

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr SUN Wai Ho (孫偉浩醫生) (Reg. No.: M06086)

Date of hearing: 10 February 2021 (Wednesday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Dr IP Wing-yuk
Prof. CHU Kent-man
Mr MUI Cheuk-nang, Kenny
Mr LAI Kwan-ho, Raymond

Legal Adviser: Mr Edward SHUM

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

Senior Government Counsel (Acting): Miss Esther CHAN
representing the Secretary

1. The charges against the Defendant, Dr SUN Wai Ho, are:

“That on or about 30 January 2019, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”) in that he:

- (a) failed to ensure that the correct name of the Patient was labeled on the dispensed medicine;
- (b) failed to ensure that the correct date of dispensing was labeled on the dispensed medicine;
- (c) failed to ensure that the correct name of medication was labeled on the dispensed medicine;

- (d) failed to ensure that the correct method of administration was labeled on the dispensed medicine; and
- (e) failed to ensure that the correct dosage was labeled on the dispensed medicine.

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 has been included in the General Register from 8 April 1986 to the present. His name has been included in the Specialist Register under the Specialty of Urology since 4 March 1998.
- 3. The Defendant admits the factual particulars of the disciplinary charges against him.
- 4. Briefly stated, the Patient had been consulting the Defendant for his urological problems since 2008. On 30 January 2019, the Patient, who was then 80 years old, returned to see the Defendant at his clinic complaining of bladder symptoms. During this consultation, the Defendant prescribed to the Patient Harnal D 0.2 mg, one tablet a day for 30 days.
- 5. There is however no dispute that the medication subsequently dispensed to the Patient was incorrectly labeled. The name of the patient was incorrectly stated on the medicine bag as one Mr TAM. The name and dosage of the medication were incorrectly stated as Avodart 0.5 mg one tablet a day (before or after meal) for 60 days. Also, the date of dispensation was incorrectly stated as 12 January 2019.
- 6. The Patient returned home and found out the dispensing error. The Patient subsequently lodged this complaint through his lawyers against the Defendant with the Medical Council.

Burden and Standard of Proof

- 7. 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.

8. There is no doubt that each of the allegations 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 each of the disciplinary charges against him separately and carefully.

Findings of the Inquiry Panel

9. Although the Defendant admits the factual particulars of the disciplinary charges against him and indicates through his solicitor that he is not going to contest the issue of professional misconduct, it remains for us to consider all the evidence and determine whether his conduct has fallen below the standards expected of registered medical practitioners in Hong Kong.
10. Registered medical practitioners in Hong Kong are in a unique position in that they can prescribe and dispense medications to patients. As a registered medical practitioner who dispensed medication to the Patient, the Defendant had the personal responsibility to prevent all dispensing errors including but not limited to wrong label information.
11. We acknowledge that the medication dispensed to the Patient was in fact the one intended for him, as printed on the package of the tablets. It is fortunate that the Patient discovered the matter before taking the medication. However, the anxiety or distress that the Patient might develop after realizing the information printed on the medicine bag was that of another person should not be underestimated. This is particularly true because many elderly patients in Hong Kong may not be able to read and understand the English name of the medication printed on the package.
12. In our view, the Defendant ought to have checked the medicine bag against the consultation record before dispensing it to the Patient. The Defendant's conduct has fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find him guilty of professional misconduct as charged.

Sentencing

13. The Defendant has a clear disciplinary record.
14. In line with our published policy, we shall give the Defendant credit in sentencing for admitting the factual particulars of the disciplinary charges against him and not contesting the issue of professional misconduct.
15. 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.
16. We accept that this case did not involve the wrong medicine being given to the Patient.
17. We are told in mitigation that a number of remedial measures have been taken by the Defendant after the incident to prevent this mishap from happening again. In particular, the Defendant will check the medications against the consultation records before allowing his clinic assistant to dispense them to his patients. Moreover, the clinic assistant who hands the medications over to the patient is required to check the patient's name against the prescription.
18. We accept that the Defendant has learnt his lesson and we believe that the chance of his committing the same or similar disciplinary offence in the future would be low.
19. Taking into consideration the nature and gravity of this case and what we have heard and read in mitigation, we shall make a global order in respect of disciplinary charges (a) to (e) that the Defendant be reprimanded.

Remark

20. The Defendant's name is included in the Specialist Register under the Specialty of Urology. We shall leave it to the Education and Accreditation Committee to decide on whether anything may need to be done to his specialist registration.

Prof. TANG Wai-king, Grace, SBS, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong