

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 WONG Chi Chung Albert (王志中醫生) (Reg. No. M12764)

Date of hearing: 24 October 2013

1. The charges alleged against the Defendant, Dr WONG Chi Chung Albert, are that:

Case 1

“He, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent :-

- (a) the use of the title of “皮膚學專家” in an advertisement or article posted on the website of Dermed Dermatology & Laser Centre in or around July 2011, which implied specialisation in the area of dermatology when his name was not included in the Specialist Register under the specialty of Dermatology and Venereology;
- (b) the use or appearance of his name, title, qualification, photograph and/or statements in the advertisement or article referred to in paragraph (a) above, promoting or endorsing the eye care products referred to in the said advertisement or article;
- (c) the use or appearance of his name, title, photograph and/or statements in an advertisement or article posted on the website of Dermed Dermatology and Laser Centre in or around March 2011, promoting or endorsing the product of “Clarisonic<sup>®</sup> PLUS”;
- (d) the use or appearance of his name, title, photograph and/or

qualification in an advertisement or article posted on the website of Dermed Dermatology and Laser Centre in or around March 2011, promoting or endorsing the products of the line of “iS Clinical White Lightening”; and

- (e) the use or appearance of his name, title, photograph and/or statements in an advertisement or article posted on the website of Dermed Dermatology and Laser Centre in or around September 2011, promoting or endorsing the line of products of “Dysport”.

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

### Case 2

“He, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent the use or appearance of his name, title, photograph, qualification and/or statements in an advertisement published in the 235 Issue of “ME” magazine dated 17 June 2011, promoting or endorsing the line of products of ‘Pantene Pro-V Clinicare’.

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

### Facts of the case

2. This is a consolidated inquiry of 2 cases against the Defendant.
3. Case 1 is in respect of impermissible practice promotion of the Defendant’s medical practice and the commercial endorsement of various beauty products, through publications posted in the website of a dermatology centre. At the relevant time of the various publications, the Defendant was either practising in the centre or the majority shareholder cum sole director of the centre.
4. In Case 1, Charge (a) is in respect of the use of an impermissible title implying specialisation when the Defendant was not a specialist. All other charges are in respect of using the Defendant’s status as a doctor to promote or endorse various beauty products in articles published in the website of the dermatology centre.

5. Case 2 is in respect of impermissible commercial endorsement of a line of hair care products in an advertisement published in a magazine.

### **Findings of Council**

6. The facts of the 2 cases are crystallised by a set of admitted facts. The admitted facts are signed by both parties. In the circumstances, we have to proceed on the basis of the admitted facts.
7. As it is admitted by the Legal Officer that the various acts in question were committed by the Defendant by failing to take adequate steps to prevent such acts, the Legal Officer has abandoned the allegation in the various charges of the 2 other alternative limbs of sanctioning or acquiescing in such acts. Given that the Legal Officer presents the case on that basis, we have no alternative but to proceed on the basis that if the acts constitute professional misconduct, the Defendant committed those acts on the limb of failing to take adequate steps to prevent such misconduct.

### **Case 1**

#### **Charge (a)**

8. Section 7.2 of the Code of Professional Conduct provides that:-

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 specialisation in a particular area (irrespective of whether it is a recognised specialty), such as “doctor in dermatology” or “皮膚醫生”.

9. Under the Medical Registration Ordinance, only doctors whose names are included in the Specialist Register are specialists. It is a criminal offence punishable with imprisonment for a doctor who is not a specialist to falsely use any title or description implying that he is a specialist in the Specialist Register. The purpose of these provisions is to protect the public by ensuring that only persons who have received the required training and recognised by

the Medical Council as fit and proper persons to be specialists can hold out to the public that they are specialists.

10. The Defendant is not a specialist. It is unlawful for him to use any title or description implying that he is a specialist. The title “皮膚學專家” not only implied but actually stated that the Defendant was a specialist in dermatology. This is strictly prohibited, both by section 7.2 of the Code and section 28(1)(b) of the Medical Registration Ordinance. This is certainly conduct falling below the standard expected amongst registered medical practitioners. We find him guilty of professional misconduct as in Charge (a).

Charges (b)-(e)

11. Section 5.2.1.2 of the Code of Professional Conduct provides, inter alia, that information provided by a doctor to the public must not be used for commercial promotion of medical and health related products and services.

12. Section 6.2 of the Code provides, inter alia, that:-

A doctor should take reasonable steps to ensure that the published or broadcasted materials.....are not used directly or indirectly for the commercial promotion of any medical and health related products or services.

13. The publication of the Defendant’s name, title, qualification, photograph and/or various statements made by him were clearly commercial promotion and endorsement of the relevant beauty products. Such conduct clearly falls below the standard expected amongst registered medical practitioners, and constitutes professional misconduct.

14. The 4 articles in respect of Charges (b) to (e) were originally published in various magazines, which were in turn posted on the website of the dermatology centre. At the time when the articles in Charges (b) to (d) were posted on the website, the Defendant was practising in the centre. At the time when the article in Charge (e) was posted on the website, the Defendant was the majority shareholder cum sole director of the centre. In the circumstances, it is difficult to say that the Defendant did not sanction the impermissible use of his status as a doctor to promote and/or endorse the relevant products. Nevertheless, given the basis on which the Legal Officer

presented the case, we have no alternative but to find him guilty of Charges (b) to (e) on the basis of failing to take adequate steps to prevent such impermissible endorsement of the products.

## Case 2

15. The relevant article in the single charge in Case 2 was clearly an advertisement of the relevant line of hair care products. The Defendant's name, title, qualification and statements were published as part of the advertisement. The photograph must have been provided by him to the advertiser. In the circumstances, we cannot see how the various information of the Defendant could have been published in the advertisement without the Defendant's express agreement.
16. For reasons we have stated above, the Defendant's information was published for advertising the hair care products, contrary to the provisions of the Code of Professional Conduct. The Defendant's conduct in failing to take adequate steps to prevent such use of his information is clearly conduct below the standard expected of registered medical practitioners. This constitutes professional misconduct.
17. Given the Legal Officer's position, we have no alternative but to find the Defendant guilty of professional misconduct on the basis of failing to take adequate steps to prevent such impermissible use of his information.

## Sentencing

18. The Defendant has a clear record.
19. We shall give him credit in sentencing for honest admission in preliminary investigation and in this inquiry, in accordance with our published policy.
20. The use of the title “皮膚學專家” when he is not a specialist is a particularly serious matter, as it would have been a ground for criminal prosecution if he had sanctioned or acquiesced in such use. Nevertheless, as the Defendant has been found guilty of Charge (a) in Case 1 on the basis of failing to take adequate steps to prevent the use of the title, we shall sentence accordingly.

21. As to the remaining charges which were all related to commercial promotion and endorsement of beauty products, the charges related to different articles published at different times in different forums.
22. In his submission to the Preliminary Investigation Committee, the Defendant on his own volition disclosed that his status as a doctor was used in 20 other published articles which, objectively speaking, were commercial promotion and endorsement of various other beauty products. Although prima facie such commercial promotion could have been ground for further disciplinary charges, the Preliminary Investigation Committee has not done so. He made such disclosure "*in order to show his determination to rectify his mistake*". While we applaud the Defendant's determination to come clean and make such honest confession, we must say that the Defendant's involvements in impermissible commercial promotion in the present 2 cases were not isolated incidents. For the avoidance of doubt, this matter will not aggravate the sentence in the present 2 cases.
23. In June 2006, this Council issued a clear warning that all future cases of practice promotion will be visited by removal from the General Register for a short period with suspension of the removal order, and in serious cases the removal order will take immediate effect. The warning was extended in January 2010 to cover cases of commercial promotion of products and services, for the reason that both involve the exploitation of a doctor's status to promote services or products for the doctor's financial benefit. The same warning has been repeated on many subsequent occasions. We must have full regard to the warning in sentencing, so as not to send a wrong message to the profession that we are relaxing on our efforts to stamp out impermissible practice promotion.
24. We are of the view that the Defendant should have learned a hard lesson. In view of his determination to come clean and the remedial actions he has taken, the likelihood of re-offending should be low.
25. Having regard to the gravity of the cases and the mitigating factors, we make the following orders:-
  - (i) In respect of Charge (a) in Case 1, the Defendant's name be removed from the General Register for a period of 2 months, and the removal order be suspended for a period of 2 years.

- (ii) In respect of Charges (b) to (e) in Case 1 and the single charge in Case 2, the Defendant's name be removed from the General Register for a period of 2 months, and the removal order be suspended for a period of 1 year.
- (iii) The above removal orders are suspended subject to the condition that the Defendant shall not commit any further disciplinary offence within the respective suspension period. If he commits any further disciplinary offence within the suspension period (irrespective of the timing of the conviction for such further offence), the removal orders are liable to be activated in part or in full.
- (iv) The orders shall run concurrently.

26. We must advise the Defendant to treasure the opportunity we have given him and to take particular care to ensure that he will comply within the rules of medical ethics. If he is found guilty of further disciplinary offences, he cannot expect the same leniency from this Council, as it would nullify the mitigating factors based on which we have exercised leniency.

Prof. Felice LIEH-MAK, GBS, CBE, JP  
Temporary Chairman, Medical Council