

香港醫委員會
The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG To Chuen (王陶村醫生) (Reg. No.: ML00030)

Date of hearing: 3 December 2018 (Monday)

Present at the hearing

Council Members/Assessors: Prof. Felice LIEH-MAK, GBS CBE JP
(Chairperson of the Inquiry Panel)
Dr LAU Chor-chiu, GSMH MH JP
Dr YAM Kwong-yui
Ms HUI Mei-sheung, Tennessy, MH JP
Mr POON Yiu-kin, Samuel

Legal Adviser: Mr Edward SHUM

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

Government Counsel representing the Secretary : Miss Liesl LAI

1. The amended charge against the Defendant, Dr WONG To Chuen, is :

“That on or about 20 August 2014, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [REDACTED] (“the Patient”) in that he prescribed Diclofenac to the Patient when he knew or ought to have known that the Patient was allergic, or was susceptible to adverse reactions, to Diclofenac.

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 was at all material times and still is included in the General Register and his name has never been included in the Specialist Register.
3. On 20 August 2014, the Patient consulted the Defendant at his clinic for lower back pain. During the consultation, the Defendant prescribed various drugs including Voltaren 25 mg to the Patient.
4. Voltaren contains Diclofenac and it should not be prescribed to a patient who is allergic, or was susceptible to adverse reactions, to Diclofenac.
5. There is no dispute that the Patient had told the Defendant during the consultation that she was allergic to Diclofenac.
6. The Patient developed mild respiratory distress and swelling of eyes after taking the drugs (including Voltaren) prescribed by the Defendant. Although her respiratory distress subsided after she took a tablet of Piriton, her eyes continued to be swollen until sometime later in the following day.
7. The Patient subsequently lodged this complaint against the Defendant with the Medical Council.

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 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.
9. There is no doubt that the allegation made against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine the amended disciplinary charge against him carefully.

Findings of the Inquiry Panel

10. The Defendant admits the factual particulars of the amended 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.
11. The Defendant was fully aware that the Patient was allergic to Diclofenac. And yet, the Defendant still prescribed the Patient with Voltaren, which contained Diclofenac.
12. Patients are entitled to, and they often do, rely on doctors to exercise reasonable care and competence in avoiding prescription of drug to which they have a known allergy.
13. 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.
14. Prescription of Voltaren to the Patient, whom the Defendant well knew was allergic to Diclofenac, was inappropriate and unsafe. If the Defendant had taken adequate note of the Patient's history of allergy, he ought to have considered whether there were safer alternatives than Voltaren.
15. 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 professional misconduct as charged.

Sentencing

16. In accordance with our published policy, we shall give the Defendant credit in sentencing for admitting the factual particulars of the amended disciplinary charge and for his full cooperation in the preliminary investigation stage and before us today.

17. 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.
18. This was a clear case of lack of prudence. In this incident, the Defendant paid no heed to what the Patient had told him minutes ago about her allergic reactions to Diclofenac and proceeded to prescribe her with Voltaren.
19. We are told in mitigation that the Defendant had since the incident taken additional precautionary measures to avoid similar mishap from happening again. In addition to instructing his clinic assistants to ask new patients and note down on their medical record cards in red details of allergy to any drugs or food, the Defendant would review any information on allergy entered by his clinic assistants and double check with the patients when he saw them. For existing patients, the Defendant would review details of any allergy at the beginning of every consultation and re-write such allergies next to the date stamp for that consultation to act as a reminder. Moreover, the Defendant would counter-check the drugs against the patients' history of allergy before dispensation.
20. We appreciate that the Defendant had an unblemished record as a medical practitioner for over half a century before this incident. The Defendant is a conscientious doctor and he has devoted many years of outstanding and loyal service to the community. The Defendant has kept himself abreast of development in medicine by regular attendances in CME courses over the years. We also accept that the Defendant had learnt his lesson. In our view, the chance of committing the same or similar misconduct in the future would be low.
21. Taking into consideration the nature and gravity of the amended disciplinary charge and what we have heard and read in mitigation, we order that the Defendant be reprimanded.

Prof. Felice LIEH-MAK, GBS, CBE, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong