SINGAPORE MEDICAL COUNCIL DISCIPLINARY INQUIRY AGAINST DR AAD HELD ON 9-11 APRIL 2008

Disciplinary Committee:
Prof John Wong (Chairman)
A/Prof Siow Jin Keat
Dr Lee Woon Kwang
Ms Wong Mui Peng (Lay Member)

Legal Assessor:
Mr Giam Chin Toon S.C.

Prosecution Counsel (M/s Harry Elias Partnership):
Mr Philip Fong
Ms Doris Chia
Mr Adrian Wee
Ms Kylie Peh

Defence Counsel (M/s Rodyk & Davidson LLP):
Mr Lek Siang Pheng
Ms Vanessa Lim

DECISION OF THE DISCIPLINARY COMMITTEE

(Note: Certain information may be redacted or anonymised to protect the identity of the parties.)

VERDICT

1. You, Dr AAD claimed trial to the following charge:

(1) That you are charged that you are grossly negligent in that you had failed to refer your patient, one P ("the Infant") to a consultant paediatric ophthalmologist for Retinopathy of Prematurity ("ROP") screening in an expeditious and timely manner.

Particulars

a. The Infant was born on 3 April 2000 at 12.44 pm at 25 weeks gestation. The Infant's birth weight was 870 grams and she was delivered by a midwife at the Infant's home.

b. Immediately after the delivery, the Infant was transferred to Hospital A ("the Hospital") by ambulance, during which she was bagged and masked and had continuous oxygen therapy.

c. On 3 April 2000 at 1.10 pm, the Infant was admitted to the Hospital's neonatal intensive care unit. You diagnosed that she had intrauterine growth retardation, prematurity and extremely low birth weight ("ELBW").

d. The Infant was warded and placed under your care from 3 April 2000 until the time of discharge, on 18 June 2000, when the Infant was of about 10 weeks postnatal age.

e. On or about 2 November 2000, at a follow-up session with the Infant, you observed that the Infant had a squint in her left eye. You advised the Infant's parents to bring her to a consultant paediatric ophthalmologist recommended by you.

f. On or about 13 December 2000, the Infant was diagnosed by a consultant paediatric ophthalmologist with Stage 5 ROP in the left eye, and Stage 4 ROP in the right eye.

g. ROP is common in ELBW pre-term infants. Stages 3 to 5 ROP are very severe and require immediate intervention to prevent progression of ROP and loss of vision.

h. It is standard practice in Singapore for ELBW pre-term infants to be referred to a paediatric ophthalmologist for ROP screening within 4 to 6 weeks postnatal age or 31 to 34 weeks gestational age, whichever is the later.

i. You failed to refer the Infant to a paediatric ophthalmologist until 2 November 2000, when the Infant was about 7 months old.

and that in relation to the facts alleged, you have been guilty of professional misconduct under section 45(1)(d) of the Medical Registration Act (Cap.174) (2004 Ed.).

2. The Prosecution's case is that the first referral of pre-term ELBW infants to a paediatric ophthalmologist for ROP screening, should be made within 4 to 6 weeks postnatal age or 31 to 34 weeks gestational age, whichever is the later. The time limit for the Infant in this case therefore, ought to have been between 15 May 2000 and 5 June 2000.

3. You made the first referral only in early November 2000 – some 5 months later than the requisite time.

4. The Infant was diagnosed by Dr PW, a consultant paediatric ophthalmologist at Institution B, with Stage 5 ROP in the left eye and Stage 4 ROP in the right eye.

5. Stage 5 ROP is reached when total retina detachment occurs. Stage 4 ROP is reached when partial retina detachment occurs.

6. ROP is very common in ELBW pre-term infants and is characterised by the abnormal vascular development of the retina in pre-term infants.

7. Complications arising from ROP can be prevented through early intervention if diagnosed early. It is important therefore that early diagnosis of ROP in ELBW pre-term infants be made.

8. It is the Prosecution's case that ROP is common in low birth weight premature babies. Their contention is that you fell far short of any acceptable standard of practice in referring the Infant to a paediatric ophthalmologist for ROP screening some 5 months after the acceptable requisite time.

9. It is in evidence before the Committee that the Infant has no useful vision in the left eye.

10. The Prosecution had called upon 2 experts to give evidence on its behalf:

    (i) Dr PE1
    Senior Consultant, Department C, Hospital C
    Associate Professor, Department D, University D

    (ii) Dr PE2

Head of Department of Neonatology, Hospital E

11. Both experts produced the respective Protocols of their hospitals in force at the material time in the year 2000. In a nutshell, they supported the Prosecution's case that the ROP screening is to be done within 4 to 6 weeks postnatal age or 31 to 34 weeks gestational age, whichever is the latter.

12. You raised 4 main points in your defence:
    (i) There was no uniform ROP screening practice in the year 2000 either in Singapore or abroad;
    (ii) The Patient's gestational age at birth was not 25 weeks, but in fact 32 to 34 weeks gestational age, which puts her outside the ROP screening criteria in the year 2000;
    (iii) The screening of ELBW infants using birth weight as a screening criteria was not a practice applied in a uniform manner in Singapore; and
    (iv) The Patient's oxygenation was well managed and hence, your judgement was that the development of ROP was very unlikely.

13. The Defence contended that in 2000, according to the Protocol produced in evidence by the Prosecution to establish the standard practice of such cases in the Hospital C, the birth weight was not a factor. In fact, at the material time there was no uniformity worldwide on such practice.

14. You in your testimony, are of the view that the Patient's gestation age should be 32 to 34 weeks, despite the fact that all your records before us had indicated it as 25 weeks.

15. The basis for your conclusion is that the Patient was more mature than 25 weeks and her lungs, heart and gastro-intestinal development led you to believe that she was closer to 32 to 34 weeks gestation.

16. You emphasised that you relied on 2 criteria to decide whether the Patient was at risk for developing ROP:
    (a) whether the Patient was severely premature; and
    (b) whether the Patient received inappropriate oxygenation.

    Birth weight was never a criterion.

17. Your assessment is that the risk of the Patient developing ROP is low. You have no doubt that the Patient was 32 to 34 weeks gestation at birth. Consequently, using gestation as a criterion, you felt that there was no need to screen the Patient for ROP.

18. It is only at this hearing that you had revealed for the first time that you had acted on the basis that the Patient was of 32 to 34 weeks gestation. If this was the case, one would have expected it to be recorded.

19. Even assuming that you had made the assessment at the material time, the Defence did not attempt to seek the views of the Prosecution's 2 experts or even put the Defence to them. Further, you had not called on any expert witnesses to substantiate that the basis of your assessment was correct.

20. It is surprising that you had not even attempted to check with the obstetrician who was looking after the Patient's mother on the accuracy of the given information of 25 weeks gestation.

21. The recorded 25 weeks gestation is substantially shorter than the 32 to 34 weeks that you are now advocating. The Committee is of the view that the difference is substantial enough for discussion with the primary obstetrician before you even act on it.

22. The Committee therefore rejects your defence.

23. Your Counsel had submitted that there has to be very great negligence when the level of skill and care has fallen far below the level that any reasonable client would have a right to expect before the charge against you is established.

24. We agree with the submission. We hold that this is not a case of ordinary negligence but one which is gross negligence or very great negligence sufficient to bring disrepute to the profession which would amount to professional misconduct under Section 45(1)(d) of the Medical Registration Act.

25. We therefore find you guilty as charged.

SENTENCE:

26. The Committee has carefully considered the submission in mitigation by Counsel for you, Dr AAD. We have taken into account your unblemished record for the past 21 years and testimonials from senior members of the profession. However, the Committee is deeply concerned that your defence rested on an assessment, which was possibly flawed, and ignored several clinical features of great significance. The practice of medicine has always been holistic, and management is rarely based, if ever, on a single factor. The Committee found your management contrary to what we would have expected of a Consultant Paediatrician managing a pre-term, extremely low birth weight neonate in Singapore at the time this patient was presented. We are further saddened by the patient's severe handicap.

27. Having regard to all the circumstances, the Committee makes the following orders pursuant to section 45(2) of the Medical Registration Act:
    (a) that you be suspended from medical practice for 3 months;
    (b) that you be censured;
    (c) that you give a written undertaking to abstain in future from the conduct complained of or any similar conduct; and
    (d) that you pay the costs of and incidental to these proceedings, including those of the solicitor of the Council and the Legal Assessor.

28. The hearing is concluded.