

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 LAI Sau Kuen (黎秀娟醫生) (Reg. No.: M05604)

Date of hearing: 28 May 2018 (Monday)

Present at the hearing

Council Members/Assessors: Prof. Felice LIEH-MAK, GBS CBE JP  
(Chairperson)  
Dr LEUNG Chi-chiu  
Dr LAU Chor-chiu, GMSM MH JP  
Mr HUNG Hin-ching, Joseph  
Mr POON Yiu-kin, Samuel

Legal Adviser: Mr Edward SHUM

Defendant : Dr LAI Sau Kuen (who is not legally represented)

Senior Government Counsel representing the Secretary: Miss Vienne LUK

1. The charge against the Defendant, Dr LAI Sau Kuen, is :

“That on 5 May 2014, she, being a registered medical practitioner, disregarded her professional responsibility to her patient [REDACTED] (“the Patient”), in that she dispensed or supplied to the Patient “Doridone” with expiry date of “09 2013” marked on the packaging, when the Patient visited her clinic at Room 3, 1/F, Hung Hay Building, 1 Fa Yuen Street, Kowloon.

In relation to the facts alleged, she has been guilty of misconduct in a professional respect.”

**Facts of the case**

2. The Defendant was at all material times and still is a registered medical practitioner.

3. The Defendant admitted the factual particulars of the disciplinary charge against her.
4. Briefly stated, the Patient consulted the Defendant at her clinic for gastrointestinal pain on 5 May 2014. After consultation, various medicines were dispensed to the Patient and one of them was a pack of “Doridone” with expiry date of “09 2013” marked on the packaging. Doridone is one of the trade names of Domperidone in Hong Kong.
5. In her submission to the Preliminary Investigation Committee (“PIC”), the Defendant explained that she intended to prescribe Domperidone to the Patient. However, her clinic assistant wrongly gave the said pack of “Doridone”, which was tied outside a bottle of Domperidone from another supplier, to the Patient. The Defendant accepted full responsibility for this mistake and wished to apologize to the Patient.

#### **Burden and Standard of Proof**

6. We bear in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove her 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.
7. Although the Defendant admitted the factual particulars of the disciplinary charge against her, it remains our duty to consider and determine whether she is guilty of misconduct in a professional respect.

#### **Findings of the Council**

8. Registered medical practitioners in Hong Kong are in a unique position in that they can prescribe and dispense medicines to patients. As a registered medical practitioner who dispensed medicine to her patient, the Defendant had the personal responsibility to ensure the medicine was safe and proper in all material aspects.

9. It is clearly stated in the Good Dispensing Practice Manual (2<sup>nd</sup> edition) issued by the Hong Kong Medical Association that all registered medical practitioners should “ensure that a dispensed product will still be within the expiry date at the end of the treatment period”; and “[t]he expiry dates of medicines should be regularly monitored”. We are firmly of the view that such good dispensing practice is essential to the maintenance of public trust in our medical profession.
10. The significance of the expiry date on any medicine lies in that its efficacy and safety cannot be guaranteed beyond that date. It may well be that the efficacy and safety of a medicine do not fall off rapidly after its expiry date but the real point is that the efficacy and safety of the medicine are no longer guaranteed. Also, the anxiety or distress that patients may develop after realizing that they have taken expired medicines must not be overlooked.
11. In our view, the Defendant’s dispensation of an expired medicine to the Patient in this case fell below the standard expected amongst registered medical practitioners in Hong Kong. We therefore find her guilty of misconduct in a professional aspect as charged.

### **Sentencing**

12. The Defendant has one previous disciplinary record relating to illegal abortion and issue of false medical certificates back in 1994 and her name was ordered to be removed from the General Register for a period of 2 years. We accept that this happened over 20 years ago and the present disciplinary offence is of a different nature.
13. In line with published policy, we shall give her credit for her frank admission to the PIC and full cooperation throughout these disciplinary proceedings.
14. We bear in mind that the 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.
15. We accept that there was no evidence that physical harm has been caused to the Patient. We also accept that the Defendant has learnt her lesson.

16. We are told in mitigation that the Defendant has taken a number of remedial measures to prevent this mishap from happening again. She would regularly check the stock of medicines kept in her clinic to ensure that all expired medicines would be identified and promptly discarded. Moreover, she would personally check all medicines prescribed by her to ensure that they are dispensed strictly in accordance with the current edition of the Good Dispensing Practice Manual.
  
17. Taking into consideration the nature and gravity of the case and what we have heard in mitigation, we are of the view that the issue of a warning letter would be appropriate and we so order. We further order that the order for issue of a warning letter to the Defendant be published in the Gazette.

Prof. Felice LIEH-MAK, GBS CBE JP  
Chairperson of the Inquiry Panel  
The Medical Council of Hong Kong