

Guiding Principles on Assessing Fitness and Properness of an Authorized Seller of Poisons and Appointed Person-in-Charge

Introduction

Under the Pharmacy and Poisons Ordinance (“PPO”), Cap. 138, Laws of Hong Kong, a registered pharmacist, body corporate or unincorporated body of persons is authorized to carry on a business of retail sale of poisons as an authorized seller of poisons (“ASP”) if the actual sale of poisons is conducted on the premises, registered in respect of the seller, by a registered pharmacist or in the presence and under the supervision of a registered pharmacist in accordance with the PPO. No premises of an ASP, where poisons are kept for the purposes of retail sale, shall be kept or used for such purposes unless the premises are registered with the Pharmacy and Poisons Board (“the Board”) under section 13(3) of the PPO.

2. According to section 13(4) of the PPO, the Board shall not register premises of an ASP unless it is satisfied that, among other factors, the ASP is a fit and proper person to conduct the retail sale of poisons.
3. This document outlines the guiding principles and factors that the Board will normally consider in determining the fitness and properness of an ASP as well as the person-in-charge (“PIC”) of the premises appointed by the ASP.

Principles for Assessment of Fitness and Properness of an ASP

4. In evaluating whether a person is a “fit and proper” person to conduct the retail sale of poisons, the following guiding principles/factors should be considered:
 - (i) whether the person has a history of violation of the laws of Hong Kong;
 - (ii) his/her professional competence;
 - (iii) his/her financial status; and
 - (iv) his/her qualifications, competence, skills and experience which are necessary for the purpose of retail sale of poisons under the PPO.
5. If the ASP or PIC is not a registered pharmacist or a person who **has not** completed a **recognized comprehensive course** for ASP personnel within the past three years, an interview may be arranged to assess his/her competence and skills. In such cases, processing time for the application will be lengthened accordingly.

6. The following table summarises the guiding principles and factors for assessment of fitness and properness of an ASP and PIC:

	Authorized Seller of Poisons (ASP) <u>Note 1</u>	Person-in-Charge (PIC) <u>Note 2</u>	Time period prior to the date of application <u>Note 3</u>
(i) Violation of the Laws in Hong Kong			
Criminal offence	Conviction of any criminal offence for which the person has been sentenced to imprisonment (whether suspended or not) in Hong Kong		5 years
	Has been released from imprisonment		3 years
	Is currently on non-custodial sentence (e.g. probation order or community service order)		Not applicable
Drug-related offence	Conviction of any drug-related offence		3 years
(ii) Professional Incompetence			
Disqualification or professional incompetence	- An ASP is being or has been disqualified from being an ASP; or - Any premises of the ASP is being or has been removed from the register of premises	Has been found guilty of misconduct by the Disciplinary Committee of the Board, resulting in any disciplinary action taken	12 months
(iii) Financial Status			
Financial status	Is currently in bankruptcy or made a voluntary arrangement with an individual's creditor within the meaning of the Bankruptcy Ordinance (Cap. 6)		Not applicable
	The company has commenced to be wound up (for application from a company)	Not applicable	Not applicable

	Authorized Seller of Poisons (ASP) <u>Note 1</u>	Person-in-Charge (PIC) <u>Note 2</u>	Time period prior to the date of application <u>Note 3</u>
(iv) Qualifications, Competence, Skills and Experience			
Qualifications, competence, skills and experience	(a) a registered pharmacist; (b) a person who has not committed any drug-related offence or violated the Code of Practice in the past three years, and with at least 3 years of working experience in the retail sale of poisons or pharmaceutical products, and he or she has completed a recognized comprehensive course of not less than 60 hours for ASP personnel within the past 3 years <u>Note 4</u> ; or (c) a person who has been interviewed by the Drug Office within the past 3 years <u>Note 5</u> and found to have adequate knowledge and competence in conducting retail sale of poisons.		

Note 1: Applies to the registered pharmacist (if the ASP is a registered pharmacist), sole proprietor or partner (if the ASP is an unincorporated body of persons) or director(s) of a body corporate (if the ASP is a body corporate).

Note 2: If the ASP could not personally manage the operation of the premises of the ASP, the ASP may appoint, with justifications, a PIC to manage the registered premises on his behalf.

Note 3: Count from the date of the conviction / release from imprisonment / disqualification / removal from the register of premises / order of disciplinary action taken.

Note 4: If the ASP and/or PIC has completed a comprehensive course more than 3 years ago, he or she may be required to complete a refresher course of not less than six hours within one year prior to the application. **The courses should be recognized by the Board.**

Note 5: Provided that the ASP and/or PIC has not committed any drug-related offence or contravened the Code of Practice within the past three years.