香 港 醫 務 委 員 會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr SHIU Chi Wing Stephen (蕭志榮醫生) (Reg. No. M08624)

Date of hearing: 10 January 2014 (Day 1), 24 January 2014 (Day 2), 25 January 2014 (Day 3) and 2 March 2014 (Day 4)

1. The amended charges against the Defendant, Dr SHIU Chi Wing Stephen, are that:

> "On or about 1 January 2011 he, being a registered medical practitioner, disregarded his professional responsibility to his patient C, ("the Patient"), an infant, in that:
>
> (a) he inappropriately prescribed and/or dispensed to the Patient in one consultation five drugs, namely Hexine syrup; Synbetamine; a mixture of Cocillana and Coclean syrup; a mixture of paracetamol suspension and mefenamic acid; and paracetamol suppository 250mg;
>
> (b) he failed to indicate on the drug label the strength of Hexine syrup dispensed to the Patient;
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> (c) he failed to indicate on the drug label the strength of Synbetamine dispensed to the Patient;
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> (d) he failed to indicate on the drug label the strength of the mixture of Cocillana and Coclean syrup dispensed to the Patient;
>
> (e) he inappropriately prescribed to the Patient a mixture of Cocillana and Coclean syrup containing (i) promethazine; and/or (ii) pholcodine/ codeine;
>
> (f) he prescribed to the Patient Synbetamine containing betamethasone and dexchlorpheniramine without proper justification;

(g) he failed to advise the Patient's parent of the risk of overdose of paracetamol if multiple doses of both the oral and suppository paracetamol were taken;

(h) he inappropriately prescribed and/or dispensed to the Patient a mixture of paracetamol suspension and mefenamic acid containing mefenamic acid.

In relation to the facts alleged, either singularly or cumulatively, he had been guilty of misconduct in a professional respect."

Facts of the case

2. On 1 January 2011, Madam W ["the Complainant"], took her son ["Patient C"], to the Defendant's clinic for consultation.

3. Patient C was barely one year old at the time of the consultation, having been born on 22 December 2009.

4. According to Madam W, Patient C was suffering from high fever of 39.3 degree Celsius. Although she was unable to recollect if Patient C had other symptoms than high fever, Madam W was adamant that Patient C did not have severe coughing at the time of the consultation.

5. The Defendant frankly admitted that he did not measure the body weight of Patient C; nor did he check the temperature of Patient C.

6. Although his written consultation notes merely recorded the symptoms of "high fever" and "rash", the Defendant maintained that Madam W had told him that Patient C's high fever was associated with blocked nose, running nose, sticky phlegm that came up during persistent coughing for a few days and these symptoms were worse at night time. The Defendant also maintained that his physical examination of Patient C revealed dermatitis over the face and neck and he made the diagnosis of "acute febrile respiratory illness with atopic element" despite no definite wheezing sound was heard on the chest examination.

7. It is not disputed that the Defendant prescribed and dispensed the following medications to Patient C after the consultation:-
   (1) Hexine syrup: containing bromhexine (4mg/5ml);
   (2) Synbetamine: containing dexchlorpheniramine (2mg/5ml) and betamethasone (0.25mg/5ml);
   (3) a mixture of Cocillana and Coclean syrup, with Coclean syrup containing codeine phosphate (9mg/5ml), ephedrine hydrochloride (8mg/5ml) and promethazine hydrochloride (4mg/5ml); and
   (4) a mixture of paracetamol suspension and mefenamic acid, with the strength of paracetamol suspension being 250mg/5ml and the strength of mefenamic acid being 50mg/5ml before mixing

   all labelled with the information that they were respectively to be taken 3 times a day, 1 gradation each time, and to be taken every 6 hours after meal.

8. There is also no dispute that the Defendant prescribed to Patient C paracetamol suppository for use if his temperature was higher than 102° F or 38.9° C. However, the Defendant denied that the 2 suppositories actually dispensed to Patient C were each of 250mg instead of 125mg, which was written in the consultation notes.

Burden and Standard of Proof

9. 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.

10. There is no doubt that each of the allegations made against the Defendant here is very serious. We need to look at all the evidence and to consider and determine each of the charges separately.

Findings of Council

11. The Defendant did not dispute that he had prescribed the relevant medicines to Patient C. The question is whether the medicines were inappropriate for Patient C given his medical condition at the time of the consultation.

12. The Defendant was compelled to admit that the only symptoms recorded in the consultation notes were "high fever" and "rash". There was no mention of other symptoms or indeed the diagnosis of "acute febrile respiratory illness with atopic element".

13. Initially, the Defendant sought to explain this away by saying that he had only written down the most "salient points". But in order to make a diagnosis of atopy, the triad of eczema, asthma and allergic rhinitis must be present.

14. In his written explanation to the PIC, the Defendant mentioned that Patient C "had the following allergic symptoms: skin rash (eczema), running nose, nasal (airway) obstruction, coughing and sputum. Moreover, there was a past history of ocular and skin allergy on 8th January 2010. Furthermore the whole family suffered from different forms of allergies." Again, there was no mention of asthmatic or wheezing attacks.

15. We have gone through the consultation notes provided by the Defendant carefully but we could not find any reference to asthmatic or wheezing attacks on any of Patient C's family members. In this connection, the defence medical expert ("Dr Leung") fairly accepted that he was unable to agree that there was a family history of atopy.

16. It was only at the hearing before us that the Defendant mentioned for the first time that he actually "felt" wheezing sound in the chest examination although it was not definite.

17. We are firmly of the view that the Defendant's explanation that he prescribed steroid to Patient C because he was concerned that Patient C might have acute wheezing attacks later in the night is an afterthought. The Defendant was trying to recreate the whole thing through his notes and making up additional symptoms as they suited him.

18. To the contrary, we find Madam W to be a transparently honest witness. Although she could only remember that Patient C was suffering from high fever, Madam W fairly accepted in her witness statement dated 30 July 2013 that Patient C might have rash or other allergies at the time of the consultation. We do not accept that her witness statement was in any way inconsistent with what she had said in her first complaint letter. Madam W never mentioned in her first

complaint letter that Patient C had no other symptoms than high fever. As a matter of fact, Madam W had fairly accepted in cross-examination that there might be minor symptoms that she was not fully aware of. But she was adamant and we accept that Patient C did not have severe coughing at the time of the consultation.

19. We also find as a fact that the Defendant never explained to Madam W that he was going to prescribe and dispense to Patient C a drug containing oral steroid, namely, Synbetamine. We do not believe that the Defendant could have explained to Madam W the indications for and possible side effects of the relevant medicines, including but not limited to Synbetamine, within a short consultation that lasted for a few minutes only. In this connection, the Defendant's written explanation to the PIC that his nurse had told Madam W to give Patient C Synbetamine "only where necessary" was flatly contradicted by what was stated in the drug label of the relevant medicine bottle.

20. In our view, Madam W, as a lay person and mother of a sick child, could hardly be criticized for continuing to give the relevant medicines to Patient C after she had complained to the Defendant of suspected hypothermia. In fact, it was the unchallenged evidence of Madam W that she only stopped giving fever medicine to Patient C before phoning the Defendant in the morning of 2 January 2011.

21. Medical practitioners in Hong Kong are in an unique position that they can both prescribe and dispense medicine to their patients. Consequently, the Defendant might prescribe medicine to Patient C only if drug treatment was necessary and appropriate. As a doctor who dispenses medicine to patients, the Defendant also had the personal responsibility to ensure medication safety. Although the Defendant's name has never been included in the Specialist Register as a paediatrician, it does not mean that his professional competence and personal responsibility as the treating doctor of Patient C was of a lesser degree or extent.

22. We readily accepted that just looking at the number of different ingredients, no less than 12, contained in the relevant medicines, it would be an obvious case of polypharmacy. But then again, the real point is that Patient C was barely one year old and the Defendant ought to consider carefully the indication and justification for each ingredient. The Defendant frankly admitted that he was not even aware that Promethazine was a form of antihistamine. The combined sedation effect and respiratory suppression effect of Dexchlorpheniramine,

Promethazine and Codeine on such a young child was clearly overlooked by the Defendant.

23. More important still, as we have found above, there was no indication for prescription of Synbetamine to Patient C.

24. For these reasons, we are of the view that the Defendant's prescription and dispensation to Patient C in one consultation the relevant 5 medicines, containing no less than 12 ingredients, were inappropriate.

25. We therefore find the Defendant guilty of Charge (a).

26. There is no dispute that none of the drug labels for the Hexine syrup, Synbetamine or Cocillana and Coclean ("PEC") syrup had indicated the strength of the medicines contained in the bottles. The only question is whether the Defendant ought to have indicated their strength on the respective bottles.

27. It is certainly good practice for a doctor to indicate clearly the strength of any medication prescribed to his patients. This will facilitate other doctors who may need to know the nature and actual amount of drugs taken by the patients, especially in case of emergency treatment when every minute counts.

28. Although Dr Leung fairly accepted that he would expect drug label for paediatric patients to include the strength of the drug as it would be an important piece of information to calculate the dosage, we are also conscious of the fact that the "Good Dispensing Manual" issued by the Hong Kong Medical Association ("HKMA") merely provided for indication on drug labels "the dosage where appropriate". The Defendant's case is that "dosage" would be different from "strength" and he understood the "Good Dispensing Manual" to require labelling for "dosage" but not "strength" of a medicine.

29. Given the possible ambiguity in a literal reading of the relevant provision in the "Good Dispensing Manual", we are not satisfied on the evidence that Charges (b), (c) and (d) have been made out.

30. We therefore find the Defendant not guilty of Charges (b), (c) and (d).

31. The use of cough suppressants containing codeine is not generally recommended in children and should be avoided altogether in those under one year old.

Although the Hong Kong College of Paediatricians did recommend that such medicine could still be used in special cases with justifications and explanations to parents, any doctor who prescribed it to a child ought to be careful in ensuring medication safety.

32. We do not accept that Patient C had severe coughing to justify the prescription and dispensation of cough suppressants containing codeine. In any event, the Defendant had clearly failed to ensure medication safety by assessing properly the combined sedation effect and respiratory suppressant effect of PEC.

33. We therefore find the Defendant guilty of Charge (e).

34. In view of our findings above, we also find the Defendant guilty of Charge (f). There was no indication for the use of oral steroid. We must also point out that the indiscriminate use of Synbetamine on a young child with high fever from upper respiratory infection would suppress the normal immunological reaction and might result in spreading the infection.

35. We fully accepted Madam W's evidence that the paracetamol suppositories actually dispensed to Patient C were each of 250mg. Otherwise, there was no reason why she needed to seek clarification on its use by phoning the Defendant's clinic. However, Charge (g) against the Defendant relates only to his failure to advise Madam W of the risk of overdose. It is not disputed that there was no risk of overdose even if Madam W were to give both the oral and suppository paracetamol to Patient C. And we agree with the defence that there was no need to advise Madam W of a non-existent risk.

36. We therefore find the Defendant not guilty of Charge (g).

37. As regards Charge (h), we noticed that different medical literature had conflicting opinions on whether mefenamic acid could be prescribed to young children like Patient C. Although we would expect a prudent doctor to err on the side of being over cautious, we are not satisfied on the evidence that mefenamic acid was contraindicated for Patient C.

38. We therefore find the Defendant not guilty of Charge (h).

Sentencing

39. The Defendant has a clear record.

40. We accept that the Defendant has learnt his lesson and we are told that the Defendant has taken remedial measures to prevent similar breaches in the future.

41. However, we do not accept that the Defendant merely committed a technical breach of his professional duties when prescribing and dispensing the relevant medicines to Patient C. It is clearly stated in the Code of Professional Conduct that a doctor may prescribe medicine to a patient only after proper consultation and only if drug treatment is appropriate. We are particularly concerned with the Defendant's indiscriminate prescription of oral steroid to and his failure to consider the combined adverse effects of Promethazine, Dexchlorpheniramine and Codeine on a young child of barely 1 year old.

42. Taking into consideration the gravity of the case and the mitigation advanced, we order that the Defendant be reprimanded. We further order that the reprimand be published in the Gazette.

Other remarks

43. Although the Defendant was not charged with grossly inadequate medical record keeping; nor had we taken this into consideration when imposing the above sentence, we want to remind the Defendant that a medical record documents the basis for the clinical management of a patient and it reflects not only on the quality of care but is also necessary for the continuity of care. Should the Defendant find himself in breach of his duty to keep proper medical records of his patients in the future, the Council will not treat him so leniently.

Prof. Felice LIEH-MAK, GBS, CBE, JP
Temporary Chairman, Medical Council