香 港 醫 務 委 員 會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr KU Chi Sing Hilary (古志成醫生) (Reg. No.: M06303)

Date of hearing: 27 July 2023 (Thursday)

Present at the hearing

Council Members/Assessors: Prof. TANG Wai-king, Grace, SBS, JP
(Chairperson of the Inquiry Panel)
Dr CHOW Yu-fat
Dr CHUNG Wai-hung, Thomas
Mrs BIRCH LEE Suk-yee, Sandra, GBS, JP
Mr LAI Kwan-ho, Raymond

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Ms Jaime LAM of
Messrs. Mayer Brown

Senior Assistant Law Officer (Civil Law) (Ag.)
representing the Secretary: Ms Winnie LAM

The Defendant is not present.

1. The further amended charge against the Defendant, Dr KU Chi Sing Hilary, is:

"That in February 2014, he, being a registered medical practitioner, disregarded his professional responsibility to his patient [redacted] ("the Patient") in that by prescribing Carbimazole to the Patient on 25 February 2014, he failed to offer proper and appropriate treatment 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 15 December 1986 to the present. His name has never been included in the Specialist Register.

3. Briefly stated, the Patient consulted the Defendant on 21 February 2014 for influenza and allergic symptoms. During the consultation, the Patient sought advice from the Defendant about her recurrent thyroid problem for which she had received treatment from other doctor(s). The Defendant then advised the Patient to have an ultrasound scan of her thyroid and a blood test to check her thyroid functions.

4. On 25 February 2014, the Patient returned to see the Defendant. By that time, both the ultrasound scan report and blood test report were available.

5. The material parts of the ultrasound scan report dated 21 February 2014 read as follows:-

"*Report:*

The thyroid is diffusely enlarged with some heterogeneous echoic areas seen inside the thyroid.
Flame's sea sign noted on Doppler USG.
The isthmus is thickened.
The lymph nodes over the adjacent carotid sheath are not enlarged.

COMMENT: Suspicious hyperthyroidism."

6. The blood test report dated 24 February 2014 was on a printed form. Under the heading of "*Thyroid Function Test*", there were 8 columns, namely, "*Free T3*"; "*Free T4*", "*FTI*"; "*T3*"; "*T4*"; "*ThyroglobulinAb*"; "*ThyroidMicrosomalAb*" and "*T.S.H.*" Only 2 columns, namely, "*T4*" and "*T.S.H.*" (i.e. thyroid-stimulating hormone) were filled out and the material parts of the blood test report read as follows:-

"…	***S.I. Units***		***Conventional Units***	
	Result	*Normal*	*Result*	*Normal*
…				
Thyroid Functions Test…				
…				
T4…	*39.04 nmol/L*	*66-181*	*3.05 ug/dl*	*5.1-14.1*
…				
T.S.H.	*103 uIU/ml*	*0.27-4.2*	*103 uIU/ml*	*0.27-4.2*"

7. It is not disputed that when the Defendant looked at the blood test report during the consultation with the Patient on 25 February 2014, he misread the T4 level as the Free T4 level. Hence, he mistakenly thought the blood test result had shown a high level of Free T4, which was suggestive of hyperthyroidism. Although he also noted the Patient's T.S.H. level was high, which would normally suggest hypothyroidism, he thought the result was wrong because this was inconsistent with both the clinical picture of the Patient and the said comment in the ultrasound scan report.

8. In this connection, the Defendant told the Preliminary Investigation Committee ("PIC") of the Council in his statement dated 15 February 2017 that although he was not "*able to locate the Patient's original handwritten clinical records… based on [his] recollection…the Patient was noted to be slightly anxious and irritated*" during the consultation on 25 February 2014. He noted that "*[the Patient's] thyroid was slightly enlarged on both sides and mildly uncomfortable on palpation. Upon physical examination, regional lymph node enlargement, overt signs of hyperthyroidism… or overt signs of hypothyroidism… were not noted.*" There was however no record of these signs and symptoms in the contemporaneous medical record kept by the Defendant on his consultation with the Patient on 25 February 2014.

9. However that may be, there is no dispute that the Defendant prescribed to the Patient Carbimazole 5mg on 25 February 2014 to be taken two times a day for two weeks, as an initial treatment to suppress her thyroid gland activity. He also asked her to return for follow-up in two weeks' time.

10. The Defendant also told the PIC in his statement that he subsequently asked the laboratory to repeat the Patient's blood test. On 26 February 2014, his clinic nurse was informed by the laboratory that "*the blood test had been repeated and*

the results remained the same". However, "*[n]o separate report in respect of the repeated blood test results was provided… and [he] was informed by his nurse of the repeated blood test results a few days later.*"

11. Meanwhile, the Patient returned to see the Defendant on 13 March 2014, and she also brought along with her the blood test report dated 24 February 2014.

12. Upon reviewing the thyroid functions test results in the blood test report, the Defendant then realized that he had mistaken the T4 level to be the Free T4 level. This suggested that the Patient was likely to be suffering from hypothyroidism instead of hyperthyroidism. The Defendant admitted to the Patient that he had misinterpreted the blood test report and apologized to the Patient and asked her to stop Carbimazole immediately.

13. The Defendant then prescribed to the Patient Levothyroxine, a thyroxin, 50mcg, to be taken 3 times a week for 2 weeks, for treatment of her hypothyroidism. The Defendant also advised her to have a repeated blood test 2 weeks later to review her thyroid function.

14. The Patient had another blood test on 27 March 2014 as arranged by the Defendant. The blood test report dated 28 March 2014 then showed that her T4 level had returned to normal; and her T.S.H. level had also come down to 9.74 uIU/ml.

15. On 7 April 2014, the Patient lodged this complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

16. 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.

17. 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 further amended disciplinary charge against him carefully.

Findings of the Inquiry Panel

18. The Defendant admits the factual particulars of the further amended disciplinary charge against him but it remains for us to consider and determine on the evidence whether the Defendant had by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong.

19. It is the unchallenged evidence of the Secretary's expert, Dr TANG, that the Patient was suffering from subacute thyroiditis. It is also the unchallenged evidence of Dr TANG, which we accept, that "*subacute thyroiditis is usually a benign condition… and needs only careful monitoring plus simple measures for symptomatic relief.*"

20. But then again, the real point, in our view, is that the Defendant ought not have jumped to the working diagnosis of hyperthyroidism and prescribed Carbimazole to the Patient on 25 February 2014 when the blood test report dated 24 February 2014 revealed a high level of T.S.H., which would normally suggest hypothyroidism.

21. The Defendant was fully aware that the high level of T.S.H. revealed in the blood test report was inconsistent with his working diagnosis of hyperthyroidism. Indeed, the T.S.H. level recorded in the blood test report was well above the normal range.

22. According to the Defendant's statement to the PIC, apart from "*regional lymph node enlargement, overt signs of hyperthyroidism (including bulging eyes, sweaty palms or rapid pulse) or overt signs of hypothyroidism (including cold hands, pallor, dry skin or slow pulse) were not noted*" during the consultation on 25 February 2014.

23. The presence of non-specific symptoms of anxiety and irritability might or might not be thyroid-related. Even if the Patient was noted to be "*slightly anxious and irritated*" when the Defendant saw her on 25 February 2014, there was no urgency in our view for him to prescribe Carbimazole to the Patient before finding out why the Patient's T.S.H. level was well above the normal range.

24. The Defendant sought to argue in his statement to the PIC that he "*prescribed to the Patient a very low dose Carbimazole*", which had unlikely resulted in any significant impact or deleterious effect upon the Patient's thyroid function.

25. It was however clearly stated in section 9.1 of the Code of Professional Conduct (2009 edition) that:-

"*A doctor may prescribe medicine to a patient only after proper consultation and only if drug treatment is appropriate.*"

26. For these reasons, by prescribing Carbimazole to the Patient on 25 February 2014, the Defendant had failed to offer proper and appropriate treatment to the Patient. And the Defendant had in our view by his conduct in the present case fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as charged.

Sentencing

27. The Defendant has a clear disciplinary record.

28. In line with our published policy, we shall give the Defendant credit in sentencing for his admission and cooperation throughout these disciplinary proceedings.

29. 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.

30. This inquiry was originally scheduled for hearing on 30 July 2019. However, due to the ill health of the Defendant, this inquiry was rescheduled several times until today.

31. We are told in mitigation that the Defendant has already retired from medical practice and is now living in Australia.

32. Taking into consideration the nature and gravity of the further amended

disciplinary charge for which we find the Defendant guilty and what we have read and heard in mitigation, we order that a warning letter be issued to the Defendant. We further order that our said order shall be published in the Gazette.

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