

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

ORDER MADE BY THE INQUIRY PANEL OF
THE MEDICAL COUNCIL OF HONG KONG

DR YUNG KIN SING (REGISTRATION NO.: M03560)

It is hereby notified that after due inquiry held on 27 September 2019 in accordance with section 21 of the Medical Registration Ordinance, Chapter 161 of the Laws of Hong Kong, the Inquiry Panel of the Medical Council of Hong Kong found Dr YUNG Kin Sing (Registration No.: M03560) guilty of the following disciplinary charges:—

‘That he, being a registered medical practitioner:—

- (a) was convicted at the Tuen Mun Magistrates’ Courts on 28 November 2016 of two counts of the offence of failing to keep a register of dangerous drugs in the form specified in the First Schedule, 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; and
- (b) has been guilty of misconduct in a professional respect in that he failed to report to the Medical Council the convictions mentioned in paragraph (a) above within 28 days of the convictions, contrary to section 29.1 of the Code of Professional Conduct published in January 2016.’

Briefly stated, on 5 May 2016, pharmacists from the Department of Health (‘DH’) visited Dr YUNG’s clinic for dangerous drugs (‘DD’) inspection.

There is no dispute that two types of DD, namely, Lorans (Lorazepam) x 802 tablets and Diazepam 2mg x 3,559 tablets were found.

The DD Registers kept by Dr YUNG were found to be non-compliant with the statutory requirements under the Dangerous Drugs Regulations, Cap. 134A (the ‘DD Regulations’) in that:—

- (i) name(s) and address(es) of supplier(s) were missing;
- (ii) identity card number(s) of patient(s) were missing;
- (iii) quantity of DD received from supplier(s) were missing;
- (iv) invoice number(s) were missing; and
- (v) balance(s) of DD were missing.

Dr YUNG was subsequently charged with two counts of the offence of ‘failing to keep a register of dangerous drugs in the form specified in the First Schedule’, contrary to Regulations 5(1)(a) and 5(7) of the DD Regulations.

Dr YUNG was convicted on his own plea of the aforesaid offences at the Tuen Mun Magistrates’ Court on 28 November 2016 and was fined a total sum of \$5,000. The aforesaid offences were punishable with imprisonment.

Section 21(3) of the Medical Registration Ordinance, Cap. 161, expressly provides that:—

‘Nothing in this section shall be deemed to require an inquiry panel to inquire into the question whether the registered medical practitioner was properly convicted but the panel 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 Inquiry Panel was therefore entitled to treat the aforesaid convictions as conclusively proven against Dr YUNG.

Accordingly, the Inquiry Panel found Dr YUNG guilty of the disciplinary offence as stated in charge (a).

Dr YUNG did not report his convictions to the Medical Council within 28 days of his convictions. Nor did he declare his convictions in his application for annual practising certificate for the year 2018 filed on 3 October 2017.

Dr YUNG's convictions were drawn to the attention of the Medical Council by DH vide its letter dated 12 December 2016.

Dr YUNG explained in his submission to the Preliminary Investigation Committee dated 6 February 2018 that he was given an understanding that the Pharmacist of DH would inform the Medical Council separately.

However, it is clearly stated in section 29.1 of the Code of Professional Conduct published in January 2016 (the 'Code') that:—

'A doctor who has been convicted in or outside Hong Kong of an offence punishable with imprisonment... is required to report the matter to the Council within 28 days from the conviction... Failure to report within the specified time will in itself be ground for disciplinary action. In case of doubt the matter should be reported.'

The Inquiry Panel did not accept that there was any room for ambiguity in the understanding of section 29.1 of the Code and it is the professional responsibility of every registered medical practitioner to acquaint himself with and to comply with provisions in the Code.

Regardless of what the DH pharmacist might have told Dr YUNG, it was no excuse for him not to comply with the reporting requirement under section 29.1 of the Code. The Inquiry Panel did not accept that this was a case of mere inadvertence. The Inquiry Panel therefore also found him guilty of misconduct in a professional respect as charged.

The Inquiry Panel was told in mitigation that Dr YUNG had since the incident taken immediate measures to rectify the shortcomings. However, the Inquiry Panel needed to ensure that the chance of his repeating the same or similar breach in the future should be low.

Taking into consideration the nature and gravity of this case and Dr YUNG's plea of mitigation, the Inquiry Panel ordered in respect of charge (a) that Dr YUNG'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 6 months on the condition that he shall complete during the suspension period satisfactory peer audit by a Practice Monitor to be appointed by the Medical Council.

The Inquiry Panel further ordered in respect of charge (b) that a warning letter be issued to Dr YUNG.

The order is published in the *Gazette* in accordance with section 21(5) of the Medical Registration Ordinance. The full decision of the Inquiry Panel 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*