

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

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr THANT Ma Aye Aye (吳初雲醫生) (Reg. No.: M12329)

Date of hearing: 6 September 2022 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel  
(Chairperson of the Inquiry Panel)  
Dr CHEUNG Hon-ming  
Dr CHOW Wing-sun  
Mr LAM Chi-yau  
Mr WOO King-hang

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Michael CHAO of  
Messrs. Mayer Brown

Government Counsel representing the Secretary: Mr Raymond LAM

The Defendant is not present.

1. The charge against the Defendant, Dr THANT Ma Aye Aye, is:

*“That on 5 February 2021, she, being a registered medical practitioner, disregarded her professional responsibility to her patient (“the Patient”) in that she failed to ensure that she should not prescribe “Nidol” to the Patient, who was allergic to Aspirin.*

*In relation to the facts alleged, she 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 16 July 1999 to the present. Her name has never been included in the Specialist Register.
3. Briefly stated, the Patient first consulted the Defendant at her clinic on 14 January 2019. During the consultation, the Patient informed the Defendant that she might have lip vesicles after taking Aspirin. The Defendant therefore documented the Patient's possible drug allergy to Aspirin, in red ink, on the first page of her clinical records for the Patient as “? Aspirin -> lip vesicles”.
4. On 5 February 2021, the Patient consulted the Defendant again at her clinic for fever, headache, mild sore throat and myalgia. The Defendant's clinical diagnosis was upper respiratory tract infection. The Defendant then prescribed the Patient with, among others, 3 days of Nidol, a non-steroidal anti-inflammatory drug (“NSAID”), twice a day, for treatment of her myalgia.
5. According to the Patient, whose evidence is unchallenged by the Defendant, she developed allergic reactions sometime after taking the medications prescribed by the Defendant, including Nidol. Aspirin and Nidol are both NSAIDs.
6. On 8 February 2021, the Patient attended the Accident & Emergency Department (“AED”) of the Tin Shui Wai Hospital (“TSWH”). According to the medical records obtained from TSWH, the Patient presented with “face swelling + rash” and “skin rash on body as well”.
7. As her allergic reactions did not improve much after adrenaline injection treatment at AED, the Patient was admitted to the Emergency Medical Ward of TSWH for further management as an inpatient. The Patient also developed in the course of in-patient treatment liver function derangement. Eventually, the Patient was discharged home on 15 February 2021. According to the Discharge Summary issued to the Patient by TSWH, her likely diagnosis was said to be “allergic reaction to NSAIDs”.
8. The Patient later lodged this complaint against the Defendant with the Medical Council.

### **Burden and Standard of Proof**

9. We bear in mind that the burden of proof is always on the Secretary and the Defendant does not have to prove her 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 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 disciplinary charge against her carefully.

### **Findings of the Inquiry Panel**

11. The Defendant admits the factual particulars of the disciplinary charge against her. It remains however for us to consider all the evidence and determine whether she has been guilty of misconduct in a professional respect.
12. In response to the Patient's complaint, the Defendant admitted to the Preliminary Investigation Committee ("PIC") through her solicitors that she *"overlooked the Patient's drug allergy to Aspirin when she prescribed the Patient with Nidol on 5 February 2021... Had [she] noticed the Patient's allergy history to Aspirin, she would definitely not have prescribed Nidol to the Patient... [she] is very sorry for her oversight and would like to take this opportunity to sincerely apologize to the Patient."*
13. 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.
14. In a patient with a reported allergy to a particular drug or class of drugs, the risk of having an allergic reaction after taking the same drug or class of drug would be high. Allergic reaction to drug can also be very serious and potentially life threatening.

15. Nidol and Aspirin are both NASIDs. Prescription of Nidol to the Patient, whom the Defendant ought to have known was allergic to Aspirin, was inappropriate and unsafe. In our view, if the Defendant had taken adequate note of the Patient's history of allergy, she ought to have considered whether there were safer alternatives than Nidol.
16. In this connection, it was the unchallenged evidence of the Patient that she reminded the Defendant and her clinic assistant of her drug allergy to Aspirin before taking the prescribed medications home.
17. In our view, the Defendant's conduct during the subject incident had fallen below the standards expected of registered medical practitioners. Accordingly, we find the Defendant guilty of misconduct in a professional respect as charged.

### **Sentencing**

18. The Defendant has a clear disciplinary record.
19. In line with our published policy, we shall give the Defendant credit in sentencing for her frank admission and full cooperation throughout these disciplinary proceedings.
20. 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.
21. We are told in mitigation that the Defendant had taken prompt remedial measures after the subject incident to ensure safe prescription and dispensation of drugs. In this connection, the Defendant had gone through all the clinical records of her patients. For patients with past history of drug allergy, the Defendant had stuck a red sticker on every page of their clinical records to remind herself of their drug allergy history. The Defendant had also prepared a notice in Chinese reminding her clinic assistants to always check the patients' drug allergy before dispensing medications. Furthermore, the Defendant would conduct a final check of the medications

prepared by her clinic assistants against the patients' drug allergy history before actual dispensation. For patients with known drug allergy to Aspirin, the Defendant would not prescribe NSAIDs to them. And for patients with known drug allergy to other NSAIDs but the exact type of which was unsure, the Defendant would err on the side of caution and not to prescribe any NSAIDs to them.

22. We accept that the Defendant has learnt her lesson. We appreciate the effort that the Defendant had made after the subject incident. We wish to remind the Defendant that she should check all medications in accordance with the Good Dispensing Manual before dispensation and not only for potential drug allergy. However, the best prescription and dispensation system still requires the vigilance of those who put it into practice. We need to ensure that the Defendant would not commit the same or similar misconduct in the future.
  
23. Taking into consideration the nature and gravity of this case and what we have read and heard in mitigation, we order that the name of the Defendant be removed from the General Register for a period of 1 month. We further order that the operation of the removal order be suspended for a period of 12 months on condition that the Defendant shall complete courses, to be pre-approved by the Council Chairman and to the equivalent of 10 CME points, on safe prescription of drugs during the suspension period.

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