

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr TSANG Pak Ho (曾伯豪醫生) (Registration No.: M02757)

Date of hearing: 3 February 2015

1. The charge against the Defendant, Dr TSANG Pak Ho, is:

“That he, being a registered medical practitioner, was convicted on 12 March 2013 at the Eastern Magistrates’ Courts of nineteen counts of an offence punishable with imprisonment, namely “Failing to keep a Register of Dangerous Drugs in the form specified in the First Schedule”, 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.”

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 August 1976 to present and in the Specialist Register under the Specialty of General Surgery since 7 September 1998.

3. On 8 August 2012, the Department of Health inspected the Defendant’s clinic in Central and there is no dispute that the following 19 types of dangerous drugs [“the Dangerous Drugs”] were found in the premises, namely:-

- (i) 165 Xanax 0.5 mg tablets containing Alprazolam;
- (ii) 1 bottle of 105ml Morphine Syrup 50mg/5mL containing Morphine;
- (iii) 172 Lexotan 3 mg tablets containing Bromazepam;

- (iv) 220 Rohypnol 1 mg tablets containing Flunitrazepam;
- (v) 210 Dormicum 15 mg tablets containing Midazolam;
- (vi) 568 Akamon 1.5 mg tablets containing Bromazepam;
- (vii) 508 Nalion 0.25 tablets containing Alprazolam;
- (viii) 648 Lorans 1 tablets containing Lorazepam;
- (ix) 161 Methadone BP 5 mg tablets containing Methadone;
- (x) 290 Xanax 0.25 mg tablets containing Alprazolam;
- (xi) 174 PMS-clonazepam 2 mg tablets containing Clonazepam;
- (xii) 577 Flunita tablets 2 mg containing Flunitrazepam;
- (xiii) 500 PMS-clonazepam 0.5 mg tablets containing Clonazepam;
- (xiv) 328 Rivotril 0.5 mg tablets containing Clonazepam;
- (xv) 227 Halcion 0.25 mg tablets containing Triazolam;
- (xvi) 401 Rivotril 2 mg tablets containing Clonazepam;
- (xvii) 1260 Kratium 2 mg tablets containing Diazepam;
- (xviii) 1165 Kratium 5 mg tablets containing Diazepam; and
- (xix) 2096 Kratium 10 mg tablets containing Diazepam.

4. But when being asked to produce the relevant registers for inspection, the Defendant was only able to produce one register for all the Dangerous Drugs. Also, the Defendant was found to have failed to record in his register all the particulars required to be kept with respect of every dangerous drug obtained or supplied by him in accordance with the form specified in the First Schedule to the Regulations.

5. The Defendant was subsequently charged with 19 counts 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 [“the Offences”].

6. 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.
7. The Defendant was convicted on his own plea of the Offences at the Eastern Magistrates' Courts on 12 March 2013 and was fined a sum of HK\$2,500 for each of the Offences, making a total of HK\$47,500. The convictions were reported to the Medical Council by the Defendant, through his solicitors, Messrs. Mayer Brown JSM, by a letter dated 13 March 2013.

Findings of the Council

8. Pursuant to section 21(3) of the Medical Registration Ordinance, the Medical Council is not required to inquire into whether the Defendant was properly convicted. However, the Medical Council may consider any record of the case in which his conviction was 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.
9. In this connection, we noted from the Agreed Brief Facts of the Case at the magistracy trial that contrary to the Form of Register specified in the First Schedule to the Regulations, particulars with respect to the 19 types of dangerous drugs including name(s) and address(es) of person(s) or firm(s) from whom received or to whom supplied; patients' identity card numbers; invoice numbers and balance were all missing from the register of dangerous drugs kept by the Defendant.
10. Taking into consideration the Certificates of Trial and the transcript of the trial hearing before the Magistrate, we are satisfied that the Defendant was convicted in Hong Kong of 19 counts of an offence punishable with imprisonment, namely, "Failing to keep a Register of Dangerous Drugs in the form specified in the First Schedule", 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.

11. Therefore, we find the Defendant guilty of the disciplinary offence.

Sentencing

12. The Defendant has a clear record.

13. 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.

14. 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.

15. 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 drugs 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.

16. In the recent 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.

17. It is not challenged that the Defendant prescribed the dangerous drugs to his patients properly.

18. We were told in mitigation that the patients' numbers (which comprise of the 6 digits of their identity card numbers) had been recorded in the register of dangerous drugs kept by the Defendant.
19. We appreciate that the Defendant had spent a lot of time on community and voluntary services but it cannot be an excuse for not complying with the statutory requirements. As a holder of a Postgraduate Diploma in Community Psychological Medicine, the Defendant ought to understand the importance of keeping a proper register of dangerous drugs. However, the Defendant has learnt his lesson and we accept that the chance of the Defendant repeating the same or similar breach will be low.
20. 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 2 months, and the removal order be suspended for a period of 12 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 3 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 are necessary for proper discharge of his duty;
 - (e) the appointed doctor shall report directly to the Medical Council the finding of his peer audit at 3-monthly intervals. Where any defects are

detected, such defects should be reported to the Medical Council as soon as practicable; and

- (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.

Remarks

- 21. The Defendant's name is included in the Specialist Register under the speciality of General Surgery. It is for the Education and Accreditation Committee to consider whether any action should be taken in respect of his specialist registration.

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