

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LAM Tak Wa (林德華醫生) (Reg. No. M07202)

Date of hearing: 22 May 2014

1. The charge against the Defendant, Dr LAM Tak Wa, is that:

“On 28 May 2012, he, being a registered medical practitioner, was convicted at the Eastern Magistrates’ Courts of seven counts of an offence punishable with imprisonment, namely “Failing to keep record of a Dangerous Drug obtained” contrary to Regulations 5(1)(a) and 5(7) of the Dangerous Drugs Regulations made under Dangerous Drugs Ordinance, Cap 134, Laws of Hong Kong.”

Facts of the case

2. At all material times, the Defendant was, and still is, a registered medical practitioner in Hong Kong.
3. On 12 December 2011, the Department of Health inspected the Defendant’s clinic at Ap Lei Chau. At the time, 7 types of dangerous drugs were found at his clinic, namely :-
- (i) Bromazepam 1.5 mg tablets x 1,000 tablets;
 - (ii) Chlordiazepoxide 5 mg tablets x 2,230 tablets;
 - (iii) Lorazepam 1 mg tablets x 1,871 tablets;
 - (iv) Lorazepam 2 mg tablets x 3,348 tablets;
 - (v) Medocalum tablets containing Chlordiazepoxide(and Clidinium) x 1,627 tablets;
 - (vi) Diazepam 2 mg tablets x 1,898 tablets; and
 - (vii) Diazepam 5 mg tablets x 6,045 tablets.

4. None of the aforesaid drugs were recorded in the dangerous drug registers kept by the Defendant. The Defendant was subsequently charged with 7 counts of “failing to keep record of a dangerous drug obtained”, contrary to Regulations 5(1)(a) and 5(7) of the Dangerous Drugs Regulations [“the Dangerous Drugs Regulations”] made under the Dangerous Drugs Ordinance, Cap. 134 [“the Offences”].
5. Any person who contravenes regulation 5(1)(a) of the Dangerous Drugs Regulations is liable on conviction to a fine of HK\$450,000 and to imprisonment for 3 years.
6. The Defendant was convicted on his own plea of the Offences at the Eastern Magistrates' Courts on 28 May 2012. On 4 June 2012, the Defendant was fined a total sum of HK\$39,200 for the Offences. The convictions were reported to the Medical Council by the Defendant, through his solicitors, Messrs. Mayer Brown JSM, by a letter dated 7 June 2012.

Findings of Council

7. Pursuant to section 21(3) of the Medical Registration Ordinance, the Medical Council may consider any record of the case in which the Defendant’s conviction is recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence for which he has been convicted.
8. In this connection, we noted from the prosecution witness statement of Mr SUN, one of the Government Pharmacists who inspected the Defendant’s clinic on 12 December 2011 that none of the dangerous drug records kept by the Defendant were up to date. In fact, the most recent entry was made on 1 February 2009.
9. Taking into consideration the Certificate of Trial and the transcript of the trial hearing before the Magistrate, we are satisfied that the Defendant was convicted in Hong Kong of an offence punishable with imprisonment, namely, “failing to keep record of a dangerous drug obtained”, contrary to regulation 5(1)(a) and 5(7) of the Dangerous Drugs Regulations made under Dangerous Drugs Ordinance, Cap. 134, Laws of Hong Kong.
10. Therefore, we find the Defendant guilty of the disciplinary offence.

Sentencing

11. The Defendant has a clear record.
12. In line with our published policy, we shall give him credit for his frank admission in this Inquiry and cooperation during preliminary investigation. However, given that there is hardly any room for dispute in a disciplinary case involving criminal conviction, the credit to be given to the Defendant must necessarily be of a lesser extent than in other cases.
13. We bear in mind that the purpose of a disciplinary order is not to punish the Defendant for the criminal offence 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.
14. The Medical Council has repeatedly emphasized the importance of proper record of dangerous drugs in compliance with the statutory requirements. Medical practitioners being given the legal authority to supply dangerous drugs must diligently discharge the corresponding responsibility to keep records in the prescribed form. As a matter of fact, the dangerous drug 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 requirement.
15. In the past years, all cases of failing to comply with the statutory requirements to keep proper dangerous drugs register have been dealt with by removal from the General Register, and in less serious cases the removal orders were suspended for a period with the condition of peer audit.
16. In this case, the Defendant has been in breach of the statutory duty for 2 years. Although the quantities of dangerous drugs involved in this case are quite large, it is not challenged that the Defendant prescribed the dangerous drugs to his patients properly.
17. We appreciate that the Defendant had a large patient load and he also spent a lot of time on community and voluntary services but it cannot be an excuse for not complying with the statutory requirement. However, the Defendant has learnt

his lesson and we accept that the chance of Defendant repeating the same or similar breach will be low.

18. Having regard to the gravity of the case and what we heard and read in mitigation, we order that the Defendant's name be removed from the General Register for a period of 6 months, and the removal order be suspended for a period of 24 months, subject to the condition that the Defendant shall complete during the suspension period satisfactory peer audit by a doctor to be appointed by the Medical Council with the following terms:-

- (a) the appointed doctor 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 appointed doctor should be given unrestricted access to all parts of the clinic and the relevant records which in the appointed doctor's opinion is necessary for proper discharge of his duty;
- (e) the appointed doctor shall report directly to the Medical Council the findings of his peer audit at 6-monthly intervals. Where any defects are detected, such defects should be reported to the Medical Council as soon as practicable.

Prof. LAU Wan Yee, Joseph, SBS
Chairman, Medical Council