

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY

MEDICAL REGISTRATION ORDINANCE, CAP. 161

Date of hearing: 28 April 2010

Defendant: Dr YIU Sing Nam (姚星南醫生)

1. The charges alleged against Dr YIU Sing Nam are that:

“He, being a registered medical practitioner, was convicted at the Eastern Magistrates’ Courts on 30 June 2008 of eleven offences punishable with imprisonment, namely:

(a) on 30 October 2007 at Flat 1B, Lei-Shun Court, 126 Leighton Road, Causeway Bay (“the Premises”), in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to enter in a register kept in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Lorans 0.5mg tablets containing lorazepam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;

(b) on 30 October 2007 at the Premises, in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to enter in a register kept in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Lorazepam 1mg tablets containing lorazepam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;

- (c) on 30 October 2007 at the Premises, in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to enter in a register kept in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Lorazepam 2mg tablets containing lorazepam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;
- (d) on 30 October 2007 at the Premises, in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to enter in a register kept in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Dalmadorm 15mg capsules containing flurazepam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;
- (e) on 30 October 2007 at the Premises, in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to enter in a register kept in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Sedapam 2mg tablets containing diazepam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;
- (f) on 30 October 2007 at the Premises, in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to enter in a register kept in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, in chronological sequence in the form

specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Diazepam 5mg tablets containing diazepam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;

(g) on 30 October 2007 at the Premises, in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to enter in a register kept in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Domar capsules containing pinazepam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;

(h) on 30 October 2007 at the Premises, in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to enter in a register kept in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Dormicum 15mg tablets containing midazolam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;

(i) on 30 October 2007 at the Premises, in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to keep a register in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, enter therein in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Rohypnol 2mg tablets containing flunitrazepam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;

(j) on 30 October 2007 at the Premises, in Hong Kong, being a person

authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to keep a register in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, enter therein in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Frisium 10mg tablets containing clobasam, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong;

(k) on 30 October 2007 at the Premises, in Hong Kong, being a person authorized by the Dangerous Drugs Ordinance, Chapter 134, to supply a dangerous drug, failed to keep a register in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, enter therein in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of a dangerous drug, namely, Atractil 75mg Cap containing Amfepramone, obtained by him and/or supplied by him, whether to persons within or outside Hong Kong.”

Agreed facts of the case

2. The Defendant has been included in the General Register from 15 July 1975 to the present.
3. On 30 October 2007, the Department of Health conducted a random spot check investigation of the Dangerous Drugs Registers and dangerous drugs stock in the Defendant’s clinic at Flat 1B, Lei Shun Court, 126 Leighton Road, Causeway Bay, Hong Kong.
4. In the Defendant’s Dangerous Drugs Registers, records of the following 8 dangerous drugs were not kept in compliance with the form specified in the First Schedule of the Dangerous Drugs Regulations (“the Regulations”), Cap. 134A and the provisions stipulated under regulations 5 and 6 of the Regulations:
 - (a) Lorans 0.5mg tablets containing lorazepam;
 - (b) Lorazepam 1mg tablets containing lorazepam;
 - (c) Lorazepam 2mg tablets containing lorazepam;

- (d) Dalmadorm 15mg capsules containing flurazepam;
 - (e) Sedapam 2mg tablets containing diazepam;
 - (f) Diazepam 5mg tablets containing diazepam;
 - (g) Domar capsules containing pinazepam; and
 - (h) Dormicum 15mg tablets containing midazolam.
5. There was no Dangerous Drug Registers in relation to the following 3 dangerous drugs:
- (a) Rohypnol 2mg tablets containing flunitrazepam;
 - (b) Frisium 10mg tablets containing clobasam; and
 - (c) Atractil 75mg Cap containing Amfepramone.
6. In relation to the matters stated in paragraphs 4 and 5 above, the Defendant was charged with an offence contrary to regulation 5(1)(a) of the Regulations in respect of each type of drugs. He pleaded guilty to the 11 counts of offence at the Eastern Magistrates' Court on 30 June 2008. He was sentenced to a fine of \$2,000 on each count of offence.

Findings of Council

7. The Defendant admitted to charges (a) to (k).
8. For the purpose of this inquiry, we take charges (a) to (h) together because they occurred on the same date and were all related to the failure to enter in the register kept in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of the 8 drugs listed in the agreed facts.
9. Similarly, we take charges (i), (j) and (k) together because they occurred on the same date and were all related to the failure to keep a register in accordance with Regulations 5 and 6 of the Dangerous Drugs Regulations, Cap. 134, enter therein in chronological sequence in the form specified in the First Schedule of the said Regulations true particulars with respect to every quantity of the 3 drugs listed in the agreed facts.

10. Registered medical practitioners 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.
11. 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.
12. The Defendant 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.
13. Dangerous Drugs Registers are very important documents since this is one of the key mechanisms that the distribution of Dangerous Drugs by registered medical practitioners in the community can be monitored.
14. We are satisfied that the allegations in charges (a) to (k) in the Notice of Inquiry are proven to the required standard and we find him guilty of all the charges.

Sentencing

15. The Defendant has a clear record, and he showed remorse by cooperating fully throughout the course of the investigation, the criminal trial, the investigation of the Preliminary Investigation Committee and this inquiry. We take these factors into consideration in sentencing.
16. The Defendant raised in mitigation that he has taken remedial action by studying the Power-point® presentation of “Pitfalls in Dangerous Drugs Keeping in Medical Council Aspects”. The discrepancy as a percentage of the total number of dangerous drugs dispensed over a 2-year period was small.
17. The Medical Council has all along taken a serious view on failing to keep proper record of dangerous drugs. Registered medical practitioners are authorized to supply dangerous drugs for the purpose of medical treatment, and there is a corresponding responsibility to keep records in the prescribed form.

18. The Defendant has a personal duty under the Dangerous Drugs Regulations to ensure accuracy of his Dangerous Drug Registers, and he failed to do so.
19. Having regard to the gravity of the case and the mitigating factors, we order that:
 - (a) the Defendant's name be removed from the General Register for a period of 1 month,
 - (b) the removal order be suspended for a period of 12 months, on 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 of the Defendant's practice with particular regard to the keeping of Dangerous Drugs Registers.
 - ii. The audit should be conducted without prior notice to the Defendant.
 - iii. The audit should be conducted at least once every 6 months within the period of suspension.
 - iv. During the audit, the supervising doctor shall be given unrestricted access to all parts of the Defendant's clinic and the relevant records 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 at the end of the 6th and 12th month from the date of this order. If any irregularity is observed, the supervising doctor shall report such irregularity as soon as possible.
 - (c) The removal order will be activated upon breach of the above conditions, or commission of any further disciplinary offence.

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