

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

ORDER MADE BY THE MEDICAL COUNCIL OF HONG KONG
DR YEUNG KA CHEUNG (REGISTRATION NO.: M03812)

It is hereby notified that after due inquiry held on 9 August 2016 in accordance with section 21 of the Medical Registration Ordinance, Chapter 161 of the Laws of Hong Kong, the Medical Council of Hong Kong found Dr YEUNG Ka Cheung (Registration No.: M03812) guilty of the following disciplinary offences:—

1st Complaint

‘That on or about 10 January 2013, he, being a registered medical practitioner, disregarded his professional responsibility to his patient X (‘the Patient’) in that the medicine name ‘Acyclovir’ was written on a medicine bag given to the Patient but in fact ‘Amlodipina Farmoz 5 mg’ was dispensed.

In relation to the facts alleged, he has been guilty of misconduct in a professional respect.’

2nd Complaint

‘That he, being a registered medical practitioner:—

- (a) was convicted at the Tsuen Wan Magistrates’ Courts on 3 September 2013 of an offence punishable with imprisonment, namely, ‘selling a drug not of the quality demanded by the purchaser’, contrary to sections 52(1) and 150 of the Public Health and Municipal Services Ordinance, Chapter 132, Laws of Hong Kong;
- (b) was convicted at the Tsuen Wan Magistrates’ Courts on 3 September 2013 of an offence punishable with imprisonment, namely, ‘selling a drug with a label which falsely describes the drug’, contrary to sections 61(1) and 150 of the Public Health and Municipal Services Ordinance, Chapter 132, Laws of Hong Kong; and
- (c) was convicted at the Tsuen Wan Magistrates’ Courts on 3 September 2013 of three counts of an offence punishable with imprisonment, namely, ‘failing to keep record of a dangerous drug supplied’, 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.

In relation to the facts alleged, either singularly or cumulatively, he has been guilty of misconduct in a professional respect.’

Dr YEUNG was at all material times and still is included in the General Register. His name has also been included in the Specialist Register under the speciality of Paediatrics since 4 March 1998 to present.

There is no dispute that the Patient was brought by her mother, Madam Y, (‘the Complainant’) to consult Dr YEUNG on 10 January 2013 for the Patient’s cold sore. At that time, the Patient was around 34 months old. After the consultation, Dr YEUNG prescribed, amongst other medicines, Acyclovir 400 mg half tablet, 3 times a day to treat the Patient’s cold sore.

After the Patient returned home, the Complainant gave her the medicines prescribed by Dr YEUNG. However, the Complainant subsequently found out that the tablets contained in Dr YEUNG’s medicine bag with the handwritten name ‘Acyclovir’ on it were in fact ‘Amlodipina Farmoz 5 mg’, a medicine for treating hypertension.

Worrying about possible adverse effects that ‘Amlodipina Farmoz 5 mg’ might have on the Patient, the Complainant and her husband brought the Patient to see Dr YEUNG again on 14 January 2013. Dr YEUNG immediately apologized for the dispensing error. He offered to refer the Patient to see another specialist in paediatrics who could make arrangement for the Patient’s admission to a private hospital for further investigation and management if necessary. According to Dr YEUNG, he called the Patient’s father over the following few days to follow up on the Patient’s condition and was told the Patient was fine.

Meanwhile, the Complainant also reported the dispensing error to the Department of Health ('DH'). On 16 January 2013, DH officers went to Dr YEUNG's clinic to investigate. Upon inspection of Dr YEUNG's dangerous drugs register, DH officers found that it was not in compliance with the Dangerous Drugs Regulations and there were discrepancies in respect of the balance recorded on the register and the physical stocks found in Dr YEUNG's clinic.

Dr YEUNG was subsequently charged and convicted on his own plea on the dangerous drugs offences mentioned in charge (c) of the 2nd Complaint above.

In respect of the dispensing error, Dr YEUNG was further charged and convicted on his own plea of the 2 offences contrary to the Public Health and Municipal Services Ordinance mentioned in charges (a) and (b) of the 2nd Complaint above.

There is no dispute that all the aforesaid offences were punishable with imprisonment.

Medical practitioners in Hong Kong are in a unique position that they can both prescribe and dispense medicine to their patients. Dispensation of wrong medicines may lead to dire consequences to their patients. Accordingly, any doctor who dispenses medicine to his patient has the personal responsibility to ensure that the medicine is in fact the one prescribed by him before it is handed over to his patient.

In the Medical Council's view, Dr YEUNG's conduct in respect of the dispensing error had fallen below the standard reasonably expected of medical practitioners in Hong Kong. Therefore, the Medical Council found him guilty of professional misconduct in respect of the 1st Complaint.

In respect of the 2nd Complaint, section 21(3) of the Medical Registration Ordinance ('MRO') expressly provides that '*Nothing in this section shall be deemed to require the Council to inquire into the question whether the registered medical practitioner was properly convicted but the Council may consider any record of the case in which such conviction was recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence.*' The Medical Council was therefore entitled to take the said convictions as conclusively proven against Dr YEUNG and found Dr YEUNG guilty of all the disciplinary offences mentioned in the 2nd Complaint.

The Medical Council reiterated the importance of proper record of dangerous drugs in compliance with the statutory requirements and reminded all medical practitioners that they should diligently discharge their responsibility to keep records in the prescribed form.

Having considered the nature and gravity of the charges and the mitigation advanced by Dr YEUNG's lawyer, the Council ordered that:—

- (i) in respect of the 1st Complaint and the disciplinary offences (a) and (b) in the 2nd Complaint, Dr YEUNG's name be removed from the General Register for a period of 1 month, and the operation of the removal order be suspended for a period of 12 months, subject to the condition that Dr YEUNG shall complete during the suspension period satisfactory peer audit by a Practice Monitor to be appointed by the Council with the following terms:—
 - (a) the Practice Monitor shall conduct random audit of Dr YEUNG's practice with particular regard to dispensation of medicines and the keeping of dangerous drugs registers;
 - (b) the peer audit should be conducted without prior notice to Dr YEUNG;
 - (c) the peer audit should be conducted at least once every 6 months during the suspension period;
 - (d) during the peer audit, the Practice Monitor should be given unrestricted access to all parts of Dr YEUNG's clinic and the relevant records which in the Practice Monitor's opinion is necessary for proper discharge of his duty;
 - (e) the Practice Monitor shall report directly to the Chairman of the Council the finding of his peer audit at 6-monthly intervals. Where any defects are detected, such defects should be reported to the Chairman of the Council as soon as practicable;
 - (f) in the event that Dr YEUNG 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; and

- (g) in case of change of Practice Monitor during the suspension period, unless otherwise ordered by the Council, the peer audit shall automatically extend until another Practice Monitor is appointed to complete the remaining period of peer audit.
- (ii) in respect of the disciplinary offence (c) in the 2nd Complaint, Dr YEUNG's name be removed from the General Register for a period of 1 month, and the operation of the removal order be suspended for a period of 12 months, subject to the same peer audit conditions as mentioned above; and
- (iii) the 2 removal orders to run consecutively, making a total of 2 months and be suspended for a period of 12 months.

The orders are published in the *Gazette* in accordance with section 21(5) of the Medical Registration Ordinance. The full decision of the Medical Council is published in the official website of the Medical Council of Hong Kong (<http://www.mchk.org.hk>).

LAU Wan-ye, Joseph *Chairman, The Medical Council of Hong Kong*