

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr LAM Mei (Reg. No.: M14285)

Date of hearing: 28 February 2022 (Monday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-ye, Joseph, SBS
(Chairperson of the Inquiry Panel)
Dr HO Hung-kwong, Duncan
Dr CHOW Wing-sun
Mr CHAN Wing-kai
Mr LAI Kwan-ho, Raymond

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Dr David KAN of
Messrs. Howse Williams

Government Counsel representing the Secretary: Mr Alvin HOR

The Defendant is not present.

1. The charges against the Defendant, Dr LAM Mei, are:

“That in or about 2017, she, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent:

- (a) the publication of her name and her Annual Practising Certificate dated 30 November 2016 on the website at <http://y.soyoung.com>, thereby promoting or endorsing various medical treatments shown in the said website, and/or canvassing for the purpose of obtaining patients; and*
- (b) the publication of articles, her name, title and photographs on Facebook at <http://www.facebook.com/maylamdr> which contained information that was impermissible under paragraph 5 of the Code of Professional Conduct and/or thereby canvassing for the purpose of obtaining patients.*

In relation to the facts alleged, whether individually or cumulatively, she 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 2 July 2004 to the present. Her name has never been included in the Specialist Register.
3. Briefly stated, the Medical Council (“the Council”) received on 18 October 2017 an email from one Annie WONG complaining the Defendant of use of impermissible professional title in the website at <http://y.soyoung.com/ysxx35343> (“the Website”) and advertising herself on Facebook at <http://www.facebook.com/maylamdr> (“the Defendant’s Facebook”).
4. There is no dispute that the Defendant’s Annual Practising Certificate dated 30 November 2016 was shown in the Website together with promotional materials relating to various medical treatments offered by one MedicGlow 医学美容中心 (“MedicGlow”). In particular, there were two photographs of ladies below which the Chinese name of the Defendant “林薇” appeared in the column of doctor “医生”.
5. Through the hyperlinks supplied by the Complainant, the Secretary had downloaded the relevant extracts from the Website and the Defendant’s Facebook and placed before us for our consideration today.
6. There is no dispute that a photograph showing the Defendant working in her clinic was posted on the Defendant’s Facebook on 15 September 2017. On 4 January 2018, another photograph was posted on the Defendant’s Facebook showing the Defendant, who was giving laser treatment to a patient.

Burden and Standard of Proof

7. We bear in mind that the burden of proof is always on the Secretary and the Defendant does not have to prove her 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.
8. There is no doubt that the allegations against the Defendant here are serious ones. Indeed, it is always a serious matter to accuse a registered medical practitioner of misconduct in a professional respect. Therefore, we need to look at all the evidence and to consider and determine the disciplinary charges against her separately and carefully.

Findings of the Inquiry Panel

9. At the beginning of the inquiry, the Defendant admitted through her solicitor that she failed to take adequate steps to prevent the publication of the materials to which disciplinary charge (a) related. The Defendant also admitted through her solicitor that the factual particulars in respect of disciplinary charge (b).
10. It remains for us to consider and determine on the evidence whether the Defendant is guilty of professional misconduct as charged.
11. In this connection, it is stipulated in the Code of Professional Conduct (2016 edition) (“the Code”) that:

“5.1.3 ... Practice promotion of doctors’ 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.

...

5.2.1.2 Such information must not:

...

(d) aim to solicit or canvass for patients;

(e) be used for commercial promotion of medical and health related products and services ...;

...

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.

5.2.2.2 *Practice promotion by individual doctors, or by anybody acting on their behalf or with their forbearance, to people who are not their patients is not permitted except to the extent allowed under section 5.2.3.*

...

18.2 *A doctor who has any kind of financial or professional relationship with, uses the facilities of, or accepts patients referred by, such an organization, must exercise due diligence (but not merely nominal efforts) to ensure that the organization does not advertise in contravention of the principles and rules applicable to individual doctors. Due diligence shall include acquainting himself with the nature and content of the organization's advertising ...*

12. It is evident to us that appearance of her name and Annual Practising Certificate together with other promotional materials in the Website would give readers the impression that the medical treatments shown in the Website were endorsed by the Defendant.
13. Moreover, the appearance of her name and Annual Practising Certificate together with other promotional materials in the Website would give readers the impression that the Defendant was a registered medical practitioner in Hong Kong with special skill and experience in various medical treatments shown in the Website.
14. There is no doubt in our minds that publication of these materials in the Website was done for the purpose of canvassing patients for MedicGlow for which the Defendant had a professional relationship.
15. For these reasons, the Defendant has in our view by her conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of professional misconduct as per disciplinary charge (a).
16. Publication of the Defendant's name, professional title and photographs in her Facebook by itself may not be objectionable.
17. However, the Secretary's case here, which is not challenged by the Defendant and we accept, is that publication of posts in the Defendant's Facebook which contained the Defendant's name, title and photographs depicting the Defendant at work and offering laser treatment to a patient was impermissible under paragraph 5.2.1.2(d) of the Code of Professional Conduct in that they aimed to solicit or canvass for patients.
18. In sanctioning, acquiescing in and failing to take adequate steps to prevent the publication of articles, her name, title and photographs on the Defendant's Facebook which contained information that was impermissible under paragraph 5.2.1.2(d) of

the Code and thereby canvassing for the purpose of obtaining patients, the Defendant has by her conduct fallen below the standards expected of registered medical practitioners in Hong Kong. Accordingly, we find the Defendant guilty of professional misconduct as per disciplinary charge (b).

Sentencing

19. The Defendant has a clear disciplinary record.
20. In line with our published policy, we shall give credit to the Defendant in sentencing for her admission and cooperation throughout these disciplinary proceedings.
21. 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 public confidence in the medical profession by upholding its high standards and good reputation.
22. On 23 June 2006, the 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 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 Council.
23. We are told in mitigation that the objective of the Defendant's Facebook was for public health education but the Defendant fully accepted that she should have been vigilant in preventing the publication of impermissible materials in the Website and her Facebook.
24. We accept that the Defendant has learnt her lesson and we appreciate the Defendant's active engagement in community services and education for practitioners in aesthetic medicine.
25. Taking into consideration the nature and gravity of the disciplinary charges for which we find the Defendant guilty and what we have read and heard in mitigation, we shall make a global order in respect of disciplinary charges (a) and (b) that the name of the Defendant be removed from the General Register for a period of 1 month. We further order that the operation of the removal order be suspended for a period of 6 months.

Prof. LAU Wan-ye, Joseph, SBS
Chairperson of the Inquiry Panel
The Medical Council of Hong Kong