

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr HAU Melanie (侯蔓伶醫生) (Reg. No.: M18140)

Date of hearing: 31 October 2023 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr IP Wing-yuk
Dr WAI Yuk-chun, Veronica
Ms HUI Mei-sheung, Tennessy, MH, JP
Mr MO Pak-kuen

Legal Adviser: Mr Stanley NG

Defence Solicitor representing the Defendant: Mr Chris HOWSE
of Messrs. Howse Williams

Government Counsel representing the Secretary: Mr Edward CHIK

1. The charges against the Defendant, Dr HAU Melanie, are:

“That on 1 March 2018, she, being a registered medical practitioner, disregarded her professional responsibility to her patient Madam LEE (“the Patient”), in that :

(i) she prescribed Denosumab (Xgeva) to the Patient without clinical indication; and/or

(ii) she failed to properly advise the Patient on the risks and/or potential side effects of Denosumab (Xgeva).

In relation to the facts alleged, either singularly or cumulatively, 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 1 July 2016 to the present. Her name has never been included in the Specialist Register.
3. The Patient was admitted to Queen Mary Hospital (“QMH”) for right pleural effusion from 15 to 18 September 2017 and was confirmed through pleural fluid cytology to be EGFR exon 19 mutated lung adenocarcinoma. She was reviewed by QMH respiratory team on 27 September 2017. Erlotinib 150mg per day was prescribed to treat Stage IV non-small cell lung cancer based on finding of malignant pleural effusion. Reduction in size of lung tumour and amount of pleural effusion on the same side indicated a favourable response on PET-CT imaging performed on 31 January 2018.
4. On 13 February 2018, the Patient saw a Professor MOK (“Prof. MOK”) at Hong Kong Sanatorium & Hospital Comprehensive Oncology Centre for a second opinion. Consultation Notes of Prof. MOK showed that Prof. MOK recommended the Patient to consider a dose reduction of Erlotinib 150mg per day to 100mg per day should the skin toxicity of the drug become intolerable. No discussion was documented regarding Denosumab nor associated topics of osteopenia, osteoporosis or bone abnormalities.
5. On 23 February 2018, the Patient had a blood test, including blood calcium levels. Her calcium levels were normal.
6. On 1 March 2018, the Patient returned to QMH Respiratory Clinic for review and consulted the Defendant. The Defendant prescribed the Patient with Denosumab (Xgeva). A nurse at the clinic then administered Denosumab (Xgeva) injection on the Patient on the same day.

7. For several days after the Denosumab (Xgeva) injection, the Patient felt more skin rash, dry mucosal membranes (mouth, eyes and skin), diarrhea, and mild epistaxis, as well as a generalized feeling of heat and chills.
8. On 8 March 2018, the Patient went back to QMH Respiratory Clinic and saw a Dr WANG, an Associate Consultant. Dr WANG told the Patient that there was no indication for Denosumab given the lack of bone metastases all along on the Patient's PET-CT scans since her lung cancer diagnosis.
9. By way of a statutory declaration made on 23 January 2019, enclosing her complaint letter dated 20 March 2018, the Patient lodged a complaint against the Defendant with the Medical Council.

Burden and Standard of Proof

10. 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.
11. There is no doubt that each of the allegations 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 each of the disciplinary charges against her separately and carefully.

Findings of the Inquiry Panel

12. The Defendant admitted the factual particulars of both disciplinary charges and indicated through her solicitor that she was not going to contest the issue of professional misconduct. However, it remains for us to consider and determine on the evidence before us whether the Defendant has been guilty of misconduct in a professional respect.

13. We agree with the Secretary’s expert report that Denosumab (Xgeva) is licensed for the management of bone metastases or hypercalcemia of malignancy, both of which could occur in the setting of lung cancer, but was never confirmed by blood test nor whole-body PET-CT scans for the Patient. There was therefore no clinical indication for the Denosumab (Xgeva).
14. By prescribing Denosumab (Xgeva) to the Patient without clinical indication, the Defendant had in our view fallen below the standards expected of medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (i).
15. We gratefully adopt as our guiding principles the following statements of law expounded in *Montgomery v Lanarkshire Health Board* [2015] UKSC 11:-

“87. ... The doctor is therefore under a duty to take reasonable care to ensure that the patient is aware of any material risks involved in any recommended treatment, and of any reasonable alternative or variant treatments. The test of materiality is whether, in the circumstances of the particular case, a reasonable person in the patient’s position would be likely to attach significance to the risk, or the doctor is or should reasonably be aware that the particular patient would be likely to attach significance to it.

...

90. ... the doctor’s advisory role involves dialogue, the aim of which is to ensure that the patient understands the seriousness of her condition, and the anticipated benefits and risks of the proposed treatment and any reasonable alternatives, so that she is then in a position to make an informed decision. This role will only be performed effectively if the information provided is comprehensible ...”

16. The Secretary’s expert told us in her report that Denosumab (Xgeva) is associated with potential side effects of low blood calcium levels (hypocalcemia), which could be serious. Patients should be warned about symptoms of hypocalcemia prior to and after receiving Denosumab (Xgeva). There are small but real risks of allergic reactions, osteonecrosis of the jaw with Denosumab (Xgeva). Atypical subtrochanteric and diaphyseal femoral fractures have been reported after Denosumab, but these conditions are at best rare. With the exception of hypercalcemia of malignancy, there is no other

urgent indication to prescribe Denosumab (Xgeva). Patients should be recommended to undergo dental check-up and preventive intervention prior to receiving the drug. We agree with the view of the Secretary's expert.

17. According to the Patient's complaint letter, during the consultation with the Defendant on 1 March 2018, the Patient had asked the Defendant if the injection of Denosumab (Xgeva) would have any adverse effect. The Patient said that the Defendant told her that there would not be any bad effect. In any event, we note that the Defendant had never documented in her clinical record that she had advised the Patient of the risks and/or potential side effects of Denosumab (Xgeva). Further, the Defendant admits before us today that she had failed to properly advise the Patient on the risks and/or potential side effects of Denosumab (Xgeva). We therefore will not give any weight to what the Defendant said in her PIC submission that she had discussed the potential risks and side effects of Denosumab (Xgeva) with the Patient.
18. We are satisfied that the Defendant had not properly advised the Patient of the risks and potential side effect of Denosumab (Xgeva). The Defendant had in our view fallen below the standards expected of medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect under charge (ii).

Sentencing

19. The Defendant has a clear disciplinary record.
20. In line with our published policy, we shall give the Defendant credit in sentencing for her admission and cooperation throughout these disciplinary proceedings.
21. 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.
22. We give credit to the number of reference letters as submitted by the Defendant.

23. We also give credit to the substantial number of CME courses undertaken by the Defendant. In particular, we note that the Defendant has since the incident taken courses relating to improvement of patient safety.
24. The Defendant told us that she has now put in place remedial steps to ensure that she is familiar with a medication before proceeding to prescription and that she would properly advise patients of risks and/or potential side effects of the medication. We are satisfied that the risk of re-offending is low.
25. However, despite what we said above, we must emphasize that the offences committed by the Defendant in this case were very serious. The Defendant said that the Patient told her that Prof. MOK had recommended her to take an injection for her bones. However, we do not see from the requisite medical records of Prof. MOK that there was any recommendation as such. Even if it was really the case that Prof. MOK had so advised the Patient, what the Defendant should have found out from the Patient at least were Prof. MOK's pre-conditions of prescribing the drug. However, not only had the Defendant not found that out from the Patient, she simply prescribed the drug to the Patient without knowledge of whether it was indicated or not, and its side effects.
26. We note that the Defendant had consulted another resident trainee at the time but that another resident trainee also could not provide her with any helpful advice. Given that the Defendant had no knowledge of the drug at all, what she should have done was to ask the Patient to come back for a second consultation until she had the opportunity to properly consult her seniors. In our view, a doctor ought to practise medicine within his/her knowledge and skills, but in this case the Defendant had completely failed in this regard. The Defendant had practised medicine beyond her limitation. Given the risks and the potential side effects of Denosumab (Xgeva), it was only fortunate that no harm was done to the Patient in this case.
27. Taking into consideration the nature and gravity of the disciplinary charges of which the Defendant was found guilty, and what we have read and heard in mitigation, we make a global order in respect of both disciplinary charges (i) and (ii) that the Defendant's name be removed from the General Register for a period of 1 month and the operation of the removal order be suspended for a period of 6 months.

28. Lastly, we wish to stress that if not because of the favourable mitigating factors mentioned in paragraphs 19 to 24 above, we would have imposed a more serious sentence.

Prof. LAU Wan-ye, Joseph, SBS
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong