

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr MOK Elaine Yee Ling (莫綺玲醫生) (Reg. No.: M06543)

Date of hearing: 28 August 2018 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr SHEA Tat-ming, Paul
Dr MOK Pik-tim, Francis
Mr HUNG Hin-ching, Joseph
Mr POON Yiu-kin, Samuel

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant : Ms Alison Scott of Messrs.
Howse Williams Bowers

Senior Government Counsel representing the Secretary : Miss Vienne LUK

1. The charges against the Defendant, Dr MOK Elaine Yee Ling, are:

“That on or about 22 January 2014 and 21 April 2014, she, being a registered medical practitioner, disregarded her professional responsibility to her patient Madam [REDACTED] (“the Patient”), in that:

- (a) she inappropriately or without proper justification prescribed Prednisone to the Patient; and/or
- (b) she failed to inform the Patient the side effects prior to prescription of Prednisone to the Patient.

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

Facts of the case

2. The Defendant was at all material times and still is a registered medical practitioner. Her name has been included in the General Register from 17 July 1987 to present and her name has never been included in the Specialist Register.
3. The Defendant admits the factual particulars of the disciplinary charges against her.
4. Briefly stated, the Patient consulted the Defendant at her clinic on 21 April 2014 complaining of intermittent fever, sore throat, cough that was worse at night with mucoid sputum, nose blockage, abdominal discomfort and loose motions. After the consultation, the Patient was prescribed with various drugs including Prednisone 5mg (which contains steroid) 3 times a day for 2 days.
5. According to the Patient, she later found out from the internet that Prednisone contained steroid. She did not understand why she was given steroid. Nor had the Defendant explained to her the adverse effects of taking steroid. The Patient then lodged this complaint against the Defendant with the Medical Council.
6. Meanwhile, by an e-mail dated 25 February 2015, the Patient further informed the Secretary of the Medical Council that the Defendant had previously prescribed to her Prednisone 5 mg 3 times a day for 2 days when she consulted the Defendant for her knee pain on 22 January 2014.
7. In her submission to the Preliminary Investigation Committee (“PIC”) of the Medical Council, the Defendant admitted that she had prescribed Prednisone to the Patient on 22 January 2014 and 21 April 2014. She also admitted that on both occasions the Patient’s symptoms might not have justified the prescription of Prednisone and she did not inform the Patient of the side effects prior to prescribing Prednisone to the Patient.

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 her 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 the allegations against the Defendant here are serious ones. 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 her carefully and separately.

Findings of the Inquiry Panel

10. The Defendant admits the factual particulars of the disciplinary charges against her but it remains for us to consider and determine on the evidence whether her conduct constituted misconduct in a professional respect.
11. A doctor may prescribe medicine to a patient only after proper consultation and only if drug treatment is appropriate. We agree with the unchallenged opinion of the Secretary's expert, Professor Tomlinson, that Prednisone did not have proven indications for any of the medical conditions presented by the Patient when she consulted the Defendant on 22 January 2014 and 21 April 2014. It is therefore inappropriate for the Defendant to prescribe Prednisone to the Patient without proper justification.
12. In our view, the Defendant's conduct had fallen below the standards expected amongst registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of disciplinary charge (a).
13. The Defendant also admitted that she failed to inform the Patient the side effects prior to prescription of Prednisone to the Patient on both occasions.
14. In our view, where a drug is commonly known to have serious side effects, a doctor has the responsibility to properly explain the possible side effects to her patient before prescribing the drug. Prednisone certainly falls within this category of drug. By failing to inform the Patient the side effects prior to prescription of Prednisone, the Defendant had deprived the Patient of her right to be informed of the risks involved in taking the drug and hence her right to make informed choice as to whether to accept the medical treatment.

15. Therefore, we also find the Defendant's conduct to have fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of disciplinary charge (b).

Sentencing

16. The Defendant has a clear record.
17. In accordance with our published policy, we shall give her credit in sentencing for admitting the factual particulars of the disciplinary charges against her and for her full cooperation throughout the disciplinary proceedings.
18. We bear in mind 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.
19. We accept the Defendant's prescription of Prednisone to the Patient on either of the 2 occasions was of short duration. We also agree with the unchallenged expert opinion of Professor Tomlinson that it was highly unlikely that the prescription would cause any measurable side effects unless there was a major contraindication to the use of steroid.
20. However, we are particularly concerned about the Defendant's indiscriminate prescription of steroid without proper justification. Therefore, whilst we accept that the Defendant has learnt her lesson but we need to be assured that the chance of her committing the same or similar breach in the future is low.
21. Having considered the nature and gravity of the disciplinary charges and what we have heard and read in mitigation, we order that in respect of disciplinary charge (a) that the Defendant's name be removed from the General Register for a period of 2 months, and the operation of the removal order be suspended for a period of 12 months, subject to the condition that the Defendant shall complete during the suspension period satisfactory peer audit by a Practice Monitor to be appointed by the Council with the following terms:
- (a) the Practice Monitor shall conduct random audit of the Defendant's practice with particular regard to prescription of drugs to patients;

- (b) the peer audit should be conducted without prior notice to the Defendant;
- (c) the peer audit should be conducted at least once every 6 months during the suspension period;
- (d) during the peer audit, the Practice Monitor should be given unrestricted access to all parts of the Defendant's clinic and the relevant records which in the Practice Monitor's opinion is necessary for proper discharge of his duty;
- (e) the Practice Monitor shall report directly to the Chairman of the Council the finding of his peer audit at 6-monthly intervals. Where any defects are detected, such defects should be reported to the Chairman of the Council as soon as practicable;
- (f) in the event that the Defendant does not engage in active practice at any time during the suspension period, unless otherwise ordered by the Council, the peer audit shall automatically extend until the completion of 12-month suspension period; and
- (g) in case of change of Practice Monitor at any time before the end of the 12-month suspension period, unless otherwise ordered by the Council, the peer audit shall automatically extend until another Practice Monitor is appointed to complete the remaining period of peer audit.

22. We further order that in respect of disciplinary charge (b) that a warning letter be issued to the Defendant.

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