

MEDICAL REGISTRATION ORDINANCE (Chapter 161)

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

DR SZETO KING HO (REGISTRATION NO.: M11217)

It is hereby notified that after due inquiry held on 25 July 2022 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 SZETO King Ho (Registration No.: M11217) guilty of the following amended disciplinary charges:—

‘That he, being a registered medical practitioner:—

- (a) in or about November 2017, he imported, or caused to be imported, 50 syringes of Gardasil 9 vaccine to Hong Kong without having obtained proper import licence(s); and/or
- (b) in or about August 2019, he sanctioned, acquiesced in, or failed to take adequate steps to prevent, the possession of 6 syringes of unregistered Gardasil 9 vaccine at the premises of a medical centre, known as ‘Hong Kong Emergency Medicine Centre Limited (香港急症中心有限公司)’.

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

Briefly stated, the Secretary of the Medical Council (the ‘Council’) received on 24 December 2020 a letter from the Customs & Excise Department (‘C&ED’) informing the Council that their investigation revealed that Dr SZETO was involved in importation of pharmaceutical products without import licence.

According to C&ED, on 1 November 2017, C&ED Officers examined a consignment of 50 syringes of Gardasil 9 vaccine (the ‘Gardasil 9 Vaccine’) and found out that the consignment was delivered from Lithuania to Hong Kong by air without proper import licence. The consignee stated in the airway bill and the buyer shown on the attached invoice was one ‘Doctor Szeto’.

There was no dispute that the said consignee/buyer was in fact Dr SZETO. It was also undisputed that Gardasil 9 Vaccine was at material times registered as a pharmaceutical product in Hong Kong under the name of Merck Sharp & Dohme (Asia) Ltd.

After the said 50 syringes of Gardasil 9 Vaccine were seized, Dr SZETO provided explanation letters to C&ED claiming that their importation was for demonstration purpose and they were shipped before an import licence was obtained. Subsequent investigation by C&ED further revealed that Dr SZETO had *via* a company submitted to the Department of Health (‘DH’) an application of import licence for 200 boxes of Gardasil 9 Vaccine on 18 October 2017.

Eventually, no criminal charge was laid against Dr SZETO but the said 50 syringes of Gardasil 9 Vaccine were forfeited by C&ED.

Then on 22 August 2019, officers from C&ED and DH conducted a joint operation at a medical centre known as Hong Kong Emergency Medicine Centre Limited (香港急症中心有限公司)* and they found 6 syringes of Gardasil 9 Vaccine on the premises. Representative from Merck Sharp & Dohme (Asia) Ltd. confirmed on the spot that the said 6 syringes of Gardasil 9 Vaccine were not for Hong Kong market. Officers from DH also confirmed that they were unregistered pharmaceutical products.

There was no dispute that Dr SZETO was at all material times the sole director of Hong Kong Emergency Medicine Centre Limited.

Eventually, no criminal charge was laid against Dr SZETO but the said 6 syringes of Gardasil 9 Vaccine were forfeited by C&ED.

Dr SZETO admitted the factual particulars of disciplinary charges (a) and (b) against him. It remained however for the Inquiry Panel to consider all the evidence and determine whether Dr SZETO had been guilty of misconduct in a professional respect.

Importation of pharmaceutical products without proper import licence(s) is a serious matter. This is particularly true when the importation was done by a registered medical practitioner.

Regardless of the purpose for which the said 50 syringes of Gardasil 9 Vaccine were imported into Hong Kong, this should never be done without import licence. In the Inquiry Panel's view, Dr SZETO ought to make sure that the consignor would not deliver the consignment from Lithuania to Hong Kong before proper import licence had been obtained from DH.

By sanctioning, acquiescing in and/or failing to take adequate steps to prevent the said importation of the 50 syringes of Gardasil 9 Vaccine, Dr SZETO had in the Inquiry Panel's view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, the Inquiry Panel found Dr SZETO guilty of professional misconduct as per disciplinary charge (a).

Registered medical practitioners in Hong Kong have the privilege of possessing pharmaceutical products. Coupled with this privilege is the personal responsibility to take all reasonable care and exercise all due diligence in ensuring that none of the pharmaceutical products that they possess would be unregistered.

The Inquiry Panel agreed with the Legal Officer that registration of pharmaceutical products under the Pharmacy & Poisons Regulations was specific for the holder of a valid certificate of registration. It followed that parallel import of the said Gardasil 9 Vaccine (which were not manufactured for the Hong Kong market) would still be regarded as importation of unregistered pharmaceutical products under the law.

The Inquiry Panel acknowledged that there was nothing in the evidence about the quality and condition of the seized Gardasil 9 Vaccine. But then again, the real point was that failure to obtain proper licence from DH before importation would jeopardize the monitoring system of pharmaceutical products by public officers in Hong Kong.

By sanctioning, acquiescing in and/or failing to take adequate steps to prevent the possession of the said 6 syringes of unregistered Gardasil 9 Vaccine at the premises of Hong Kong Emergency Medicine Centre Limited, Dr SZETO had in the Inquiry Panel's view by his conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, the Inquiry Panel also found Dr SZETO guilty of professional misconduct as per disciplinary charge (b).

Dr SZETO has a clear disciplinary record.

Taking into consideration the nature and gravity of this case and what the Inquiry Panel has heard and read in mitigation, the Inquiry Panel ordered that:—

- (1) in respect of disciplinary charge (a), Dr SZETO's name be removed from the General Register for a period of 1 month;
- (2) in respect of disciplinary charge (b), Dr SZETO's name be removed from the General Register for a period of 1 month; and
- (3) operation of the said removal orders 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 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*