

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 SUM Wing Tim (岑榮添醫生) (Reg. No.: M12293)

Date of hearing: 9 August 2019 (Friday)

Present at the hearing

Council Members/Assessors: Prof. Felice LIEH-MAK, GBS, CBE, JP  
(Chairperson of the Inquiry Panel)  
Dr LO Chi-yuen, Albert  
Prof. CHU Kent-man  
Mr LAM Chi-yau  
Ms NG Ka-man, Rendy

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Ms Alison Scott of Messrs. Howse  
Williams

Government Counsel representing the Secretary: Ms Sanyi SHUM

1. The amended charge against the Defendant, Dr SUM Wing Tim, is:

“That he, being a registered medical practitioner, was convicted at the Kwun Tong Magistrates’ Courts on 10 November 2015 of five 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 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 16 July 1999 to present and his name has never been included in the Specialist Register.
3. On 2 June 2015, pharmacists from the Department of Health (“DH”) visited the Defendant’s clinic in Tseung Kwan O for dangerous drugs (“DD”) inspection. The Defendant was asked to produce all DD and the relevant DD registers for inspection.
4. There is no dispute that 8 kinds of DD, namely, Rohypnol (Flunitrazepam) 1mg x 525 tablets; Akamon (Bromazepam) 1.5mg x 1,100 tablets; Akamon 3mg x 477 tablets; Panbesy (Phentermine) 15mg x 579 capsules; and Panbesy 30mg x 743 capsules; Duromine (Phenterime) 30mg x 313 capsules; Duromine 40mg x 317 capsules and Kratium (Diazepam) 2mg x 1,048 tablets were found by pharmacists from DH.
5. However, 6 of the DD registers kept by the Defendant were found to be non-compliant with the statutory requirements under the Dangerous Drugs Regulations, Cap. 134A (the “DD Regulations”) in that (1) invoice number(s) and address(es) of firm(s) from whom DD received were found to be missing from all the 6 DD registers; and (2) the name of firm(s) from whom DD received were found to be missing from some of the 6 DD registers. There was also one missing entry on the DD register for Duromine 30mg capsules in respect of DD received on 16 October 2013.
6. The Defendant was subsequently charged with 5 counts of the offence of “Failing to keep a register of dangerous drug in the specified form”, contrary to regulations 5(1)(a) and 5(7) of the DD Regulations. The Defendant was convicted on his own plea of the aforesaid offences at the Kwun Tong Magistrates’ Courts on 10 November 2015 and was fined a total sum of \$20,000.
7. And the Defendant’s convictions were reported to the Council through his solicitors by a letter dated 30 November 2015.

## **Findings of the Inquiry Panel**

8. There is no dispute that the aforesaid offences are punishable with imprisonment.

9. 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 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.”*

10. We are 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 criminal 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 its high standards and good reputation.

15. We accept that there was nothing in the evidence to suggest that the Defendant prescribed DD to his patients improperly.

16. 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 DD is 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.

17. 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 register may jeopardize the monitoring system of DD by public officers.
18. 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.
19. 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. The Defendant has studied and familiarized himself with the statutory requirements for keeping proper DD register. Moreover, the Defendant no longer keeps any DD in his clinic now. In case he needs to prescribe DD to his patients, he would ask them to purchase from outside pharmacies.
20. We accept that the Defendant has learnt his lesson but we need to ensure that he would not repeat the same or similar breach in future.
21. 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 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 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.

Prof. Felice LIEH-MAK, GBS, CBE, JP  
Chairperson of the Inquiry Panel  
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