

香港醫務委員會
The Medical Council of Hong Kong

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr CHEN Teck Meng (陳德明醫生) (Reg. No.: M08579)

Date of hearing: 30 June 2020 (Tuesday)

Present at the hearing

Council Members/Assessors: Dr CHOI Kin, Gabriel
(Chairperson of the Inquiry Panel)
Dr HO Pak-leung, JP
Dr LAU Ho-lim
Prof. WONG Yung-hou, MH
Mr HUI Man-kit, Patrick

Legal Adviser: Mr Edward SHUM

Defence Counsel representing the Defendant: Ms Ann LUI instructed by Messrs. Kennedys

Senior Government Counsel representing the Secretary: Miss Vienne LUK

1. The amended charges against the Defendant, Dr CHEN Teck Meng, are:

“That he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take reasonable steps to prevent:

in or about August 2016,

- (a) *the use of the name “陳榮華” in the website of <http://www.wyndhammedi.com> (“the Website”) which was not accurate and/or was misleading;*

(b) *the use of the following qualifications in the Website, which were not quotable qualifications approved by the Medical Council of Hong Kong and/or were not in the format approved by the Medical Council of Hong Kong:*

- (i) “臨床醫學學士 (新加坡)”;
- (ii) “浸入式皮膚臨床治療 (倫敦)”;
- (iii) “衛生系統管理碩士 (新南威爾士大學)”;
- (iv) “FAMs (心理學)”;
- (v) “醫學研究理事會心理學方向 (英國)”;
- (vi) “香港醫學院心理學院士”; and/or
- (vii) “香港醫學專科學院院士”;

during the period from August 2016 to May 2017,

(c) *the use of the title “博士” in the Website, which was not a quotable qualification or appointment approved by the Medical Council of Hong Kong and/or was misleading to the public that he had attained a doctoral degree;*

(d) *the publication of information in the Website which promoted the product(s) “Calecim®”, “Botulinum Toxin Type A Botox” and/or “Dysport”; and/or*

(e) *the publication of information in the Website which promoted his experience, skills and/or practice in medical aesthetic treatment(s).*

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

Facts of the case

2. The name of the Defendant has been included in the General Register from 12 May 1992 to present. His name has been included in the Specialist Register under the speciality of Psychiatry since 4 July 2007.
3. Briefly stated. The Secretary of the Medical Council received an anonymous complaint on 17 August 2016 accusing the Defendant of (1) using a false name to practise medicine; (2) promoting and canvassing in his practice website for patients for aesthetic treatment; (3) introducing himself in his practice website by the title of “博士”; (4) listing in his practice website professional qualifications not approved by the Medical Council; and (5) promoting in his practice website aesthetic treatment(s) and stem cell aesthetic products.

4. Attached to the complaint were relevant extracts from the practice website of the Defendant; and copies of the same are placed by the Legal Officer before us today for our consideration.

Burden and Standard of Proof

5. We bear in mind that the burden of proof is always on the Secretary and the Defendant does not have to prove his innocence. We also bear in mind that the standard of proof for disciplinary proceedings is the preponderance of probability. However, the more serious the act or omission alleged, the more inherently improbable must it be regarded. Therefore, the more inherently improbable it is regarded, the more compelling the evidence is required to prove it on the balance of probabilities.
6. There is no doubt that the allegations made against the Defendant here are serious ones. Indeed, it is always a serious matter to accuse any registered medical practitioner of misconduct in a professional respect. We need to look at all the evidence and to consider and determine each of the amended disciplinary charges against him separately and carefully.

Findings of the Inquiry Panel

7. Although the Defendant has admitted the factual particulars of the amended disciplinary charges against him, it remains for us to determine on the evidence before us whether his conduct has fallen below the standards expected of registered medical practitioners in Hong Kong.
8. It is clearly stated in the Code of Professional Conduct (2016 edition) (the “Code”) that:

“5.1.3 ... Practice promotion of doctor’s medical services as if the provision of medical care were no more than a commercial activity is likely both to undermine public trust in the medical profession and, over time, to diminish the standard of medical care.

...

5.2.1 A doctor providing information to the public or his patients must comply with the principles set out below.

5.2.1.1 *Any information provided by a doctor to the public or his patients must be:*

- (a) accurate,*
- (b) factual,*
- (c) objectively verifiable,*
- (d) presented in a balanced manner (when referring to the efficacy of particular treatment, both the advantages and disadvantages should be set out).*

5.2.1.2 *Such information must not:-*

- (a) be exaggerated or misleading;*
- (b) be comparative with or claim superiority over other doctors;*
- (c) claim uniqueness without proper justifications for such claim;*
- (d) aim to solicit or canvass for patients;*
- (e) be used for commercial promotion of medical and health related products and services;*
- (f) be sensational or unduly persuasive;*
- ...*
- (h) generate unrealistic expectations;*
- ...*

5.2.2. *Practice promotion*

5.2.2.1 *Practice promotion means publicity for promoting the professional services of a doctor, his practice or his group... Practice promotion in this context will be interpreted by the Council in its broadest sense, and includes any means by which a doctor or his practice is publicized, in Hong Kong or elsewhere, by himself or anybody acting on his behalf or with his forbearance (including the failure to take adequate steps to prevent such publicity in circumstances which would call for caution), which objectively speaking constitutes promotion of his professional services, irrespective of whether he actually benefits from such publicity.*

...

- 6.1 *It is appropriate for a doctor to take part in bona fide health education activities, such as lectures and publications. However, he must not exploit such activities for promotion of his practice or to canvass for patients. Any information provided should be objectively verifiable and presented in a balanced manner, without exaggeration of the positive aspects or omission of the significant negative aspects.*
- 6.2 *A doctor should take reasonable steps to ensure that the published or broadcasted materials, either by their contents or the manner they are referred to, do not give the impression that the audience is encouraged to seek consultation or treatment from him or organizations with which he is associated. He should also take reasonable steps to ensure that the materials are not used directly or indirectly for the commercial promotion of any medical and health related products or services.”*
9. We accept that the Defendant possessed the professional title(s) and/or qualification(s) of “MBBS (Singapore); MRC Psych; MHSM (New South Wales); FHKCPsych; FHKAM (Psychiatry); FAMS (Psychiatry); and “PGDipClinDerm (Lond)”. However, save for the quotation of “香港醫學專科學院院士”, this is not a case of quoting professional qualifications approved by the Medical Council in a wrong format. In our view, the rest of the quoted professional qualifications are not only wrong in Chinese translation but also misleading to the readers, who might be left with the impression that the Defendant possessed special professional qualifications.
10. But then again, the real point is that the Defendant owed a personal responsibility to take reasonable steps to ensure that information published in his practice website would not be in breach of the Code. The Defendant could not attribute the fault to the designer of his practice website and/or the outsourced translator for what his solicitors claimed to be “translation errors” and “misunderstanding” when he had not on his own admission taken reasonable steps to verify the information.
11. Through his solicitors, the Defendant submitted to the Preliminary Investigation Committee (“PIC”) of the Medical Council that “it was not his intention to promote any brands or commercial products by posting those information and photographs. His intention was merely to provide factual information of the aesthetic products by showing their names, origins, chemical components, and their respective advantages and side effects.”

12. It is however evident to us that readers of the relevant extracts from the practice website of the Defendant would be left with an impression that he was promoting the medical products of “Calecim®”; “Botulinum Toxin Type A Botox” and “Dysport”.
13. Information about any medical product must be presented to the public in a balanced manner by setting out the advantages and disadvantages. In our view, the published information had crossed the line of a balanced health education material. This is particularly true when the Defendant did not mention any specific disadvantages of the said medical products.
14. Members of the public are likely to rely on the expertise and experience of the doctor in deciding whether to seek treatment from him. The way that the Defendant was introduced in his practice website was in our view tantamount to unauthorized practice promotion which would serve to promote his professional advantage.
15. The use of the title “博士” and reference to the Defendant, being the former Medical Director of an award winning aesthetic medicine company and who combined latest products and technology in ensuring the best results for skin lifting, was in effect claiming superiority over other doctors and/or uniqueness in terms of experience, skills and/or practice in aesthetic treatments.
16. Persons seeking medical services for themselves or their families can be particularly vulnerable to persuasive influence from practice promotion. By publishing information which claims superiority over other doctors, the Defendant might leave the public or his patients with the impression that he had unique or special skills or solutions to their health problems. This might even generate unrealistic expectations in their minds.
17. In sanctioning, acquiescing in and/or failing to take reasonable steps to prevent the publication of the said offending information in his practice website, the Defendant’s conduct has in our view fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of misconduct in a professional respect as charged.

Sentencing

18. The Defendant has a clear disciplinary record.
19. In line with published policy, we shall give credit in sentencing for his frank admission and not contesting the issue of professional misconduct before us today.
20. We bear in mind that the primary purpose of a disciplinary order is not to punish the Defendant but to protect the public from persons who are unfit to practise medicine and to maintain the public confidence in the medical profession by upholding its high standards and good reputation.
21. In July 2006, the Medical Council issued a clear warning that all future cases of unauthorized practice promotion would be dealt with by removal from the General Register for a short period of time with suspension of operation of the removal order, and in serious cases the removal order would take immediate effect. The same warning was repeated in subsequent disciplinary decisions of the Medical Council.
22. Taking into consideration the nature and gravity of this case and what we have heard and read in mitigation, we shall make a global order in respect of all the amended disciplinary charges that the name of the Defendant be removed from the General Register for a period of 1 month. We further order that the removal order be suspended for a period of 12 months.

Remark

23. The Defendant's name is included in the Specialist Register under the Specialty of Psychiatry. We shall leave it to the Education and Accreditation Committee to decide on whether anything may need to be done to his specialist registration.

Dr CHOI Kin, Gabriel
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong