

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr HO Oi Ping Patrick (何愛平醫生) (Reg. No.: M02971)

Dates of hearing: 25 October 2016 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS (Chairman)
Dr CHENG Chi-man
Dr LI Tak-lai, Theresa
Mr YU Kwok-kuen, Harry
Prof. CHAN Tak-cheung, Anthony
Ms HUI Mei-sheung, Tennessy, MH JP

Legal Adviser: Mr Edward SHUM

Defendant : Dr HO Oi Ping Patrick (who is unrepresented)

Senior Government Counsel representing the Secretary: Miss Carmen POON

1. The charge against the Defendant, Dr HO Oi-ping Patrick, is:

“That he, being a registered medical practitioner, was convicted at the Tsuen Wan Magistrates’ Courts on 2 September 2013 of eleven counts of the offence of failing to keep a Register of Dangerous Drugs in the form specified in the first schedule, which is an offence punishable with imprisonment, contrary to regulations 5(1)(a) and 5(7) of the Dangerous Drugs Regulations made under 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 7 July 1977 to present and his name has never been included in the Specialist Register.

3. On 25 February 2013, pharmacists from the Department of Health inspected the Defendant's clinic and found 13 different dangerous drugs. The Defendant was asked to produce the relevant dangerous drugs registers for inspection. Only a pile of papers was produced by the Defendant who claimed it was the dangerous drug record for all the entries made with respect to the 13 different dangerous drugs.
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. 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 11 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 his own plea of the aforesaid offences at the Tsuen Wan Magistrates' Court on 2 September 2013 and was fined a total sum of \$11,000.
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 him credit 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.
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. We are told in mitigation that the Defendant has since taken steps to comply with the statutory requirement for keeping dangerous drugs registers. In addition, he would personally audit his dangerous drugs registers every week.

17. We accept that the Defendant has learnt his lesson and the chance of his repeating the same or similar breach will be low.

18. 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;
 - (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; and

- (g) in case of change of Practice Monitor at any time before the end of the 12-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
Chairman, Medical Council