

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr CHENG Chi Choi (Reg. No.: M09594)

Date of hearing: 29 June 2022 (Wednesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr YEUNG Hip-wo, Victor
Dr MOK Chun-keung, Francis
Ms LI Siu-hung
Ms LEE Hong-yee, Connie

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Mr Eddie NG instructed by
Messrs. Kennedys

Government Counsel representing the Secretary: Mr Louis POON

1. The charge against the Defendant, Dr CHENG Chi Choi, is:

“That he, being a registered medical practitioner, was convicted at the Kwun Tong Magistrates’ Courts on 27 July 2021 of 10 counts of the offence 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 the Dangerous Drugs Ordinance, Chapter 134, Laws of Hong Kong.”

Facts of the case

2. The name of the Defendant has been included in the General Register from 26 September 1994 to the present and his name has never been included in the Specialist Register.
3. By a letter dated 23 August 2021, the Defendant informed the Medical Council (the “Council”) that he was convicted after trial on 27 July 2021 of 10 counts of the offence of “*Failing to keep a register of dangerous drugs in the form specified in the First Schedule*” contrary to Regulations 5(1)(a) and 5(7) of the Dangerous Drugs Regulations made under the Dangerous Drugs Ordinance, Cap. 134, Laws of Hong Kong.
4. In support of the Secretary’s case against the Defendant, the Legal Officer placed before us the Certificates of Trial of the Defendant and the transcript of his trial hearing before the Magistrate (the “Transcript”).
5. According to the Certificates of Trial, the Defendant was found guilty by the trial Magistrate of 10 counts of the offence of “*Failing to keep a register of dangerous drugs in the form specified in the First Schedule*” and was fined a total sum of \$30,000.
6. According to the Transcript, the trial Magistrate found proved from the Admitted Facts of the Case that on 16 November 2020, pharmacists from the Department of Health visited the Defendant’s clinic in Lam Tin, Kowloon for dangerous drugs (“DD”) inspection.
7. There is no dispute that 10 types of DD, namely, Dormicum 15mg x 945 tablets; Rohypnol 1 mg x 630 tablets; Akamon 3mg x 900 tablets; Diazepam (Kratium) 2mg x 1,253 tablets; Xanax 0.25mg x 100 tablets; Redusa Forte 35mg x 725 capsules; Redusa 15mg x 661 capsules; Diazepam (Kratium) 5mg x 2,949 tablets; Panbesy 15mg x 550 capsules; and Epsilon x 1,338 tablets, were found.

8. 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 in that:-
- (i) the remaining balance(s) of DD were missing;
 - (ii) date(s) of receipt from suppliers of DD were missing;
 - (iii) name(s) and address(es) of suppliers of DD were missing;
 - (iv) amount of DD received and invoice number(s) were missing; and
 - (v) identity card number(s) of patient(s) were missing.

Findings of the Inquiry Panel

9. There is no dispute that the aforesaid offence was and still is punishable with imprisonment. By virtue of section 21(1)(a) of the Medical Registration Ordinance, Cap. 161 (“MRO”), our disciplinary powers against the Defendant are engaged.
10. Section 21(3) of the MRO 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. Taking into consideration the Certificates of Trial and the Transcript, we are therefore entitled to treat the aforesaid convictions as conclusively proven against the Defendant.
12. Accordingly, we find the Defendant guilty of the disciplinary offence as charged.

Sentencing

13. The Defendant has a clear disciplinary record.
14. In line with our 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 convictions, the credit to be given to him must necessarily be of a lesser extent than in other cases.
15. We bear in mind that the primary 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 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. We are told in mitigation that all the missing particulars in the DD Registers kept by the Defendant could be retrieved from other records kept in the Defendant's clinic.
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. Apart from adopting the specified form for keeping separate and proper register for each and every DD kept in his clinic, he had instructed his clinic assistants to conduct daily check of the running balance of DD. In addition, the Defendant would conduct weekly inspection of the running balance of DD and the DD Registers so as to ensure that the latter are kept in full compliance with the statutory requirements.
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. Taking into consideration 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 all or any of the clinic(s) 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 3 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 at 3-monthly intervals 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. LAU Wan-yee, Joseph, SBS
Chairperson of the Inquiry Panel
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