

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Chak Yen (黃澤仁醫生) (Reg. No.: M02499)

Date of hearing: 10 November 2020 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel (Chairperson of the Inquiry Panel)
Dr PONG Chiu-fai, Jeffrey
Dr CHENG Chi-kin, Ashley
Mr HUNG Hin-ching, Joseph
Mr NG Ting-shan

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Warren SE-TO of
Messrs. Mayer Brown

Senior Government Counsel (Ag.) representing the Secretary: Miss Vivian KAO

1. The charge against the Defendant, Dr WONG Chak Yen, is:

“That on 23 February 2018, he, being a registered medical practitioner, disregarded his professional responsibility to his patient, A, (“the Patient”) in that, he inappropriately used a needle that had pierced his left thumb when administering a flu vaccination to the Patient.

In relation to the facts alleged, 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 11 June 1975 to the present. His name has been included in the Specialist Register under the specialty of Respiratory Medicine since 10 August 2009.

3. The Defendant admits the factual particulars of the disciplinary charge against him.
4. Briefly stated, on 23 February 2018, accompanied by his father (“the Complainant”), the Patient, who was then 4 years old, consulted the Defendant for influenza vaccination.
5. When the Defendant was about to administer the injection, the Patient struggled. The Defendant accidentally pierced the needle of the syringe into his own left thumb causing it to bleed.
6. It is the unchallenged evidence of the Complainant that the Defendant blamed the Patient for struggling whilst cleaning his wound.
7. The Defendant then continued to administer the injection to the Patient by using the same syringe needle.
8. When the Defendant found out that he had used the same syringe needle to administer the influenza vaccination for the Patient, he immediately apologized to the Complainant. The Defendant also said that he and the Patient needed to undergo blood tests for blood transmittable diseases.
9. However, the Complainant was enraged by the incident and he later lodged this complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

10. 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.
11. 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

12. The Defendant admits the factual particulars of the disciplinary charge against him and indicates through his solicitor that he is not going to contest these disciplinary proceedings. However, it remains for us to consider and determine on the evidence before us whether the Defendant has been guilty of misconduct in a professional respect.
13. The consequence of sharing a syringe needle is potentially dire. The risk of transmitting disease(s) through blood is well known in medical literature. Regardless of whether the Defendant was a carrier of blood transmittable disease(s), the anxiety or distress that the Complainant and/or the Patient might develop after realizing that the same syringe needle was administered to the Patient should not be overlooked.
14. In his submission through his solicitors to the Preliminary Investigation Committee of the Medical Council dated 9 April 2020, the Defendant admitted that he “*felt deeply unsettled*” after his left thumb was pierced by the needle of the syringe; and he was “*so flustered by the accident that... he had forgotten that the needle had been contaminated until after the vaccination had been administered.*”
15. In our view, if the Defendant had exercised due diligence in checking the syringe before administering the injection to the Patient, he ought to have noticed that the subject syringe was used and placed it in a sharp box for disposal.
16. For these reasons, the Defendant has in our view by his conduct fallen below the standards of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect.

Sentencing

17. The Defendant has one disciplinary record back in 1988 relating to the prescription or supply of drugs of addiction or dependence otherwise than in the course of *bona fide* treatment. We accept that the present disciplinary charge is of a different nature.
18. In line with our published policy, we shall give credit to the Defendant in sentencing for his frank admission and full cooperation throughout these disciplinary proceedings.
19. 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.

20. We accept that the Defendant has learnt his lesson.
21. We are told in mitigation that the Defendant had arranged after the incident a complimentary blood test for the Patient and consultation by a paediatric specialist to explain the results of the blood test and to ease the Complainant's concerns.
22. We also accept that there is no evidence before us that the Patient has suffered any long-term physical harm as a result of the subject injection.
23. Taking into consideration the nature and gravity of this case and what we have heard and read in mitigation, we order that a warning letter be issued to the Defendant and our order shall be published in the Gazette.

Remark

24. The Defendant's name is also included in the Specialist Register under the specialty of Respiratory Medicine since 10 August 2009. We shall leave it to the Education and Accreditation Committee to consider whether any action needs to be done in respect of his specialist registration.

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