

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

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**DISCIPLINARY INQUIRY**  
**MEDICAL REGISTRATION ORDINANCE, CAP. 161**

Defendant: Dr TAM Thomas Chris (譚忠正醫生) (Reg. No.: M10093)

Dates of hearing: 19 March 2019 (Tuesday)

Present at the hearing

Council Members/Assessors: Prof. LAU Wan-yee, Joseph, SBS  
(Chairperson of the Inquiry Panel)  
Dr LEUNG Chi-chiu  
Dr CHIU Shing-ping, James  
Mr HUNG Hin-ching, Joseph  
Mr NG Ting-shan

Legal Adviser: Mr Edward SHUM

Senior Government Counsel representing the Secretary: Miss Vienne LUK

The Defendant, who is not legally represented, is present.

1. The amended charges against the Defendant, Dr TAM Thomas Chris, are:

“That, during the period from about 2012 to 2016, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent:

- (a) the use of the title “Cosmetic Dermatologist” in his profile in the LinkedIn website (“the Website”), which was not a quotable qualification approved by the Medical Council of Hong Kong and/or was misleading to the public that he was a specialist in dermatology, when in fact he had not been approved by the Medical Council of Hong Kong to have his name included in the Specialist Register under the specialty of “Dermatology and Venereology”;

- (b) the publication of the appointment of “Internal Medicine Resident Penn State Geisinger” in the Website, which was not a quotable appointment allowed by the Medical Council of Hong Kong;
- (c) the publication of the impermissible advertisement(s) which claimed “Best Prices in Hong Kong” in the HK Magazine on its issue(s) of 3 and 17 August 2012 in respect of his practice in association with Dr. Image Laser & Medical Skin Care Center and/or Dr. Image Laser, Aesthetic & Medical Skin Care Center and/or Dr. Image Laser & Medical Skin Care Limited (collectively referred to as “the Center”); and/or
- (d) the publication of the following promotional statements in the website of <http://www.drimage.com.hk> in respect of his practice in association with the Center:
  - (i) “Dr. Image specializes in non-invasive aesthetic (Radiesse), Laser and Intense Pulsed Light treatments”;
  - (ii) “We also [as] offer invaluable advice on skincare and home skincare products”;
  - (iii) “We pride ourselves on offering the most advanced and clinically proven effective treatments at affordable prices”;
  - (iv) “Our ability to provide the best and most reliable results is actually a very simple formula”.

In relation to the facts alleged, either individually 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 28 June 1995 to present and his name has never been included in the Specialist Register.
3. Briefly stated, by a letter dated 3 September 2012, the Hong Kong College of Dermatologists complained to the Medical Council that the Defendant was quoted in the LinkedIn website as a specialist in dermatology. Attached to the complaint letter was a copy of the information downloaded from the LinkedIn website on the same day which read, *inter alia*, as follows:-

*“Thomas C. Tam  
Doctor  
Hong Kong | Medical Practice  
Current       Cosmetic Dermatologist at Dr. Image Laser & Medical  
Skin Care Center  
Past           Internal Medicine Resident at Penn State Geisinger  
Education     King’s College London, U. of London  
University of Leicester  
...”*

4. Also attached to the complaint letter were copy advertisements found in the 3 and 17 August 2012 issues of the HK Magazine in which one Dr. Image Laser Aesthetic & Medical Skin Care Center claimed to offer “Best Prices in Hong Kong” for a range of cosmetic medical treatments to be “performed by ... Cosmetic Dermatologists” (the “Advertisements”). Also mentioned in the Advertisements were the following contact information:-

*“Call us 2833 2950  
...  
18/F., Coasia Plaza, No.496-498, Lockhart Rd., Causeway Bay, H.K.  
...  
www.DRimage.com.hk”*

5. Subsequent profile search by the Secretary for the name Thomas C. Tam in the LinkedIn website on 22 June 2016 also revealed the following information:-

*“Thomas C. Tam  
Doctor  
Hong Kong | Medical Practice  
Current       Dr. Image Laser & Medical Skin Care Center  
Past           Penn State Geisinger  
Education     King’s College London, U. of London  
...  
Experience  
Cosmetic Dermatologist  
Dr. Image Laser & Medical Skin Care Center  
April 2005-Present (11 years 3 months)*

*Internal Medicine Resident  
Penn State Geisinger  
June 1997-August 2000 (3 years 3 months)*

...

*Education  
King's College London, U. of London  
MSc., Clinical Dermatology*

*University of Leicester  
M.B.Ch.B, bachelor of medicine & bachelor of surgery  
1989-1994  
... ”*

6. Furthermore, the following promotional statements were found by the Secretary in the website of [www.drimage.com.hk](http://www.drimage.com.hk) on 8 July 2016:-

*“Dr. Image specializes in non-invasive aesthetic (Radiesse), Laser and Intense Pulsed Light treatments. We also as offer invaluable advice on skincare and home skincare products.*

*We pride ourselves on offering the most advanced and clinically proven effective treatments at affordable prices. Dr. Image aims for little, or no down-time in a relaxed and convenient setting.*

*Our ability to provide the best and most reliable results is actually a very simple formula... Just offer the market leaders in each treatment category... In a no “nonsense” way...minus the elaborate marketing campaign and fussy promotion gimmicks. Dr. Image believes in the adage of not only adding years to life but adding “life” to those years!”*

7. In his submission to the Preliminary Investigation Committee (“PIC”), the Defendant had this to say in reply to the complaints against him:-

*“Let me first apologize unreservedly for misleading the public and the consumers, also for the time and extra paperwork this has caused you. I have subsequently stopped work / resigned in January 2016 at Dr. Image 18F, 496-498 Lockhart Road, Causeway Bay HK. 2833-2950 for not seeing eye to eye with my boss regarding providing the best service and treatments to my patients/clients.*

*The Drimage.com.hk website, with your alleged complaints, have been removed from the server as of July 2016. In fact we amended our website completely with less ambiguous or misleading wording (e.g. Skin rejuvenating) and got rid of all our “before and after photo reel”, which the product agents gave us in 2012. I have never applied for a LinkedIn account and am completely computer illiterate.*

*All Advertisements containing the alleged “Cosmetic Dermatologists” were stopped in January 2015. As well as product brochures which may mislead the consumers (eg. Before and after pictures) has been returned to the sales agents since the health department came up for a visit in 2013.*

*Sometimes it is very difficult when you work for people who are non medically trained. Just it was never my intention or idea to make those two quotations. I was not on commission nor was a partner in Dr. Image. I was never motivated by money, fame or greed. Please charge me whatever way you deem necessary and again sorry for any misrepresentation or trouble I have caused to the HK Medical Council. I promise I will not falsely represent or mislead the public in any way again and serve the public in the most honest and transparent way in the future...”*

8. Annual returns filed with the Companies Registry on 3 April 2013 showed that the Defendant was the majority shareholder and one of the directors of one Dr. Image Laser & Medical Skin Care Ltd. (the “Company”). It was also noted that the registered office address of the Company and the business address of the Dr. Image Aesthetic & Medical Skin Care Center mentioned in the Advertisements were both situated on 18/F., No.496-498 Lockhart Road, Hong Kong.
9. Annual returns filed with the Companies Registry on 3 April 2016 later showed that the Defendant had ceased to be a shareholder of the Company on 4 February 2016.

### **Burden and Standard of Proof**

10. We bear in mind that the burden of proof is always on the Legal Officer 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.
11. 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 disciplinary charges against him separately and carefully.

### **Findings of the Inquiry Panel**

12. There is no dispute that the name of the Defendant has never been included in the Specialist Register, let alone under the specialty of Dermatology and Venereology.
13. It is clearly stated in paragraph 7.2 of the 2009 edition of the Code of Professional Conduct (“the Code”):-  
  
*“Doctors who are not on the Specialist Register cannot claim to be or hold themselves out as specialists. A non-specialist is not allowed to use any misleading description or title implying specialization in a particular area (irrespective of whether it is a recognized specialty), such as “doctor in dermatology” ...”*
14. The use of the title of “Cosmetic Dermatologist” in his profile in the LinkedIn website implied in our view that the Defendant specialized in the area of dermatology but when in fact he was not a specialist in Dermatology and Venereology.

15. In the Court of Appeal's decision of *Ng Kin Wai v The Dental Council of Hong Kong* (CACV 194/2010) dated 14 October 2011, Fok JA (as he then was) emphasized (at paragraph 45 of the Judgment) the importance of quoting only such professional title which a dentist is entitled because "[p]rofessional titles are important and members of the public are likely to rely on the expertise implied by those titles in choosing a dentist and submitting themselves to treatment by that dentist."
16. Although the appellant in *Ng Kin Wai* case was a dentist, Fok JA's observation is in our view equally apposite to quotation of professional titles by registered medical practitioners.
17. The Defendant admitted that he had applied for a LinkedIn account some time in or around 2011. In our view, the use of the title of "Cosmetic Dermatologist" in his profile in the LinkedIn website would serve to promote the professional advantage of the Defendant, and was no doubt a form of unauthorized practice promotion.
18. That being the case, we are satisfied on the evidence before us that the Defendant had sanctioned, acquiesced in or failed to take adequate steps to prevent the use of the offending title in his profile in the LinkedIn website.
19. Accordingly, we find the Defendant guilty of charge (a).
20. As to charge (b), there is no dispute that the appointment of "Internal Medicine Resident Penn State Geisinger" was not a quotable appointment allowed under the Medical Council's policy and rules on quotable appointments. In our view, quotation of an appointment, albeit truly held by the Defendant in the past, was not permitted and should be deplored. But then again, in this case, there is no evidence that the public was liable to be misled by the quotation of this appointment. Accordingly, we do not consider the Defendant's conduct to be misconduct in a professional respect.
21. For these reasons, we find the Defendant not guilty of charge (b).

22. As to charge (c), it is clearly stated in paragraph 5.2.3.8 of the Code that:-

*“A doctor may publish his service information in bona fide newspapers, magazines, journals and periodicals for the purpose of enabling the public to make an informed choice of doctors.*

*A publication published for the predominant purpose of promotion of the products or services of a doctor or other persons is not regarded as a newspaper, magazine, journal or periodical for this purpose.”*

Paragraph 5.2.1 of the Code also provides that:-

*“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...*

5.2.1.2 *Such information must not:-*

- (a) be exaggerated or misleading,*
- ...*
- (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*
- ...”*

Paragraph 18.2 of the Code further provides that:-

*“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, and*



*discontinuation of the relationship with an organization which is found to be advertising in contravention of the principles and rules.”*

23. We acknowledge that the phrase “predominant purpose of promotion” was not defined in paragraph 5.2.3.8 of the Code. However, this must be read in conjunction with the basic principles for professional communication and information dissemination set out in paragraph 5.1 of the Code. In this connection, it is clearly stated in paragraph 5.1.3 of the Code that:-

*“Persons seeking medical service for themselves or their families can nevertheless be particularly vulnerable to persuasive influence, and patients are entitled to protection from misleading advertisements. Practice promotion of medical services as if the provision of medical care were no more than a commercial activity is likely to undermine public trust in the medical profession and, over time, to diminish the standard of medical care.”*

24. We wish to emphasize that dissemination of service information by a doctor to the public is permissible provided that he or she complies with the principles set out in paragraph 5.2.1 of the Code. This is so even if it is also for commercial gain. However, excessive commercialism i.e. advertising medical services as if the provision of medical care were no more than a commercial activity is not permitted.

25. Leaving aside whether the claim of “Best Prices in Hong Kong” was factually true and objectively verifiable, which we doubt, we are firmly of the view that the use of this statement for the promotion of a range of cosmetic medical treatments was not only sensational and unduly persuasive but also a classic case of excessive commercialism.

26. The Defendant never denied that he was aware of the publication of the Advertisements. The Defendant also accepted that he was working at Dr. Image when they were published. It is evident from the evidence before us that the Defendant was at all material times closely associated in his medical practice with Dr. Image Laser Aesthetic & Medical Skin Care Center. Accordingly, the Defendant had a personal duty, to exercise due diligence, which he failed in our view, to prevent the publication of the offending Advertisements.

27. For these reasons, we find the Defendant's conduct to have fallen below the standards expected of registered medical practitioners in Hong Kong. Therefore, we also find him guilty of charge (c).
28. As to charge (d), the Defendant was under a duty to take adequate steps to prevent the publication of the offending promotional statements so long as he continued to work at the Center. In this connection, we noted from the copy printout adduced by the Legal Officer that it was downloaded on 8 July 2016. There is however nothing in the evidence before us on when the offending promotional statements were first published.
29. According to the Defendant, whose evidence is not challenged by the Legal Officer, he stopped working at Dr. Image in January 2016. There is also no dispute that the Defendant ceased to be a shareholder of the Company on 4 February 2016.
30. Bearing in mind that the burden of proof is always on the Legal Officer, we are unable to satisfy ourselves on the evidence before us that the Defendant was under a personal duty on or around 8 July 2016 to prevent the publication of the offending promotional statements when he had already dissociated himself with Dr. Image Laser Aesthetic & Medical Skin Care Center some 6 months ago.
31. Accordingly, we find the Defendant not guilty of charge (d).

### **Sentencing**

32. The Defendant has one previous disciplinary record back in 2008 relating to the convictions for possession of cannabis and for theft of two car badges and the radiator grilles to which the badges were affixed. We accept the present disciplinary proceedings against the Defendant are of different nature.
33. In accordance with our published policy, we shall give the Defendant credit for his admission and cooperation throughout this inquiry.

34. 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 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.
35. The Defendant told us in mitigation that he was suffering from Bipolar Affective Disorder at the material times. This explained why he was ill-motivated to take steps to prevent the publication of the offending title and the impermissible Advertisements. Now that his illness is under control by psychiatric treatment, the Defendant promised us that he is not going to commit the same or similar disciplinary offence in the future.
36. We accept that the Defendant has learnt his lesson. We also appreciate that the Defendant is remorseful of his misdeeds. However, we wish to remind the Defendant to keep up with his psychiatric treatment.
37. Having considered the nature and gravity of the charges, for which the Defendant is found guilty and what we have heard and read in mitigation, we order in respect of amended charges (a) and (c) that:-
- (1) the Defendant's name be removed from the General Register for a period of 1 month; and
  - (2) the operation of the removal order be suspended for a period of 12 months.

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