

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr WONG Siu Lun (黃兆倫醫生) (Reg. No.: M12811)

Date of hearing: 4 June 2019 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. Felice LIEH-MAK, GBS, CBE, JP
(Chairperson of the Inquiry Panel)
Dr HO Pak-leung, JP
Prof. TAN Choon-beng, Kathryn
Mr HUNG Hin-ching, Joseph
Ms CHUI Hoi-ye, Heidi

Legal Adviser: Mr Edward SHUM

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

Government Counsel representing the Secretary: Mr Andrew TONG

1. The amended charges against the Defendant, Dr WONG Siu Lun, are:

“That he, being a registered medical practitioner:

- (a) was convicted at the Kowloon City Magistrates’ Courts on 26 November 2015 of four counts of the offence of failing to keep a register of dangerous drug 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; and

(b) was convicted at the Kowloon City Magistrates' Courts on 26 November 2015 of the offence of failing to use separate page within the register or separate part of the register for entries made with respect to different strengths of preparations of dangerous drug, which is an offence punishable with imprisonment, contrary to regulations 5(1)(c) 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's name has been included in the General Register from 8 July 2000 to present. His name had never been included in the Specialist Register.
3. On 28 May 2015, pharmacists from the Department of Health visited the Defendant's clinic in Mongkok for dangerous drug (“DD”) inspection.
4. There is no dispute that 5 types of DD, namely, Diazepam 5mg tablets; Dormicum (Midazolam) 5mg/1ml injections; Dormicum (Midazolam) 5mg/5ml injections; Duromine (Phentermine) 30mg capsules; Panbesy (Phentermine) 30mg capsules, were found.
5. However, 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 particular, (1) Dormicum (Midazolam) of different strengths were kept in one DD Register; and (2) the name and address of person(s) or firm(s) from whom received and invoice number were missing from 3 of the 4 DD Registers.
6. Moreover, the quantity of Duromine (Phentermine) 30mg capsules actually found in the Defendant's clinic (i.e. 98 capsules) was 9 capsules more than the quantity recorded in the DD Register (i.e. 89 capsules).
7. The Defendant was subsequently charged with 4 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; and 1 count of the offence of “failing to use separate page within the register or separate part of the register for entries made with respect to different strengths of preparations of dangerous drug”, contrary to regulations 5(1)(c) and 5(7) of the DD Regulations.

8. The Defendant was convicted on his own plea of the aforesaid offences at the Kowloon City Magistrates' Court on 26 November 2015 and was fined a total sum of \$12,500.
9. 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 22 December 2015.

Findings of the Inquiry Panel

10. Section 21(3) of the Medical Registration Ordinance, Cap. 161, 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.”

11. We are therefore entitled to treat the aforesaid convictions as conclusively proven against the Defendant.
12. Accordingly, we also find the Defendant guilty of the amended disciplinary offences as charged.

Sentencing

13. In line with published policy, we shall give credit to the Defendant for his frank admission and full cooperation throughout these disciplinary proceedings. 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. The Defendant has one previous disciplinary record relating to dispensation of an expired medicine to his patient in 2010. We accept that the present disciplinary offences are of a different nature. But then again, both incidents were related to drugs.

15. 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.
16. We accept that there was nothing in the evidence to suggest that the Defendant prescribed DD to his patients improperly.
17. 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.
18. 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.
19. 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.
20. 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 requirement on entry of supplier's information in the DD registers.
21. 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.

22. 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 2 months, and the operation of the removal order be suspended for a period of 12 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 12-month suspension period; and
 - (g) in case of change of Practice Monitor at any time before the end of the 12-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
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