

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

DISCIPLINARY INQUIRY
MEDICAL REGISTRATION ORDINANCE, CAP. 161

Defendant: Dr YAM Chun Yin (任俊彥醫生) (Reg. No.: M13778)

Date of hearing: 11 June 2015

Present at the hearing

Council Members/Assessors: Prof. Felice LIEH-MAK GBS CBE JP (Temporary Chairman)
Miss CHAU Man Ki Mabel MH
Dr CHEUNG Tak Hong
Dr HUNG Se Fong BBS
Dr LAI Kit Lim Cindy JP
Prof. CHAN Tak Cheung Anthony

Legal Adviser: Mr Edward SHUM

Defence Solicitor representing the Defendant: Mr Chris HOWSE of Messrs. Howse Williams
Bowers

Senior Government Counsel representing the Secretary: Mr William LIU

1. The amended charges against the Defendant, Dr YAM Chun Yin, are:

First case MC 12/037

“That he, being a registered medical practitioner:

- (a) sanctioned, acquiesced in or failed to take adequate steps to prevent the use of the title of “醫學美容醫生” in an article published in a magazine in December 2011 (“the Article”) in which his name was referred to, which was not a quotable qualification approved by the Medical Council at the material time and was misleading to the public that he was a specialist in dermatology, when in fact his name was not included in the Specialist Register under the specialty of “Dermatology and Venereology” at the material time;
- (b) in respect of the Article, sanctioned, acquiesced in, or failed to take adequate

steps to prevent the publication of the following photographs/statements therein which promoted a commercial product “Restylane”:

- (i) his photograph;
- (ii) promotional statement to the effect that a discount of HK\$1,000 will be offered to customers in relation to the “Restylane” treatment.

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

Second case MC 13/277

“That, in or about August 2013, he, being a registered medical practitioner, sanctioned, acquiesced in or failed to take adequate steps to prevent the use of the title “醫學美容醫生” in a promotional pamphlet in which his name was referred to, which was not a quotable qualification approved by the Medical Council of Hong Kong at the material time and was misleading to the public that he was a specialist in dermatology, when in fact his name was not included in the Specialist Register under the specialty of “Dermatology and Venereology” at the material time.

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

Third case MC 13/231

“That, in or about 2013, he, being a registered medical practitioner:

- (a) sanctioned, acquiesced in or failed to take adequate steps to prevent the use of the information “任俊彥醫生 ABM Skin & Laser Centre 醫務總監 在香港美容界擁有多年的專業經驗，對醫學美容及皮膚護理等不同範疇均有透徹的了解及掌握，並具備豐富的臨床經驗。” in an advertisement published in the Apple Daily on 13 July 2013 (“the Advertisement”), which was inappropriate as :
 - (i) it was misleading to the public that he was a specialist in Dermatology, when in fact his name was not included in the Specialist Register under the specialty of “Dermatology and Venereology” at the material time; and/or
 - (ii) it constituted inappropriate practice promotion;

- (b) sanctioned, acquiesced in or failed to take adequate steps to prevent the appearance of his name, title and photograph in the Advertisement promoting the line of products of “Lovea”;
- (c) sanctioned, acquiesced in or failed to take adequate steps to prevent the use of the information “任俊彥醫生 ABM Skin & Laser Centre 醫務總監 在香港美容界擁有多年的專業經驗，對醫學美容及皮膚護理等不同範疇均有透徹的了解及掌握，並具備豐富的臨床經驗。” in an advertisement published in the Fashion & Beauty Magazine (“the F&BM Advertisement”), which was inappropriate as:
 - (i) it was misleading to the public that he was a specialist in Dermatology, when in fact his name was not included in the Specialist Register under the specialty of “Dermatology and Venereology” at the material time; and/or
 - (ii) it constituted inappropriate practice promotion; and
- (d) sanctioned, acquiesced in or failed to take adequate steps to prevent the appearance of his name, title and photograph in the F&BM Advertisement promoting the line of products of “Lovea”.

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 Defendant was at all material times a registered medical practitioner. His name has been included in the General Register from 3 January 2003 to present.
3. There is no dispute that the Defendant’s name has never been included in the Specialist Register under the specialty of “Dermatology and Venereology”.
4. By the Secretary’s letter dated 19 May 2015, the Defendant was informed of the consolidation of the First, Second and Third cases against him in a single inquiry.

5. The Defendant has frankly admitted the factual particulars of the offending publication in respect of each of the above-mentioned disciplinary charges against him. The Defendant also accepted that the use of the title of “醫學美容醫生” or the phrase “醫務總監 在香港美容界擁有多年的專業經驗，對醫學美容及皮膚護理等不同範疇均有透徹的了解及掌握，並具備豐富的臨床經驗” would mislead the public into thinking that he was a specialist in dermatology.
6. Nevertheless, it is our responsibility to determine whether the Defendant’s conduct constitutes professional misconduct.

Findings of the Council

7. There is no dispute that the Defendant’s name has never been included in the Specialist Register, let alone under the specialty of “Dermatology and Venereology”.
8. In the Court of Appeal’s decision of *Ng Kin Wai v The Dental Council of Hong Kong* (CACV 194/2010), Fok JA (as he then was) emphasized 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.”
9. Although the appellant in the *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.
10. In our view, either the title “醫學美容醫生” or the phrase “醫務總監 在香港美容界擁有多年的專業經驗，對醫學美容及皮膚護理等不同範疇均有透徹的了解及掌握，並具備豐富的臨床經驗” implied that the Defendant specialized in the area of dermatology when in fact he was not.

11. It is indeed an offence under section 28(1)(b)(iii) of the Medical Registration Ordinance for any person to “willfully or falsely takes or uses any name, title, addition or description implying that his name is included in the Specialist Register”.
12. There is also no dispute that the title “醫學美容醫生” was not a quotable qualification approved by the Medical Council.
13. In our view, publication in either one of the media referred to in the particulars of the charges in the First, Second and Third Cases would serve to promote the professional advantage of the Defendant. The Defendant also accepted that they constituted inappropriate practice promotion.
14. By reason of the aforesaid, we are satisfied on the evidence before us that the Defendant’s conduct in respect of the above-mentioned charges against him, either singularly or cumulatively, has fallen below the standard expected amongst registered medical practitioners in Hong Kong. Therefore, we also find him guilty of professional misconduct in respect of all the above-mentioned charges

Sentencing

15. The Defendant has a clear record.
16. In accordance with our published policy, we shall give him credit for his frank admission and cooperation both at preliminary investigation stage as well as the hearing before us today.
17. We agree with the defence solicitor that the Defendant did not set out to sanction or acquiesce in the publication of the offending article and promotional pamphlet involved in the First and Second Cases. However, the fact remains that the Defendant had failed to take adequate steps to avoid misleading members of the public into thinking that he was a specialist in dermatology.

18. 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.

19. Having considered the gravity of the charges for which the Defendant is convicted and what we have heard and read in mitigation, we shall make a global order in respect of all the above-mentioned charges 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. Felice LIEH-MAK, GBS, CBE, JP
Temporary Chairman, Medical Council