

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr PEI Kee Cheong Benjamin (邊其昌醫生) (Reg. No.: M09498)

Date of hearing: 28 May 2024 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. FOK Tai-fai, SBS, JP
(Chairperson of the Inquiry Panel)
Dr CHOW Yu-fat
Dr TONG Kai-sing
Mr LAM Chi-yau
Ms WU Ka-lai, Cary

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Bernard MURPHY of
Messrs. Howse Williams

Legal Officer representing the Secretary: Ms Ebony LING as instructed by
Department of Justice

1. The charges against the Defendant, Dr PEI Kee Cheong Benjamin, are:

“That he, being a registered medical practitioner, disregarded his professional responsibility to his patients with the following patient reference numbers in his record:

- (i) the patient with patient reference number 128644;*
- (ii) the patient with patient reference number 128688;*
- (iii) the patient with patient reference number 128998;*
- (iv) the patient with patient reference number 129444;*
- (v) the patient with patient reference number 130001;*

- (vi) *the patient with patient reference number 130010;*
- (vii) *the patient with patient reference number 130017;*
- (viii) *the patient with patient reference number 130048;*
- (ix) *the patient with patient reference number 130068;*
- (x) *the patient with patient reference number 130168;*
- (xi) *the patient with patient reference number 130388;*
- (xii) *the patient with patient reference number 130444;*
- (xiii) *the patient with patient reference number 130485; and*
- (xiv) *the patient with patient reference number 131688.*

(hereinafter collectively, “his Patients”) in that on diver dates from about July 2018 to June 2020 he:

- (a) prescribed “Dormicum” to his Patients without justification;*
- (b) prescribed “Dormicum” to his Patients outside the range of appropriate dosage and duration;*
- (c) failed to monitor the outcome of the treatment of his Patients with “Dormicum”;*
- (d) failed to discontinue the prescription of “Dormicum” when its use was ineffective, inappropriate or unnecessary; and*
- (e) failed to refer his Patients to specialists, substance abuse clinics, drug addiction counselling centres, or other available services or facilities in the community with resources and support for a comprehensive care.*

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 name of the Defendant was at all material times and still is included in the General Register. His name has never been included in the Specialist Register.
3. Briefly stated, the Secretary of the Medical Council (the “Secretary”) received a memo from the Director of Health dated 15 August 2018 expressing concerns that the Defendant was found in a random patient records check during a dangerous drugs (“DD”) inspection to have prescribed DD to 3 patients for

13 to 14 times over the course of 9 to 10 months. Although the physical stock of DD tallied with the balance stated in the DD Register kept by the Defendant, it was noted that he had purchased around 170,000 tablets of Dormicum (15 mg) from the same supplier on divers occasions during the period of January to April 2018.

4. In response to the Notice of Meeting of the Preliminary Investigation Committee (“PIC”) of the Medical Council, the Defendant submitted in his letter dated 7 February 2019 *inter alia* that:-

“The prescribed dosage of Dormicum at my clinic had been high, but it was necessary for the treatment of patients that were with established physical dependence. The aim of the prescription was to match the physical dependence. Once the patients were stabilised then the choice was either to initiate a maintenance dose program or a dose reduction detoxification program. The purpose of this treatment was to minimise the risks that were associated with the withdrawal syndrome.

...

... During detoxication, Patients were permitted to return early for follow up so that the prescribed dose could match the existing physical dependence. The intention was for a gradual detoxification to take place...

In 2017 patients’ motivation was good, and this period corresponded to a time when the general availability of heroin was said to be scarce, and that the cost of purchasing heroin was therefore correspondingly high. Due to this high cost, many patients became motivated to stop the use of heroin, then they also showed good motivation to stop the use of Dormicum. Once heroin was stopped, patients could then be advised to reduce the use of Dormicum, but gradually by reducing about 1/8 of the initial dose every two weeks.

However over the recent months it was evident that, among the patients at my clinic, there was an increase in the relapse of Dormicum use. In addition, according to the clinical information obtained from these patients, it was also evident there was a corresponding increase in the relapse of heroin use...

Looking at the pieces of evidence mentioned, and because I believe that there is a causal relationship between opioid use, insomnia and subsequent benzodiazepine use, I conclude that, within this multiple substance use patient group at my clinic, it is no longer reasonable to expect detoxification to be

generally successful within a short period of around six months. The patients that require a daily dose of larger than 30mg diazepam equivalent, will now have be referred for psychiatric specialist management. I have therefore already made the necessary changes to the treatment policies at my clinic, and a daily dose of larger than 30mg will no longer be prescribed.”

5. Upon the request by the Secretary, the Defendant later provided a copy of the DD Register kept by him, albeit with the patients’ information redacted.
6. Upon studying the DD Register kept by the Defendant, the Secretary’s expert witness, Dr CHUNG Ka Fai (“Dr CHUNG”), a specialist in psychiatry, identified the cases of 14 patients, which were of particular concerns and now form the subject matters of the disciplinary charges against the Defendant.
7. At the request of the Secretary, the Defendant also provided the PIC with redacted medical records of the 14 identified patients.

Burden and Standard of Proof

8. 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.
9. There is no doubt that the allegations against the Defendant here are serious ones. Indeed, it is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. Therefore, we need to look at all the evidence and to consider and determine the disciplinary charges against the Defendant separately and carefully.

Findings of the Inquiry Panel

10. The Defendant admits the factual particulars of the disciplinary charges against him. It remains for us to consider and determine on all the evidence whether the Defendant has been guilty of misconduct in a professional respect.

11. The active ingredient of Dormicum tablets is midazolam, which is a kind of benzodiazepine. However, unlike other benzodiazepines, oral Dormicum has a high risk of abuse and dependence due to its short half-life and rapid onset of action.

12. It is evident to us from reading the medical records of the 14 identified patients that the Defendant made the diagnosis of “*insomnia*” in respect of each of them. It is however the unchallenged expert opinion of Dr CHUNG, which we accept, that “[t]he *British National Formulary... did not include Dormicum as hypnotics or anxiolytics... [and t]he indications of Dormicum did not include the treatment of insomnia*”.

13. It is also the unchallenged expert opinion of Dr CHUNG, which we accept, that:-

“... For patients who had a known history of substance abuse or dependence or were using Dormicum at a higher than recommended dose, Dormicum should be avoided. Continuous prescription of Dormicum should never be a treatment of Dormicum dependence...”

14. We also accept the unchallenged expert opinion of Dr CHUNG that:-

“There is a growing trend of co-abuse of benzodiazepines and opioids worldwide... Benzodiazepines that have a rapid onset of action can achieve high concentrations in the brain to result in euphoric effect, while those with a short half-life have higher abuse potentials due to users’ tendency to repeat the dosing frequently to maintain the effect.”

“Co-administration of benzodiazepines to opioids can produce greater euphoric effect than using either drug alone...”

“The treatment of Dormicum dependence includes gradual tapering, substitution with a long-acting benzodiazepine, and treating the symptoms of withdrawal. Continued use of Dormicum is the least favorable option, and Dormicum should be given in therapeutic dose, e.g. 15 mg, and after several attempts to discontinue or substitute Dormicum are failed due to severe anxiety during withdrawal [, r]eferral to specialist psychiatrists is indicated. Some cases require inpatient detoxification from high dosages of Dormicum.”

“All 14 patients had a history of Dormicum excessive use, at least 2 tabs/day and up to 10 tabs/day, for several years... Many patients were active users of Heroin... Many patients had complications due to intravenous injection. Some patients were taking excessive amount of other sleeping pills...”

“[The Defendant] should have noticed that his patients had active drug abuse problems... The prescription of Dormicum was likely used for abuse or in a dangerous manner that could result in serious harms and death, especially among those who were injecting or sniffing Dormicum...”

“Based on the medical record, [the Defendant] never conducted urine toxicology screening, never admitted patients for in-patient detoxification, and never conducted group or individual psychotherapy. [The Defendant] took up the management of drug abuse, but did not provide any treatments to his patients...”

15. For these reasons, we agree with Dr CHUNG that “... *the management provided by [the Defendant] to [14 identified] patients fell below the standard of a reasonably competent general practitioner*”. In this connection, the Medical Council had issued clear guidelines on proper prescription and dispensing of dangerous drugs, including Dormicum. In December 2017, the revised Guidelines on Proper Prescription and Dispensing of Dangerous Drugs were promulgated in Issue No. 24 of the Newsletter of the Medical Council. The revised guidelines reflected the currently accepted professional standards at the material times on the use of dangerous drugs in the local context.
16. We are particularly concerned about the high dosage and long duration of prescription of Dormicum by the Defendant to the 14 identified patients. This was a blatant disregard in our view of the Guidelines on Proper Prescription and Dispensing of Dangerous Drugs and in particular the Practice Directions for the Use of Dangerous Drugs.
17. For these reasons, we are satisfied on the evidence before us that the Defendant has by his misconduct, as particularized in the disciplinary charges and admitted by him, fallen below the standards expected of registered medical practitioners in Hong Kong. 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.
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. It was clearly stated in the Guidelines on Proper Prescription and Dispensing of Dangerous Drugs (promulgated by the Medical Council in December 2017) that breach of the Practice Directions for the Use of Dangerous Drugs “*may be construed as improper use of Dangerous Drugs*”; and “*[m]edical practitioners must know their limitations*”.
22. The Defendant’s prescriptions of Dormicum in this case were not only improper use of the dangerous drug but also clearly illustrated in our view his lack of insight into his limitations.
23. Despite the Defendant’s claim of training in “*community psychological medicine*” and “*interest in psychiatry*”, we agree with the unchallenged expert opinion of Dr CHUNG that “*[m]ost of the patients seen by [the Defendant] had co-morbid psychiatric disorders, such as anxiety, depression, and schizophrenia... Based on the medical record[s], [the Defendant] had not provided sufficient assessment and management of the patients’ psychiatric disorders. He did not refer patients to psychiatric care or communicate with the patients’ psychiatrists. In addition, [the Defendant] had not received proper training on psychiatry*”.
24. We appreciate that departure from the Practice Directions for the Use of Dangerous Drugs is justifiable if there is cogent reason. But such justification should be clearly documented. There was however nothing in our view in the Defendant’s medical records on the 14 identified patients, which might justify his prescriptions of Dormicum for such high doses and long durations.
25. We are particularly concerned that despite the clear and thorough expert opinion

of Dr CHUNG, whose expert reports had been provided to the Defendant by the Secretary, the Defendant did not accept his failings until today.

26. Taking into consideration the nature and gravity of the disciplinary charges for which we find the Defendant guilty as well as what we have heard and read in mitigation, we consider that a removal order from the General Register for a period of 30 months as a starting point is justified in this case. We shall however give the Defendant credit for his admission before us today. We therefore make a global order in respect of all the disciplinary charges that the name of the Defendant be removed from the General Register for a period of 20 months.
27. We have seriously considered whether the operation of our removal order may be suspended but we find it inappropriate to do so, for the reasons for sentence we have mentioned above.

Prof. FOK Tai-fai, SBS, JP
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong