

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LAM Chun Lit (林振烈醫生) (Reg. No.: M09057)

Date of hearing: 11 October 2017 (Wednesday) (p.m.)

Present at the hearing

Council Members/Assessors: Dr HO Chung-ping, MH JP (Temporary Chairman)
Miss CHAU Man-ki, Mabel, MH
Dr CHEUNG Hon-ming
Dr IP Wing-yuk
Prof. CHAN Tak-cheung, Anthony
Dr MOK Pik-tim, Francis

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Ms Oonagh Toner of Messrs. Howse
Williams Bowers

Senior Government Counsel representing the Secretary: Miss Carmen POON

1. The Amended Charge against the Defendant, Dr LAM Chun Lit, is:

“That he, being a registered medical practitioner, was convicted at the Kwun Tong Magistrates’ Courts on 9 January 2014 of three counts of the offence punishable with imprisonment, namely, 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 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 25 June 1993 to present and his name has been included in the Specialist Register under the specialty of Gastroenterology & Hepatology.
3. On 28 May 2013, a pharmacist from the Department of Health (“DH”) visited the Defendant’s clinic at Unit 802-803, 26 Nathan Road, Tsim Sha Tsui, Kowloon for dangerous drugs (“DD”) inspection.
4. The Defendant provided all DD kept in his clinic together with the corresponding DD Registers to the DH pharmacist for inspection. In the presence of the Defendant, the DH pharmacist checked the records of DD for the past two years and found that the transactions for DD received and supplied were not properly recorded as per the statutory form specified in the First Schedule to the Dangerous Drugs Regulations, Cap. 134A.
5. The invoice number, name and address of suppliers of each DD were missing from the DD Registers kept by the Defendant.
6. The Defendant, through his solicitors, told us and we accept that out of the 8 kinds of DD kept in his clinic, only the following 5 kinds of DD belonged to him:-
 - (1) Rivotril (Clonazepam) 0.5 mg x 82 tablets;
 - (2) Xanax 0.5 mg x 283 tablets;
 - (3) Lexotan (Bromazepam) 1.5mg x 257 tablets;
 - (4) Duromine 15mg x 210 capsules; and
 - (5) Dormicum 5mg/5ml x 52 ampoules
7. The Defendant was subsequently charged with three 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. The Defendant was convicted on his own plea of the aforesaid offences at the Kwun Tong Magistrates’ Court on 9 January 2014 and was fined on review of sentence a total sum of \$9,000.
8. There is no dispute that the aforesaid offences are punishable with imprisonment. And the Defendant’s convictions were reported to the Medical Council through his solicitors by a letter dated 4 February 2014.

Findings of the Council

9. 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.”
10. The Council is therefore entitled to take the aforesaid convictions as conclusively proven against the Defendant.
11. Accordingly, we also find the Defendant guilty of the disciplinary offence as charged.

Sentencing

12. The Defendant has a clear disciplinary record.
13. 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.
14. 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.
15. 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 records in the prescribed form. As a matter of fact, DD register is a simple form, which can be filled in as a clerical exercise whenever DD 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.

16. In the recent years, all cases of failing to comply with the statutory requirements to keep proper DD 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.
17. In this case, the quantities of DD involved were not big and there was no evidence to indicate that the Defendant prescribed DD to his patients improperly.
18. Having considered the nature and gravity of this case and the mitigation advanced by the Defendant, 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, 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 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.

Remark

- 19. The Defendant's name is included in the Specialist Register under the Specialty of Gastroenterology & Hepatology. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

Dr HO Chung Ping, MH JP
Temporary Chairman
The Medical Council of Hong Kong