

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 LAU Mang Kaw (劉孟蛟醫生) (Registration No: M03073)

Date of hearing: 4 November 2014

1. The amended charges against the Defendant, Dr LAU Mang Kaw, are:

“That on or about 20 September 2011, he, being a registered medical practitioner, disregarded his professional responsibility to his patient (“Patient N”), a one year old child, in that he:

- (a) injected or caused to be injected pneumococcal vaccine into the Patient when the Patient’s parent requested for an injection of Hepatitis A vaccine for the Patient; and
- (b) failed to address and/or properly address the concern of the Patient’s parent about the repeated administration of pneumococcal vaccine on the Patient.

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

**Facts of the case**

2. The Defendant was at all material times a registered medical practitioner and his name has been included in the General Register from 9 September 1977 to present.

3. There is no dispute that the Patient N’s mother, Madam LEE Sau Mei (“the Complainant”) had purchased a vaccination package for Patient N (“the Patient”) from the Defendant’s clinic. The vaccination package included, amongst others, Hepatitis A vaccination but did not include pneumococcal vaccination.

4. According to the Complainant, she took the Patient to the Defendant's clinic to receive a Hepatitis A vaccination on 20 September 2011. The Patient was then about 15 months old, having been born on 7 June 2010.
5. There is no dispute that the Patient actually received "Prevenar 13", a pneumococcal vaccination, and not a Hepatitis A vaccination.
6. After the injection, the immunization record of the Patient was returned to the Complainant. When the Complainant found out that the Patient was given a different vaccination, she immediately voiced her concern about the repeat injection of a booster dose of pneumococcal vaccination with the clinic staff of the Defendant's clinic.
7. According to the Complainant, eventually a lady in plain clothes (whom she later knew was the Defendant's wife) appeared and told her that the additional dose of pneumococcal vaccination would not cause the Patient any harm.
8. Not being satisfied with what the lady in plain clothes had told her, the Complainant sent an e-mail to the Customer Service Division of the medical group to which the Defendant was attached and filed a complaint two days later. As no reply was forthcoming, the Complainant decided to lodge the present complaint to the Medical Council against the Defendant.

### **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 the allegation made against the Defendant here is very serious. It is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine each of the charges against him separately.

### **Findings of Council**

11. We fully accept the Complainant's evidence that she took the Patient to the Defendant's clinic to receive a Hepatitis A vaccination. However, the Defendant mistakenly gave the Patient an additional dose of pneumococcal vaccination instead of a Hepatitis A vaccination.
12. Actually, had the Defendant taken the simple step of explaining to the Complainant what kind of vaccination that he was going to administer, we are confident that the Patient would not have been given a pneumococcal vaccination instead of a Hepatitis A vaccination.
13. However that may be, it should be evident from reading the Patient's immunization record that he received a booster dose of pneumococcal vaccination some 3 months ago. A doctor may prescribe medicine to a patient only after proper consultation. But obviously, the Defendant did not study the Patient's immunization record before giving him a pneumococcal vaccination.
14. In our view, the Defendant's conduct has fallen below the standard reasonably expected of medical registered practitioners in Hong Kong and we therefore find the Defendant guilty of amended charge (a).
15. Good communication between a doctor and his patient is fundamental to the provision of good patient care. In our view, a doctor has a positive duty to give proper and adequate explanation to his patient if a wrong medication is given. If the patient is an infant, the doctor must properly address the concerns of the patient's parents about the wrong medication being given to their child.
16. It is the unchallenged evidence of the Complainant that the Defendant's

wife merely told her that the additional dose of pneumococcal vaccination would not cause the Patient any harm. Although the Complainant never requested the Defendant to explain to her in person whether repeat administration of a booster dose of pneumococcal vaccination would cause any problem to the Patient, this could not relieve the Defendant of his personal obligation to properly address the concerns of the Patient's parent.

17. We fully agree with the Legal Officer's expert witness, Dr LI, that the Defendant should take the proactive approach by asking the clinic staff to keep the Patient and the Complainant in his clinic so that he could personally explain to the Complainant after he had finished the consultation of another patient. It was certainly not good enough for the Defendant to let a non-medically qualified person to tell the Complainant that there was nothing to worry.
18. We therefore find him guilty of amended charge (b).

### **Sentencing**

19. The Defendant has a previous disciplinary record for prohibited practice promotion, which was of a completely different nature from the present disciplinary charges.
20. In accordance with our policy, we shall give him credit in sentencing for admitting the factual allegations in respect of the amended charges and for his full cooperation in the preliminary investigation stage and before us today.
21. 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.
22. We were told in mitigation that the Defendant had implemented new measures in his clinic which required a patient to sign a vaccination consent form in the presence of the doctor and the doctor would check the

vaccination before giving it to his patient. Moreover, the Defendant had implemented a series of training sessions for his clinic staff with topics including precautionary measures in preparing vaccinations, effective communication techniques and complaint handling methods.

23. Despite the precautionary measures that the Defendant had since taken, the real point in our view is that the Defendant should improve on his practice. He should ensure that there is proper consultation before prescribing and administering any medication to his patients. We accept that no significant harm has been caused to the Patient. However, unless the Defendant improves on his practice, the consequence of wrong medication being given to his patients can be very serious.
24. Taking into account the whole circumstances of this case and what we have heard and read in mitigation, we order that a warning letter to be served on the Defendant in respect of the amended charge (a).
25. We are however particularly concerned about the Defendant's tardiness in remedying his mistake. This is certainly not the right attitude that we would expect of any doctor in a similar situation. In our view, the Defendant ought to have acted responsibly in proactively informing the Complainant of the mistake and to address her anxiety and concerns about the Patient promptly. We therefore further order that the Defendant be reprimanded in respect of the amended charge (b).

### **Remarks**

26. The name of the Defendant is included in the Specialist Register under the speciality of paediatrics. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

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