

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LAU Wing Fong (劉穎芳醫生) (Reg. No.: M12659)

Dates of hearing: 17 May 2016 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS (Chairman)
Dr CHAN Pierre
Miss CHAU Man-ki, Mabel, MH
Dr LEUNG Chi-chiu
Mr WONG Hin-wing
Dr KONG Wing-ming, Henry

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Woody CHANG of Messrs.
Mayer Brown JSM

Government Counsel representing the Secretary: Miss Carmen POON

1. The charge against the Defendant, Dr LAU Wing Fong, is:

“That she, being a registered medical practitioner, was convicted at Kwun Tong Magistrates’ Courts on 11 July 2012 of 15 counts of an offence punishable with imprisonment, namely “Failing to keep a Register of Dangerous Drugs in the form specified in the First Schedule”, contrary to Regulation 5(1)(a) and 5(7) of the Dangerous Drugs Regulations made under Dangerous Drugs Ordinance, Cap 134, Laws of Hong Kong.”

Facts of the case

2. The Defendant was at all material times a registered medical practitioner. Her name has been included in the General Register from 8 July 2000 to present and her name has never been included in the Specialist Register.

3. On 14 December 2011, pharmacists from the Department of Health inspected the Defendant's clinic and found 15 types of dangerous drugs. The Defendant was asked to produce the relevant dangerous drugs registers for inspection.
4. Pharmacists from the Department of Health then found out that the dangerous drugs records made by the Defendant were of a different format from the statutory form specified in the First Schedule to the Dangerous Drugs Regulations, Cap. 134A. Whilst there were separate records for receipt and supply of each type of dangerous drugs but transactions of the 15 types of dangerous drugs were all listed in one single record. Moreover, name and address of person or firm from whom the dangerous drugs were received or to whom supplied, patient's identity card number, invoice number and balance of dangerous drugs were all missing from the Defendant's dangerous drugs records.
5. The Defendant was subsequently charged with 15 counts of "failing to keep a register of dangerous drugs in the form specified in the First Schedule", contrary to regulations 5(1)(a) and 5(7) of the Dangerous Drugs Regulations, Cap.134A.
6. The Defendant was convicted on her own plea of the aforesaid offences at the Kwun Tong Magistrates' Court on 11 July 2012 and was fined a total sum of \$37,500.
7. There is no dispute that the aforesaid offences are punishable with imprisonment.

Findings of the Council

8. Section 21(3) of the Medical Registration Ordinance expressly provides that:

"Nothing in this section shall be deemed to require the Council to inquire into the question whether the registered medical practitioner was properly convicted but the Council may consider any record of the case in which such conviction was recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence."
9. The Council is therefore entitled to take the aforesaid convictions as conclusively proven against the Defendant.

10. Accordingly, we also find the Defendant guilty of the disciplinary offence as charged.

Sentencing

11. The Defendant has a clear disciplinary record.
12. In line with published policy, we shall give her credit for her frank admission in this inquiry and cooperation during the preliminary investigation stage. However, given that there is hardly any room for dispute in a disciplinary case involving criminal conviction, the credit to be given to her must necessarily be of a lesser extent than in other cases.
13. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant for the offences for a second time, 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 high standards and good reputation of the profession.
14. The Council has repeatedly emphasized the importance of proper record of dangerous drugs in compliance with the statutory requirements. Medical practitioners being given the legal authority to supply dangerous drugs must diligently discharge the corresponding responsibility to keep records in the prescribed form. As a matter of fact, the dangerous drugs register is a simple form which can be filled in as a clerical exercise whenever drugs are received or dispensed, and there is nothing complicated about it. Any medical practitioner exercising proper care would have no difficulty at all in complying with the statutory requirements.
15. In the recent years, all cases of failing to comply with the statutory requirements to keep proper dangerous drugs register have been dealt with by removal from the General Register, and in less serious cases the operation of the removal order would be suspended for a period with the condition of peer audit.
16. It is not challenged that the Defendant prescribed the dangerous drugs to her patients properly.

17. We are told in mitigation that the Defendant has since the incident acquainted herself with the Dangerous Drugs Regulations. She has attended various courses as regards drug management and drug safety. Apart from keeping the dangerous drugs registers in strict compliance with the statutory form, she would personally count the physical stock at her clinic in order to ensure that the running balances in the dangerous drugs registers would be correct.
18. We are also told in mitigation that subsequent inspection by Department of Health in September 2014 revealed no irregularity in respect of the Defendant's dangerous drugs registers. We accept that the Defendant has learnt her lesson and the chance of her repeating the same or similar breach will be low.
19. Taking into consideration the nature and gravity of the disciplinary offence and what we have read and heard in mitigation, we order that the Defendant's name be removed from the General Register for a period of 2 months, and the operation of the removal order be suspended for a period of 12 months, subject to the condition that the Defendant shall complete during the suspension period satisfactory peer audit by a Practice Monitor to be appointed by the Council with the following terms:
 - (a) the Practice Monitor shall conduct random audit of the Defendant's practice with particular regard to the keeping of dangerous drugs registers;
 - (b) the peer audit should be conducted without prior notice to the Defendant;
 - (c) the peer audit should be conducted at least once every 6 months during the suspension period;
 - (d) during the peer audit, the Practice Monitor should be given unrestricted access to all parts of the Defendant's clinic and the relevant records which in the Practice Monitor's opinion is necessary for proper discharge of his duty;
 - (e) the Practice Monitor shall report directly to the Chairman of the Council the finding of his peer audit at 6-monthly intervals. Where any defects are detected, such defects should be reported to the Chairman of the Council as soon as practicable; and

- (f) in the event that the Defendant does not engage in active practice at any time during the suspension period, unless otherwise ordered by the Council, the peer audit shall automatically extend until the completion of 12 month suspension period.

Prof. LAU Wan Yee Joseph, SBS
Chairman, Medical Council