

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 SHIH Tai Cho Louis (史泰祖醫生) (Reg. No.: M03250)

Date of hearing: 31 August 2022 (Wednesday)

Present at the hearing

Council Members/Assessors: Dr LUNG David Christopher, MH  
(Chairperson of the Inquiry Panel)  
Dr TAM Sau-man, Barbara  
Dr LAM Ho  
Mr WONG Hin-wing, Simon, MH  
Mr LAM Ho-yan, Mike

Legal Adviser: Mr Stanley NG

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

Senior Government Counsel representing the Secretary: Ms Carmen SIU

The Defendant is not present.

1. The amended charges against the Defendant, Dr SHIH Tai Cho Louis, are:

*“That on or about 7 May 2016, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”) in that he:*

- (a) misdiagnosed the Patient to be suffering from warts;*
- (b) failed to properly explain the pros and cons of cryotherapy to the Patient or her mother before commencing treatment of the same;*
- (c) failed to properly explain alternative treatment options to the Patient;*

*and*

*(d) inappropriately and/or without proper justification treated the Patient with cryotherapy on 24 lesions in one go.*

*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 was at all material times and still is included in the General Register. His name has been included in the Specialist Register under the Specialty of Dermatology & Venereology since 5 April 2000.
3. On 7 May 2016, Ms Ng [REDACTED] (“Ms Ng”), the Patient’s mother, brought her two daughters, including the Patient (aged 15), to consult the Defendant. The Defendant diagnosed both of them to have Common Warts. In respect of the Patient, cryotherapy was given to multiple lesions over her fingers and toes for a total of 24 sites. The Defendant asked the Patient to circle the lesions to him to deliver the cryotherapy. After the procedure, the Defendant provided the Patient a needle for puncturing the blisters followed by application of Fucidin ointment. On her way home, the Patient experienced severe pain over the treated sites that she had a near syncopal attack. She had difficulty in writing and in other daily activities because of the pain.
4. On the following few days after the cryotherapy, the Patient progressively developed vesicles over the treated sites.
5. On 12 May 2016, Ms Ng brought the Patient to see another dermatologist, a Dr Ho (“Dr Ho”), who diagnosed the Patient’s vesicles were “Post cryosurgery blistering eruption”. Dr Ho also noticed crops of tiny vesicles over the Patient’s fingers which she thought were Pompholyx. The Patient was treated by Dr Ho with incision and drainage, topical steroid and oral antihistamine and steroid. The Patient’s condition improved a few days later.
6. By a letter dated 13 May 2016, Ms Ng lodged a complaint against the Defendant to the Medical Council.

### **Burden and Standard of Proof**

7. 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.
8. There is no doubt that the allegations against the Defendant here are serious. 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 charges against him carefully.

### **Findings of the Inquiry Panel**

9. The Defendant admits the factual particulars of the amended 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.

#### **Charge (a)**

10. Warts are Human Papilloma Virus (HPV) infections of the epidermal keratinocytes and can be in the form of hyperkeratotic papules or nodules as in Finger Warts, Filiform Warts on face or flat top Plane Warts on limbs. They are usually not itchy. The characteristic sign of a Wart is the “black dots” in the lesion which represents thrombosed capillaries.
11. Pompholyx, on the other hand, are regarded as a kind of eczema which usually develop on the sides of fingers and toes. They are typically very itchy. They are Tapioca-like vesicles along the sides of fingers and toes. They appear in crops.
12. According to Ms Ng’s witness statement dated 5 March 2022, the Patient had developed “itchy erythematous rash” over the waist and the thigh, and there were “crops of vesicles” over the fingers and toes. Ms Ng said that during the consultation with the Defendant, they had told the Defendant that the vesicles

over the fingers and toes of the Patient were itchy.

13. According to the Patient's witness statement dated 5 March 2022, when she consulted the Defendant, she already had developed itchy rash over her waist and thigh. There were tiny vesicles on her fingers and toes, which were transparent with no black dots, and were itchy. She said she had told the Defendant that her fingers and toes were itchy.
14. The Defendant wrote in his medical report dated 18 June 2021 that he noted the lesions were "multiple small papules which were solid and skin-coloured" and therefore diagnosed them to be warts. However, according to the opinion of the Secretary's expert, which we accept, Pompholyx could also look "solid and skin-coloured", and these features could not be used to distinguish between warts and Pompholyx.
15. Although it was possible for the Wart to spread to all fingers and toes in a young "atopic" patient, according to the Secretary's expert, there is no indication from the medical record of the Defendant that the Patient was an atopic patient. In the Defendant's medical record, the Patient had a good past health.
16. From what were described by Ms Ng and the Patient, the Patient's lesions at the fingers and toes appeared in crops, vesicular in nature, and were itchy. Other evidence that pointed to the diagnosis of Pompholyx were even distribution of the lesions over both hands and feet and the abrupt onset. These are clear evidence that pointed that the Patient's lesions on the fingers and toes were Pompholyx instead of warts.
17. We are therefore satisfied on the evidence before us that the Defendant had misdiagnosed the Patient to be suffering from warts.
18. In our view, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find him guilty of misconduct in a professional respect under charge (a).

Charges (b) and (c)

19. We gratefully adopt as our guiding principles the following statements of the law expounded in *Montgomery v Lanarkshire Health Board* [2015] UKSC 11:-

*“87. ... The doctor is therefore under a duty to take reasonable care to ensure that the patient is aware of any material risks involved in any recommended treatment, and of any reasonable alternative or variant treatments. The test of materiality is whether, in the circumstances of the particular case, a reasonable person in the patient’s position would be likely to attach significance to the risk, or the doctor is or should reasonably be aware that the particular patient would be likely to attach significance to it.*

*90. ... the doctor’s advisory role involves dialogue, the aim of which is to ensure that the patient understands the seriousness of her condition, and the anticipated benefits and risks of the proposed treatment and any reasonable alternatives, so that she is then in a position to make an informed decision. This role will only be performed effectively if the information provided is comprehensible...”*

20. The Code of Professional Conduct (revised in January 2016) (“Code”) provides the following:

*“2.7 Consent is valid only if:-*

- (a) it is given voluntarily;*
- (b) the doctor has provided proper explanation of the nature, effect and risks of the proposed treatment and other treatment options (including the option of no treatment); and*
- (c) the patient properly understands the nature and implications of the proposed treatment.*

*...*

*2.10.1 Explanation should be given in clear, simple and consistent language. Explanation should be given in terms which the patient can understand. It is the doctor’s duty to ensure that the patient truly understands the explanation by being careful and patient.*

*2.10.2 The explanation should be balanced and sufficient to enable the patient to make an informed decision. The extent of explanation required will vary, depending on individual circumstances of the patient and complexity of the case.*

*2.10.3 The explanation should cover not only significant risks, but also risks of serious consequence even though the probability is low (i.e. low probability serious consequence risks).”*

21. The Defendant wrote in his medical report that he “gave an explanation including on the nature of the wart lesion; that cryotherapy is painful and might result in formation of painful blisters; that alternative treatment of topical medicine is not as effective while surgery can be quite traumatic”.
22. We agree with the Secretary’s expert that those explanations by the Defendant about cryotherapy could barely be acceptable for the treatment of a solitary plantar wart. However, it would be insufficient for treating 24 warts (if assuming the Defendant’s diagnosis of warts was correct) over fingers and toes in an adolescent, as pain induced would be more intense and risk of other complications was much higher. Other complications of cryotherapy included pain, blistering/erosion, secondary infection, scarring, dyspigmentation and cosmetic consequence and particular finger warts, nerve damage.
23. We also agree with the Secretary’s expert that in view of the large number of small lesions distributed over both hands and feet of the Patient, wart paint (Salicylic acid) was an alternative option for the following reasons (though the treatment with cryotherapy in stages after detailed explanation to the parent of the Patient could still be acceptable): mild irritation during treatment; less traumatic and less normal tissue damage; accurate application to small lesions; more suitable for treatment in stages as it could be administered by the Patient at home; less expensive; and less risk of blistering/erosion and hence less chance of secondary infection. The common disadvantage of Salicylic acid treatment is that it may take several weeks of daily treatment for it to work.
24. As a matter of fact, treating a solitary plantar wart and treating 24 wart lesions over hands and feet in an adolescent were different clinical scenarios as the latter would incur more pain. The pain experienced by the fingers (which have more nerve endings and thinner in thickness compared with the sole) could be intolerable if multiple lesions were treated at one time. The risks of complications could be much higher. Furthermore, the late sequelae could not be anticipated during the first treatment (e.g. an exaggerated blistering response). Accordingly, the amount of information that had to be relayed to the Patient and Ms Ng had to be more detailed, but was lacking in the present case.
25. Further, the alternative treatment options which included Salicylic acid and cryotherapy in stages should also be relayed to the Patient or Ms Ng, but the Defendant had failed to do so. According to Ms Ng, if the Defendant had told her about the consequence of cryotherapy or that cryotherapy could be done in

stages, she would definitely not have allowed cryotherapy to be done to the Patient in one go. Clearly, the consequence of cryotherapy in one go on all 24 sites was material to the Patient and Ms Ng.

26. The Defendant's explanation to the Patient and Ms Ng was clearly not balanced and not sufficient to allow them to make an informed decision.
27. We are satisfied on the evidence before us that (i) the Defendant had failed to properly explain the pros and cons of cryotherapy to the Patient or her mother before commencing the treatment; and (ii) the Defendant had failed to properly explain alternative treatment options to the Patient.
28. In our view, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find him guilty of misconduct in a professional respect under charges (b) and (c).

Charge (d)

29. Although there is no strict regulation regarding the number of skin lesions that can be treated with cryotherapy in one session, the doctor has to exercise his own judgment taking into consideration the "aggressiveness" of the treatment (i.e. the number of freeze-thaw cycles and the duration of freezing) as well as the patient's tolerance.
30. In the present case, treating 24 lesions in one go, on fingers and toes, could run a higher risk of severe pain which might be unbearable for a young patient. This was exactly what happened. On her way home after the consultation with the Defendant, the Patient experienced severe pain over the treated sites that she had a near syncopal attack. She had difficulty in writing and in other daily activities because of the pain. Clearly the treatment of 24 lesions in one go was intolerable to the Patient.
31. Further, according to the Patient, except for one site, the Defendant had not confirmed the diagnosis of the rest of the 23 sites before embarking on cryotherapy. Although the Defendant had explained that the procedure would cause pain, the Defendant had however not properly informed the Patient and Ms Ng about the severity of pain and complication of doing cryotherapy in one go on multiple sites. Without informed consent, doing cryotherapy of all 24 sites in one go was inappropriate.

32. We are satisfied on the evidence before us that the Defendant had inappropriately and/or without proper justification treated the Patient with cryotherapy on 24 lesions in one go.
33. In our view, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find him guilty of misconduct in a professional respect under charge (d).

### **Sentencing**

34. The Defendant has a clear disciplinary record.
35. The Defendant admits the factual particulars of the disciplinary charges and does not contest the issue of professional misconduct. In line with our published policy, we shall give him credit in sentencing for his admission and full cooperation before us today.
36. 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.
37. We give credit to the Defendant's contribution to the medical profession and the community, and to all the commendation letters as submitted.
38. The Defendant admitted that in hindsight the tiny vesicles could well be Pompholyx and he had misdiagnosed. The Defendant also admitted that he should have properly explained to the Patient and her mother about the significance of the risks of cryotherapy, the pros and cons and alternative treatment options. The Defendant also told us that he has since the incident taken remedial measures, namely taking extra care in the management of patients and developing a system for each consultation, allowing more time when explaining to patients, recording his explanations to patients, and ensuring that informed consents are obtained and documented. We are satisfied that the Defendant has learnt his lesson and has insight into his mistakes. We take the view that the risk of recurrence is low.
39. Having considered the nature and gravity of the disciplinary charges for which



the Defendant was found guilty and what we have heard and read in mitigation, we make a global order in respect of charges (a) to (d) that a warning letter be issued to the Defendant.

**Remark**

40. The name of the Defendant is included in the Specialist Register under the Specialty of Dermatology & Venereology. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

Dr LUNG David Christopher, MH  
Chairperson of the Inquiry Panel  
The Medical Council of Hong Kong