

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr SAM Ching Yee (沈靜兒醫生) (Reg. No. M12546)
Date of hearing: 17 March 2014

1. The amended charge against the Defendant, Dr SAM Ching Yee, is that:

“On or around 4 August 2011 she, being a registered medical practitioner, disregarded her professional responsibility to her patient Madam [REDACTED] (“the Patient”) in that she prescribed Acemet 60 mg capsules to the Patient without proper justification and/or prior discussion with the Patient when she knew or ought to have known that the Patient was allergic to aspirin and/or non-steroidal anti-inflammatory drugs.

In relation to the facts alleged, she has been guilty of misconduct in a professional respect.”

Facts of the case

2. The Defendant was and still is a registered medical practitioner and her name has been included in the General Register from 20 January 2000 to present.
3. There is no dispute that the Patient consulted the Defendant on 4 August 2011 for dysmenorrhea, sore throat and fever. During the consultation, the Patient specifically told the Defendant that she had been allergic to aspirin and non-steroidal anti-inflammatory drugs (NSAIDs) since childhood. There was however no further communication between the Defendant and the Patient on the nature of the latter’s allergic reaction to aspirin and/or NSAIDs and the exact NSAID to which she was allergic.

4. After the consultation, the Defendant prescribed to the Patient, amongst other drugs, Acemet 60 mg to be taken three times a day for 3 days. The Defendant did not advise the Patient that Acemet was a NSAID; nor had the Patient been advised of the risk involved in taking this drug. Also, the Defendant did not explain to the Patient why this drug might still be prescribed to her despite her history of allergic reaction to NSAIDs.
5. The Patient went home and took the prescribed drugs, including Acemet, after dinner. She later developed acute allergic reaction to NSAID.

Burden and Standard of Proof

6. We bear in mind that the burden of proof is always on the Legal Officer 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.
7. There is no doubt that the allegation made against the Defendant here is very serious. We need to look at all the evidence and to consider and determine the charge against her carefully.

Findings of Council

8. The Defendant frankly admitted that the Patient had told her that she was allergic to aspirin and/or NSAIDs. The Defendant also admitted that she prescribed Acemet to the Patient after the consultation without advising her that this was a NSAID and explaining why this drug might still be prescribed to her despite her history of allergic reaction to NSAIDs.

9. Acemet is one of the generic brands for Acemetacin, which is a NSAID. This drug is contraindicated for patients who are hypersensitive to aspirin and/or NSAID.
10. Medical practitioners in Hong Kong are in a unique position that they can both prescribe and dispense medicine to their patients. Consequently, the Defendant might prescribe medicine to the Patient 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.
11. Patients are entitled to, and they often do, rely on doctors to exercise reasonable care and competence in avoiding prescription of medicines to which they have a known allergy. Allergic reaction to drug is not dose-dependent, and can be triggered by even a small dose.
12. Prescription of Acemet to the Patient, whom the Defendant well knew was allergic to NSAID, was clearly inappropriate and unsafe. 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 NSAIDs. Also, she should clearly explain to the Patient that Acemet might trigger allergic reaction and advise her to stop this drug and to seek treatment immediately if any allergic reaction occurred.
13. In our view, the Defendant's conduct had clearly fallen short of the standard expected amongst registered medical practitioners in Hong Kong. We therefore find the Defendant guilty of the amended charge.

Sentencing

14. The Defendant has a previous conviction for disciplinary offences relating to improper issues of sick leave certificates back in October 2007. On that occasion, she was ordered to be reprimanded.

15. In accordance with our policy, we shall give her credit in sentencing for admitting the factual allegations in respect of the amended charge and for her full cooperation in the preliminary investigation stage and before us today.
16. 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 the reputation of the profession.
17. We reckon that her previous conviction related to a matter of a different nature and that was a case of lack of prudence rather than a case of dishonesty. We also accept this was an isolated incident and the Defendant is unlikely to commit the same or similar professional misconduct in the future. However, the Defendant's misconduct here was yet another case of lack of prudence. In fact, she did not record in her consultation notes the history of drug allergy even after she had been specifically told by the Patient.
18. Taking into account the whole circumstances of this case and what we have heard in mitigation, we order that the Defendant's name be removed from the General Register for a period of one month. We further order that the removal order be suspended for 12 months on condition that she completes within the suspension period course(s) on safe use of drugs to the equivalent of 10 CME points.

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