

香港醫務委員會

The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Date of hearing: 24 March 2011

Defendant: Dr TIN Lo (田露醫生)

1. The charge alleged against the Defendant, Dr TIN Lo, is that:

“She, being a registered medical practitioner, was convicted at the Kowloon City Magistrates’ Courts on 19 June 2009 of three counts of “Failing to keep record of dangerous drugs obtained or supplied”, which is an offence punishable with imprisonment, contrary to regulations 5(1)(a) and 5(7) of the Dangerous Drugs Regulations made under Dangerous Drugs Ordinance, Chapter 134, Laws of Hong Kong.”

2. The Defendant was an employee doctor practising at the employer’s clinic in Cheung Sha Wan. She was responsible for the dangerous drugs kept in the clinic. Under the requirement of regulation 5 of the Dangerous Drugs Regulation, she was required to keep a separate register for each dangerous drug, and the registers must comply with the statutory format.
3. On 25 September 2008, staff of the Department of Health conducted an inspection at the clinic. It was found that the dangerous drugs registers in respect of 3 dangerous drugs did not comply with the statutory format. There was no record of the names and addresses of the suppliers and the invoices concerned.
4. The Defendant was summoned for 3 counts of “failing to keep proper record of dangerous drugs obtained or supplied”. She pleaded guilty to the 3 summonses at the Kowloon City Magistrates’ Courts on 19 June 2009. She was convicted of the offences and sentenced to a fine of \$8,000.

5. The Defence admits that the Defendant was convicted of the 3 above-mentioned offences. On the basis of the Defence admission and the certificates of trial, we are satisfied that the disciplinary charge has been proved.

Sentencing

6. The Defendant has a clear record.
7. We also give her credit for admitting the allegations of the disciplinary charge. However, as we have pointed out in previous cases, criminal convictions are indisputable given the certificates of trial issued by the Courts, and the credit to be given for admission of such charges necessarily should be less than credit to be given in other cases in sentencing.
8. We have also indicated in previous cases that it is for the Defence to satisfy the Council of the factual matters relied on for mitigation, and it is not sufficient for the Defence to make a bare assertion of facts. In this case, we would expect that the assertion that the invoices and the suppliers' names and addresses claimed to be available at the head office of the Defendant's employer would be produced to support the mitigation. We reiterate this point with the expectation that the Defence should properly prepare the documents for mitigation in future cases.
9. This Council has consistently emphasized the importance of proper record of dangerous drugs in compliance with the statutory requirements. Doctors being given the legal authority to supply dangerous drugs must diligently discharge the corresponding responsibility to keep records in the prescribed form. The purpose of such record keeping is to ensure that the dangerous drugs are traceable at all stages and to prevent abuse by unscrupulous members of the profession.
10. We agreed with the Court of Appeal in the case of *Ng Mei Sin* [1995] that any breach of the Dangerous Drugs Regulations must be treated seriously, as the Regulations seek to ensure that drugs legitimately supplied to doctors are fully and carefully controlled so that the risk of those drugs falling into the wrong hands is minimized.

11. We also agreed with the Court of Appeal in the case of *Lai Chung Lim* [1996] that 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. A doctor exercising proper care would have no difficulty at all in complying with the requirement.
12. The Defence Solicitor mitigated on the basis that the format of the register in question has been in use by her employer for many years, and there was no reason for the Defendant to doubt that it was not consistent with the statutory format. That mitigation is in complete disregard of a doctor's professional responsibility to find out and comply with the legal requirements governing medical practice, instead of relying on other persons to tell him what the legal requirements are. Furthermore, the statutory format for dangerous drug registers is reproduced in the 'Code of Professional Conduct' for ready reference. A doctor fulfilling his responsibility to study the Code will immediately realize that the format adopted by the Defendant's employer is incorrect. In this respect, we must advise the Defendant to study the 'Code of Professional Conduct' with care and to take proper measures to comply with it.
13. In the present case, the quantities of dangerous drugs found in the Defendant's possession tallied with the balance recorded in the respective dangerous drugs registers. We note that there are records of unusual events such as "*dropped 1 tablet onto the floor*", which suggests that foul play was unlikely to have been involved. We are satisfied that the case is at the lowest end of the scale of gravity in similar cases.
14. Since 2006, all cases of failing to comply with the statutory requirements to keep proper dangerous drugs registers 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 and supervision.
15. Having regard to the gravity of the case and the mitigating factors, we order that the Defendant's name be removed from the General Register for a period of 1 month, and the removal order be suspended for a period of 12 months, subject to the condition that there be satisfactory peer audit and supervision by a supervising doctor to be appointed by the Council during the suspension period in accordance with the following terms:-

- (a) The supervising doctor shall conduct random audit of the Defendant's practice with particular regard to the keeping of dangerous drugs registers.
 - (b) The supervision and audit should be conducted without prior notice to the Defendant.
 - (c) The supervision and audit should be conducted at least once every 6 months during the suspension period.
 - (d) During the audit, the supervising doctor should be given unrestricted access to all parts of the clinic and the relevant records which in the supervising doctor's opinion is necessary for proper discharge of his duty.
 - (e) The supervising doctor shall report directly to the Council the finding of his supervision and audit at 6-monthly intervals. Where any defects are detected, such defects should be reported to the Council as soon as practicable.
16. We wish to remind the Defendant that any breach of the condition is a separate disciplinary offence under section 21(1) (e) of the Medical Registration Ordinance, and may lead to activation of the suspended removal order.

Dr Chow Pak Chin
Temporary Chairman, Medical Council