

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

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

Defendant: Dr CHOW Ho Ming (周浩明醫生) (Reg. No.: M07482)

Date of hearing: 25 June 2018 (Monday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS  
(Chairperson of Inquiry Panel)  
Dr WAI Yuk-chun, Veronica  
Mr YU Kwok-kuen, Harry  
Dr YAN Wing-Wa  
Ms NG Ka-man, Rendy

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Warren SE-TO Messrs. Mayer Brown  
JSM

Senior Government Counsel representing the Secretary: Miss Vienne LUK

1. The charge against the Defendant, Dr CHOW Ho Ming is :

“That he, being a registered medical practitioner, was convicted at the Shatin Magistrates’ Courts on 28 April 2014 of the offence of failing to keep register or records of a dangerous drug, which is an offence punishable with imprisonment, contrary to Regulations 5(1)(a) and 5(7) of the Dangerous Drugs Regulations made under the Dangerous Drugs Ordinance, Chapter 134, Laws of Hong Kong.”

**Facts of the case**

2. The Defendant was at all material times a registered medical practitioner. His name has been included in the General Register from 12 September 1989 to present and his name has never been included in the Specialist Register.

3. The Defendant admits the factual particulars of the disciplinary offence.
4. Briefly stated, on 28 August 2013, a team of police officers and a pharmacist from the Department of Health (“DH”) visited the Defendant’s clinic (“the Clinic”) at Shop No. 4A, Ground Floor, Hilton Plaza, Shatin, New Territories to execute a search warrant.
5. In the presence of the Defendant, the DH pharmacist counted the physical stock of dangerous drugs (“DD”) kept in the Clinic. Although 815 tablets of Diazepam 5 mg were found in the Clinic, the corresponding balance stated in the DD register was 795 only. The Defendant explained that the shortfall might be due to incorrect entry being made in the DD register and he would review the patients’ records to find out the reason for this discrepancy.
6. The Defendant was subsequently charged and convicted after trial at the Shatin Magistrates’ Court on 28 April 2014 of the offence of failing to keep register or records of a dangerous drug, contrary to Regulations 5(1)(a) and 5(7) of the Dangerous Drugs Regulations and was fined \$5,000.
7. The Defendant filed his Notice of Appeal against conviction on 9 May 2014. His appeal against conviction was subsequently dismissed by Madam Justice PANG of the High Court on 12 September 2014.
8. Meanwhile, the Defendant reported the aforesaid conviction to the Council through his solicitors by a letter dated 2 May 2014.

### **Findings of the Inquiry Panel**

9. There is no dispute that the aforesaid offence is punishable with imprisonment.
10. Section 21(3) of the Medical Registration Ordinance expressly provides that:

“Nothing in this section shall be deemed to require an inquiry panel to inquire into the question whether the registered medical practitioner was properly convicted but the panel 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.”

11. We are therefore entitled to take the aforesaid conviction as conclusively proven against the Defendant.
12. Accordingly, we also find the Defendant guilty of the disciplinary offence as charged.

### **Sentencing**

13. The Defendant has a clear disciplinary record.
14. In line with published policy, we shall give credit to the Defendant for his 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 him must necessarily be of a lesser extent than in other cases.
15. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant for the offence 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 its high standards and good reputation.
16. We accept that the quantity of DD involved was small and there was nothing in the evidence to suggest that the Defendant prescribed the DD to his patients improperly.
17. In the course of his criminal trial before the Magistrate, the Defendant testified that he found out shortly after the incident from reviewing his patients' records that 2 patients were prescribed each with 20 tablets of Diazepam 5 mg on 30 July 2013. But later when he filled in the relevant DD register, he inadvertently recorded that 30 tablets of Diazepam 5 mg were prescribed to each of these 2 patients. This resulted in a discrepancy of 20 tablets of Diazepam 5 mg between the physical stock and the stated balance in the relevant DD register.
18. On appeal by the Defendant, Madam Justice PANG upheld the Magistrate's finding that the Defendant had failed to exercise due diligence in ensuring that there would be no mistake when filling in the relevant DD register. In this connection, we gratefully agree with her Ladyship that the Defendant's usual practice of checking the DD registers about once in a month was of little help in ensuring that the entries that he made would be true and accurate at all times.

Indeed, the Defendant accepted in the course of his criminal trial similar discrepancies were found after checking on 10 odd occasions over a year.

19. In our view, stringent control of DD is essential to avoid misuse and abuse. Failure to exercise due diligence in ensuring that the DD register is true and accurate would jeopardize the monitoring system of DD by public officers.
20. The Council has repeatedly emphasized the importance of proper record of DD in compliance with the statutory requirements. Medical practitioners being given the legal authority to supply DD must diligently discharge the corresponding responsibility to keep proper records. As a matter of fact, the DD 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.
21. In the recent years, all cases of failing to comply with the statutory requirements to keep proper DD registers 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.
22. We are told in mitigation that the Defendant has since 28 August 2013 completely stopped prescribing any DD to his patients. The Defendant later deposited all his remaining DD with DH on 18 December 2014 and no longer keeps any DD in his clinic now.
23. We accept that the Defendant has learnt his lesson and the chance of his repeating the same breach and/or mistake would be low.
24. Having considered the nature and gravity of this case and the mitigation advanced by the defence solicitor, we order 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 on the condition that he 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 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. Where any defects are detected, such defects should be reported to the Chairman of the Council as soon as practicable;
- (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 6-month suspension period; and
- (g) in case of change of Practice Monitor at any time before the end of the 6-month suspension period, unless otherwise ordered by the Council, the peer audit shall automatically extend until another Practice Monitor is appointed to complete the remaining period of peer audit.

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