

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr CHAN Moon Cheung David (陳滿章醫生) (Reg. no M01714)

Date of hearing: 29 April 2013

1. The charge alleged against the Defendant, Dr CHAN Moon Cheung David, is that:

“He, being a registered medical practitioner, was convicted at the Kwun Tong Magistrates’ Courts on 29 November 2010 of two offences punishable with imprisonment, namely failing to keep register or records of (i) a dangerous drug named Silence tablets 1mg, and (ii) a dangerous drug named Lotevem tablets 0.5mg in accordance with the Dangerous Drugs Regulations (Cap. 134A), contrary to Regulations 5(1)(a) and 5(7) of the Dangerous Drugs Regulations.”

Facts of the case

2. On 4 May 2010, officers of the Department of Health conducted an operation at the Defendant’s clinic. There were 2 types of dangerous drugs, namely, 672 tablets of “Silence Tablets 1 mg”, and 329 tablets of “Lotevem Tablets 0.5 mg”. The Defendant produced a register of dangerous drugs in respect of “Ativan 1 mg” and “Ativan 0.5 mg”. The register was not in the format prescribed in the Dangerous Drugs Regulations, in that there was no entry of the supplier, invoice and quantity of drugs acquired, and there was no entry of the balance of drugs in the possession of the Defendant.
3. The “Silence” and “Lotevem” tablets both contained lorazepam, a dangerous drug included in Part I of the First Schedule of the Dangerous Drugs Regulations.

4. The Defendant was summoned for 2 offences of “*failing to keep a register*” in respect of the “Silence” and “Lotevem” tablets. The offence is punishable with imprisonment for 3 years. He pleaded guilty to both offences in the Kwun Tong Magistrates’ Courts on 29 November 2010. He was convicted and sentenced to a total fine of \$4,000.

Findings of Council

5. The Defendant reported the conviction to the Medical Council on 6 December 2010. Given his report and the Certificates of Trial in respect of the criminal offences, we find that the Defendant was convicted of the 2 criminal offences as set out in the present disciplinary charge.
6. We are satisfied that the disciplinary charge has been proven.

Sentencing

7. The Defendant has a clear disciplinary record.
8. We shall give him credit in sentencing for not disputing the allegations of the disciplinary charge. However, given that criminal convictions are obvious from the Certificates of Trial and are indisputable, the extent of credit in such cases is necessarily less than in other cases.
9. Defence Solicitor urges upon us that the present case is merely a technical breach, and that the missing information in the dangerous drugs registers can be compiled from the various patients’ records. However, we must point out that:-
 - (a) There is no record of the quantities of dangerous drugs acquired by the Defendant. In the absence of such information, it is impossible for the Department of Health or the police to ascertain the quantity of drugs which have gone missing.
 - (b) The Court of Appeal has emphasised in various cases that:-

- (i) the statutory requirements on keeping proper dangerous drugs registers are designed to ensure that any movement of the dangerous drugs at all stages are readily traceable from the registers and to prevent abuse by unscrupulous members of the medical profession;
 - (ii) any breach of the statutory requirements on keeping proper dangerous drugs registers is not merely a technical matter and must be treated seriously, as the Dangerous Drugs Regulations seek to ensure that dangerous drugs legitimately supplied to doctors are fully and carefully controlled so that the risk of those drugs falling into the wrong hands is minimised;
 - (iii) the prescribed dangerous drugs register is a simple form which can be filled in as a clerical exercise whenever drugs are received or dispensed, and a doctor exercising proper care will have no difficulty in maintaining the register accurately.
10. The right to legitimately possess and supply dangerous drugs is a privilege given to doctors by the law, which carries with it the corresponding and onerous responsibility to maintain accurate registers of all the dangerous drugs in order to account for any movement of the drugs and to prevent abuse. This is a personal duty of the doctor, which cannot be delegated to other persons including clinic assistants. If a doctor chooses to avail himself of the privilege of supplying dangerous drugs, he must abide by the requirement responsibly.
11. This Council has repeatedly emphasised that every doctor has the professional duty to find out and comply with the legal requirements governing medical practice, including requirements as to keeping of dangerous drugs registers.
12. In the past 7 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 and

supervision. We have to impose a sentence consistent with the established sentencing level.

13. In a previous inquiry held by this Council on 24 March 2011, there was only non-compliance of the format of the dangerous drugs registers and the quantities of dangerous drugs tallied with the balance recorded in the registers. The Council held that the case was at the lowest end of the scale of gravity in similar cases, and made an order of removal from the General Register for a period of 1 month, and the removal order was suspended for a period of 12 months subject to supervision condition.
14. While the criminal offences in the present case were “failing to keep a register” of the dangerous drugs instead of “failing to keep a register in the prescribed format”, the Secretary proceeded with this case on the basis that the Defendant did keep dangerous drugs registers of the drugs seized but the registers were not in the prescribed format. Given the Secretary’s position, we are bound to sentence on that basis.
15. We must bear in mind the possibility of abuse where the actual quantity of drugs acquired cannot be ascertained. Even on the Defence mitigation, there is discrepancy between the registers and the stocks found. Nevertheless, we accept that in the present case there is no evidence of abuse.
16. Having regard to the gravity of the case and the mitigation, we make the following orders:-
 - (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, subject to the condition that the Defendant shall not commit further disciplinary offences during the suspension period. If the Defendant commits any further disciplinary offence during the suspension period (irrespective of the time of conviction), the removal order is liable to be activated in part or in full.
17. We made the above orders on the basis that the Defence Solicitor raised in mitigation that the Defendant undertakes not to keep or supply any dangerous

drugs, and will only issue a prescription for the patient to purchase the dangerous drugs from pharmacies. On the basis of that undertaking, we do not see the need to make a condition that the Defendant shall not possess or supply dangerous drugs. However, if the Defendant breaches the undertaking, it will be a matter of professional misconduct to be dealt with in subsequent disciplinary proceedings.

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