

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Date of hearing: 25 March 2010
Defendant: Dr NG Aron Ho Shing (吳浩聲醫生)

1. The charges alleged against Dr NG Aron Ho Shing are that:

“That he, being a registered medical practitioner:

- (a) was convicted at the Kwun Tong Magistrates’ Courts on 18 September 2008 of eight counts 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;
- (b) was convicted at the Kwun Tong Magistrates’ Courts on 18 September 2008 of one count of “Illegal sale of Unregistered Pharmaceutical products”, which is an offence punishable with imprisonment, contrary to regulations 36(1) and 40 of the Pharmacy and Poisons Regulations made under the Pharmacy and Poisons Ordinance, Chapter 138, Laws of Hong Kong.”

Facts of the case

2. Dr NG Aron Ho Shing (“the Defendant”) is a registered medical practitioner since 14 February 1968.
3. At the material times, the Defendant was practising at the clinic located at the 5th and 6th Floors, Prestige Tower, 23-25 Nathan Road, Kowloon. A business registration certificate displayed at the premises showed that the business name was General Medical Centre. The Defendant said that he was

employed by the owner of the Centre Dr CHEUNG Ying Kit to provide treatment to the patients referred from Sau San Tong Healthy Trim Institute. He was the responsible doctor for the clinic.

4. On 11 January 2008, at around 14:15 hours, a team of officers of the Department of Health (“DH”) entered the premises of 5th Floor, Prestige Tower, 23-25 Nathan Road, Kowloon (“Location 1”). They revealed their identities to staffs inside the institute and met the Defendant at about 14:30 hours. The Defendant was requested by a DH officer to show all the dangerous drugs (“DD”) and DD records kept at the clinic for his professional use. The Defendant then showed the DD items kept in his consultation rooms. It was found that the working stocks of DD were kept in the Defendant’s consultation room at Location 1 and those bulky stocks of DD were kept in the Defendant’s consultation room at the 6th Floor in the same building (“Location 2”). The Defendant explained that his consultation room at Location 2 was just reallocated to Location 1.
5. In the presence of the Defendant, the DH officers found a total of 18 items of dangerous drugs stored in a locked drawer inside the Defendant’s consultation room at Location 1 and a total of 14 DD items inside the Defendant’s consultation room at Location 2. The Defendant was asked to produce all 18 DD Registers for inspection by the DH officers.
6. After checking the physical stocks of DD items against the DD registers, it was found that the registers in respect of 8 DD, namely Librax, Duromine 15mg, Panbesy 30mg, Redusa 35mg, Prothin 40mg, Akamon 1.5mg, Domar 5mg and Lorazepam 0.5mg, had discrepancies in quantities as against their ledger balances. All stocks of the above 8 DD were seized with their corresponding DD Registers. Other non-conformities found in the Registers included missing information on the local suppliers.
7. Under instruction, one of the DH officers went to the dispensing room and seized 17 kinds of herbal medicine including “Simplax” (which contains Vitamin B3) which were suspected to contain western medicine. It was confirmed that “Simplax” (which contains Vitamin B3) was not registered in Hong Kong.

8. The Defendant went to the DH office on 1 February 2008 to attend the Record of Interview. Under caution, he provided the explanation of the discrepancies of DD items.
9. Pharmacists of the 4 suppliers, namely Zuellig Pharma Ltd., Star Medical Supplies Ltd., Quality Pharmaceutical Lab. and IDS (Hong Kong) Ltd. gave witness statements regarding the supply of dangerous drugs to the Defendant. The original copies of the dangerous drugs forms were also provided by the pharmacists.
10. All the drugs seized were sent to Government Laboratory for analysis. On 13 May 2008, a certificate was received from the Government Chemist certifying that Librax, Duromine 15mg, Panbesy 30mg, Redusa 35mg, Prothin 40mg, Akamon 1.5mg, Domar 5mg and Lorazepam 0.5mg were controlled under the Dangerous Drugs Ordinance (First Schedule, Part I). On 29 May 2008, another certificate was received certifying that Slimplex was a pharmaceutical product.
11. On 18 September 2008, the Defendant was convicted at the Kwun Tong Magistrates' Courts of eight counts of "Failing to keep a register of dangerous drugs in the form specified in the First Schedule", which is an offence punishable with imprisonment and one count of "Illegal sale of Unregistered Pharmaceutical products", which is also an offence punishable with imprisonment.
12. These facts are not disputed.

Findings of the Council

13. The Defendant was cognizant of his right to have legal representation. He chose not to exercise that right. The Defendant confirmed that he is capable to represent himself.
14. The Defendant did not exercise his right to give evidence. We do not draw negative inference from this.
15. The Defendant admitted to both charges.

Charges

16. Doctors in Hong Kong are uniquely placed to prescribe and dispense drugs. This privilege carries a heavy responsibility to take due care in the process of managing, storing and dispensing the drugs.
17. This is especially germane in the case of Dangerous Drugs, where the registered medical practitioners are given the legal right to possess and supply the Dangerous Drugs on the basis that the statutory requirement with respect to the safe custody and record keeping are properly complied with.
18. The Defendant doctor has a positive duty to act in a particular way for the safety of the public and to ensure the proper control over the distribution of Dangerous Drugs in the community.
19. Dangerous Drugs Registers are very important documents since this is one of the key mechanisms that the distribution of Dangerous Drugs by the doctors in the community can be monitored.
20. The discrepancies between the dispensed and recorded drugs are considerable.
21. The Pharmacy and Poisons Board is charged with the responsibility of registering drugs to ensure the safety of all the drugs dispensed in Hong Kong. This is for the protection of the public.
22. The illegal sale of unregistered pharmaceutical products is not only an offence punishable with imprisonment but also can endanger the health of the public.
23. We are satisfied that the allegations in charges (a) and (b) in the Notice of Inquiry are proven to the required standard and we find him guilty of both charges.

Sentencing

24. The Defendant has a clear record and cooperated fully throughout the Inquiry. We take these factors into consideration in sentencing.

25. The Defendant raised in mitigation that when he joined the Clinic the discrepancies in the Dangerous Drugs Registers of the clinic already existed. There was nothing he could do about it. We do not accept this mitigation as a doctor who prescribes and dispenses dangerous drugs has a duty to maintain proper record of dangerous drugs. In addition, the evidence indicates that the Defendant failed to keep proper record from 2006 to 2008 even though he was employed in the Clinic since 2002.
26. The Defendant claimed that the record keeping was assigned to clinic nurses. We do not accept this mitigation. The responsibility of ensuring the proper record of dangerous drugs always resides on the doctors. This responsibility cannot be delegated.
27. The Defendant raised in mitigation that he has taken remedial measures to prevent a recurrence of the mistake. However, he did not present any evidence to support his claim.
28. The Medical Council has all along taken a serious view of failing to keep proper record of dangerous drugs. Registered medical practitioners are authorised to supply dangerous drugs for the purpose of medical treatment, and there is a corresponding responsibility to keep records in the prescribed form. Failure to keep proper record is not merely a matter of technical breach. The purpose of such record keeping is to ensure that the dangerous drugs are traceable and to prevent abuse by unscrupulous members of the profession.
29. The illegal sale of unregistered pharmaceutical products is not only an offence punishable with imprisonment but also can endanger the health of the public.
30. With regard to the gravity of the charges and mitigating factors, in particular his admission of the charges at the Inquiry, we make the following orders:
 - (i) in respect to charge (a), the Defendant's name be removed from the General Register for a period of 3 months;
 - (ii) in respect to charge (b), the Defendant's name be removed from the General Register for a period of 3 months;
 - (iii) given that the charges arose at the same time, the orders shall run concurrently.

31. We have also considered whether the order should be suspended from operation. We do not think that this is an appropriate case for suspension.

Prof. Felice Lieh-Mak, CBE, JP
Chairman, Medical Council