



**A LEGAL ANALYSIS OF CASES PROSECUTED BY
THE PHARMACY ENFORCEMENT DIVISION IN
KUALA LUMPUR AND SELANGOR FOR THE YEARS 2006-2007**

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Submitted in Partial Fulfillment of the Requirements
for the Master of Enforcement Law

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December 2008

ABSTRACT

This study is a legal analysis of cases prosecuted by the Pharmacy Enforcement Division in Kuala Lumpur and Selangor for the years 2006 and 2007. The objectives of the study are to identify the pattern of cases prosecuted by the Pharmacy Enforcement Division and to determine legal issues and problems transpired in those cases. This study obtained the prosecution data from the PED headquarters in Petaling Jaya, Kuala Lumpur and Selangor. The data were then analysed to determine a pattern. Once the pattern was identified, the questions for the interviews were developed. Then interviews were conducted in order to identify the legal issues and problems that had transpired in those cases. The interviewees consisted of three senior officers from PED who conducted the prosecution, a Deputy Public Prosecutor who gave the sanction to prosecute and two Magistrates who normally presided on the PED' cases. There are four patterns identified: most prosecution cases are SODA cases, most prosecution cases ended with PG, most Psychotropic cases claim trial and most sentence passed is low. The legal issues identified are an inadequate sentence provided by certain acts and an inadequate sentence passed by the court. In addition, the problems identified are the officers do not give any submission and lack of training and exposure. Finally, this study recommends that the officer conducting the prosecution should give a submission for a heavier sentence, an amendment to the penalty section of the acts which provide a low sentence, and emphasis on training for the PED officers not just on the prosecution but also on the enforcement of law as a whole.

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CHAPTER 1

INTRODUCTION

1.0 Background

1.1 Introduction

This study conducts a legal analysis on cases prosecuted by the Pharmacy Enforcement Division (PED) in the State of Selangor and the Federal Territory of Kuala Lumpur for the periods of 2006 – 2007. In most of the cases, the accused had pleaded guilty to the charge framed against them. Some of the accused claimed trial, and out of that, a few were convicted and sentenced, and a number of them have been acquitted. Some of the cases had been discharged and postponed. This study analyses those cases and determine the problems and legal issues that had transpired within the cases through interviews. Once the problem and legal issues had been determined, some improvements can then be suggested to PED.

Pharmaceutical Enforcement Division (PED) is one of the divisions under The Pharmaceutical Services Programme (PSP), a programme under the Ministry of Health, Malaysia (MOH). Its main function is to ensure that the manufacture, importation, sale, supply and use of pharmaceuticals, cosmetics, and healthcare products are conducted according to the following existing Acts and Regulations:

- i) The Poisons Act 1952 (Revised 1989) and its Regulations.
- ii) The Sales of Drugs Act 1952 and its Regulations (SODA)
- iii) The Medicines (Advertisement and Sales) Act 1956 and its Regulations (MASA)
- iv) The Registration of the Pharmacist Act 1951 and its Regulations (ROPA)
- v) The Dangerous Drugs Act 1952 and its Regulations (DDA)