

香港醫務委員會

The Medical Council of Hong Kong

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

Date of hearing: 17 September 2007, 18 June 2008, 17 July 2008, 22 November 2008 and 23 November 2008.

Defendant: Dr. LEUNG Shu Piu (梁樹標)

1. The charges alleged against the Defendant Dr. LEUNG Shu Piu are:

“That he, being a registered medical practitioner, disregarded his professional responsibility to his patient A, a minor, in that:-

- (a) in the period between May 2004 and May 2006,
  - (i) without proper justifications, he prescribed to the patient Celestamine which contained steroid for treating the patient’s upper respiratory tract infection on about 26 occasions;
  - (ii) he prescribed to the patient Celestamine which contained steroid without advising the patient’s parent about the nature and side effects of Celestamine;
- (b) on or about 24 May 2006, upon enquiry of the patient’s father on whether Celestamine contained steroid, he did not reply him in the positive and instead, he told him that Celestamine was not regarded as a steroid.

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

- 2. The patient was born in August 2000. In view of the patient’s age, we ordered that the identity of the patient and his father should not be disclosed.
- 3. The patient’s parents were particularly concerned about the health and well-being of their child. In order to monitor the patient’s health, every time soon after the patient was taken to see a doctor they made a record of the patient’s symptoms

and the doctor's diagnoses and prescriptions.

4. Furthermore, the parents showed concern about antibiotics and side effects of medicines by asking the doctor every time medicine was prescribed. They did so because they did not want the child to take too many antibiotics for fear of drug resistance, and they were eager to know whether the medicines would have any long term side effects.
5. The Defendant first saw the patient when he was a few months old. Since then the patient had been seeing the Defendant as well as other doctors on an on-and-off basis until May 2004. In the two years between May 2004 and May 2006, the patient was seeing the Defendant regularly for conditions such as fever, cough, cold and influenza. During these two years there were 47 consultations with the Defendant. In 26 consultations, Celestamine was prescribed. The Defendant never told the parents that Celestamine contained steroid or any side effect of the drug.
6. As the patient repeatedly had the same symptoms for an extended period of time, the parents were eager to find out the effects of the medicines and whether the medicines were effective for the child's illness. On 23 May 2006, the father went to a pharmacy and asked the pharmacist about the various medicines prescribed by the Defendant. The pharmacist told him that Celestamine contained steroid and reminded him to be careful in taking steroids. Upon returning home, he found from his records that Celestamine was often prescribed by the Defendant. He immediately stopped giving the medicine to the patient.
7. On 24 May 2006, the parents took the patient to see the Defendant again. When the Defendant was about to write the prescription, the father asked the Defendant whether Celestamine contained steroid. The Defendant replied that Celestamine would not be regarded as a steroid. The Defendant then advised that a short course of oral Prednisolone or a nebulizer be prescribed to deal with the patient's condition, explaining that Prednisolone was a steroid and the possible side effects of steroid although the risk of side effect was small. After discussion with the mother, the father refused and just asked for the same medicines as before to be prescribed. The Defendant again prescribed Celestamine. Six days later on 30 May 2006, the father made a complaint to the Medical Council.
8. There was no dispute that Celestamine was prescribed in the 26 consultations in question. For clarity sake, Celestamine was also prescribed in another consultation, namely 24 May 2006. The Defendant accepted that, save for the consultation on 24 May 2006, he had never advised the parents that Celestamine contained steroid nor its side effects. The questions for us are:-
  - (a) whether the prescription of Celestamine was justified for each of the 26 consultations in question;
  - (b) whether it was necessary to advise the patient's parents that Celestamine contained steroid and its side effects; and
  - (c) whether the Defendant's reply to the father's enquiry on 24 May 2006

was given deliberately to conceal the fact that Celestamine contained steroid.

9. In relation to whether the prescription of Celestamine was justified, it is necessary to determine the diagnoses made by the Defendant on each consultation. We have studied both the record kept by the parents and the medical record kept by the Defendant. Having regard to the fact that the parents were not medically qualified and were making the record in layman terms, we are satisfied that there was not much disagreement between the two. In deciphering the Defendant's hand-written medical record, we are amply assisted by the typescript and the legend of abbreviations prepared by the Defence. Of the 26 consultations in question, the diagnoses recorded were:-
  - (a) "upper respiratory tract infection" in 17 consultations;
  - (b) "upper respiratory tract infection with sputum" in 2 consultations;
  - (c) "upper respiratory tract infection, acute bronchitis with expiratory rhonchi" in 4 consultations;
  - (d) "cough, decreased running nose, stuffy nose, fever, good appetite" in 1 consultation;
  - (e) "running nose, cough increased, sputum decreased" in 1 consultation;  
and
  - (f) "cough, running nose" in 1 consultation.
10. The Defendant said that he prescribed Celestamine for the patient in question because he was suffering from Pre-school Viral Wheeze ("PVW"). However, contrary to his claim there was no record of PVW or bronchial allergy in the medical record. He explained that he had been seeing the patient for such a long time and remembered the patient's history, therefore he would not make a full record of the diagnoses. That explanation is contrary to the medical record in which he repeatedly recorded "URI", and added in additional diagnoses of "acute bronchitis" and "expiratory rhonchi" where appropriate. We see no reason that he would have consistently chosen to singularly omit the most significant diagnosis of PVW but not those less significant diagnoses throughout the large number of consultations. We reject that explanation. We are satisfied that the diagnoses made by the Defendant at the time of prescription were those recorded in the medical record. We shall decide whether the prescription of Celestamine was justified on that basis.
11. It is common ground that Celestamine is not justified if a patient had only upper respiratory tract infection, but is justified if a patient had PVW. We are satisfied that the prescription of Celestamine might be justified in 4 consultations, namely, 28 June 2005, 30 June 2005, 18 May 2006, and 22 May 2006. However, the prescription was not justified in 22 consultations, namely, 21 May, 11 September 14 September, 28 October, 1 November and 12 November in 2004; 26 February, 25 April, 28 April, 25 June, 7 July, 11 August, 12 September, 15 September, 28 October, 31 October and 12 December in 2005; 20 February, 5 March, 8 March, 11 April and 15 May in 2006.
12. We are satisfied that the Defendant's conduct in prescribing a medicine which was not justified had fallen below the standard expected amongst registered

medical practitioners, all the more so where the conduct was a persistent act over an extended period of time. We find him guilty of charge (a)(i) in respect of the 22 consultations in which the prescription was not justified, but not guilty in respect of the 4 occasions in which the prescription might be justified.

13. We then turn to the second question of whether it was necessary to advise the minor patient's parents that Celestamine contained steroid and its side effects. There are two elements here: nature of the medicine and side effects of the medicine.
14. For a medicine which has known potential side effects, patients should be advised of its nature so that they can make an informed choice as to whether to accept the medicine. Steroid is such a medicine, as it has been shown to have some significant side effects. There is general concern about the use of steroid, and patients should be given the proper advice before it is prescribed. This is so even if the dosage prescribed does not have any side effect. It must be borne in mind that patients are not medically trained and so are unlikely to understand technical medical terms. While it is neither necessary nor helpful to advise patients of the chemical composition of the medicine, patients should be informed in laymen terms what the medicines are.
15. We bear in mind that Celestamine in the dosage prescribed has no significant side effects. However, there was a danger that the patient might see other doctors and if the other doctors also prescribed steroid this might result in a dosage which would increase the risk of side effects. In the present case, the Defendant must have been well aware of the parents' concern about the use of particular medicines with side effects. In the circumstances, it was particularly obvious to the Defendant that the parents should be informed of any medicine with significant side effects before prescribing it. By failing to do so for 26 occasions when Celestamine was prescribed, the Defendant's conduct had fallen short of the standard expected. We are satisfied that this is professional misconduct. We find him guilty of charge (a)(ii).
16. Finally, we address the question of whether the Defendant's reply to the father's enquiry on 24 May 2006 was given deliberately to conceal the fact that Celestamine contained steroid. The father's complaint about the Defendant's reply to his enquiry was set out clearly in the letter written 6 days after the enquiry. The background and context of the enquiry was consistent with the evidence of the father. He was making the enquiry in order to clear his suspicion that Celestamine contained steroid. We are satisfied that the father asked whether Celestamine contained steroid in a simple and straight forward manner.
17. The Defendant, initially, in his explanation to the Preliminary Investigation Committee said that he could not remember whether the question was asked and how he answered, and argued that the Defendant might have misunderstood the question as being focused on the side effects of steroid and so answered that Celestamine was not regarded as a course of steroid. However, in oral evidence at the inquiry he changed course and said that he did not remember the question, but was sure that he positively told the father that Celestamine was a steroid.

18. Having considered the entirety of the evidence, we are satisfied that the Defendant answered the question by saying that Celestamine was not regarded as steroid. We do not accept that the Defendant misunderstood such a simple question. Furthermore, the Defendant's subsequent advice in the same conversation about Prednisolone being a steroid was clearly prompted by the question. We are satisfied that the evasive answer was intended to conceal the fact that he had been prescribing a steroid for many times without informing the patient's parents. It is unethical for a doctor to give such an evasive and misleading answer to a patient's parent who has shown concern for the medicine in question, and the Defendant's conduct has certainly fallen below the standard expected. We are satisfied that this is professional misconduct. We find him guilty of charge (b).

### **Sentencing**

19. The Defendant has a clear record.
20. The Defendant produced a form which he has put into use in order to prevent recurrence of the same problem. The form is a consent form specifically for the use of Celestamine. We are concerned that the Defendant is missing the point that the problem is with the use of medicines with significant side effects, and particularly steroids in this case. It is not Celestamine alone which is in question, and we advise the Defendant to bear this in mind in future.
21. We have regard to the fact that the dosage of Celestamine involved does not have significant side effects, and the patient has not suffered harm as a result.
22. We are very concerned that the Defendant is consistently prescribing a medicine which is not indicated. The Defendant is a specialist in Paediatrics, and this practice of his can pose danger to his minor patients. We must point out that the adverse reactions to the steroid component in Celestamine are related not only to dosage but also duration. The medicine though not having significant side effects at a small dosage will have a larger risk of adverse side effects when its use is prolonged. If the patient's father had not found out that the medicine contained steroid, most likely the practice would have continued and the risk of adverse side effects would be increased. Fortunately the father's vigilance has prevented the child from incurring an increased risk.
23. On the other hand, patients depend on doctors for protection of their health, and doctors have a heavy duty to act professionally and not to abuse their trust. Patients know little about medicines, and doctors' advice is all they can rely upon in deciding what medicine to take and whether to accept a particular medicine. The Defendant not only has failed that duty, but has also acted dishonestly when the patient's father asked whether the medicine contained steroid. This is a serious matter, and we must send a strong message to members of the profession.
24. Having regard to the gravity of the case and the mitigating factors advanced, we make the following orders:-
  - (a) in respect of charge (a)(i), the Defendant's name be removed from the

General Register for a period of 2 months;

- (b) in respect of charge (a)(ii), the Defendant's name be removed from the General Register for a period of 1 month;
  - (c) in respect of charge (b), the Defendant's name be removed from the General Register for a period of 1 month; and
  - (d) the above orders be served concurrently, as the matters involved arose from the same sequence of events.
25. We note that the Court has criticized our sentence in the previous case of Dr. LAM Kui Chun as being too lenient, given that the misconduct in that case resulted in the patient's death. The sentence in that case was related to the unusual facts and the mitigating factors in that case. Nevertheless, on hindsight we accept the criticism and agree that a heavier sentence would have been appropriate, therefore the sentence in that case should not be regarded as a benchmark against which other cases should be compared.
26. The Defendant's name is included in the Specialist Register under the specialty of Paediatrics. It is the function of the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration. We are of the view that the conduct involved in this case is directly related to the Defendant's competence as a specialist. The conduct which requires removal from the General Register should also justify removal from the Specialist Register.

Prof. Felice Lieh-Mak, CBE, JP  
Chairman, Medical Council