also told that the Defendant had attended lectures and workshops on safe prescriptions and dispensing of drugs.
23. We accept that the Defendant has learnt his lesson and the risk of re-offending is low.
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-yee, Joseph, SBS  
Chairperson of the Inquiry Panel  
The Medical Council of Hong Kong