

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LAU Mang Kaw (劉孟蛟醫生) (Reg. No.: M03073)

Date of hearing: 11 October 2017 (Wednesday) (a.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: Mr Woody CHANG of Messrs. Mayer
Brown JSM

Senior Government Counsel representing the Secretary: Mr Eric KO

1. The Amended Charge against the Defendant, Dr LAU Mang Kaw, is:

“That he, being a registered medical practitioner, was convicted at the Tuen Mun Magistrates’ Courts on 8 January 2014 of seven 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 9 September 1977 to present and his name has been included in the Specialist Register under the specialty of Paediatrics.
3. On 24 and 27 May 2013, a pharmacist from the Department of Health (“DH”) visited the Defendant’s clinic at Shop 214-215 (“Location 1”) and Shop 222-224 (“Location 2”) of New Town Mansion, Tuen Lee Street, Tuen Mun respectively for dangerous drugs (“DD”) inspection.
4. The Defendant provided two kinds of DD, namely, Diazepam 2mg x 20 and 5mg x 36 tablets, kept at Location 1 and three kinds of DD, namely, Diazepam 2mg x 352 and 5mg x 851 tablets and Xanax 0.5mg x 189 tablets, kept at Location 2 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 of DD received and supplied were not properly recorded in accordance with the statutory form specified in the First Schedule to the Dangerous Drugs Regulations, Cap. 134A.
5. Both the record of Diazepam 2mg tablets kept in Location 1 and the record of Diazepam 2mg and 5mg tablets kept in Location 2 were found to be non-compliant in that (1) the names of DD and their strength were not recorded on each page of the DD Registers; (2) the column headings were missing on each page of the DD Registers; and (3) there were ambiguous entries on the DD Registers with no name and address of from whom or to whom DD were supplied.
6. Subsequent investigation by DH also revealed that different drug distributors had supplied three kinds of DD to the Defendant at Location 1 for the past two years. However, there were no records of DD received from these drug distributors in the DD Register kept in Location 1.
7. The Defendant was subsequently charged with seven counts of the offence 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 Tuen Mun Magistrates’ Court on 8 January 2014 and was fined a total sum of \$10,500.
8. There is no dispute that the aforesaid offences are punishable with imprisonment. And the Defendant’s convictions were reported to the Council through his solicitors by a letter dated 29 January 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. 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.
13. The Defendant has 2 previous disciplinary records. They related to unauthorized practice promotion and administration of wrong vaccine to an infant patient. We accept that the present disciplinary offence is of a different nature but this again showed sloppiness on his part.
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. We also accept the Defendant's explanation that DD initially delivered by drug distributors to Location 1 were to be used at other clinics of his medical practice group. However, this only showed the Defendant's ignorance of the statutory requirements to keep proper DD Register. Stringent control of DD is essential to avoid misuse and abuse. Failure to comply with the statutory requirements to keep proper DD Register in each location where DD are kept would jeopardize the monitoring system of DD by public officers.
18. We are told that the Defendant has since prepared a standard form DD Register for use in all clinics in his medical practice group. Apart from complying with the statutory requirements under the Dangerous Drugs Regulation, the Defendant also required any medical practitioner in his medical practice group who prescribed DD to countersign on the DD Register.
19. 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 18 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 18-month suspension period; and
- (g) in case of change of Practice Monitor at any time before the end of the 18-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

20. The Defendant's name is included in the Specialist Register under the Specialty of Paediatrics. 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