

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY **MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Dates of hearing: 11 February 2009

Defendant: Dr YEUNG Siu Man (楊兆文醫生)

1. The charge alleged against Dr YEUNG Siu Man is that:

“On 9 October 2007, he, being a registered medical practitioner, was convicted of an offence punishable with imprisonment at the Tuen Mun Magistrates’ Courts, namely selling drug intended for use by man but unfit for that purpose, contrary to Sections 54(1) and 150 of and the Ninth Schedule of the Public Health and Municipal Services Ordinance, Cap. 132”

2. On 20 April 2007, a 3 years old girl was brought by her mother to see the Defendant for medical consultation. The Defendant prescribed medicines to the patient, including a bottle of ‘Terbutaline 1.5mg /5ml Syrup’. After taking a dose of the syrup in accordance with the prescription, the patient developed sore throat and intense cough. The father noticed that the syrup smelled of alcohol and that it was inflammable. He called 999 and the patient was taken by ambulance to a hospital for emergency treatment. The Terbutaline syrup was subsequently found by the Government Chemist to contain 69% volume by volume isopropyl alcohol. It was confirmed that isopropyl alcohol was a toxic alcohol intended for external use and was unsuitable for internal human consumption.
3. On 21 April 2007, pharmacists of the Department of Health visited the Defendant’s clinic and found a 500 ml bottle of syrup labelled as ‘Bucanin Syrup 1.5mg/5ml’, two 30ml bottles and four 45ml bottles labelled as ‘Terbutaline Syr’. The contents of these bottles were subsequently confirmed by the Government Chemist to contain 68-71% volume by volume isopropyl alcohol. A 3.6 litres

bottle of isopropyl alcohol was also placed on the same shelf as the Bucanin syrup and the Terbutaline syrup.

4. The Defendant admitted to the pharmacists of the Department of Health that the Terbutaline syrup was pre-packed by his clinic assistant who by mistake used isopropyl alcohol instead of Terbutaline.
5. The Defendant was prosecuted for the offence of selling a drug intended for human consumption but was unfit for that purpose, contrary to sections 54(1) and 150 of the Public Health and Municipal Services Ordinance. On 9 October 2007, the Defendant pleaded guilty to the offence at the Tuen Mun Magistrates' Courts. He was convicted of the offence and sentenced to a fine. The offence is punishable with 6 months imprisonment, although the Defendant was not sentenced to imprisonment.
6. Before us the Defendant admits that he was convicted of the offence as set out in the charge in the notice of inquiry. In the circumstances, we find the Defendant guilty as charged.

Sentencing

7. The Defendant has a clear record.
8. We give the Defendant credit for his honest admission of the charge and the facts of the case, which shows his remorse. He promptly took measures to ascertain and control the problem, and was cooperative in the investigation by the relevant authorities. Having regard to the precautionary measures taken by the Defendant after the incident, we are of the view that the chance of recurrence of the problem is relatively low.
9. Defence Solicitor asks us to take into account the Defendant's usual practice to double check all medicines before they were handed to patients. However, this claim is contradictory to what the Defendant's counsel told the Court in the criminal case. Neither the solicitor (who happened to be in the same firm as Defence Solicitor today) nor the Defendant upon hearing what the counsel told the Court made any efforts to rectify the alleged mistake. The Defendant's counsel has not been asked to comment on his alleged mistake. In the circumstances, we are not prepared to accept that claim. Nevertheless, this will

not affect the sentence which we shall impose.

10. We accept that the patient in this case has not suffered serious harm. However, in part this was due to the vigilance of the patient's father. If the patient had finished taking the medicine as prescribed, there would have been much more serious consequence to the patient. Fortunately the syrup in this case has a strong odour which could be detected by a layman. Otherwise, the mistake would not have been discovered at an early stage.
11. The syrup in question has a very high concentration of isopropyl alcohol. The father could smell the alcohol. If proper care had been taken in preparing and dispensing the syrup, this mistake would not have occurred.
12. We also bear in mind that carelessness in the preparation and dispensing of medicines can have potentially dangerous consequences, depending on the nature of the medicine wrongly dispensed. If more lethal poison had been wrongly dispensed, the consequence would have been serious.
13. All doctors have the responsibility to exercise care in their medical practice for the protection of the public. A doctor may engage clinic assistants to assist him in preparing and dispensing medicines, but it is the doctor's personal duty to ensure that the work is done properly.
14. Having regard to the gravity of the case and the mitigating factors, in particular the Defendant's remorse and responsible attitude after the incident to rectify the problem, we order that:-
 - (a) The Defendant's name be removed from the General Register for a period of 2 months.
 - (b) Operation of the removal order be suspended for a period of 12 months.
 - (c) There shall be the condition that the Defendant's practice during the suspension period be subject to satisfactory inspection and audit by a supervising doctor to be appointed by the Council in accordance with the following terms:-
 - (i) The supervising doctor shall conduct random audit and supervision

of the Defendant's practice with particular regard to drug prescription, preparation and dispensing.

- (ii) The audit and supervision should be conducted without prior notice to the Defendant.
- (iii) The audit and supervision should be conducted at least once every 3 months during the suspension period.
- (iv) The supervising doctor shall be given unrestricted access to all parts of the Defendant's clinic and the relevant records (including but not limited to medical records of the Defendant's patients, inventory and records of drugs) which in the supervising doctor's opinion is necessary for proper discharge of his duty.
- (v) The supervising doctor shall report directly to the Council the findings of the audit and supervision at the end of the 6th and 12th month from the date of this order. If any irregularity is observed, the supervising doctor should report such irregularity as soon as possible.

15. We wish to emphasize that a heavier sentence would have been imposed, if not because of the Defendant's remorse and responsible attitude in rectifying the problem and preventing future recurrence.

16. In view of the recent incidents of improper dispensing of medicines, we would take the opportunity to impress upon members of the medical profession that particular care must be taken to ensure safe and proper dispensing of medicines. The procedures set out in the Good Dispensing Practice Manual issued by the Hong Kong Medical Association should be observed.

Prof. Cindy LAM
Temporary Chairman, Medical council