

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

1st Defendant: Dr CHIU Chi Fai (趙志輝醫生) (Reg. No. M11521)
2nd Defendant: Dr LEE Chun Kit Tony (李俊傑醫生) (Reg. No. M10565)

Date of hearing: 19 June 2013

1. The charges against the 1st Defendant, Dr CHIU Chi Fai, are that:-

“In or around November 2010 he, being a registered medical practitioner :-

- (a) sanctioned, acquiesced in or failed to take adequate steps to prevent the use on his name card of a title, namely “Specialist in Family Medicine” (“家庭醫學專科醫生”), which non-specialists are forbidden to use, when his name was not included in the Specialist Register under the specialty of “Family Medicine”;
- (b) quoted on his name card the qualification of “Pdip Community Geriatrics (HK)”, which was not in the format approved by the Medical Council of Hong Kong.

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

2. The charges against the 2nd Defendant, Dr LEE Chun Kit Tony, are that:-

“In or around November 2010 he, being a registered medical practitioner :-

- (a) sanctioned, acquiesced in or failed to take adequate steps to prevent the use on his name card of a title, namely “Specialist in Family Medicine” (“家庭醫學專科醫生”), which non-specialists are

forbidden to use, when his name was not included in the Specialist Register under the specialty of “Family Medicine”;

- (b) quoted on his name card the following qualifications which were not in the format approved by the Medical Council of Hong Kong:-
 - (i) “Dip Paed (NSW)”;
 - (ii) “MSc in Endocrinology and Diabetes and Metabolism” (“香港中文大學內分泌及糖尿治理碩士”);
 - (iii) “MSc Clinical Gerontology” (“香港中文大學臨床老人科碩士”);
 - (iv) “PDip Community Geriatrics Cert.”;
 - (v) “英國卡特夫大學實用皮膚科文憑”.

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

Facts of the case

3. The case involves the specialist title and the qualifications quoted on the Defendants’ name cards.
4. In law, the specialist title can only be used by specialists, i.e. doctors whose names are on the Specialist Register. At the time the Defendants quoted the specialist title on their name cards, their names were not on the Specialist Register and therefore they were not entitled to use the title.
5. In respect of the qualifications in question, they were not in the format approved by the Medical Council. The problems include omitting the conferring institute, the abbreviated form not following the approved format set out in the List of Quotable Qualifications, and the Chinese title not following the Chinese title set out in the said list.

Findings of Council

6. The facts are admitted by both Defendants. Nevertheless, it is our responsibility to determine whether the Defendants' conduct constitutes professional misconduct.

Charge (a)

7. We shall first deal with Charge (a) in respect of the specialist title. Under the Medical Registration Ordinance, only doctors whose names are on the Specialist Register can lawfully use the specialist title, and it is a criminal offence for persons whose names are not on the Specialist Register to use the specialist title.
8. Every doctor must practise within the ambit of the law. That in itself imposes on every doctor a professional responsibility to acquaint himself with the law governing the practice of medicine. Failure to discharge that responsibility thus resulting in contravention of the legal requirements is a matter of professional misconduct.
9. The importance of quoting only the professional titles which a doctor is entitled to use is summarised by Fok JA in the case of Ng Kin Wai v. The Dental Council of Hong Kong (CACV 194/2010):-

“Professional 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.”

10. Both Defendants were not on the Specialist Register and therefore could not use the specialist title. The form of the specialist title is identical with the form stipulated in section 20M of the Medical Registration Ordinance, i.e. Specialist in Family Medicine. This is different from the ordinary form in daily language, e.g. Family Medicine Specialist. The inference is that they were aware of the statutory provision governing the use of the specialist title when they used the title.
11. In their submissions to the Preliminary Investigation Committee, both Defendants claimed that they used the specialist title on their name cards on the mistaken belief that they were entitled to use it because they were Fellows of the Hong Kong Academy of Medicine (Family Medicine), and they were not aware

that they had to apply to the Medical Council for inclusion in the Specialist Register. In the circumstances, they sanctioned the use of the specialist title.

12. We are satisfied that the conduct of both Defendants, in sanctioning the use of the specialist title when they were not on the Specialist Register, has fallen below the standard expected amongst registered medical practitioners. We find each of them guilty of professional misconduct as in Charge (a).

Charge (b)

13. We then turn to Charge (b) in respect of the quoted qualifications.
14. Under the Quotable Qualification Scheme of this Council, doctors can only quote the qualifications which have been included in the List of Quotable Qualifications. The purpose of the scheme is to protect the public from misleading information, and to ensure that only qualifications directly relevant to medical practice and up to the required standard will be quoted by doctors to facilitate the public in making an informed choice of doctors.
15. The English and Chinese titles and abbreviation of the quotable qualifications are set out in the List. Doctors must follow those approved formats in quoting the qualifications. As we have pointed out in a previous case, it is unacceptable to quote a qualification in an unapproved format, especially in the abbreviated form where the difference of a single word or letter may mean an entirely different thing or a different qualification, and accuracy is important in this respect.
16. Strictly speaking, any deviation including spacing and punctuation is not in the approved format. Nevertheless, the rule is not intended to be pedantic, and we must apply the rule sensibly in cases where inadvertent minor deviations from the approved formats will not have the effect of misleading the public.
17. The problems with the qualifications in question in the present case can be divided into two categories. Firstly, those in which the conferring institute is missing. Secondly, those with minor deviation in wording from the approved format.
18. The conferring institute is an important element in a qualification, as the same qualification conferred by different institutes can have significant implications

such as the standard of competence. Omission of the conferring institute is unacceptable. Such deviation from the approved format is unacceptable and is below the standard expected amongst registered medical practitioners.

19. As to the second category involving minor deviations in wording from the approved format, it is necessary to consider whether the deviation will have the effect of misleading the public.
20. We are of the view that the deviations in this case are not significant, such as “Hong Kong” instead of “HK”, “NSW” instead of “New South Wales”, “卡特夫大學” instead of “卡的夫大學”. We do not think that such insignificant deviation will have the effect of misleading the public. Such deviations, if made inadvertently, should not constitute professional misconduct.
21. Nevertheless, we must make clear that if a doctor deliberately quotes a qualification in a different format from the approved format, it is willful violation of the rule and is professional misconduct.
22. Having considered all the circumstances in the present case, we do not think that the Defendants deliberately quoted the qualifications in the second category in a format different from the approved format.
23. In the circumstances, we find the 1st Defendant not guilty of Charge (b), and the 2nd Defendant not guilty in respect of the following qualifications in Charge (b):-

“Dip Paed (NSW)”, “香港中文大學內分泌及糖尿治理碩士”, “香港中文大學臨床老人科碩士”, “英國卡特夫大學實用皮膚科文憑”.

24. We are satisfied that the 2nd Defendant’s conduct in quoting the following qualifications with the conferring institute omitted is below the standard expected:-

“MSc in Endocrinology and Diabetes and Metabolism”, “MSc Clinical Gerontology”, “PDip Community Geriatrics Cert.”

We find him guilty of professional misconduct in respect of these qualifications in Charge (b).

25. In summary, the 1st Defendant is guilty of Charge (a) and not guilty of Charge (b). The 2nd Defendant is guilty of Charge (a) and Charge (b) only in respect of the 3 qualifications cited in paragraph 24 above.

Sentencing

26. Both Defendants have a clear record.
27. We shall give them credit in sentencing for their honest admissions both during preliminary investigation and in this inquiry.
28. We note that both Defendants have taken remedial measures to rectify their name cards, and both have subsequently applied successfully for specialist registration.
29. Nevertheless, we must have regard to the fact that unlawful use of the specialist title is a criminal offence under section 28(1)(b) of the Medical Registration Ordinance, punishable by imprisonment for 3 years.
30. We must also have regard to the clear warning issued by this Council in June 2006 that future cases of practice promotion would be dealt with by removal from the General Register for a short period with suspension of the order, and in serious cases the removal order would take immediate effect. The message is loud and clear, as the warning has been repeated on a number of occasions.
31. In the circumstances, we must stand by the warning. There should not be any misgiving that we are relenting on our efforts to stamp out improper practice promotion. Doctors who commit misconduct of practice promotion despite the warning must be prepared to face the consequence. Use of the specialist title by a non-specialist on his name card will serve to promote the professional advantage of the doctor, and is a form of practice promotion as defined in section 5.2.2.1 of the Code of Professional Conduct.
32. In respect of Charge (b), the 2nd Defendant had all the relevant qualifications and the only problem was with the format.
33. Having considered the gravity of the case and the mitigating factors, we make the following orders:-

- (i) On Charge (a) against the 1st Defendant, his name be removed from the General Register for a period of 1 month.
- (ii) On Charge (a) against the 2nd Defendant, his name be removed from the General Register for a period of 1 month.
- (iii) The removal orders shall be suspended for a period of 6 months, subject to the condition that the Defendants shall not commit further disciplinary offence within the suspension period. If a Defendant commits any further disciplinary offence within the suspension period (irrespective of the time of conviction), the relevant removal order will be liable to be activated in part or in full.
- (iv) On Charge (b) against the 2nd Defendant, a warning letter be served on the 2nd Defendant. This order shall not be published in the Gazette.

Other remarks

- 34. Both Defendants are included in the Specialist Register under the specialty of “Family Medicine”.
- 35. We shall leave it to the Education and Accreditation Committee to consider whether any action should be taken in respect of their specialist registration under section 20N of the Medical Registration Ordinance.

Prof. Felice Lieh-Mak, GBS, CBE, JP
Temporary Chairman, Medical Council