

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 SOONG Roong Sheng (宋榮生醫生) (Reg. No.: M04823)

Date of hearing: 26 June 2019 (Wednesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS  
(Chairperson of the Inquiry Panel)  
Dr LAU Chor-chiu, GSM, MH, JP  
Dr WONG Yee-him, John  
Mr POON Yiu-kin, Samuel  
Mr WOO King-hang

Legal Adviser: Mr Edward SHUM

Defence Solicitors representing the Defendant: Mr Woody CHANG & Ms Phyllis  
CHIU of Messrs. Mayer Brown

Senior Government Counsel representing the Secretary: Miss Vienne LUK

1. The amended charges against the Defendant, Dr SOONG Roong Sheng, are:

First case (MC 13/280)

“That, on or about July 2013, he, being a registered medical practitioner, issued, in respect of Madam [REDACTED] (“Madam X”), two untrue, misleading or otherwise improper sick leave certificates, namely:

- (i) A sick leave certificate dated 12 July 2013 certifying Madam X attended In-Health Medical Centre on 12 July 2013 with a diagnosis of L.B.P., and sick leave from 13 July 2013 to 19 July 2013 was being granted; and
- (ii) A sick leave certificate dated 19 July 2013 certifying Madam X attended In-Health Medical Centre on 19 July 2013 with a diagnosis of L.B.P., and sick leave from 20 July 2013 to 25 July 2013 was being granted,

when in fact he did not see Madam X on 12 July 2013 and 19 July 2013.

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

Second case (MC 16/137)

“That, he, being a registered medical practitioner:

- (a) was convicted at the Eastern Magistrates’ Courts on 25 April 2016 of eight counts of the offence of failing to keep a register of dangerous drugs in the specified form, 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; and
  - (b) was convicted at the Eastern Magistrates’ Courts on 25 April 2016 of five counts of the offence of failing to keep register or records of a dangerous drugs, 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.”
2. The name of the Defendant was at all material times and still is included in the General Register. His name had never been included in the Specialist Register.
  3. Upon the direction of the Chairperson of the Inquiry Panel, inquiry into the above-mentioned disciplinary charges against the Defendant was consolidated into one pursuant to section 16 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation.

First Case (MC 13/280)

Facts of the case

4. The Defendant admits the factual particulars of the amended disciplinary charges against him.
5. Briefly stated, Hong Kong Dragon Airlines Limited (“Dragonair”) complained to the Medical Council that they received from Madam X 2 sick leave certificates issued by the Defendant. According to the subject sick leave certificates, the Defendant had seen Madam X on 12 and 19 July 2013 respectively. Subsequent investigation by Dragonair however revealed that Madam X departed from Hong Kong to Prague on 10 July 2013 and only returned to Hong Kong on 26 July 2013.
6. In his submission to the Preliminary Investigation Committee, the Defendant admitted that he issued the subject sick leave certificates to Madam X when she visited his clinic on 9 July 2013. According to the Defendant, Madam X returned to see him for her persistent lower back pain. After examining Madam X and in view of her medical condition, the Defendant considered 2 more weeks of sick leave to be appropriate. But since Madam X had already obtained sick leave for 10 July 2013 and she was going to have 2 days off on 11 and 12 July 2013, she requested the further sick leave period to start from 13 July 2013. The Defendant further explained that he understood that

Dragonair would not accept medical certificate for a sick leave period of more than 1 week. In order to save Madam X the trouble of coming to his clinic again, the Defendant issued the subject sick leave certificates in one go on 9 July 2013 and post-dated them 12 and 19 July 2013 respectively. The Defendant denied however that he knew Madam X would make use of the further sick leave period to travel outside Hong Kong.

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

7. We bear in mind that the burden of proof is always on the Legal Officer and the Defendant does not have to prove his 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.
8. There is no doubt that each of the allegations against the Defendant here is a serious one. Indeed, it is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. Therefore, we need to look at all the evidence and to consider and determine each of the disciplinary charges against him separately and carefully.

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

9. The Defendant admits the factual particulars of the disciplinary charges against him but it remains for us to consider and determine on the evidence whether he is guilty of misconduct in a professional respect.
10. It is clearly stated in paragraph 26 of the Code of Professional Conduct (the “Code”) (2009 edition) that:
  - “26.1 *Doctors are required to issue reports and certificates for a variety of purposes (e.g. insurance claim forms, payment receipts, medical reports, vaccination certificates, sick leave certificates) on the basis that the truth of the contents can be accepted without question...*
  - 26.2 *A sick leave certificate can only be issued after proper medical consultation of the patient by the doctor. The date of consultation and the date of issue must be truly stated in the certificate, including a certificate recommending retrospective sick leave.*
  - 26.3 *Any doctor who in his professional capacity gives any certificate or similar document containing statements which are untrue, misleading or otherwise improper renders himself liable to disciplinary proceedings...*”

11. There is no dispute that the subject sick leave certificates were issued by the Defendant on 9 July 2013 and they were post-dated 12 July 2013 and 19 July 2013 respectively.
12. There is no evidence before us that the Defendant issued the subject sick leave certificates without proper medical consultation.
13. For decades, sick leave certificates issued by registered medical practitioners have been accepted without question by members of the public. Even if the Defendant had no intention to mislead Dragonair, his cavalier attitude in post-dating the subject sick leave certificates should be condemned. We are firmly of the view that any sick leave certificate should be issued on the date of consultation. Public confidence in sick leave certificates issued by registered medical practitioners would be undermined unless the date of consultation and the date of issue are truly stated.
14. In our view, the Defendant's conduct had fallen below the standards expected of registered medical practitioners in Hong Kong. We therefore find him guilty of misconduct in a professional respect as charged.

### **Second Case (MC 16/137)**

#### **Facts of the Case**

15. On 8 October 2015, pharmacists from the Department of Health visited the Defendant's clinic for dangerous drugs ("DD") inspection.
16. The DD Registers kept by the Defendant were found to be non-compliant with the statutory requirements under the Dangerous Drugs Regulations, Cap. 134A ("DD Regulations"). In particular, (1) invoice number(s); (2) balance; and (3) name and address of person(s) or firm(s) from whom received were found to be missing. Moreover, identity card number of patient(s) was found to be missing from one of the DD Registers.
17. The Defendant was subsequently charged with 8 counts of the offence of "failing to keep a register of dangerous drugs in the specified form" and 5 counts of the offence of "failing to keep register or records of a dangerous drugs", both contrary to regulations 5(1)(a) and 5(7) of the DD Regulations.
18. The Defendant was convicted on his own plea of the aforesaid offences at the Eastern Magistrates' Court on 25 April 2016 and was fined a total sum of \$30,000.
19. There is no dispute that the aforesaid offences are punishable with imprisonment. And the Defendant duly reported his convictions to the Medical Council through his solicitors by a letter dated 26 April 2016.

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

20. There is no dispute that each of the aforesaid offences is punishable with imprisonment.
21. 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 inquiry 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.”*
22. We are therefore entitled to take the aforesaid convictions as conclusively proven against the Defendant.
23. Accordingly, we also find the Defendant guilty of the disciplinary offence as charged.

### **Sentencing**

24. The Defendant has one previous disciplinary record back in 2001. It related to his criminal conviction of indecent assault to his nursing assistant.
25. In line with published policy, we shall give him credit for his frank admission and full cooperation throughout this inquiry. However, given that there is hardly any room for dispute in a disciplinary case involving criminal conviction, the credit to be given to him in respect of the Second Case must necessarily be of a lesser extent than in the First Case.
26. 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.
27. We accept that the subject sick leave certificates were issued after proper medical consultation. However, we need to ensure that the Defendant has truly reflected on his cavalier attitude and will refrain from doing anything which may damage public confidence in the medical profession.
28. Turning to the Second Case, we accept that there was nothing in the evidence to suggest that the Defendant prescribed DD to his patients improperly.
29. However, 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, 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.

30. In our view, stringent control of DD is essential to avoid misuse and abuse. Failure to comply with the statutory requirements to keep proper DD Registers may jeopardize the monitoring system of DD by public officers.
31. 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.
32. We are told in mitigation that the Defendant has since the incident taken immediate remedial measures to rectify his shortcomings and to prevent recurrence of the same mistake. In particular, the Defendant has familiarized himself with the statutory requirements under the DD Regulations.
33. We accept that the Defendant has learnt his lesson but we need to ensure that the chance of his repeating the same or similar breach should be low.
34. Having considered the nature and gravity of these 2 cases and the mitigation advanced by the Defendant, we order in respect of the First Case 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 24 months.
35. We further order in respect of the Second Case 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 24 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 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(s) 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 24-month suspension period; and

- (g) in case of change of Practice Monitor at any time before the end of the 24-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.

36. We further order that the above suspended removal orders to run concurrently.

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